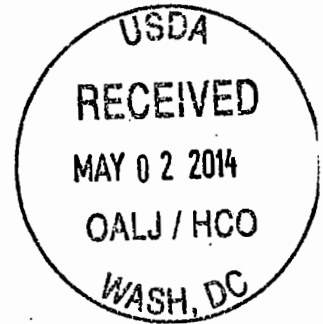


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
)
Ashville Stockyard, Inc.,) P & S Docket No. D-14- 0103
)
)
Bradley Plunkett,) P & S Docket No. D-14- 0104
)
)
and)
)
Tilda Plunkett,) P & S Docket No. D-14- 0105
)
)
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.*; hereinafter Regulations), and, therefore, this complaint is issued alleging the following:

I.

- a) Ashville Stockyard, Inc. (hereinafter Respondent Ashville), is a corporation organized and existing under the laws of the State of Alabama whose business address is 18390 U.S. Highway 11 South, Ashville, Alabama 35953 and whose mailing address is P.O. Box 580, Ashville, Alabama 35953.

b) At all times material herein, Respondent Ashville was:

1. Engaged in the business of a dealer buying and selling livestock for its own account or account of others and as a market agency selling livestock in commerce on a commission basis; and
2. Registered with the Secretary of Agriculture as a dealer to buy and sell livestock and as a market agency to sell livestock on a commission basis.

c) Bradley Plunkett (hereinafter Respondent Bradley Plunkett) is an individual.

Respondent Bradley Plunkett's mailing address is a home address, and will not be stated in this complaint to protect his privacy, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

d) Respondent Bradley Plunkett is and at all times material herein was:

1. President and 100% shareholder of Respondent Ashville;
2. Registered agent for Respondent Ashville;
3. The person who, together with Respondent Tilda Plunkett, has managed, directed, and controlled Respondent Ashville; and
4. Not individually registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce or as a market agency to buy or sell on commission.

e) Tilda Plunkett (hereinafter Respondent Tilda Plunkett) is an individual.

Respondent Tilda Plunkett's mailing address is a home address, and will not be stated in this complaint to protect his privacy, but will be provided to the

Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

- f) Respondent Tilda Plunkett is and at all times material herein was:
1. Secretary and Treasurer of Respondent Ashville;
 2. The person who, together with Respondent Bradley Plunkett, has managed, directed, and controlled Respondent Ashville; and
 3. Not individually registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce or as a market agency buying or selling on commission.

II.

On April 4, 2012, Respondents Ashville, and Bradley and Tilda Plunkett agreed to a Consent Decision and Order (consent decision) *In re: Ashville Stockyard Inc., and Bradley and Tilda Plunkett*, P & S Docket No. 11-0412. The consent decision required Respondents Ashville, and Bradley and Tilda Plunkett, their agents and employees, directly or through any corporate device, to, *inter alia*, cease and desist from failing to deposit in their Custodial Accounts for Shippers' Proceeds within the times prescribed in section 201.42 of the regulations amounts equal to the outstanding proceeds receivable from the sale of consigned livestock, using funds received from the sale of consigned livestock for any purpose other than payment to consignors of the amount due from the sale of their livestock, and from otherwise failing to maintain their Custodial Account for Shippers' Proceeds in conformity with section 201.42 of the regulations. Notwithstanding the consent

decision, Respondents have continued operations with custodial account shortages.

III.

Respondent Ashville, under the direction, management and control of Respondents Bradley and Tilda Plunkett, during the period of August 31, 2012, through September 30, 2012, failed to maintain properly its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

- a) As of August 31, 2012, Respondent Ashville had outstanding checks drawn on its custodial account in the approximate amount of \$175,399.78, and had to offset such checks and expenses, a balance in the custodial account of \$101,633.26, and proceeds receivable of approximately \$36,344.51 resulting in a deficiency of approximately \$37,422.01.
- b) As of September 30, 2012, Respondent Ashville had outstanding checks drawn on its custodial account in the approximate amount of \$261,323.37, and had to offset such checks and expenses, a balance in the custodial account of \$143,748.45 and proceeds receivable of \$73,340.77 resulting in a deficiency of approximately \$44,234.15.
- c) Such deficiencies were due, in part, to the failure of the Respondents to deposit in the custodial account, within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock to the Respondents and others.

IV.

By reason of the facts alleged in paragraph I, Respondent Ashville is the alter ego of Respondent Bradley Plunkett and Respondent Tilda Plunkett.

By reason of the facts alleged in paragraphs II-III, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), 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 Respondents for the purpose of determining whether the Respondents have willfully violated the Act. Respondents shall have twenty (20) days after receipt of this complaint in which 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.*). 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.

The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (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 and the Regulations found to exist, suspending Respondents as registrants under the Act, and assessing such civil penalties against Respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 30th day of April, 2014

Susan B. Keith

Susan B. Keith

Deputy Administrator

Packers and Stockyards Program

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