

UNITED STATES DEPARTMENT OF AGRICULTURE SEP 30 PM 3:37
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-16-159
)
Ravenna Auction, LLC,)
and LaVerne Lettinga,)
)
)
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.; 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) Ravenna Auction, LLC (hereinafter "Respondent Ravenna"), is a limited liability company whose business address is 3265 Slocum Road, Ravenna, Michigan 49451 and whose mailing address is P.O. Box 608, Lake Odessa, Michigan 49451.
- b) At all times material herein, Respondent Ravenna was:
 - 1. Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
 - 2. Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.
- c) LaVerne Lettinga, (hereinafter "Respondent Lettinga"), is an individual. Respondent Lettinga's mailing address is a home address, and will not be stated in this complaint to

protect his privacy, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

d) At all times material herein, Respondent Lettinga was:

1. President of Respondent Ravenna;
2. One hundred percent owner of Respondent Ravenna; and
3. Responsible for the management, direction, and control of Respondent Ravenna.

II.

Respondents were placed on notice, by certified mail received on or about November 29, 2007, that operating with a Custodial Account for Shippers' Proceeds (hereinafter "custodial account") shortage is considered an unfair and deceptive practice in violation of section 312(a) of the Act (7 U.S.C. § 213(a)). In that same letter, Respondents were also placed on notice that failure to timely reimburse the custodial account is a violation of section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)); that withdrawal of bank charges from the custodial account is a violation of section 201.42(d) of the Regulations (9 C.F.R. § 201.42(d)); and that the failure to maintain records that did not fully or correctly disclose all the transactions involved in the Respondents' business is a violation of section 401 of the Act (7 U.S.C. § 221).

III.

Respondent Ravenna, under the direction, management and control of Respondent Lettinga, during the period of December 31, 2007, through March 31, 2008, failed to maintain properly its custodial account, thereby endangering the faithful and prompt accounting of

shippers' proceeds and the payment due the owners or consignors of livestock in that:

- (a) As of December 31, 2007, Respondent Ravenna had outstanding checks drawn on its custodial account in the amount of \$468,953.46 and had to offset such checks, a balance in the custodial account of \$0.00, deposits in transit of \$3,695.63, and proceeds receivable of \$268,226.47 resulting in a deficiency of \$197,031.36.
- (b) As of January 31, 2008, Respondent Ravenna had outstanding checks drawn on its custodial account in the amount of \$407,858.81 and had to offset such checks, a balance in the custodial account of \$99,240.26 and proceeds receivable of \$60,619.23 resulting in a deficiency of \$247,999.32.
- (c) As of February 29, 2008, Respondent Ravenna had outstanding checks drawn on its custodial account in the amount of \$406,943.54 and had to offset such checks, a balance in the custodial account of \$61,350.79 and proceeds receivable of \$69,130.89 resulting in a deficiency of \$276,461.86.
- (d) As of March 31, 2008, Respondent Ravenna had outstanding checks drawn on its custodial account in the amount of \$976,005.20 and had to offset such checks, a balance in the custodial account of \$176,712.04, deposits in transit of \$41,702.87, and proceeds receivable of \$478,838.96 resulting in a deficiency of \$278,751.33.
- (e) The shortages in Respondent Ravenna's custodial account were due, in part, to Respondent Ravenna's failure to deposit in its custodial account, within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock; its deposit of custodial funds into its general account; and the deduction of bank charges from the custodial

account.

IV.

- (a) Respondent Ravenna, under the direction, management, and control of Respondent Lettinga, on or about the dates and in the transactions set forth below, misused its custodial account by depositing custodial account proceeds into its general account.

Purchaser	Sale Date	Deposit Date	Payment Amount	Amount Deposited to General Account
EZ Calf Co	12/31/07	1/08/08	\$2,057.75	\$2,057.75
Rzepka, Larry	12/31/07	1/14/08	\$6,989.94	\$6,989.94
Mitchell, Patrick	12/31/07	1/17/08	\$270.00	\$270.00
Morley Cattle	1/28/08	3/07/08	\$2,576.40	\$2,576.40
Wilson, Fred	2/25/08	3/10/08	\$223.17	\$223.17
Higgins	3/28/08	4/03/08	\$302.50	\$302.50
Randy Lettinga	3/28/08	4/07/08	\$2,500.00	\$2,500.00
Masselink Dairy	3/28/08	4/08/08	\$4,000.00	\$4,000.00
Penick, Terry	3/28/08	4/08/08	\$7,400.00	\$7,400.00
Petter, Derek	3/28/08	4/29/08	\$1,600.00	\$1,600.00
Russell, Ross	3/28/08	4/11/08	\$20,500.00	\$20,500.00
Vanrhee, Gene	3/28/08	4/01/08	\$873.50	\$873.50
EZ Calf Co	3/31/08	4/08/08	\$460.00	\$460.00
Gorr, Jeff	3/31/08	4/08/08	\$3,013.05	\$3,013.05
Rzepka, Larry	3/31/08	4/14/08	\$299.70	\$299.70
TOTALS			\$53,066.01	\$53,066.01

- (b) Respondent Ravenna, under the direction, management, and control of Respondent Lettinga, on or about the dates and in the transactions set forth in Appendix A and incorporated herein by reference, misused its custodial account by withdrawing funds for a purpose other than (1) for payment of the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to

pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, or (3) to obtain any sums due the market agency as compensation for its services.

V.

During the period April 20, 2007 through April 18, 2008, various consignors, who wished to sell their livestock on a grade and weight basis, brought a total of 239 head of livestock to Respondent Ravenna. Respondent Ravenna, under the direction, management, and control of Respondent Lettinga, then sold the 239 head of livestock on a grade and weight basis to two packers: West Michigan Beef and Emmpak Food. West Michigan Beef and Emmpak Food issued payment to Respondent Ravenna and provided the kill information listing the back tags, weight, grade and purchase price for each head.

The original purchase weight of the 239 head was 153,911 pounds for a price of \$158,888.69. Respondent Ravenna, under the direction, management, and control of Respondent Lettinga, reduced the weight as reported to it from the packer when it provided a settlement invoice to the consignor. The weight reported to consignors by Respondent Ravenna was 146,763 pounds for a price of \$151,824.71.

In connection with the sale of livestock to consignors, Respondent Ravenna, under the direction, management, and control of Respondent Lettinga, misrepresented to consignors the actual weight and purchase prices of livestock resulting in a monetary loss to consignors; prepared and issued, or caused to be prepared and issued, in connection with the purchase or

sale of livestock, accounts of purchase, invoices, billings, or any other documents showing false, inaccurate, or misleading weight and purchase price entries for such livestock.

VI.

Respondents failed to keep accounts, records, and memoranda that fully and correctly disclosed all transactions involved in their business, as required by section 401 of the Act (7 U.S.C. § 221), including but not limited to, copies of all buyers' bills and records tracing all buyers' purchases to corresponding payments.

VII.

By reason of the facts alleged in paragraph I, Respondent Lettinga is the alter ego of Respondent Ravenna.

By reason of the facts alleged in paragraphs III-IV, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), and section 201.42 of the Regulations (9 C.F.R. § 201.42).

By reason of the facts alleged in paragraph V, specifically, Respondents' practice of paying consignors for livestock in commerce based on false weights, and preparing and maintaining false invoices to support the sales in which it paid consignors for these fraudulently decreased weights, Respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213 (a)), and sections 201.49, 201.55, and 201.71 of the regulations (9 C.F.R. §§ 201.49, 201.55 and 201.71).

By reason of the facts alleged in paragraph VI, Respondents have failed to keep records as required by section 401 of the Act (7 U.S.C. § 221) and, therefore, have 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 Respondents for the purpose of determining whether Respondents have willfully violated the Act and the Regulations. Respondents 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.

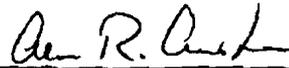
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), requests:

1. That unless 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 and the Regulations found to exist, suspending Respondents as registrants under the Act, and assessing such

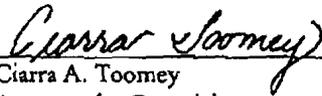
civil penalties against Respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 30 day of September, 2010



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



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APPENDIX A

SCHEDULE OF FUNDS WITHDRAWN AND BANK FEES CHARGED TO THE
CUSTODIAL ACCOUNT

Bank Statement Date	Description	Amount
1/10/08	NSF Paid Item Fee	\$90.00
1/11/08	Stop Item Charge	\$30.00
1/16/08	Returned Item Charge	\$4.00
1/17/08	NSF Paid Item Fee	\$150.00
1/18/08	Loan Repayment	\$100,000.00
1/23/08	Returned Item Charge	\$4.00
1/25/08	Loan Repayment	\$60,000.00
1/31/08	Service Charge	\$105.80
2/06/08	Loan Repayment	\$80,000.00
2/18/08	NSF Paid Item Fee	\$30.00
2/22/08	Loan Repayment	\$200,191.23
2/25/08	NSF Paid Item Fee	\$150.00
2/27/08	NSF Paid Item Fee	\$30.00
2/28/08	NSF Paid Item Fee	\$60.00
2/29/08	Service Charge	\$93.01
3/06/08	Loan Repayment	\$100,000.00
3/07/08	NSF Paid Item Fee	\$240.00
3/10/08	Transfer to General Bank Account	\$10,000.00
3/10/08	NSF Paid Item Fee	\$780.00
3/13/08	NSF Paid Item Fee	\$930.00
3/14/08	NSF Paid Item Fee	\$60.00
3/17/08	NSF Paid Item Fee	\$210.00
3/18/08	NSF Paid Item Fee	\$150.00
3/20/08	NSF Paid Item Fee	\$30.00
3/21/08	NSF Paid Item Fee	\$210.00
3/27/08	Returned Item Charge	\$43.00
3/31/08	Service Charge	\$117.97
TOTAL		\$553,709.01