

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. D- 12-0081  
)  
Gailal Sbeta and )  
Mohammed Mesallem d/b/a )  
Islamic Meat and Poultry, )  
)  
Respondents ) Complaint and Notice of Hearing

There is reason to believe that Respondents have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (hereinafter “the Act”), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §201.1 et seq.) (hereinafter “the regulations”). Therefore, this complaint and notice of hearing is issued alleging the following:

I

(a) Islamic Meat and Poultry (hereinafter “Partnership Respondent” or “Respondent Islamic Meat”) is a partnership organized and existing under the laws of the State of California. Its business mailing address is 1320 So. Aurora Street, Stockton, CA 95206.

(b) Respondent Islamic Meat is, and at all times material herein was:

(1) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

(2) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and

(3) A packer within the meaning of and subject to the provisions of the Act.

(c) Gailal Sbeta (hereinafter “Respondent Sbeta”) and Mohammed Mesallem (hereinafter “Respondent Mesallem”) are, and at all times material herein were, partners who owned and operated Respondent Islamic Meat and who, in their capacity as partners, were:

(1) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

(2) Engaged in the business of manufacturing or preparing meat and meat food products for sale or shipment in commerce; and

(3) Packers within the meaning of and subject to the provisions of the Act.

## II

(a) On May 2, 2008, Respondents received a Notice of Violation by certified mail<sup>1</sup> from the Packers and Stockyards Program, stating that Respondents’ business practices were in violation of sections 409(a) and (b) (7 U.S.C. § 228b(a) and (b)) of the Act and section 201.43(b)(2) of the regulations (9 C.F.R. § 201.43(b)(2)); specifically, that Respondents failed to pay for livestock by the close of the next business day after final grading, pursuant to section 409(a) of the Act (7 U.S.C. § 228b(a)) and 201.43 of the regulations (9 C.F.R. § 201.43), and that Respondents failed to secure and maintain on file waiver[s] of prompt payment by written agreement, if applicable, as required by section 409(b) (7 U.S.C. § 228b(b)) .

(b) On February 26, 2009, the Packers and Stockyards Program obtained a signed affidavit from Gailal Sbeta, 50% shareholder of Respondent Islamic Meat, wherein he admitted that Respondents had failed to pay, when due, for livestock purchases.

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<sup>1</sup> The Notice of Violation was dated April 29, 2008.

## III

(c) Respondents, between December 1, 2008, and January 28, 2009, purchased 813 head of livestock from 10 sellers in the amount of \$108,524.03 and failed to pay, when due, for such livestock purchases. Respondents' payments were made between 1 and 20 days late.

## IV

By reason of the facts alleged in paragraph III herein, Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b), and section 201.43(b) of the regulations (9 C.F.R. § 201.43(b)).

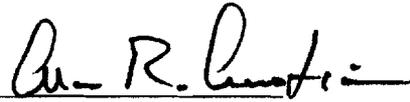
WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondents have, in fact, willfully violated the Act and regulations issued thereunder, this complaint and notice of hearing shall be served upon Respondents. Respondents shall have twenty (20) days after receipt of this complaint and notice of hearing 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.). The answer shall be filed with an original and three copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material allegation of this complaint and notice of hearing. Allegations not answered will 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 and notice of hearing, unless prior to the time required to file an answer, the parties have agreed to a consent decision pursuant to section 1.138 of the Rules of Practice (7 C.F.R § 1.138).

Respondents are hereby notified that unless hearing is waived, either expressly or by

failure to answer and request a hearing as provided by sections 1.136 and 1.141 of the Rules of Practice, a hearing will be held in accordance with the Rules of Practice, at a place and time to be later designated before an administrative law judge. At the hearing, Respondents will have the right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act requiring Respondents to cease and desist from violating the Act with respect to matters alleged herein, and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 22 day of January 2010



ALAN R. CHRISTIAN  
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Packers and Stockyards Program



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