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UNITED STATES DEPARTMENT OF AGRICULTURE
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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-09- 0093
James Emanuel Mowery)
)
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.; hereinafter “Act”), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter “Regulations”), and, therefore, this complaint is issued alleging the following:

I.

(a) James Emanuel Mowery (hereinafter “Respondent”), is an individual whose mailing address is in the State of Tennessee. In order to protect the personal privacy of Respondent, Complainant is withholding Respondent’s address, but Complainant will provide the address to the Hearing Clerk so that service might be effected.

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

- (1) Engaged in the business of a market agency buying livestock in commerce on a commission basis;
- (2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account; and
- (3) Registered with the Secretary of Agriculture as a market agency to buy and sell livestock in commerce on a commission basis.

II.

(a) In a letter dated June 6, 2008, sent by first-class mail, Carla Thomas, Legal Instrument Examiner, Atlanta, Georgia Regional Office, informed Respondent that his letter of credit pledged towards a trust agreement would expire on July 5, 2008. Respondent was further informed that it is a violation of 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) for market agencies, packers, and dealers to operate without the required bond or bond equivalent. Respondent was instructed that he must file a new bond or bond equivalent of at least \$15,000.00 on or before July 5, 2008, or he must discontinue all livestock operations for which bonding is required under the Act. Respondent was informed that if he continued livestock operations without filing a new bond or bond equivalent, he may be subject to disciplinary proceedings.

(b) On July 8, 2008, a Packers and Stockyards Program representative personally informed Respondent that his bond had terminated and that he was in violation of the Act and the Regulations for continuing to operate without a bond. Respondent was instructed to obtain a new bond or bond equivalent. Notwithstanding such notice, and subsequent telephone inquiries, Respondent continued to engage in the business of a market agency without maintaining an adequate bond or its equivalent as required by the Act and the Regulations.

III.

On or about the dates and in the transactions set forth below, Respondent engaged in the business of a market agency buying livestock in commerce on a commission basis without maintaining an adequate bond or bond equivalent. The transactions occurred at Athens Stockyard, a posted stockyard in Athens, Tennessee, and East Tennessee Livestock Center, Inc., a market agency in Sweetwater, Tennessee.

Location of Purchase	Purchase Date	Purchased For	No. Head	Livestock Amount	Commission
Athens Stockyard Athens, Tennessee	07/29/08	Prairie Livestock, LLC West Point, Mississippi	40	\$17,415.80	\$88.23
	08/05/08		18	\$9,650.95	\$49.20
	08/12/08		30	\$12,166.60	\$58.50
East Tennessee Livestock Center, Inc. Sweetwater, Tennessee	07/23/08		26	\$9,904.85	\$49.65
	07/30/08		19	\$6,827.55	\$35.18
	08/06/08		13	\$7,356.25	\$40.23
	08/13/08		32	\$13,547.54	\$62.13
TOTALS		178	\$76,869.54	\$383.12	

IV.

By reason of the facts alleged in paragraphs II and III, Respondent 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).

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 the 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 Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 *et seq.*; hereinafter "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 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, suspending Respondent as a registrant under the Act, and assessing such civil penalties against Respondent as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 8 day of April, 2009



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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