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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. 12- -0388
)
)
D&H Mebane Stockman's Corporation,)
d/b/a Western Stockman's Market,)
)
and)
)
Dwight G. Mebane,)
)
)
Respondents) Complaint

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

I.

- (a) Respondent D&H Mebane Stockman's Corporation, doing business as Western Stockman's Market, referred to herein as the respondent corporation, is a corporation organized under the laws of the State of California, with its principal place of business located at 31911 Highway 46, McFarland, California 93250. Respondent corporation's business mailing address is P.O. Box 310, Route 1, Box 60, McFarland, California 93250.
- (b) Respondent Dwight G. Mebane, hereinafter referred to as respondent Mebane, is an individual whose current address is in the State of California. His address will not be stated in the complaint to protect Respondent Mebane's privacy but will be provided to the Hearing Clerk,

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

Respondent Mebane was at all times material herein the sole owner, president, and manager of the respondent corporation. Respondent Mebane formulated and controlled the practices and activities of the respondent corporation, including the practices and activities described in this complaint.

(c) Respondent corporation, under the direction, management, and control of respondent Mebane at all times material herein was:

(1) Engaged in the business of conducting and operating the Western Stockman's Market stockyard, a stockyard posted under and subject to the provisions of the Act;

(2) Engaged in the business of a market agency buying and selling livestock in commerce on a commission basis; and

(3) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis, and as a dealer to buy and sell livestock in commerce.

II.

(a) During the period from August 10, 2009, through November 2, 2009, in connection with consignments of livestock for sale on a commission basis, totaling 95 head of livestock valued at \$53,040.50, the respondent corporation, under the direction, management, and control of respondent Mebane, sold the livestock on a commission basis and, in purported payment of the net proceeds resulting from such sales, issued checks to the consignors that were returned unpaid by the bank upon which they were drawn because respondents did not have and maintain sufficient funds available in the account upon which the checks were drawn to pay the checks when presented.

(b) By issuing the insufficient fund checks in the transactions referenced in Count II.(a) of this complaint, respondent corporation, under the direction, management, and control of respondent Mebane, failed to remit to the consignors, when due, the net proceeds due from the sale of their livestock on a commission basis.

III.

During the period from August 10, 2009, through November 9, 2009, in connection with consignments of livestock for sale on a commission basis, totaling 764 head of livestock valued at \$338,012.09, respondent corporation, under the direction, management, and control of respondent Mebane, sold the livestock on a commission basis and failed to remit to the consignors, when due, the net proceeds due from the sale of their livestock on a commission basis.

IV.

By reason of the facts alleged in paragraphs II and III, the respondents have willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208 and 213(a)) and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations issued thereunder, this complaint shall be served upon the respondents. The respondents shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the proceedings under the Act (7 C.F.R. §§ 1.130 *et seq.*). 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 in this complaint and a waiver of hearing.

The Grain Inspection, Packers and Stockyards Administration, Packers and Stockyards Program, requests:

1. That unless the 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 an order be issued requiring the respondents to cease and desist from the violations of the Act and the regulations found to exist; prohibiting the respondents, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and assessing such civil penalties against the respondents as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 23 day of April, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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