

USDA
OALC/PHC

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED
MAY 10 11:02

RECEIVED

In re:)
) P & S Docket No. D-12- 0441
)
 John E. Lundgren,)
)
 Respondent)
)
)
) Complaint

There is reason to believe that the Respondent named herein has willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), herein referred to as the Act, and, therefore, this Complaint is issued alleging the following:

I.

(a) John E. Lundgren, herein referred to as Respondent, is an individual. Respondent's business mailing address is his home address. In order to protect the personal privacy of the Respondent, Complainant is not providing Mr. Lundgren's address in this Complaint, but Complainant has provided the address to the Hearing Clerk so that service can be effected.

(b) Respondent, at all times material herein, was:

- (1) Engaged in business as a dealer, buying and selling livestock in commerce for his own account; and
- (2) not registered, as required, with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

II

On July 21, 2010, in the matter of *In re: John Lundgren*, P&S Docket No. D-10-0151, Administrative Law Judge Jill S. Clifton issued a Default Decision and Order (which became final on August 31, 2010) against Respondent Lundgren including an order that the Respondent cease and desist from failing to pay, when due, for livestock purchases. Notwithstanding this Default Decision and Order, Respondent continued to fail to pay, when due, for livestock purchases as set forth in Appendix A.

III

On or about the dates and in the transactions set forth in Appendix B, Respondent engaged in the business of a dealer without maintaining an adequate bond or bond equivalent.

IV

By reason of the facts alleged in paragraphs II and III, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. § 213(a) and § 228b) and section 201.29 of the Regulations (9 C.F.R § 201.29).

WHEREFORE, it is hereby ordered that this Complaint shall be served upon Respondent for the purpose of determining whether the Respondent has willfully violated the Act. 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.*). Allegations not answered shall 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.

The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (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 accord with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued, including an order requiring Respondent to cease and desist from violating the Act with respect to the matters alleged herein, and assessing such penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 16 day of May, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

Brian Sylvester
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel
1400 Independence Avenue, S.W.
Room 2313-S
Washington, D.C. 20250-1413

Appendix A

Seller's Name	Number of Head	Net Invoice	Due Date	Payment Date	Payment Instrument	Payment Instrument Number	Payment Amount	Days Late Per Instrument Date	Remarks
Everson Auction Market 1, LLC	4	\$1,315.36	9/2/2010	9/13/2010	Check	7401030005	\$1,315.36	11	Two invoices with one check.
Everson Auction Market 1, LLC	4	\$1,212.80	9/9/2010	9/14/2010	Check	7401030007	\$1,212.80	5	
Everson Auction Market 1, LLC	3	\$1,015.18	9/9/2010	9/14/2010	Check	7401030007	\$1,015.18	5	
							\$2,227.98		Paid with one check.
Everson Auction Market 1, LLC	5	\$2,908.03	9/16/2010	9/22/2010	Check	7401030009	\$2,908.03	6	Two invoices with one check.
Everson Auction Market 1, LLC	7	\$2,142.39	9/23/2010	10/1/2010	Check	7401030002	\$2,142.39	8	
Everson Auction Market 1, LLC	6	\$2,515.45	9/23/2010	10/1/2010	Check	7401030002	\$2,515.45	8	
							\$4,657.84		Date on ck. is 10/1/2010.
Everson Auction Market 1, LLC	6	\$2,004.38	9/30/2010	10/6/2010	Check	7401030007	\$2,004.38	6	
Everson Auction Market 1, LLC	4	\$3,018.14	9/30/2010	10/6/2010	Check	7401030007	\$3,018.14	6	
							\$5,022.52		Date on ck. is 10/6/2010.
Everson Auction Market 1, LLC	7	\$2,164.85	10/5/2010	10/13/2010	Check	7401030009	\$2,164.85	8	Pd. With check.
Everson Auction Market 1, LLC	1	\$27.13	10/5/2010	10/13/2010	Cash		\$27.13	8	Pd. With cash.
							\$2,191.98		Paid with a check & cash.
Everson Auction Market 1, LLC	12	\$2,677.29	10/7/2010	10/18/2010	Check	7401030012	\$2,677.29	11	
Everson Auction Market 1, LLC	3	\$681.23	10/12/2010	10/18/2010	Check	7401030012	\$681.23	6	
							\$3,358.52		See faceplate.
Everson Auction Market 1, LLC	4	\$959.93	10/14/2010	10/21/2010	Check	7401030005	\$959.93	7	
Everson Auction Market 1, LLC	2	\$1,300.00	10/14/2010	10/21/2010	Check	7401030005	\$1,300.00	7	
							\$2,259.93		Pd. With one ck.
Everson Auction Market 1, LLC	3	\$1,175.28	10/19/2010	10/27/2010	Check	7401030006	\$1,175.28	8	
Everson Auction Market 1, LLC	6	\$911.60	10/21/2010	10/27/2010	Check	7401030006	\$911.60	6	
							\$2,086.88		Pd. With one ck.
Everson Auction Market 1, LLC	9	\$1,217.49	10/26/2010	11/1/2010	Check	7403150003	\$1,217.49	6	
Everson Auction Market 1, LLC	1	\$925.00	10/28/2010	11/4/2010	Check	7403150005	\$925.00	7	
Everson Auction Market 1, LLC	7	\$1,486.98	10/28/2010	11/4/2010	Check	7403150005	\$1,486.98	7	
							\$2,411.98		Date on ck. is 11/4/2010.
Chehalis Livestock Market	1	\$600.00	9/7/2010	9/14/2010	Check	7401030006	\$600.00	7	
Chehalis Livestock Market	2	\$709.93	9/7/2010	9/14/2010	Check	7401030006	\$709.93	7	
							\$1,309.93		Pd. With one ck.
Chehalis Livestock Market	2	\$880.68	9/20/2010	9/24/2010	Check	7401030011	\$880.68	4	
Chehalis Livestock Market	5	\$1,941.25	9/20/2010	9/24/2010	Check	7401030011	\$1,941.25	4	
							\$2,821.93		Date on ck. is 9/24/2010.
Chehalis Livestock Market	5	\$1,659.65	11/1/2010	11/12/2010	Check	Cashiers check #1003203982	\$1,659.65	11	Date on ck. is 11/12/2010.
Enumclaw Sales Pavilion, Inc.	10	\$3,753.50	9/13/2010	9/24/2010	Check	7401030010	\$3,753.50	11	Date on ck. is 9/24/2010.
Enumclaw Sales Pavilion, Inc.	7	\$2,372.10	9/20/2010	10/2/2010	Check	7401030010	\$2,372.10	12	Date on ck. is 10/2/2010.
Enumclaw Sales Pavilion, Inc.	7	\$2,459.25	9/27/2010	10/9/2010	Check	7401030004	\$2,459.25	12	Date on ck. is 10/9/2010.
Enumclaw Sales Pavilion, Inc.	5	\$1,414.40	10/4/2010	10/15/2010	Check	7401030011	\$1,414.40	11	Date on ck. is 10/15/2010.
Enumclaw Sales Pavilion, Inc.	4	\$1,348.20	10/12/2010	10/30/2010	Check	7403150001	\$1,348.20	18	Date on ck. is 10/30/2010.
Grand Totals	147	\$46,797.47					\$46,797.47		

Appendix B

**Operating Without Financial Instrument For A Dealer Or Buying On Commission
Schedule Of Purchases And Sales**

Purchase Date	No. Head Purchased	Net Invoice Amount	Seller/Purchased From	Purchased For	Commission Amount (if applicable)
10/9/2009	3	\$681.60	Chehalis Livestock Market		
10/10/2009	2	\$610.75	Enumclaw Sales Pavilion, Inc.		
11/6/2009	13	\$6,167.45	Toppenish Livestock Commission		
12/11/2009	4	\$1,534.55	Chehalis Livestock Market		
6/4/2010	5	\$4,470.00	Toppenish Livestock Commission		
6/5/2010	3	\$1,115.45	Enumclaw Sales Pavilion, Inc.		
6/16/2010	3	\$936.93	Everson Auction Market 1, LLC		
9/8/2010	3	\$1,015.18	Everson Auction Market 1, LLC		
9/15/2010	5	\$1,612.93	Everson Auction Market 1, LLC		
9/22/2010	6	\$2,515.45	Everson Auction Market 1, LLC		

Sale / Invoice Date	No. Head Sold	Net Invoice Amount	Sold To
10/12/2009	3	\$1,021.68	Schenk Packing Company
6/7/2010	3	\$1,322.10	Schenk Packing Company