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UNITED STATES DEPARTMENT OF AGRICULTURE 9: 40  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. D-10- 0233  
)  
New Wilmington Livestock )  
Auction, Inc. and )  
Thomas R. Skelton, )  
)  
Respondents ) Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) (the Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) (the regulations), and, therefore, this Complaint is issued alleging the following:

I

(a) New Wilmington Livestock Auction, Inc. (hereinafter "Corporate Respondent"), is a corporation organized and existing under the laws of the State of Pennsylvania, with a street address of 2006 Mercer - New Wilmington Rd., New Wilmington, PA 16142, and a mailing address of P.O. Box 296, Canfield, OH 44406.

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

- (1) Engaged in the business of conducting and operating a posted stockyard subject to the provisions of the Act;
  - (2) Engaged in the business of a market agency selling livestock in commerce on a commission basis;
  - (3) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.
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(c) Thomas R. Skelton, (hereinafter "Individual Respondent"), at all times material herein was:

- (1) 100% shareholder of Corporate Respondent;
- (2) President of Corporate Respondent; and
- (3) Responsible for the day-to-day direction, management and control of Corporate Respondent.

## II

On April 27, 2007, the Packers and Stockyards Program (P&SP) mailed a letter by regular mail to Corporate Respondent, informing Corporate Respondent that the regulations (specifically, 9 C.F.R. § 201.72) issued under the Act require scale owners subject to the Act to have their scales tested at six-month intervals and to furnish a copy of the report to the Regional Director, P&SP. The letter noted that P&SP records indicated that Corporate Respondent's livestock scale had last been tested on October 18, 2006.

On May 24, 2007, Corporate Respondent received a certified letter from the Packers and Stockyards Program, providing notice that because Corporate Respondent had failed to have its scales tested at six-month intervals and furnish a copy of the report to the Regional Director, P&SP, that it was in violation of the Act.

The Packers and Stockyards Program conducted an investigation at the stockyard from March 24, 2008 through March 27, 2008. The investigation revealed that Corporate Respondent, despite having been given notice on May 24, 2007, still had not had its scales tested and furnished a copy of the report to the Regional Director, P&SP since October 18, 2006.

III

On or about the dates and in the transactions set forth below, after having been put on notice, Corporate Respondent, under the direction, management, and control of Individual Respondent, engaged in the business of selling livestock in commerce on a commission basis using a scale which it had not had tested in accordance with 9 C.F.R. § 201.72:

Particular Date	Seller	No. of Head	Livestock	Amount Due for Livestock
06/11/07	Jim Reed	1	Bull	\$510.60
07/09/07	Rance Partridge	1	Cow	\$603.25
01/07/08	Jack Jones	3	Lambs	\$123.50
01/14/08	Shawn Martin	1	Sow	\$100.00
01/14/08	Janet Weber	1	Bull	\$707.25
02/04/08	Blaine Martin	1	Heifer	\$1,094.40
<b>Total</b>		<b>8</b>		<b>\$3,139.00</b>

IV

By reason of the facts alleged in paragraph I herein, Individual Respondent is the *alter ego* of Corporate Respondent.

By reason of the facts alleged in paragraph III, Respondents have willfully violated section 312(a) of the Act (7 U.S.C. §213(a)) and section 201.72 of the regulations (9 C.F.R. § 201.72) by failing to have their scales tested at six-month intervals.

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents have willfully violated the Act and

Regulations. Respondents 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 Respondents fail to file an answer within the time allowed, or file 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

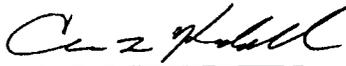
2. That such order or orders be issued, including an order requiring Respondents to cease and desist from the violations of the Act found to exist, and assessing such penalty as is authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 15 day of April, 2010



Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program



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