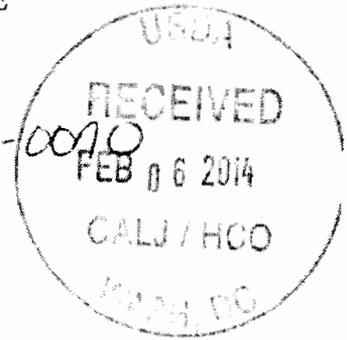


UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
)  
)  
Daniel S. McClellan )  
)  
)  
Respondent ) P&S Docket No. 14-0070  
) Complaint



There is reason to believe that the respondent named herein has willfully violated the Packers & 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) Daniel S. McClellan, referred to herein as the respondent, is an individual whose home address is in the State of Florida. In order to protect the personal privacy of the respondent, his address is not included in this Complaint but has been provided to the Hearing Clerk for the purpose of effectuating service of process.

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

(1) Engaged in the business of a market agency buying and selling livestock on a commission basis in commerce; and

(2) Engaged in the business of a dealer buying and selling livestock in commerce;

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

## II.

During the period from October 2012, through July 2013, in 38 transactions involving the purchase of a total of 1,911 head of livestock from four different livestock auction markets, for an approximate purchase price of \$778,525.60, the respondent failed to pay, when due, the full amount of the livestock purchase prices within the time period required by the Act, in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b). For each of these transactions, respondent remitted payment between five and twenty days late.

## III.

(a) Between May 2013, and July 2013, the respondent issued four insufficient funds checks to three livestock markets in payment for livestock purchases. The respondent thus failed to have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented, in violation of section 312(a) of the Act (7 U.S.C. §§ 213(a)).

(b) By issuing the insufficient fund checks on the dates referenced in Count III(a) of this complaint, the respondent also failed to pay, when due, the full amount of the livestock purchase prices within the time period required by the Act, in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and regulations issued thereunder, 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 Ave., 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 will constitute an admission of all the material allegations in this complaint and a waiver of hearing.

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

1. That unless the respondent fails 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 an order be issued requiring the respondent to cease and desist from the violations of the Act and the regulations found to exist; suspending the respondent as a registrant under the Act and prohibiting the respondent, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and assessing such civil penalties against the respondent as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 12<sup>th</sup> day of February, 2014

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

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