

Complaint Issued Against Richard H. Swanz D/B/A Lewistown Livestock Auction

WASHINGTON (August 2, 2001) - On June 18, 2001, the Grain Inspection, Packers and Stockyards Administration (GIPSA) issued an administrative complaint against Richard H. Swanz, d/b/a Lewistown Livestock Auction (Swanz) of Lewistown, Montana. Swanz was registered under the Packers and Stockyards Act (Act) as a market agency selling livestock on a commission basis, and as a dealer buying and selling livestock for his own account.

Central Montana Livestock Auction, Inc. (Central), purchased stock ownership of Lewistown Livestock Auction from Richard H. Swanz effective October 2, 2000. However, Central has and is operating under the trade name of Lewistown Livestock Auction. It should be noted that all allegations stated in the complaint pertain to the operations of Lewistown Livestock Auction prior to its ownership and operation by Central. Central is not a party to this action.

The complaint alleges that Swanz failed to maintain and use properly the Lewistown Livestock Auction Custodial Account for Shippers' Proceeds (custodial account) that was used for livestock sales, endangering full and prompt payments due to consignors of livestock to the market. Swanz allegedly failed to deposit into the custodial account the amount due from the sale of livestock consigned to the market within the time limits prescribed by the regulations issued under the Act. Swanz is further alleged to have misused the custodial account by failing to reimburse the account for bank overdraft charges deducted from the account, and withdrawing yardage and selling commissions while the account lacked sufficient funds to cover all outstanding checks issued to consignors. Swanz also allegedly failed to reimburse the custodial account for buyers who failed to pay for livestock purchases despite repeated written notices to Swanz that regulations required the account to be reimbursed.

The complaint also alleges that Swanz permitted its auctioneer to purchase livestock consigned to the Lewistown Livestock Auction despite being notified that regulations prohibit any selling agency from permitting its auctioneer to purchase livestock consigned to the market whether for his own account or for the accounts of others.

Swanz has 20 days after receipt of the complaint in which to file an answer to the allegations stated in it. Failure to file an answer will constitute an admission of the allegations. If an answer is received denying the allegations, a date will be set for oral hearing. If the allegations are proven, Swanz may be ordered to stop violations of the Act, suspended as a registrant under the Act, and assessed a civil penalty.

The Packers and Stockyards Act is a fair trade practice and payment protection law that promotes fair and competitive marketing environments for the livestock, meat, and poultry industries.

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GIPSA Release #46-01
Correction to GIPSA Release #43-01
Leah Akbar (202) 720-4998
Leah_L.Akbar@usda.gov