

USDA
OAL/OHC

2009 APR -7 AM 10: 52

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:

James Masters,

Respondent

)
)
)
)
)
)
)

P & S Docket No. D-09- 0091

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.; hereinafter referred to as the "Act"), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter referred to as the "Regulations"), therefore, this complaint is issued alleging the following:

I.

- (a) James Masters, hereinafter referred to as "Respondent," is an individual whose mailing address is 15596 Hwy 152, Wheeler, Texas 79096.
- (b) At all times material herein, Respondent was:
 - (1) Engaged in the business of buying livestock in commerce on a commission basis and buying and selling livestock in commerce for the account of others; and
 - (2) Not registered as a dealer or market agency with the Secretary of Agriculture; and
 - (3) At all times material to this Complaint, operating as a dealer or market agency within the jurisdiction of the Secretary.

II.

On June 26, 2007, the Respondent was notified by certified letter that the Packers and Stockyards Program had information indicating that the Respondent was engaging in livestock operations covered by the Act without being registered as required. The letter referenced section 303 of the Act (7 U.S.C. § 203), 7 U.S.C § 204, and 9 C.F.R §§ 201.10 and 201.27- 201.34, and notified the Respondent of his obligation to file an application for registration and proof of suitable bond or bond equivalent with Packers and Stockyards Program before engaging in any operations subject to the Act.

III.

On or about the dates and in the transactions set forth below, Respondent engaged in the business of buying and selling livestock in commerce without maintaining an adequate bond or bond equivalent.

Purchase Date	Purchased From	No. of Head	Purchased For	Livestock Amount	Respondent's Commission	Check No.
03/26/2008	Shamrock Livestock Commission	61	Joe Magee	\$27,921.20	\$126.23	24200
04/02/2008	Shamrock Livestock Commission	3	Bret Goad	\$1,815.00	\$30.00	24246
04/09/2008	Shamrock Livestock Commission	30	Joe Magee	\$14,045.61	\$62.98	24308
04/30/2008	Shamrock Livestock Commission	48	Joe Magee	\$25,463.90	\$117.40	24495
05/14/2008	Shamrock Livestock Commission	25	Joe Magee	\$12,606.66	\$59.33	24636
05/28/2008	Shamrock Livestock Commission	28	Joe Magee	\$15,702.69	\$70.28	24767

06/04/2008	Shamrock Livestock Commission	58	Joe Magee	\$31,784.77	\$147.78	24852
06/11/2008	Shamrock Livestock Commission	11	Joe Magee	\$6,161.68	\$28.85	24901
06/18/2008	Shamrock Livestock Commission	28	Brett Britten	\$11,608.73	\$56.00	24974
06/18/2008	Shamrock Livestock Commission	70	Gerald Johnson	\$37,493.15	\$179.43	24974
06/25/2008	Shamrock Livestock Commission	11	Gerald Johnson	\$6,193.38	\$29.85	25029
07/09/2008	Shamrock Livestock Commission	16	Gerald Johnson	\$8,983.25	\$43.83	25088
TOTALS				\$199,780.02	\$951.96	

IV.

Respondent failed to keep accounts, records, and memoranda that fully and correctly disclose all transactions involved in his business, as required by section 401 of the Act (7 U.S.C. § 221), including but not limited to, records of purchase invoices, sales invoices, commission invoices, correspondence with sellers and buyers, and bank statements.

V.

By reason of the facts alleged in paragraph III, the Respondent has engaged in operations subject to the Act without maintaining an adequate bond and therefore has 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, 201.30).

By reason of the facts alleged in paragraph IV herein, the Respondent has failed to keep records as required by section 401 of the Act (7 U.S.C. § 221) and, therefore, has willfully engaged in an “unfair practice” in violation of section 312 (a) of the Act (7 U.S.C. §213(a)).

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, 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.; “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.

Packers and Stockyards Program, GIPSA, requests:

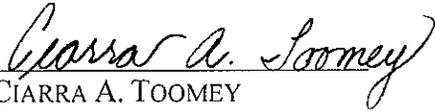
1. That unless Respondent fails to file an answer within the time allowed, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act found to exist, requiring that Respondent not engage in operations subject to the Act unless or until he is bonded as required by 7 U.S.C. § 204 of the Act and assessing such civil penalty, as authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 3 day of April, 2009



Alan R. Christian
Deputy Administrator,
Packers and Stockyards Program



CIARRA A. TOOMEY
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
Telephone: (202) 720-3779