

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:

David Shaw

Respondent

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Docket No. 14-0155

Complaint

There is reason to believe that the respondent named herein has wilfully violated provisions of the Packers and Stockyard Act, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (the Act), and the Regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*). Therefore, the Grain Inspection, Packers and Stockyards Administration ("GIPSA") issues this complaint alleging the following:

I.

- a) David Shaw (respondent) is an individual whose mailing address is in the State of Texas. In order to protect the personal privacy of the respondent, complainant is not providing his address in this complaint. Complainant has provided the address to the Hearing Clerk so that service can be effected.
- b) Respondent at all times material herein was:
 - 1. Engaged in the business of a dealer buying and selling livestock in commerce for his own account;
 - 2. Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.
 - 3. Operating subject to the Act and the Regulations within the jurisdiction of the Secretary.

II.

- a) Respondent, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth below, purchased livestock as a dealer at Johnson County Cattle Auction, Hubbard Livestock Auction, and Corsicana Livestock Auction, all posted stockyards, and issued checks for livestock purchases that were returned unpaid by the bank upon which it was drawn because the Respondent did not have and maintain sufficient funds on deposit and available in the account upon which such check was drawn to pay such check when presented.

Seller	Purchase Date	Date Payment Due	No. Head	Livestock Amount	Check No.	NSF Check Amount	Check Returned
Johnson County Cattle Auction Cleburne, TX	07/07/2012	07/09/2012	26	\$21,243.41	8858	\$21,243.41	07/13/2012 & 07/23/2012
Hubbard Livestock Auction Hubbard, TX	07/09/2012	07/10/2012	9	\$ 4,853.55	8859	\$4853.55	07/13/2012 & 07/20/2012
Corsicana Livestock Auction Corsicana, TX	07/24/2012	07/25/2012	15	\$ 9,330.80	8898	\$ 9,330.80	08/06/2012 & 08/14/2012

- b) Respondent, in connection with his operations subject to the Act, in the transactions set forth in subparagraph (a) above, purchased livestock and failed to pay, when due, for the livestock purchase. Respondent paid for the livestock for the July 7, 2012

transaction on December 17, 2012 and the July 10, 2012 transaction on October 29, 2012, approximately 161 and 111 days late.

- c) In addition to the transactions set forth in paragraph II.a., on or about July 31, 2012, the respondent purchased livestock and failed to pay, when due, the full purchase price of \$8,706.53 for fourteen (14) head of livestock.
- d) As of the date of the issuance of this complaint, \$18,037.33 referred to above remains unpaid to Corsicana Livestock.

III.

- a) Respondent, commencing on or about May 07, 2012, and continuing through July 31, 2012, in 16 transactions on 16 separate days, engaged in the business of a market agency or a dealer, by purchasing 218 head of livestock totaling approximately \$134,839.45, without filing and maintaining an adequate bond or bond equivalent. Respondent purchased the livestock from the following markets: (1) Hubbard Livestock Market, L.L.C.; (2) Corsicana Livestock Auction; and (3) Johnson County Cattle Auction.
- b) Respondent, commencing on or about May 08, 2012, and continuing through June 19, 2012, in 3 transactions on 3 separate days, engaged in the business of a market agency or a dealer, by selling 17 head of livestock totaling approximately \$10,600, without filing and maintaining an adequate bond or bond equivalent. Respondent sold the livestock to the Corsicana Livestock Auction, Corsicana, TX, a posted stockyard.

IV.

- a) Respondent, in connection with his operations subject to the Act, failed to keep and maintain records which fully and correctly disclosed all the transactions involved in

his business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221). Specifically, Respondent failed to keep and maintain purchase invoices and copies of his buyer commission/hauling checks from the markets.

- b) In the sworn affidavit signed by Respondent on October 25, 2012, Respondent admitted that he “do[es] not have any of the purchase or sales invoices. The only kind of paperwork [he] has is the bank statements.”

V.

By reason of the facts alleged in paragraphs II and III herein, Respondent David Shaw willfully violated sections 312 (a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30).

By reason of the facts alleged in paragraph IV, respondent has willfully violated section 401 of the Act (7 U.S.C. § 221), by failing to keep and maintain records that fully and correctly disclosed all transactions involved in his business.

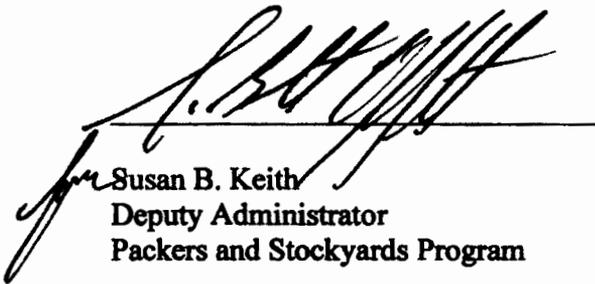
WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act and the Regulations, this complaint shall be served upon the respondent. The respondent shall have twenty (20) days after receipt of this complaint in which to file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130 *et seq.*). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Grain Inspection, Packers and Stockyards Administration (“GIPSA”) requests:

1. That unless the respondent fails to file an answer within the time allowed, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity 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 of the Act and Regulations 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 14th day of July, 2014



Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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