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CALIFORNIA

UNITED STATES DEPARTMENT OF AGRICULTURE 2012 JUL 26 PM 12:18

BEFORE THE SECRETARY OF AGRICULTURE RE ID

In re: ) P & S Docket No. 12-0549  
          ) )  
Than Foote, ) )  
          ) )  
Respondent ) Complaint

There is reason to believe that the respondent named herein has willfully violated the Packers and 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 Than Foote, referred to herein as the respondent, is an individual. The respondent's mailing address will not be stated in the complaint to protect the privacy of Mr. Foote, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

- (b) The respondent is, and at all times material herein was:
- (1) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency buying livestock in commerce on a commission basis; and
  - (2) Not registered or bonded with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce or as a market agency to buy livestock in commerce on a commission basis.

II

On July 8, 2011, the Grain Inspection, Packers and Stockyards Administration (GIPSA)

sent respondent a Notice of Default (NOD) by United Parcel Service Next Day Air. The NOD was claimed and signed for by respondent on July 11, 2011. The NOD notified the respondent of his obligation to file an application for registration and to secure a bond or bond equivalent if he wished to engage in the business of buying and selling livestock in commerce. The NOD also informed the respondent that engaging in business in any capacity that is subject to the Act without being properly registered with GIPSA and without filing a bond or bond equivalent is a violation of the Act and regulations and could subject him to disciplinary action.

### III

(a) During the period from August 14, 2011, through August 27, 2011, in six transactions involving his purchase of a total of 46 head of livestock from Coryell County Commission Company in Gatesville, Texas, for a total purchase price of \$17,866.82, the respondent engaged in the business of a market agency buying livestock in commerce on a commission basis without being registered with the Secretary and without maintaining an adequate bond or bond equivalent.

(b) During the period from August 9, 2011, and September 27, 2011, in 18 transactions involving his purchase of a total of 421 head of livestock from Comanche Livestock Exchange, Jordan Cattle Auction, Hamilton Commission Company, Milam County Livestock Auction, and Coryell County Commission, for a total purchase price of \$110,862.79, the respondent engaged in the business of a dealer buying and selling livestock in commerce without being registered with the Secretary and without maintaining an adequate bond or bond equivalent.

### IV

In ten of the transactions referenced in paragraph III(b), the respondent purchased 285

head of livestock in the amount of approximately \$77,237.77 and failed to pay, when due, the full amount of the purchase prices within the time period required by the Act.

V

By reason of the facts alleged in paragraphs II and III, respondent willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

By reason of the facts alleged in paragraph IV, respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b), and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that this complaint shall be served upon respondent for the purpose of determining whether respondent has willfully violated the Act and regulations. Respondent 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 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 of this Complaint.

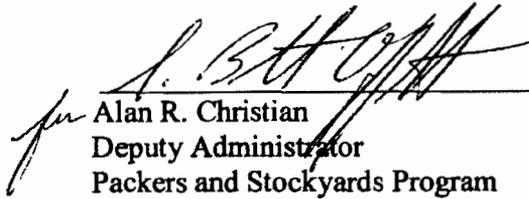
The Grain Inspection, Packers and Stockyards Administration requests:

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 accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring respondent to cease and desist from the violations of the Act and the regulations found to exist, prohibiting

respondent from engaging in business in any capacity for which registration and bonding are required without being registered and bonded as required by the Act and regulations, and assessing such civil penalties against respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 26<sup>th</sup> day of July, 2012

  
for Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

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