

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P. & S. Docket No. D-09-0094
)	
David Nolan, d/b/a)	
Northern Livestock)	
)	
)	
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.), 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,” and therefore this complaint is issued alleging the following:

I.

- (a) David Nolan, doing business as Northern Livestock, hereinafter referred to as “the Respondent,” is an individual whose mailing address is in Winnebago, Wisconsin.¹
- (b) Respondent at all times material to this complaint was:
 - (1) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account; and
 - (2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, and as a market agency buying on commission.

¹ Respondent’s address has been omitted to protect his privacy. Respondent’s service address is on file with the Hearing Clerk’s Office.

II.

(a) On or about the dates and in the transactions listed below, Respondent issued checks in payment for livestock purchases which were returned unpaid by the bank upon which they were drawn. These checks were returned because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

SELLER	INVOICE DATE	LIVESTOCK AMOUNT ²	NO. OF HEAD	CHECK DATE	CHECK NUMBER	CHECK AMOUNT	RETURN DATE
CENTRAL ORDER BUYERS	05/30/07	\$34,848.23	30	07/01/07	7417	\$35,941.09	07/06/07
CENTRAL ORDER BUYERS	06/11/07	\$40,876.52	37	07/19/07	7431	\$42,039.02	07/23/07 & 7/26/07
CENTRAL ORDER BUYERS	07/17/07	\$37,384.16	34	08/23/07	7470	\$38,516.75	08/27/07
CENTRAL ORDER BUYERS	7/18/07	\$27,780.76	27	08/24/07	7471	\$28,031.05	8/28/07 & 9/5/07
CENTRAL ORDER BUYERS	07/25/07	\$21,204.17	18	08/31/07	7484	\$22,215.95	09/05/07
TOTALS		\$162,093.84	146			\$166,743.86	

² The livestock total does not include hauling, commission and insurance charges. On October 15, 2007, Central Livestock Association filed a bond claim against Respondent's bond in the amount of \$634,125.49 for non-payment of livestock. The total amount of the bond claim filed includes \$621,355.44 in livestock purchases and \$12,770.05 in miscellaneous charges such as feed, commissions, insurance and hauling. On January 2, 2008 Central Livestock Association filed a lawsuit seeking a \$634,125.49 civil judgment against Respondent in the United States District Court, Eastern District of Wisconsin.

(b) On or about the dates and in the transactions set forth below, Respondent purchased livestock and failed to pay, within the time period required by the Act, the full purchase price of such livestock.

SELLER	INVOICE DATE	LIVESTOCK AMOUNT	OTHER CHARGES	INVOICE AMOUNT	NO. OF HEAD	DUE DATE PER §409	DATE PAID	DAYS LATE
CENTRAL ORDER BUYERS	5/30/07	\$34,848.23	\$1,092.86	\$35,941.09	30	5/31/07	07/11/07	41
CENTRAL LIVESTOCK ASSN	6/04/07	\$63,279.90	\$0	\$63,279.90	53	6/05/07	06/10/07	5
CENTRAL ORDER BUYERS	6/04/07	\$20,144.41	\$167.51	\$20,311.92	17	6/05/07	07/05/07	30
CENTRAL ORDER BUYERS	6/04/07	\$39,678.75	\$1,138.24	\$40,816.99	35	6/05/07	07/13/07	38
CENTRAL ORDER BUYERS	6/05/07	\$31,231.68	\$1,077.96	\$32,309.64	28	6/06/07	07/15/07	39
CENTRAL ORDER BUYERS	6/06/07	\$41,004.38	\$1,119.32	\$42,123.70	37	6/07/07	07/16/07	39
CENTRAL ORDER BUYERS	6/11/07	\$40,876.52	\$1,162.50	\$42,039.02	37	06/12/07	07/23/07	41
CENTRAL LIVESTOCK ASSN	06/11/07	\$47,124.69	\$0	\$47,124.69	43	06/12/07	06/17/07	5
CENTRAL LIVESTOCK ASSN	6/18/07	\$47,839.57	\$0	\$47,839.57	42	06/19/07	06/24/07	5
CENTRAL LIVESTOCK ASSN	6/25/07	\$57,245.88	\$98.00	\$57,343.88	52	06/26/07	07/01/07	5
CENTRAL ORDER BUYERS	7/17/07	\$37,384.16	\$1,132.59	\$38,516.75	34	07/18/07	08/29/07	41
CENTRAL ORDER BUYERS	7/18/07	\$27,780.76	\$250.29	\$28,031.05	27	07/19/07	09/06/07	48
CENTRAL ORDER BUYERS	7/25/07	\$21,204.17	\$1,011.78	\$22,215.95	18	07/26/07	09/12/07	46
TOTALS		\$509,643.10	\$8,251.05	\$517,894.15	453	AVERAGE DAYS LATE		29

(c) On or about the dates and in the transactions set forth below, Respondent purchased livestock and failed to pay the full purchase price of such livestock.

PURCHASED FROM	INVOICE DATE	DUE DATE PER §409	TOTAL NO. OF HEAD	LIVESTOCK TOTAL	OTHER CHARGES	INVOICE TOTAL
CENTRAL ORDER BUYERS	07/19/07	07/20/07	26	\$29,574.02	\$260.45	\$29,834.47
CENTRAL ORDER BUYERS	07/31/07	08/01/07	36	\$40,223.53	\$1,175.01	\$41,398.54
CENTRAL ORDER BUYERS	08/07/07	08/08/07	31	\$37,359.01	\$1,123.00	\$38,482.01
CENTRAL ORDER BUYERS	08/07/07	08/08/07	28	\$32,428.69	\$283.21	\$32,711.90
CENTRAL ORDER BUYERS	08/07/07	08/08/07	23	\$28,350.67	\$1,063.04	\$29,413.71
CENTRAL ORDER BUYERS	08/08/07	08/09/07	8	\$9,344.25	\$79.73	\$9,423.98
CENTRAL ORDER BUYERS	08/08/07	08/09/07	16	\$16,989.68	\$152.35	\$17,142.03
CENTRAL ORDER BUYERS	08/08/07	08/09/07	16	\$17,903.21	\$983.38	\$18,886.59
CENTRAL ORDER BUYERS	08/14/07	08/15/07	28	\$31,247.08	\$1,094.38	\$32,341.46
CENTRAL ORDER BUYERS	08/15/07	08/16/07	34	\$42,328.35	\$1,188.79	\$43,517.14
CENTRAL ORDER BUYERS	08/17/07	08/20/07	11	\$12,898.64	\$113.84	\$13,012.48
CENTRAL ORDER BUYERS	08/21/07	08/22/07	24	\$26,826.76	\$1,059.90	\$27,886.66
CENTRAL LIVESTOCK ASSOCIATION	08/22/07	08/23/07	15	\$15,447.50	\$0	\$15,447.50
CENTRAL ORDER BUYERS	08/27/07	08/28/07	28	\$31,040.35	\$267.31	\$31,307.66
CENTRAL	08/27/07	08/28/07	37	\$41,002.68	\$0	\$41,002.68

LIVESTOCK ASSOCIATION						
CENTRAL ORDER BUYERS	08/29/07	08/30/07	38	\$43,831.99	\$1,200.02	\$45,032.01
CENTRAL ORDER BUYERS	08/29/07	08/30/07	57	\$68,706.24	\$1,406.70	\$70,112.94
CENTRAL ORDER BUYERS	09/05/07	09/06/07	35	\$41,169.03	\$1,169.39	\$42,338.42
CENTRAL LIVESTOCK ASSOCIATION	09/05/07	09/06/07	32	\$37,630.20	\$126.00	\$37,756.20
CENTRAL ORDER BUYERS	09/07/07	09/10/07	15	\$16,927.56	\$149.55	\$17,077.11
TOTALS			538	\$621,229.44	\$12,896.05	\$634,125.49

(d) As of the date of issuance of this complaint, all of the \$634,125.49 referred to in paragraph II (c), above, remains unpaid.

III.

Respondent failed to keep accounts, records, and memoranda that fully and correctly disclosed all transactions involved in his business, as required by section 401 of the Act (7 U.S.C. § 221), including but not limited to, copies of all livestock invoices, copies of cancelled, returned and/or reissued checks, bank statements, balance sheets, records of inventory, records of profit or loss, documentation indicating Respondent's commission fee agreements, and complete and accurate accounts and records reflecting Respondent's financial condition.

IV.

By reason of the facts alleged in paragraph II, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

By reason of the facts alleged in paragraph III herein, Respondent has failed to keep records as required by section 401 of the Act (7 U.S.C. § 221) and, therefore, has willfully engaged in an “unfair practice” in violation of section 312 (a) of the Act (7 U.S.C. §213(a)).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether Respondent has willfully violated the Act and Regulations. 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, in accordance with the Rules of Practice Governing Proceedings Under the Act (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.

Packers and Stockyards Program, GIPSA, 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 found to exist, and suspending Respondent as a registrant under the Act, as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 8 day of April, 2009



Alan R. Christian
Deputy Administrator,
Packers and Stockyards Program



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