



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. ~~13-0264~~
Gary Fulton,)
Respondent) Complaint

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

I

(a) Gary Fulton, referred to herein as the respondent, is an individual whose mailing address is Route 1, Box 40, Lewistown, Illinois 61542.

(b) The respondent is, and at all times material herein was:

(1) Engaged in the business of a dealer buying and selling livestock in commerce for his own account; and

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, and as a market agency to buy livestock in commerce on a commission basis and to provide clearing services.

II

On October 16, 2009, respondent entered into a consent decision (P&S Docket No. D-08-0081) wherein he agreed, among other things, to cease and desist from failing to pay, when due, the full purchase price of livestock.

III

(a) During the period from November 23, 2010, through at least January 18, 2011, in at least seven separate transactions, respondent purchased 183 head of

livestock from Lolli Bros. Livestock Market, Inc., in Macon, Missouri, and failed to pay, when due, the \$110,251.60 purchase price for such livestock, in that respondent mailed checks between 5 and 6 days after the sale and transfer of possession of the livestock.

IV

By reason of the facts alleged in paragraph III of the complaint, the respondent has wilfully violated section 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b), and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact wilfully violated the Act, this complaint shall be served upon the respondent. The respondent shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the proceedings under the Act (7 C.F.R. §§ 1.130 et seq.). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued, including an order requiring the respondent to cease and desist from the violations found to exist, suspending the

respondent as a registrant under the Act, and assessing such civil penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 11th day of June, 2013

Susan B. Keith
Susan Keith
Deputy Administrator
Packers and Stockyards
Programs

Jonathan D. Gordy
Attorney for Complainant
Telephone: (202) 720-5065
e-mail: jonathan.gordy@ogc.usda.gov