



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. 13-0257
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Dixie Livestock Market, Inc. and,)
Tammy Sikes,)
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)
Respondents) Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Dixie Livestock Market, Inc. (Respondent Dixie) is a corporation organized and existing under the laws of the State of Georgia with a mailing address of PO Box 610, Collins, Georgia 30421.

(b) Respondent Dixie is, and at all times material herein was:

- (1) Engaged in the business of conducting and operating a stockyard, Dixie Livestock Market, Inc. No. GA224, physically located at 133 Old Highway 46, Oak Park, Georgia 30401, which is posted under and subject to the provisions of the Act;
- (2) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
- (3) Registered with the Secretary of Agriculture as a market agency selling

livestock in commerce on a commission basis.

(c) Respondent Tammy Sikes is an individual with a mailing address of PO Box 610, Collins, Georgia 30421.

(d) Respondent Tammy Sikes is, and at all times material herein was:

- (1) Chief Financial Officer of Respondent Dixie;
- (2) Secretary of Respondent Dixie;
- (3) Owner of 49 percent of Respondent Dixie;
- (4) Engaged in the business of conducting and operating Respondent Dixie, a stockyard posted under and subject to the provisions of the Act; and
- (5) Responsible for the direction, management, and control of Respondent Dixie's accounts and records.

II.

(a) Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie (jointly, Respondents), during the time period of August 2, 2011 through October 25, 2011, in approximately 10 transactions involving at least 184 head of livestock, generated or permitted to be generated purchase invoices with false information at the request of Justin Turner, a market agency and a registered livestock dealer under the Act. Specifically, Mr. Turner purchased livestock at Respondent Dixie and Respondents permitted Mr. Turner to personally use Respondent Dixie's computer or permitted Respondent Dixie personnel, at Mr. Turner's direction, to generate purchase invoices that (1) listed the livestock as having been purchased under false names, namely Brian Gregory, Coverdale Farms, or Sunshine Farms, instead of listing Mr. Turner as the purchaser; (2) represented that Mr. Turner had resold approximately 156 head of the livestock at

Respondent Dixie that he had purchased at Respondent Dixie earlier the same day when in fact Mr. Turner had not resold the livestock through the ring at Respondent Dixie and had only electronically transferred the livestock onto new purchase invoices for Mr. Turner's customers; and/or (3) listed purchase prices for the approximately 156 head of livestock that were higher than the actual purchase prices. Mr. Turner then transmitted the invoices with the marked up prices to his customers on whose behalf Mr. Turner was procuring the livestock.

(b) Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, during the time period of August 9, 2011 through October 25, 2011, in approximately 10 transactions involving approximately 41 head of livestock, generated purchase invoices with false information at the request of Todd Fortner, the President and 100 percent owner of F & F Farms & Cattle, Inc. (F & F Farms). F & F Farms is a registered dealer and market agency under the Act. Specifically, F & F Farms, under the direction, management, and control of Mr. Fortner, purchased livestock from Respondent Dixie and Respondents permitted Respondent Dixie personnel, at Mr. Fortner's direction, to generate purchase invoices that (1) represented that F & F Farms had resold approximately 41 head of livestock at Respondent Dixie that it had purchased at Respondent Dixie earlier the same day when in fact Mr. Fortner and F & F Farms had not resold the livestock through the ring at Respondent Dixie and had only electronically transferred the livestock onto new purchase invoices for their customers; and (2) listed purchase prices for these 41 head of livestock that were higher than the actual purchase prices. Mr. Fortner and F & F Farms then transmitted the invoices with the marked up prices to their customers on whose behalf they were procuring the livestock.

(c) In a statement signed by Respondent Tammy Sikes on January 31, 2012, Respondent Tammy Sikes admitted that she was in charge of and maintained all of Respondent Dixie's accounts and records. Respondent Tammy Sikes further admitted that Respondent Dixie's records showed that on several occasions, Mr. Turner purchased livestock at Respondent Dixie charging the livestock to one of his accounts and then later rebilled and charged some of the livestock to another of his accounts at a higher price without running the livestock through Respondent Dixie's sale ring again. Respondent Tammy Sikes also admitted that Respondent Dixie's records showed that Mr. Fortner was also rebilling cattle without actual resale. A copy of the statement is attached hereto as Exhibit A and incorporated herein by reference.

III.

Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, during the time period of August 1, 2011 through October 18, 2011, in approximately 9 transactions involving approximately 29 head of livestock, generated purchase invoices with false information at the request of Mr. Fortner. Specifically, F & F Farms, under the direction, management, and control of Mr. Fortner, purchased livestock from Respondent Dixie and Respondents permitted Respondent Dixie personnel, at Mr. Fortner's direction, to generate purchase invoices that (1) represented that F & F Farms had resold approximately 29 head of livestock at Respondent Dixie that it had purchased at Respondent Dixie earlier the same day when in fact Mr. Fortner and F & F Farms had not resold the livestock through the ring at Respondent Dixie and had only electronically transferred the livestock onto new purchase invoices under buyer numbers that belonged to Mr. Fortner or F & F Farms; and (2) listed purchase prices for these 29 head of livestock that were higher than the actual purchase prices.

IV.

Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, during the time period of August 2, 2011 through October 25, 2011, in approximately 9 transactions involving approximately 71 head of livestock, generated or caused to be generated accounts of sale with false information at the request of Mr. Turner. Specifically, Respondents permitted Mr. Turner to personally use Respondent Dixie's computer or permitted Respondent Dixie personnel, at Mr. Turner's direction, to generate accounts of sale that (1) listed the livestock as having been consigned under false names, namely Brian Gregory or Circle T Farms, instead of listing Mr. Turner as the consignor; and/or (2) represented that Mr. Turner had resold approximately 28 of the 71 head of livestock at Respondent Dixie that Mr. Turner had purchased at Respondent Dixie earlier the same day when in fact Mr. Turner had not resold the livestock through the ring at Respondent Dixie and had only electronically transferred the livestock from the purchase invoice to the account of sale at the exact same weight and price. Respondent Dixie received commissions of approximately \$481.58 for the 28 head of livestock that Mr. Turner electronically transferred from the purchase invoice to the account of sale that did not go through the ring at Respondent Dixie again.

V.

Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, during the time period of August 23, 2011 through October 11, 2011, in approximately 6 transactions involving approximately 20 head of livestock, generated purchase invoices with false information at the request of Mr. Fortner. Specifically, F & F Farms, under the direction, management, and control

of Mr. Fortner, purchased cow/calf pairs from Respondent Dixie and Respondents permitted Respondent Dixie personnel, at Mr. Fortner's direction, to generate purchase invoices that (1) split the cow/calf pairs and represented that one of the animals from each pair had been kept by F & F Farms and that F & F Farms had resold the other animal at Respondent Dixie later the same day when in fact Mr. Fortner and F & F Farms had not resold the animal through the ring at Respondent Dixie and had only electronically transferred the animal onto new purchase invoices for their customers; (2) listed fabricated weights for the split cow/calf pairs by arbitrarily assigning each animal of the split pair a portion of the total original combined weight of the cow/calf pair; and (3) listed fabricated prices for the animals that Mr. Fortner and F & F Farms electronically transferred onto new purchase invoices for their customers. Mr. Fortner and F & F Farms then transmitted the invoices with the fabricated weights and prices to their customers on whose behalf they were procuring the livestock.

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(a) Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, during the time period of August 9, 2011 through September 27, 2011, in approximately 12 transactions involving approximately 86 head of livestock, permitted Mr. Fortner and F & F Farms to sell livestock from Mr. Fortner's farm to one of Mr. Fortner's and F & F Farms' customers, Harrison Farms, using documentation from Respondent Dixie, even though the livestock had not been consigned to Respondent Dixie nor sold through the ring at Respondent Dixie. Instead of consigning the livestock to Respondent Dixie, Mr. Fortner and F & F Farms took State-issued back tag numbers from Respondent Dixie, applied them to cattle on Mr. Fortner's farm, and provided Respondent Dixie personnel with a list of the back tag numbers along with fabricated weights and fabricated

prices for the livestock. Respondent Dixie personnel then took this information and at Mr. Fortner's direction, added it to the bills Mr. Fortner and F & F Farms provided to Harrison Farms.

(b) Therefore, Respondents, in the transactions described in subparagraph (a) above, permitted Respondent Dixie personnel, at Mr. Fortner's direction, to generate accounts of sale that (1) represented that Mr. Fortner and F & F Farms had consigned to Respondent Dixie and sold through the ring at Respondent Dixie, under the accounts of F & F Farms or BF Livestock,¹ the 86 head of livestock when in fact the livestock had neither been consigned to Respondent Dixie nor sold through the ring at Respondent Dixie; (2) listed fabricated weights for the 86 head of livestock; and (3) listed fabricated prices for the 86 head of livestock. Respondent Dixie received commissions of approximately \$1,461.73 for the 86 head of livestock that came from Mr. Fortner's farm and were neither consigned to Respondent Dixie nor sold through the ring at Respondent Dixie.

(c) In the statement signed by Respondent Tammy Sikes on January 31, 2012, Respondent Tammy Sikes admitted that Mr. Fortner was rebilling cattle at Respondent Dixie on Tuesdays that he had purchased on Mondays from a different market without actually reselling the livestock through Respondent Dixie. See Exhibit A.

VII.

Respondent Tammy Sikes, while exercising direction, management, and control of the accounts and records of Respondent Dixie, and Respondent Dixie, by reason of the facts alleged in paragraphs II through VI above, failed to keep and maintain accounts, records, and memoranda that fully and correctly disclosed all transactions involved in their business subject to

¹ BF Livestock is operated by Mr. Fortner's father, Bobby Gene Fortner.

the Act as required by section 401 of the Act (7 U.S.C. § 221) and as more fully specified in section 203.4 of the Statements of General Policy Under the Act (9 C.F.R. § 203.4).

VIII.

By reason of the facts alleged in paragraphs II, III, and IV herein, Respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.53 of the Regulations (9 C.F.R. § 201.53).

By reason of the facts alleged in paragraphs V and VI herein, Respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.53 and 201.55 of the Regulations (9 C.F.R. §§ 201.53, 201.55).

By reason of the facts alleged in paragraphs II through VII herein, Respondents have willfully violated section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents willfully violated the Act and the Regulations. Respondents shall have twenty (20) days after receipt of this complaint in which to file an answer with the Hearing Clerk, Room 1031-South Building, United States Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250-9200, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint.

The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration requests:

1. That unless Respondents fail to file an answer within the time allowed, or file an

answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

2. That such order or orders be issued, including an order requiring Respondents to cease and desist from the violations of the Act and the Regulations found to exist, an order requiring Respondents to keep and maintain all accounts, records, and memoranda that fully and accurately disclose all transactions involved in their business subject to the Act, suspending Respondent Dixie as a registrant under the Act for a specified period of time, prohibiting Respondent Tammy Sikes from registering subject to the Act for a specified period of time, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 30th day of May, 2013

Susan B. Keith

Susan B. Keith

Deputy Administrator

Packers and Stockyards Program

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