

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

In re:

Lonnie & Karen Martin,

Respondents

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P & S Docket No. D-10-  
Complaint and Notice  
of Hearing

0234

There is reason to believe that Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, 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.*)(the regulations), and therefore, this Complaint and Notice of Hearing is issued alleging the following:

I

(a) Lonnie and Karen Martin are individuals with a business address of 1505 Main Street, East Earl, Pennsylvania 17519.

(b) Respondents are, and at all times material herein were:

- (1) Engaged in the business of buying livestock in commerce for purposes of slaughter;
- (2) Engaged in the business of slaughtering hogs and manufacturing or preparing meat or meat products for sale or shipment in commerce; and
- (3) A packer within the meaning of and subject to the Act.

II

Respondents were notified by letter of April 9, 2007, that the Packers and Stockyards Act requires all packers who purchase livestock valued in excess of \$500,000 annually must file and maintain a surety bond or bond equivalent. The letter included a copy of the Act, and a special

report Form P&SP-1400: Packer Inquiry, requesting information on the Martins' packers' operation pursuant to section 6(b) of the FTC Act, made applicably to the jurisdiction, powers, and duties of the Secretary of Agriculture by section 402 of the Packers and Stockyards Act.

On April 8, 2008, Respondents were issued a Notice of Default, notifying them that they had failed to provide the special report demanded by the letter of April 9, 2007. The Notice of Default included another copy of the special report Form P&SP-1400: Packer Inquiry, and instructed Respondents that they must complete and return the enclosed form. The Notice of Default was received and signed for by Karen Martin on April 14, 2008.

By letter dated June 17, 2008, personally delivered to Lonnie Martin on June 19, 2008, the Martins were notified that, based on P&SP's investigation of the Martins' packer operation, a \$10,000 packer bond was required. The letter was accompanied by another copy of the special report Form P&SP-1400: Packer Inquiry.

Notwithstanding the notices they received, Respondents continued to engage in the business of buying livestock in commerce for purposes of slaughter without maintaining an adequate bond or bond equivalent as required by the Act and the Regulations.

### III

(a) Respondents, on or about the dates and in the transactions set forth below, failed to pay, when due, for livestock purchases:

Purchase Date	Seller	No. of Head	Amount Due for Livestock	Date Payment Due	Remaining Livestock Amount Due
06/20/07	New Holland Sales Stables, Inc.	10	\$529.00	06/21/07	\$529.00
06/25/07	New Holland Sales Stables, Inc.	75	\$3,944.50	06/26/07	\$3,944.50

Purchase Date	Seller	No. of Head	Amount Due for Livestock	Date Payment Due	Remaining Livestock Amount Due
06/27/07	New Holland Sales Stables, Inc.	18	\$527.00	06/28/07	\$527.00
07/02/07	New Holland Sales Stables, Inc.	25	\$1,282.25	07/03/07	\$1,282.25
07/04/07	New Holland Sales Stables, Inc.	20	\$622.00	07/05/07	\$622.00
07/17/08	New Holland Sales Stables, Inc.	57	\$5,080.80	07/18/07	\$5,080.80
06/22/08	Neely Livestock	79	\$3,579.00	06/23/08	\$3,579.00
06/29/08	Neely Livestock	249	\$17,719.00	06/30/08	\$17,719.00
07/06/08	Neely Livestock	242	\$14,024.50	07/07/08	\$14,024.50
07/13/08	Neely Livestock	336	\$19,663.00	07/14/08	\$19,663.00
07/20/08	Neely Livestock	322	\$18,425.00	07/21/08	\$18,425.00
07/28/08	Neely Livestock	258	\$16,441.05	07/29/08	\$16,441.05
08/04/08	Neely Livestock	231	\$15,394.50	08/05/08	\$15,394.50
03/30/08	Florence Livestock, Inc.	167	\$6,114.75	03/31/08	\$6,114.75
04/02/08	Florence Livestock, Inc.	72	\$2,219.30	04/03/08	\$2,219.30
04/13/08	Florence Livestock, Inc.	194	\$6,895.00	04/14/08	\$6,895.00
04/21/08	Florence Livestock, Inc.	137	\$4,997.50	04/22/08	\$4,997.50
04/23/08	Florence Livestock, Inc.	60	\$2,432.75	04/24/08	\$2,432.75
04/27/08	Florence Livestock, Inc.	137	\$5,367.60	04/28/08	\$5,367.60
05/01/08	Florence Livestock, Inc.	156	\$5,974.70	05/02/08	\$5,974.70
05/04/08	Florence Livestock, Inc.	116	\$4,756.35	05/05/08	\$4,756.35
05/11/08	Florence Livestock, Inc.	125	\$4,706.30	05/12/08	\$4,706.30
05/19/08	Florence Livestock, Inc.	230	\$9,197.05	05/20/08	\$9,197.05
05/21/08	Florence Livestock, Inc.	205	\$9,448.00	05/22/08	\$9,448.00
05/28/08	Florence Livestock, Inc.	169	\$6,895.90	05/29/08	\$6,895.90
06/04/08	Florence Livestock, Inc.	90	\$5,080.70	06/05/08	\$5,080.70
07/20/08	Florence Livestock, Inc.	85	\$3,529.80	07/21/08	\$3,529.80
07/27/08	Florence Livestock, Inc.	114	\$4,982.05	07/28/08	\$4,982.05

Purchase Date	Seller	No. of Head	Amount Due for Livestock	Date Payment Due	Remaining Livestock Amount Due
08/03/08	Florence Livestock, Inc.	98	\$4,539.15	08/04/08	\$4,539.15
08/10/08	Florence Livestock, Inc.	117	\$5,682.00	08/11/08	\$5,682.00
08/13/08	Florence Livestock, Inc.	48	\$2,352.00	08/14/08	\$2,352.00
08/18/08	Florence Livestock, Inc.	133	\$5,706.00	08/19/08	\$5,706.00
08/24/08	Florence Livestock, Inc.	144	\$6,638.00	08/25/08	\$6,638.00
08/20/08	Parks Livestock of Canada	275	\$12,199.52	08/21/08	\$12,199.52
		4794	\$236,946.02		\$236,946.02

(b) In purported payment of some of the transactions listed in (a) above, Respondents, on or about the dates and in the transactions set forth below, issued checks in payment for livestock purchases which were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay them when presented.

Purchase Date	Seller	No. of Head	Amount Due for Livestock	Check Number	Amount of Check
06/29/08	Neely Livestock	249	\$17,719.00	2467	\$17,719.00
07/06/08	Neely Livestock	242	\$14,024.50	2465	\$14,024.50
08/29/08*	Florence Livestock, Inc.	167	\$6,114.75	2654	\$5,500.00
09/04/08*	Florence Livestock, Inc.			2661	\$6,800.00
09/12/08*	Florence Livestock, Inc.			2673	\$5,500.00

\*Check dates--Respondents issued three checks to Florence Livestock in purported payment. Check number 2673 was issued to replace check number 2654. All three checks were returned for insufficient funds.

(c) As of the date of the filing of this complaint, Respondent owes payment to the four (4) Sellers referred to in (a) above in the amount of \$236,946.02.

#### IV

By reason of the facts alleged in paragraph II herein, Respondents have willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)) and section 201.29 of the regulations (9 C.F.R. § 201.29).

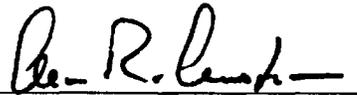
By reason of the facts alleged in paragraph III herein, Respondents have willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has, in fact, willfully violated the Act, this Complaint and Notice of Hearing shall be served upon Respondents. Respondents shall have twenty (20) days after receipt of this Complaint and Notice of Hearing to file with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, an answer with an original and three copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material allegation of this Complaint and Notice of Hearing. Allegations not answered will 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 and Notice of Hearing unless the parties have agreed to a consent decision pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138).

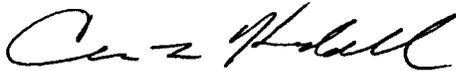
Respondents are hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing as provided by sections 1.136 and 1.141 of the Rules of Practice, a hearing for the above-mentioned purpose will be held at a time and place to be later designated before an administrative law judge authorized to conduct such hearing. At such hearing, Respondents will have the right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act requiring that Respondents cease and desist from violating the Act with respect to the matters alleged herein and assessing an appropriate civil penalty.

Done at Washington, D.C.

this 15 day of April, 2010



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program  
Grain Inspection, Packers and Stockyards  
Administration



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