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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2011 JUL 28 PM 1:33

In re:) P & S Docket No. D-11-
American Beef Company, LLC,)
)
)
Respondent) Complaint and Notice of Hearing

RECEIVED

There is reason to believe that the Respondent named herein has willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §181 et seq.) (Act), and therefore, this Complaint and Notice of Hearing is issued alleging the following:

I

(a) American Beef Company, LLC, (Respondent), is a corporation organized and existing under the laws of the State of Missouri. Its business mailing address is P.O. Box 40, Rockville, Missouri, 64780.

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

(1) Engaged in the business of buying livestock in commerce for the purposes of slaughter and manufacturing or preparing meats or meat products for sale or shipment in commerce; and

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

II

On January 18, 2011, the Packers and Stockyards Program sent Respondent a certified letter advising Respondent that it must comply with the bonding provisions of the Act. Specifically, the letter advised Respondent that it must obtain a \$130,000 clause 4 bond or bond equivalent before it commences purchasing livestock. Notwithstanding this notice, an

investigation conducted by the Packers and Stockyards Program on March 29 – 30, 2011 found that Respondent operated as a packer during the months of February and March 2011 without obtaining a proper bond or bond equivalent. Respondent operated as a packer without a proper bond or bond equivalent on twelve (12) sale days in February and March 2011, in violation of the Act and the regulations, as set forth in Appendix A.

III

On or about the dates and in the transactions set forth in Appendix B, Respondent purchased livestock and failed to pay, within the time period required by the Act, the full purchase price of such livestock.

IV

By reason of the facts alleged in paragraphs II and III herein, Respondent has willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§192(a), 228b) and section 201.29 of the regulations (9 C.F.R. § 201.29).

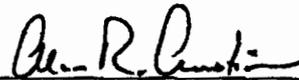
WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act, this Complaint and Notice of Hearing shall be served upon Respondent. Respondent shall have twenty (20) days after receipt of this Complaint and Notice of Hearing in which to 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.). Failure to file an answer shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing.

Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a place and time to be designated later. At the hearing, Respondent 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 which requires that Respondent cease and desist from violating the Act with respect to matters alleged herein and assesses such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 28 day of July 2011



ALAN R. CHRISTIAN
Packers and Stockyards Program
Grain Inspection, Packers and Stockyards
Administration



BRIAN P. SYLVESTER
Attorney for Complainant
Telephone: (202) 720-2869

Appendix A

Operating without Financial Instrument				
Schedule of Livestock Purchases				
Transaction	Purchase Date	No. of Head	Livestock Amount	Seller's Name
1	2/22/2011	2	\$2,179.00	Francis Sherman
2	2/24/2011	11	\$8,690.78	Bill Segebartt
3	2/28/2011	23	\$20,888.78	Cecil White
4	3/2/2011	6	\$4,338.62	Don Cook
5	3/7/2011	1	\$737.64	Steve Ogden
6	3/10/2011	5	\$4,338.94	Hill View Farms
7	3/15/2011	10	\$7,729.48	Toney Ranch Inc.
8	3/18/2011	8	\$8,057.70	Jim Marriott
9	3/21/2011	4	\$2,593.12	John Hensley
10	3/24/2011	2	\$1,184.92	Ed Fletchall
11	3/25/2011	5	\$4,279.26	Don Cook
12	3/28/2011	9	\$9,400.36	Grove Livestock

Appendix B

Schedule of Failure to Pay When Due for Livestock Purchases

Purchase Date	Seller	Number of Head	Purchase Amount	Due Date	Payment Amount	Check Date	Days Late Per Check Date	Days Late per Postmark Date
2/21/2011	Mike Morgan	14	\$14,763.16	2/22/2011	\$23,814.33	2/22/2011	Timely	3
2/23/2011	Mike Morgan	11	\$10,435.26	2/24/2011	\$20,038.48	2/25/2011	1	7
2/24/2011	Mike Morgan	10	\$9,603.22	2/25/2011	\$20,038.48	2/25/2011	Timely	6
3/4/2011	Mike Morgan	19	\$13,885.78	3/7/2011	\$13,885.78	3/7/2011	Timely	5
3/17/2011	Mike Morgan	15	\$9,294.64	3/18/2011	\$9,294.64	3/18/2011	Timely	6
3/17/2011	Mike Morgan	9	\$9,898.17	3/18/2011	\$9,898.17	3/18/2011	Timely	10
3/17/2011	Mike Morgan	15	\$10,975.49	3/18/2011	\$10,975.49	3/18/2011	Timely	11
3/21/2011	Mike Morgan	17	\$12,279.05	3/22/2011	\$19,605.54	3/23/2011	1	
3/17/2011	Elma Smith	1	\$838.65	3/18/2011	\$838.65	3/21/2011	3	
2/28/2011	G&G Livestock	27	\$29,737.98	3/1/2011	\$29,737.98	3/10/2011	9	
3/21/2011	G&G Livestock	35	\$38,299.17	3/22/2011	\$38,299.17	3/25/2011	3	
3/23/2011	G&G Livestock	45	\$44,384.35	3/24/2011	\$44,384.35	4/5/2011	12	