

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. 14-150
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)
Donnie Miller,)
)
)
Respondent) Complaint

There is reason to believe that the Respondent named herein has 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.) (Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Donnie Miller (Respondent) is an individual whose mailing address is in the State of Mississippi. The address will not be stated in the complaint to protect the privacy of Respondent, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purpose of service of this complaint.

- (b) Respondent is, and at all times material herein was:
- (1) Engaged in the business of a dealer buying and selling livestock in commerce for his own account or for the account of others;
 - (2) Engaged in the business of a market agency buying livestock in commerce on a commission basis;
 - (3) Not registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce for his own account or for the account of others or

as a market agency buying livestock in commerce on a commission basis;¹ and

(4) Operating subject to the Act and the Regulations within the jurisdiction of the Secretary.

II.

Respondent, during the approximate time period of March 14, 2011 through August 15, 2012, in approximately 22 transactions involving approximately 50 head of livestock, generated or caused to be generated purchase invoices with false information. Specifically, Respondent purchased livestock at Macon Stockyards, Inc. (Macon), Macon, Mississippi and H & P Cattle, LLC d/b/a Gowan Stockyards (Gowan), Kosciusko, Mississippi, both posted stockyards, and either personally used Macon and Gowan's computers or directed Macon and Gowan personnel to generate purchase invoices that (1) listed the livestock as having been purchased under a false name, Johnny Cook, instead of listing Respondent as the purchaser or listing the person or entity for whom Respondent was procuring the livestock as the purchaser; (2) represented that Respondent had resold the livestock at Macon or Gowan that he had purchased at Macon or Gowan earlier the same day when in fact Respondent had not resold the livestock through the ring at Macon or Gowan and had only electronically transferred the livestock onto new purchase invoices for Respondent's customers; and/or (3) listed purchase prices for the approximately 50 head of livestock that were higher than the actual purchase prices. Respondent then transmitted the invoices with the marked up prices to his customers on whose behalf Respondent procured the livestock. Respondent collected profits of approximately \$6,069.01 as a result of the marked up prices on the false purchase invoices in addition to the commissions that he charged most of his customers.

¹ Respondent submitted an application for registration as a dealer, which was received by the Eastern Regional Office of the Packers and Stockyards Program on September 24, 2012. Respondent's application was accepted and became effective as of October 11, 2012.

III.

(a) Respondent, during the approximate time period of May 4, 2011 through May 28, 2012, in approximately 4 transactions involving 12 head of livestock, generated or caused to be generated purchase invoices with false information. Specifically, Respondent purchased cow/calf pairs at Macon and Gowan and either personally used Macon and Gowan's computers or directed Macon and Gowan personnel to generate purchase invoices that (1) split the cow/calf pairs and represented that Respondent had resold each individual animal at Macon or Gowan later the same day when in fact Respondent had not resold each individual animal through the ring at Macon or Gowan and had only electronically transferred each individual animal onto new purchase invoices for Respondent's customers; (2) listed fabricated weights for at least one animal of each split cow/calf pair; and (3) listed fabricated prices for each animal of the split cow/calf pairs. Respondent then transmitted the invoices with the fabricated weights and prices to his customers on whose behalf Respondent procured the livestock. Respondent collected profits of approximately \$1,443.58 as a result of the fabricated prices on the false purchase invoices in addition to the commissions that he charged most of his customers.

(b) In one of the 22 transactions referenced in paragraph II above that occurred on or about May 2, 2012, Respondent fabricated the weight of 1 head of livestock.

IV.

Respondent, in connection with his operations subject to the Act, by reason of the facts alleged in paragraphs II and III above, failed to keep and maintain accounts, records, and memoranda that fully and correctly disclosed all transactions involved in his business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221) and as more fully specified in section 203.4 of the Statements of General Policy Under the Act (9 C.F.R. § 203.4).

Specifically, Respondent failed to keep and maintain purchase invoices that accurately reflected the price, weight, and purchaser of livestock.

V.

By reason of the facts alleged in paragraph II herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.44 and 201.53 of the Regulations (9 C.F.R. §§ 201.44, 201.53).

By reason of the facts alleged in paragraph III herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.44, 201.53, and 201.55 of the Regulations (9 C.F.R. §§ 201.44, 201.53, 201.55).

By reason of the facts alleged in paragraphs II, III, and IV herein, Respondent has willfully violated section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether Respondent willfully violated the Act and the Regulations. Respondent 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, SW., Washington, DC 20250-9200, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (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.

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

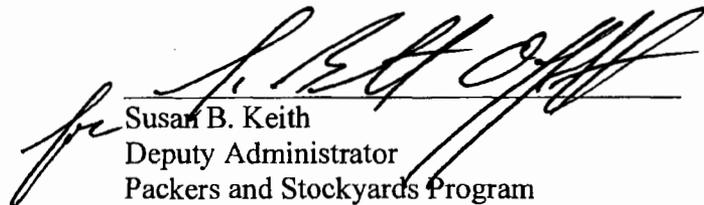
1. That unless Respondent fails to file an answer within the time allowed, or files an

answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act and the Regulations found to exist, an order requiring Respondent to keep and maintain all accounts, records, and memoranda that fully and correctly disclose all transactions involved in his business, suspending Respondent as a registrant under the Act for a specified period of time, and assessing such civil penalties against Respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 14th day of July, 2014


Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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