

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P & S Docket No. D-11-0168  
The New Gainesville Livestock )  
Auction, LLC, and )  
James Peyrot, Jr., )  
)  
)  
)  
Respondents ) Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) The New Gainesville Livestock Auction, LLC (Respondent New Gainesville) is a limited liability company organized and existing under the laws of the state of Texas. Its mailing address is: 1920 Refinery Road, Gainesville, TX 76420.

- (b) At all times material herein, Respondent New Gainesville was:
- (1) Engaged in the business of a market agency selling livestock on a commission basis; and
  - (2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

- (c) At all times material herein, Respondent New Gainesville:
- (1) Owned and operated an auction market known as The New

Gainesville Livestock Auction in Gainesville, TX (Gainesville Livestock);

- (2) Owned and operated an auction market in Muenster, TX known as The New Gainesville Livestock Auction LLC d.b.a. Muenster Livestock Auction (Muenster Livestock).

(d) James Peyrot, Jr. (Respondent Peyrot) is an individual. Respondent Peyrot's business mailing address is his home address. In order to protect the personal privacy of Respondent, Complainant is not providing the principal's address in this Complaint, but Complainant has provided the address to the Hearing Clerk so that service can be effected.

(e) Respondent Peyrot is, and at all times material herein, was:

- (1) Managing member and one hundred percent owner of Respondent New Gainesville; and
- (2) Responsible for the day-to-day management, direction, and control of Respondent New Gainesville.

(f) Respondent Peyrot is, and at all times material herein, was:

- (1) Managing partner and one hundred percent owner of Redbone Livestock II, L.P (Redbone Livestock); and
- (2) Responsible for the day-to-day management, direction, and control of Redbone Livestock.

## II.

On or about December 2, 2008, the Western Regional Office mailed a Notice of Violation to Respondents, via certified receipt, noting that a custodial account analysis disclosed Respondents had failed to maintain and properly use their custodial account.<sup>1</sup> Specifically, Respondents were notified that their custodial account had been improperly maintained because: (1) the custodial account had a shortage of \$77,658.99 on October 6, 2008; (2) Respondents failed to reimburse the custodial account by the close of the next business day after the sale for amounts due from the market agency and its owner; and (3) Respondents failed to timely reimburse the custodial account in full for receivables that exceeded seven days in aging, for deposit items returned unpaid, and for bank fees.

Respondents were notified of the provisions of section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)) and further informed that failure to take immediate steps to correct the violations and bring their operations into compliance with the Act could result in administrative action.

## III.

Respondent New Gainesville and Respondent Peyrot, during the period of May 31, 2009, through August 27, 2009, maintained a separate "Custodial Account for Shippers' Proceeds" (hereinafter custodial account) for Gainesville Livestock and Muenster Livestock. Respondent New Gainesville, under the direction, management, and control of Respondent Peyrot, during the period of May 31, 2009, through August 27, 2009, failed to properly maintain their custodial accounts, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

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<sup>1</sup> United States Postal Service Domestic Return Receipt for Article Number 7006 2150 0002 3382 9783 was signed and received on December 8, 2008.

**1. May 31, 2009**

- a. As of May 31, 2009, Respondent New Gainesville had outstanding checks drawn on the Gainesville Livestock custodial account in the amount of \$1,486,899.56 and had to offset such checks, a balance in the custodial account in the amount of \$292,234.22, proceeds receivable of \$837,718.22, and proceeds on hand of \$199,971.90 resulting in a deficiency of \$156,975.22.
- b. As of May 31, 2009, Respondent New Gainesville had outstanding checks drawn on the Muenster Livestock custodial account in the amount of \$309,172.02 and had to offset such checks, a balance in the custodial account in the amount of \$8,259.57, proceeds receivable of \$186,348.57 resulting in a deficiency of \$114,563.18.
- c. As of May 31, 2009, Respondent New Gainesville had combined outstanding checks drawn on its custodial accounts in the amount of \$1,796,071.58, and had to offset such checks, combined balances in the custodial accounts in the amount of \$300,493.79, combined proceeds receivable of \$1,024,066.79, and combined proceeds on hand of \$199,971.90 resulting in a consolidated deficiency of \$271,539.10.

**2. July 31, 2009**

- a. As of July 31, 2009, Respondent New Gainesville had outstanding checks drawn on the Gainesville Livestock custodial account in the amount of \$1,157,442.05 and had to offset such checks, a balance in the custodial account in the amount of \$211,084.02, proceeds receivable of \$700,775.68, and proceeds on hand of \$120,386.37 resulting in a deficiency of \$125,195.98.

- b. As of July 31, 2009, Respondent New Gainesville had outstanding checks drawn on the Muenster Livestock custodial account in the amount of \$391,347.68 and had to offset such checks, a balance in the custodial account in the amount of \$79,194.90, proceeds receivable of \$261,399.99 resulting in a deficiency of \$50,752.79.
- c. As of July 31, 2009, Respondent New Gainesville had combined outstanding checks drawn on its custodial accounts in the amount of \$1,548,789.73 and had to offset such checks, combined balances in the custodial accounts in the amount of \$290,278.92, combined proceeds receivable of \$962,175.67, and combined proceeds on hand of \$120,386.37 resulting in a consolidated deficiency of \$175,948.77.

**3. August 27, 2009**

- a. As of August 27, 2009, Respondent New Gainesville had outstanding checks drawn on the Gainesville Livestock custodial account in the amount of \$600,801.34 and had to offset such checks, a balance in the custodial account in the amount of \$422,041.32, proceeds receivable of \$47,031.49, and proceeds on hand of \$0.00 resulting in a deficiency of \$131,728.53.
- b. As of August 27, 2009, Respondent New Gainesville had outstanding checks drawn on the Muenster Livestock custodial account in the amount of \$605,771.32 and had to offset such checks, a balance in the custodial account in the amount of \$192,084.58, proceeds on hand of \$12,588.70 and proceeds receivable of \$429,419.96 resulting in a surplus of \$28,321.92.
- c. As of August 27, 2009, Respondent New Gainesville had combined

outstanding checks drawn on its custodial accounts in the amount of \$1,206,572.66 and had to offset such checks, combined balances in the custodial accounts in the amount of \$614,125.90, combined proceeds receivable of \$476,451.45, and combined proceeds on hand of \$12,588.70 resulting in a consolidated deficiency of \$103,406.61.

The shortages in Respondent New Gainesville's custodial accounts were due, in part, to Respondent New Gainesville's failure to deposit into its custodial accounts, within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock and to the withdrawal of bank charges from their custodial account.

#### IV.

On or about the dates and in the transactions set forth in Appendix A, Respondent New Gainesville, under the direction management and control of Respondent Peyrot, failed to reimburse the custodial account by the close of the next business day after the sale of consigned livestock for amounts due from Respondent Peyrot and his partnership Redbone Livestock.

#### V.

By reason of the facts alleged in paragraph I, Respondent Peyrot is the alter ego of Respondent New Gainesville.

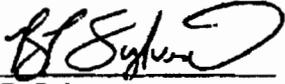
By reason of the facts alleged in paragraphs III and IV, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and section 201.42 of the Regulations (9 C.F.R. § 201.42).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents have willfully violated the Act and the

Regulations. Respondents 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, S.W., Washington, D.C. 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.; hereinafter "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 (GIPSA), requests:

1. That unless Respondents fail to file an answer within the time allowed, or file 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 Respondents to cease and desist from the violations of the Act found to exist, suspending Respondents as registrants under the Act, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.



Brian P. Sylvester  
Attorney for Complainant  
Office of the General Counsel  
United States Department of Agriculture  
Room 2309, Stop 1413  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-1413

Done at Washington, D.C.

this 14 day of March, 2011



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

Appendix A



**US Department of Agriculture**  
 Grain Inspection, Packers and Stockyards Administration  
 Packers and Stockyards Program (P&SP)

Schedule of Failure to Reimburse Custodial Accounts, within time period required by the Act

Entity Information											
Investigation Date											
8/3/2009		The New Gainesville Livestock Auction LLC									
Exhibit Reference	Purchase Date	Related Party	Number of Head	Livestock Amount	Net Invoice Adjustments	Net Invoice	Due Date	Payment Deposit Date	Payment Amount	Days Late	Remarks
Transactions at Muenster:											
1	5/7/2009	James Peyrol, Jr. #1	114	\$75,854.73	\$412.71	\$76,067.44	5/8/2009	5/14/2009	\$114,220.22	6	
	5/7/2009	James Peyrol, Jr.	74	\$37,846.28	\$306.32	\$38,152.78					
2	5/14/2009	James Peyrol, Jr. #1	47	\$31,335.22	\$65.00	\$31,400.22	5/15/2009	5/19/2009	\$83,814.83	4	
	5/14/2009	James Peyrol, Jr.	93	\$51,975.18	\$439.43	\$52,414.61					
3	5/21/2009	James Peyrol, Jr. #1	97	\$63,319.96	\$330.71	\$63,650.67	5/22/2009	5/27/2009	\$136,336.38	5	
	5/21/2009	James Peyrol, Jr.	136	\$72,059.52	\$626.19	\$72,685.71					
4	5/28/2009	James Peyrol, Jr. #1	62	\$39,797.52	\$326.81	\$40,124.33	5/29/2009	6/1/2009	\$114,834.97	3	
	5/28/2009	James Peyrol, Jr.	131	\$74,177.44	\$633.20	\$74,810.64					
5	7/23/2009	James Peyrol, Jr.	107	\$58,265.52	\$506.14	\$58,771.66	7/24/2009	7/29/2009	\$169,356.50	5	
	7/23/2009	Redbone Livestock #2	34	\$14,546.73	\$84.70	\$14,631.43					
	7/23/2009	Redbone Livestock #3	102	\$67,761.86	\$345.14	\$68,107.00					
	7/23/2009	Redbone Livestock #4	31	\$15,767.21	\$83.08	\$15,850.29					
6	7/30/2009	James Peyrol, Jr.	15	\$7,885.35	\$65.36	\$7,750.71	7/31/2009	8/4/2009	\$71,720.62	5	
	7/30/2009	Redbone Livestock #2	7	\$2,944.75	\$18.85	\$2,961.60					
	7/30/2009	Redbone Livestock #3	86	\$53,897.93	\$276.62	\$54,174.55					
	7/30/2009	Redbone Livestock	10	\$6,797.18	\$36.58	\$6,833.76					
7	8/27/2009	James Peyrol, Jr.	96	\$48,079.81	\$411.42	\$48,491.23	8/28/2009	9/3/2009	\$133,013.31	6	
	8/27/2009	Redbone Livestock	134	\$84,067.26	\$454.82	\$84,522.08					
Transactions at Gainesville:											
8	5/22/2009	Redbone Livestock #2	319	\$176,470.14	\$938.59	\$177,408.73	5/26/2009	5/29/2009	\$177,408.73	3	
9	5/22/2009	Redbone Livestock	308	\$212,504.42	\$1,109.99	\$213,614.41	5/26/2009	5/28/2009	\$213,514.41	2	\$100 deposit error
10	5/29/2009	Redbone Livestock #2	303	\$162,242.37	\$898.24	\$163,140.61	6/1/2009	6/3/2009	\$102,714.72	4	
								6/5/2009	\$80,000.00		
11	5/29/2009	Redbone Livestock #11	120	\$79,868.57	\$429.46	\$80,298.03	6/1/2009	6/3/2009	\$80,298.03	2	
12	7/24/2009	Redbone Livestock #100	187	\$126,011.57	\$647.82	\$126,659.39	7/27/2009	7/29/2009	\$198,026.53	2	
		Redbone Livestock #11	104	\$70,992.41	\$374.73	\$71,367.14					
13	7/24/2009	Redbone Livestock #1	69	\$34,728.83	\$181.88	\$34,910.71	7/27/2009	7/30/2009	\$114,321.23	3	
		Redbone Livestock #2	120	\$59,603.03	\$446.58	\$60,049.61					
		Redbone Livestock	45	\$19,251.38	\$109.53	\$19,360.91					
14	7/28/2009	Redbone Livestock	1	\$451.20	\$0.00	\$451.20	7/29/2009	7/31/2009	\$451.20	3	
15	7/31/2009	Redbone Livestock #100	259	\$165,238.65	\$847.25	\$166,083.90	8/3/2009	8/5/2009	\$176,802.63	2	
		Redbone Livestock	32	\$12,646.38	\$72.35	\$12,718.73					
16	7/31/2009	Redbone Livestock #2	89	\$48,385.55	\$276.81	\$48,662.36	8/3/2009	8/6/2009	\$84,886.88	3	
		Redbone Livestock	55	\$36,032.99	\$191.53	\$36,224.52					
17	8/21/2009	Redbone Livestock	32	\$16,631.00	\$89.03	\$16,720.03	8/24/2009	8/28/2009	\$76,962.80	4	
		Redbone Livestock #2	107	\$59,865.74	\$377.03	\$60,242.77					

