

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. D-12- 0210  
Karnes City Auction, Inc., )  
Brian Morris, and Ronald Morris )  
)  
)  
)  
)  
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.)(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) Karnes City Auction, Inc. (Respondent Karnes) is a Texas corporation with its principal place of business in Karnes City, Texas. Respondent Karnes' current mailing address is 1918 Highway 80, Karnes City, TX 78118. The corporation's registered agent for service is Joshua R. Tielke, 1918 Highway 80, Karnes City, TX 78118.

(b) At all times material herein, Respondent Karnes was:

(1) Engaged in the business of a market agency selling livestock in commerce 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) Brian Morris (Respondent Brian Morris) is an individual whose current mailing address is in the State of Texas. The address will not be stated in the complaint to protect the privacy of Respondent Brian Morris, but will be provided to the Hearing Clerk's

Office, United States Department of Agriculture, for the purposes of service of this complaint.

(d) At all times material herein, Respondent Brian Morris was:

- (1) Director of Respondent Karnes;
- (2) President of Respondent Karnes;
- (3) Fifty five percent owner of Respondent Karnes; and
- (4) In conjunction with Respondent Ronald Morris, is responsible for the direction, management, and control of Respondent Karnes.

(e) Ronald Morris is an individual whose current mailing address is in the State of Texas. The address will be provided to the Hearing Clerk as stated in subparagraph (c) above.

(f) At all times material herein, Respondent Ronald Morris was:

- (1) Director of Respondent Karnes;
- (2) Secretary and Treasurer of Respondent Karnes;
- (3) Forty five percent owner of Respondent Karnes; and
- (4) In conjunction with Respondent Brian Morris, is responsible for the direction, management, and control of Respondent Karnes.

## II

(a) On or about August 27, 2009, the Western Regional Office of the P&S Program sent Respondents a Notice of Violation letter informing them of the results of a market review performed in July 2009. The review revealed that as of June 8, 2009, and July 8, 2009, respectively, Respondent Karnes was operating with custodial account shortages in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42(c) of the regulations (9 C.F.R. § 201.42(c)). The Notice of Violation further informed the Respondents that the shortages were caused, in part, by Respondent Karnes' failure to: (1)

reimburse the custodial account by the seventh day for all unpaid buyer purchases; (2) reimburse the custodial account by the close of the next business day for livestock purchases by owners, officers or employees; and (3) bank fees charged to the custodial account. The Notice of Violation letter was served on September 1, 2009. Notwithstanding such notice, Respondents have continued operations with custodial account shortages.

### III

Respondent Karnes, under the direction, management and control of Respondents Brian and Ronald Morris, during the time period of October 8, 2009, through September 9, 2010, failed to maintain properly its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

(a) As of October 8, 2009, Respondent Karnes had outstanding checks drawn on its custodial account in the approximate amount of \$64,469.14 and had to offset such checks, a balance in its custodial account of \$36,553.41, deposits in transit of \$2,728.17, and proceeds receivable of \$18,989.50 resulting in a deficiency of approximately \$6,198.06.

(b) As of December 8, 2009, Respondent Karnes had outstanding checks drawn on its custodial account in the approximate amount of \$38,283.06 and had to offset such checks, a balance in the custodial account of \$0.00 and proceeds receivable of \$26,299.79 resulting in a deficiency of approximately \$11,983.27.

(c) As of September 9, 2010, Respondent Karnes had outstanding checks drawn on its custodial account in the approximate amount of \$34,896.53 and had to offset such checks, a balance in the custodial account of \$0.00 and proceeds receivable of \$0.00 resulting in a deficiency of approximately \$34,896.53.

(d) The shortages in Respondent Karnes's custodial account were due, in part, to the misuse of the custodial account by using custodial account funds to make payments on

the line of credit.

IV

Respondent Karnes, under the direction, management and control of Respondents Brian Morris and Ronald Morris, on or about the dates and in the transactions set forth in Appendix A and incorporated herein by reference, misused its custodial account by using custodial account funds to make payments on the line of credit.

V.

By reason of the facts alleged in paragraph I, Respondent Karnes is the alter ego of Respondents Brian Morris and Ronald Morris.

By reason of the facts alleged in paragraph III-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, United States Department of Agriculture, Washington, DC 20250, 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 (GIPSA), requests:

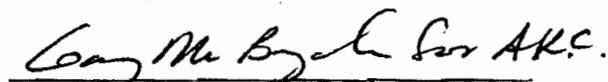
1. That unless Respondents fail to file an answer within the time allowed, or file an answer admitting all the material allegations of this complaint, this proceeding be set

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 and the regulations found to exist and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 26 day of January, 2012



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

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**Custodial Account Misuse**  
**Karnes City Auction, Ronald Morris, and Brian Morris**  
**PO Box 3606, Victoria, TX 77903**

**Appendix A**

<b>Date of Withdrawal</b>	<b>Amount</b>	<b>Remarks</b>
11/9/2009	\$45,188.90	Custodial account bank statement shows \$45,188.90 was transferred out of the account to pay on the line of credit. "Transfer to DDA" is referring to the transfer of funds. A line of credit history documented behind the bank statement shows \$45,188.90 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfer.
11/10/2009	\$3,446.55	Custodial account bank statement shows \$3,446.55 was transferred out of the account to pay on the line of credit. "Transfer to DDA" is referring to the transfer of funds. A line of credit history documented behind the bank statement shows \$3,446.55 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfer.
11/19/2009	\$10,278.52	Custodial account bank statement shows \$10,278.52 was transferred out of the account to pay on the line of credit. "Transfer to DDA" is referring to the transfer of funds. A line of credit history documented behind the bank statement shows \$10,278.52 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfer.
11/20/2009	\$1,658.48	Custodial account bank statement shows \$1,658.48 was transferred out of the account to pay on the line of credit. "Transfer to DDA" is referring to the transfer of funds. A line of credit history documented behind the bank statement shows \$1,658.48 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfer.