

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

USA  
OAL  
INC

20 JAN 28 10 38

In re: ) P & S Docket No. D-11-0132 ED  
)  
Steve (Bubba) Kemp, d/b/a )  
Kemp Cattle )  
)  
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 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, and therefore this complaint is issued alleging the following:

I.

- (a) Steve (Bubba) Kemp, doing business as Kemp Cattle<sup>1</sup>, hereinafter referred to as the Respondent, is an individual whose mailing address is 5300 Friendship Road, Tolar, Texas 76476.
- (b) Respondent is, and at all times material herein was:
1. Engaged in the business of buying and selling livestock in commerce as a dealer and buying on a commission basis in commerce as a market agency;
  2. Not registered as a dealer or market agency with the Secretary of Agriculture; and
  3. Operating as a market agency and dealer within the jurisdiction of the Secretary and subject to the provisions of the Act.

<sup>1</sup> In his affidavit dated April 1, 2009, Respondent admitted that he purchases cattle under the following designations: (1) Kemp; (2) Kemp #1; (3) Rusty; (4) CK Reid; (5) AL; and (6) ST Cattle.

II.

- (a) Commencing on or about December 6, 2008, and continuing until at least February 21, 2009, Respondent engaged in business as a dealer and market agency, buying and selling livestock in commerce for his own account and the account of others without maintaining an adequate bond or its equivalent, as required by the Act and the Regulations.

III.

- (a) On or about the date and in the transaction listed below, Respondent, in connection with his operations subject to the Act, issued a check in payment for livestock purchases, which was returned unpaid by the bank upon which it was drawn. The check was returned because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which the check was drawn to pay the check when presented.

| PURCHASED FROM                | PURCHASE DATE | TOTAL SALE AMOUNT | CHECK DATE | CHECK NUMBER | CHECK AMOUNT | RETURN DATE |
|-------------------------------|---------------|-------------------|------------|--------------|--------------|-------------|
| Johnson County Cattle Auction | 12/6/08       | \$24,829.79       | 12/13/08   | 2179         | \$8,375.34   | 12/29/08    |

- (b) Respondent, in connection with his operations subject to the Act, on or about the dates and in the transactions set forth below, Respondent purchased livestock and failed to pay, within the time period required by the Act, the full purchase price of such livestock.

| PURCHASED FROM  | NO. OF HEAD | PURCHASE AMOUNTS         | PURCHASE DATE | DUE DATE PER § 409 | TOTAL AMOUNT PAID | UNPAID BALANCE |
|-----------------|-------------|--------------------------|---------------|--------------------|-------------------|----------------|
| West Auction    | 9           | \$4,011.55               | 06/12/08      | 06/13/08           | \$2,500.00        | \$1,511.55     |
| Sulphur Springs | 22          | \$11,153.27 <sup>2</sup> | 8/4/08        | 8/5/08             |                   |                |
|                 | 3           | \$529.25                 | 11/10/08      | 11/12/08           |                   |                |

<sup>2</sup> \$150.00 of this amount applies to truck charges.

|                                  |            |                          |          |          |                    |                    |
|----------------------------------|------------|--------------------------|----------|----------|--------------------|--------------------|
| Livestock<br>Commission Co.      | 1          | \$203.50                 | 11/17/08 | 11/18/08 | \$17,390.85        | \$27,329.29        |
|                                  | 23         | \$13,030.41 <sup>3</sup> | 12/8/08  | 12/9/08  |                    |                    |
|                                  | 3          | \$521.28                 | 12/8/08  | 12/9/08  |                    |                    |
|                                  | 20         | \$7,610.78               | 12/15/08 | 12/16/08 |                    |                    |
|                                  | 22         | \$11,671.65              | 12/15/08 | 12/16/08 |                    |                    |
| Johnson County<br>Cattle Auction | 46         | \$21,161.44              | 12/6/08  | 12/8/08  | \$22,293.89        | \$29,801.73        |
|                                  | 15         | \$3,668.35               | 12/6/08  | 12/8/08  |                    |                    |
|                                  | 29         | \$11,825.55              | 12/13/08 | 12/15/08 |                    |                    |
|                                  | 57         | \$15,440.28              | 12/13/08 | 12/15/08 |                    |                    |
| Meridian Livestock               | 63         | \$22,286.68 <sup>4</sup> | 12/9/08  | 12/10/08 | \$12,006.57        | \$22,325.93        |
|                                  | 30         | \$12,045.81 <sup>5</sup> | 12/16/08 | 12/17/08 |                    |                    |
| Dublin Livestock                 | 56         | \$27,205.30              | 12/12/08 | 12/15/08 | \$10,023.62        | \$17,181.68        |
| <b>TOTALS</b>                    | <b>399</b> | <b>\$162,365.10</b>      |          |          | <b>\$64,214.93</b> | <b>\$98,150.18</b> |

- (c) As of the date of issuance of this complaint, all of the \$98,150.18 referred to in paragraph III (b) above remains unpaid.

#### 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, purchase and sales invoices, contracts or credit agreements, dealer records, bank statements, and buying recaps.

#### V.

By reason of the facts alleged in paragraph II, 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).

<sup>3</sup> \$130.00 of this amount applies to truck charges.

<sup>4</sup> \$240.00 of this amount applies to truck charges.

<sup>5</sup> \$164.00 of this amount applies to freight and feed charges.

By reason of the facts alleged in paragraph III, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228(b)).

By reason of the facts alleged in paragraph IV, 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:

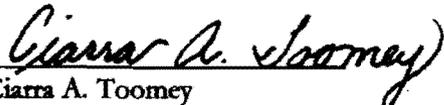
1. That unless Respondent fails to file an answer within the time allowed, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act 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 under the circumstances.

Done at Washington, D.C.

this 26 day of January, 2011



Alan R. Christian  
Deputy Administrator,  
Packers and Stockyards Program



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