

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

SEP 16 2013

In re:)	
)	
Martin D. Yoder, d.b.a.)	Docket No. 13-0355
Martin D. Yoder Livestock, Ltd.,)	
)	
Robert Butzer & Sons, Inc.)	Docket No. 13-0356
)	
Robert W. Schenk,)	Docket No. 13-0357
)	
Jeffery L. Gorr, Sr.,)	Docket No. 13-0358
)	
Merlin L. Garver, Inc.,)	Docket No. 13-0359
)	
Merlin Jan Garver, and)	Docket No. 13-0360
)	
Kenneth and Carol Mezurek, d.b.a)	Docket No. 13-0361
Mezurek Livestock,)	
)	
Respondents)	Complaint

There is reason to believe that respondents have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181-229) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1-.218) (regulations), and therefore this complaint is issued alleging:

I

(a) Martin D. Yoder, d.b.a. Martin D. Yoder Livestock, Ltd. (Yoder) is an individual, whose business address is P.O. Box 205, Kidron, OH, 44636.

(b) Yoder, at all times material to this complaint, was:

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

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell

livestock for his own account.

(c) Robert Butzer & Sons, Inc. is a corporation, whose business address is 6239 Wadsworth Rd., Orrville, Ohio, 44667-9726.

(d) Robert Butzer & Sons, Inc., at all times material to this complaint, was:

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

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for its own account.

(e) Robert W. Schenk (Schenk) is an individual, whose business address is 4435 E. Loch Alpine Dr., Ann Arbor, MI 48103.

(f) Schenk, at all times material to this complaint, was:

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

(2) Engaged in the business of a market agency, buying livestock in commerce on commission;

(3) Registered with the Secretary of Agriculture as a dealer, buying and selling livestock, and as a market agency to buy livestock on commission for the account of others.

(g) Jeffery L. Gorr, Sr., (Gorr) is an individual, whose business and home address is in Monroe, MI, and the address is separately provided to the Hearing Clerk to protect his personally identifiable information.

(h) Gorr, at all times material to this complaint was:

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

(2) Engaged in the business of a market agency, buying livestock on a commission basis;

(3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for his own account.

(4) Registered with the Secretary of Agriculture as a market agency buying on commission.

(5) An agent of Schenk, purchasing livestock on a commission basis.

(i) Merlin L. Garver, Inc., (Garver Inc.) is a corporation organized under the laws of Ohio, with a business address of 2373 Heyl Rd., Wooster, OH 44691.

(j) Garver Inc., at all times material to this complaint was:

(1) Engaged in the business of a dealer, buying and selling livestock in commerce for its own account or the account of others;

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for its own account.

(k) Merlin Jan Garver (Merlin Garver) is an individual with a business address of 2373 Heyl Rd., Wooster, OH 44691.

(l) Merlin Garver, at all times material to this complaint was:

(1) The 100% owner and president of Garver Inc.

(2) Responsible for the direction, management and control of Garver Inc.

(3) Engaged in the business of a dealer, buying and selling livestock in

commerce for his own account or the account of others;

(m) Kenneth and Carol Mezurek, d.b.a. Mezurek Livestock, (collectively Mezurek Livestock) are individuals acting as a partnership, whose business and home address is in Grafton, OH, and the address is separately provided to the Hearing Clerk to protect their personally identifiable information.

(n) Mezurek Livestock, at all times material to this complaint, was:

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

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock for its own account.

(3) Registered with the Secretary of Agriculture as a market agency buying on commission.

(4) An agent of Garver Inc. and Merlin Garver, purchasing livestock on a commission basis.

II

(a) In 2010 and 2011, respondents Yoder, Kenneth Mezurek, and Gorr attended livestock auctions at United Producers, Inc. in Bucyrus, Ohio. Purchases at this stockyard go to the highest bidder.

(b) Gorr purchased livestock on commission on behalf of Schenk at this stockyard.

(c) Kenneth Mezurek purchased livestock on commission on behalf of Garver,

Inc at this stockyard.

(d) On July 22, 2010, these three individuals alternated purchases of livestock, namely cows, 15 times in a row, and were consecutive winning bidders for 45 of the 61 sales of cows on that day.

(e) On July 7, 2011, these three individuals alternated purchases of livestock, namely cows, 12 times in a row, and were consecutive winning bidders for 36 of the 46 sales of cows on that day.

(f) On July 14, 2011, these three individuals alternated purchase of livestock, namely cows, 16 times in a row, and were consecutive winning bidders for 48 of the 75 sales of cows on that day.

(g) On July 21, 2011, these three individuals alternated purchase of livestock, namely cows, 11 times in a row, and were consecutive winning bidders for 33 of the 42 sales of cows on that day.

(h) Such alternating purchases were not by chance, and represent an agreement to alternate bids on livestock between respondents Yoder, Schenk, Garver, Inc., Merlin Garver, Mezurek Livestock, and Gorr.

III

(a) In 2010 and 2011, respondent Yoder and the individual Robert Butzer, who is now deceased, attended livestock auctions at United Producers, Inc. in Bucyrus, Ohio. Purchases at this stockyard go to the highest bidder.

(b) Robert Butzer attended this stockyard on behalf of Robert Butzer and Sons, Inc.

(c) On July 8, 2010, these two individuals alternated purchases of livestock, namely steers, bulls and heifers, 33 times in a row, and were consecutive winning bidders for 66 of the 241 sales of steers, bulls and heifers on that day.

(d) On July 22, 2010, these two individuals alternated purchases of livestock, namely steers, bulls and heifers, 56 times in a row, and were consecutive winning bidders for 112 of the 519 sales of steers, bulls and heifers on that day.

(e) On July 7, 2011, these two individuals alternated purchases of livestock, namely steers, bulls and heifers, 77 times in a row, and were consecutive winning bidders for 154 of the 448 sales of steers, bulls and heifers on that day.

(f) On July 14, 2011, these two individuals alternated purchases of livestock, namely steers, bulls and heifers, 38 times in a row, and were consecutive winning bidders for 46 of the 239 sales of steers, bulls and heifers on that day.

(g) On July 21, 2011, these two individuals alternated purchases of livestock, namely steers, bulls and heifers, 64 times in a row, and were consecutive winning bidders for 128 of the 359 sales of steers, bulls and heifers on that day.

(h) Such alternating purchases were not by chance, and represent an

agreement to alternate bids on livestock between respondent Yoder and Robert Butzer & Sons, Inc.

IV

(a) In 2010 and 2011, respondents Yoder and Merlin Garver attended a livestock auction at United Producers, Inc. in Creston, Ohio. Purchases at this sale go to the highest bidder.

(b) On July 26, 2010, these two individuals alternated purchases of livestock, namely cows, 22 times in a row, and were consecutive winning bidders for 44 of the 69 sales of cows on that day.

(c) On July 11, 2011, these two individuals alternated purchases of livestock, namely cows, 17 times in a row, and were consecutive winning bidders for 34 of the 95 sales of cows on that day.

(d) On July 18, 2011, these two individuals alternated purchases of livestock, namely cows, 15 times in a row, and were consecutive winning bidders for 30 of the 76 sales of cows on that day.

(e) On July 25, 2011, these two individuals alternated purchases of livestock, namely cows, 10 times in a row, and were consecutive winning bidders for 20 of the 64 sales of cows on that day.

(f) On August, 1, 2011, these two individuals alternated purchases of livestock, namely cows, 15 times in a row, and were consecutive winning bidders for 30 of the 67 sales of cows on that day.

(g) Such alternating purchases were not by chance, and represent an

agreement to alternate bids on livestock between respondents Yoder, Garver, Inc. and Merlin Garver.

V

(a) On October 11, 2011, respondents Merlin Garver and Glenn Beachy, a salaried employee of Yoder, attended a livestock auction at Damascus Livestock Auction in Damascus, Ohio. Purchases at this sale go to the highest bidder.

(b) On that day, these two individuals alternated purchases of livestock, namely cows, 17 times in a row, and were consecutive winning bidders for 34 of the 64 sales of cows on that day.

(c) Such alternating purchases were not by chance, and represent an agreement to alternate bids on livestock between respondents Garver, Inc., Merlin Garver, and Yoder.

VI

(a) By reason of the facts alleged in paragraph I, respondent Garver, Inc. is the alter ego of respondent Merlin Garver.

(b) By reason of the facts alleged in paragraph II, respondents Yoder, Mezurek Livestock, Schenk, Merlin Garver, and Gorr, willfully committed an unfair and deceptive practice in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.70 (9 C.F.R. § 201.70) of the regulations.

(c) By reason of the facts alleged in paragraph III, respondents Yoder and Robert Butzer & Sons, Inc., willfully committed an unfair and deceptive practice in violation of section 312(a) (7 U.S.C. § 213(a)) of the Act and section 201.70 (9 C.F.R.

§ 201.70) of the regulations.

(d) By reason of the facts alleged in paragraph IV, respondents Yoder, Merlin Garver, and Garver Inc., willfully committed an unfair and deceptive practice in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.70 (9 C.F.R. § 201.70) of the regulations.

(e) By reason of the facts alleged in paragraph V, respondents Yoder, Merlin Garver, and Garver Inc., willfully committed an unfair and deceptive practice in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.70 (9 C.F.R. § 201.70) of the regulations.

WHEREFORE, it is hereby ordered that this complaint shall be served upon respondents for the purpose of determining whether respondents have willfully violated the Act and the regulations. Respondents shall have twenty (20) days after receipt of this complaint to file an answer with the Hearing Clerk, United States Department of Agriculture, Washington D.C. 20250, in accordance with the Rules of Practice Governing Proceedings Under the Act (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.

Packers and Stockyards Program, GIPSA, 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 found to exist, suspending respondents as registrants under the Act, and assessing such penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 18th day of September, 2013

Susan B. Keith

Susan B. Keith
Deputy Administrator,
Packers and Stockyards Program

JONATHAN D. GORDY
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Trade Practices Division
1400 Independence Avenue, S.W.
Room 2004, South Building
Washington, D.C. 20250
Telephone: (202) 720-5065