

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No.
Hatch Auction, Inc.,) 14-0091
d.b.a. Cow House Auction, and) 14-0092
Raymond L. Hatch,)
Respondents.) Complaint

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

I.

(a) Respondent, Hatch Auction, Inc., is a corporation organized under the laws of the State of New Mexico, with its principal place of business located at 4002 Highway 64, Kirtland, New Mexico 87417. Its mailing address is P.O. Box 1489, Fruitland, New Mexico 87416. The corporation's registered agent for service of process is: Raymond L. Hatch, 51 County Road 6653, Fruitland, New Mexico 87416.

(b) Respondent, Hatch Auction, Inc. also operates as Cow House Auction, which is located at 4002 Highway 64, Kirtland, New Mexico 87417.

(c) Respondent, Hatch Auction, Inc., under the direction, management, and control of Respondent Raymond L. Hatch, is, and at all times material herein was:

- (1) Engaged in the business of conducting and operating an auction market 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.

(d) Respondent Raymond L. Hatch is an individual whose mailing address is 51 County Road, 6653 Fruitland, New Mexico 87416.

(e) Respondent Raymond L. Hatch is, and at all times material herein, was:

- (1) Co-owner of respondent Hatch Auction, Inc.; and
- (2) Responsible for the day-to-day direction, management and control of respondent Hatch Auction, Inc. including the acts and practices referred to in this complaint.

II.

On dates specified in this paragraph respondents were provided with notice that they had failed to maintain and use properly their custodial account for shippers' proceeds, hereinafter referred to as "custodial account", thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners

and consignors of livestock.

(a) In a letter dated March 26, 2009, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of November 30, 2008 respondents had operated with a shortage in their custodial account in the amount of \$16,391.00 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213) and section 201.42 of the regulations (9 C.F.R. § 201.42).

(b) In a letter dated October 5, 2009, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of December 31, 2008 respondents had operated with a shortage in their custodial account in the amount of \$36,500.98 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213).

(c) In a letter dated October 8, 2009, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of June 30, 2009 respondents had operated with a shortage in their custodial account in the amount of \$16,092.64 in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213).

(d) In a letter dated July 20, 2011, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration

307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213) and had operated with current liabilities exceeding current assets in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213).

(e) On August 1, 2012, respondents were advised by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration that as of December 31, 2011 respondents had operated with current liabilities exceeding current assets in the amount of \$58,212.05, in violation of sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213).

(f) Pursuant to In Re: Hatch Auction, Inc. dba Cow House and Raymond L. Hatch, P & S Docket No. D-12-0208 (April 10, 2012), respondents were ordered to cease and desist from (1) failing to deposit in their custodial account for shippers' proceeds, within the time prescribed, an amount equal to the proceeds recievable from the purchase of livestock consigned to the corporate respondent for sale on a commission basis; (2) failing to otherwise maintain their custodial account for shippers' proceeds in conformity with the regulations. Additionally, respondent Hatch Auction, Inc. dba Cow House was suspended as a registrant under the Act for a period of thirty (30) days and thereafter until respondent Hatch Auction, Inc. dba Cow House demonstrated that the shortages in the Custodial Account for Shippers' Proceeds had been eliminated. The Order was effective on April 16, 2012. On May 17, 2012 a supplemental order was issued terminating the suspension because the 30 day suspension period had expired and respondent had demonstrated that the shortages had been eliminated.

III.

issued terminating the suspension because the 30 day suspension period had expired and respondent had demonstrated that the shortages had been eliminated.

III.

During the period from August 31, 2012 through December 31, 2012, as specified in this paragraph and paragraph II above, respondents failed to maintain and use properly their custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners and consignors of livestock.

(a) As of September 28, 2012, Respondents had outstanding checks drawn on their custodial account in the amount of \$25,599.86, and had to offset such checks against a balance in the custodial account of \$10,222.23 and proceeds receivable of \$773.68, resulting in a custodial account shortage in the amount of \$14,603.95.

(b) As of October 31, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$63,258.92, and had to offset such checks against a balance in the custodial account of \$4,652.36 and proceeds receivable of \$29,071.79, resulting in a custodial account shortage in the amount of \$29,534.77.

(c) As of December 31, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$15,832.25, and had to offset such checks against a balance in the custodial account of \$1,280.29 and proceeds receivable of zero

receivable from the sale of consigned livestock within the time prescribe by section 201.42 of the Regulations (9 C.F.R. 201.42).

IV.

By reason of the facts alleged in paragraphs II, and III, respondents have willfully violated sections 307(a) and 312(a) of the Act (7 U.S.C. §§208 and 213), and section 201.42 of the regulations (9 C.F.R. § 201.42).

WHEREFORE, it is hereby ordered that this complaint shall be served upon the respondents for the purpose of determining whether respondents have willfully violated the Act and 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, S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing 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 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

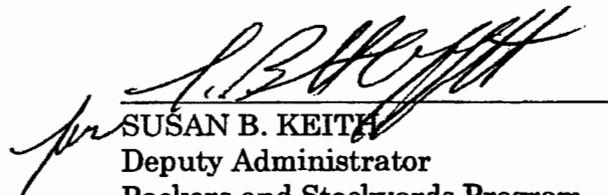
Administration requests:

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, suspending respondents as registrants under the Act, until such time as the violations of the custodial account regulations have been corrected and their application for registration is accepted by the Packers and Stockyards Program, and assessing such civil penalties against Respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 3rd day of April, 2014


per _____
SUSAN B. KEITH
Deputy Administrator
Packers and Stockyards Program

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