

U.S. DEPT. OF AGRICULTURE
OAL:JCHC

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

SEP 21 1941 9:41

In re:

)
)
)
)
)
)
)

P&S Docket No

RECEIVED

Philip Ambrose,

11-0387

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.) (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) Philip Ambrose (Respondent) is an individual. Respondent's mailing address is a home address located in Colorado, 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.

(b) Respondent is, and at all times material to this Complaint was engaged in the business of a market agency purchasing livestock in commerce on a commission basis.

(c) Respondent's registration with the Secretary of Agriculture as a dealer buying livestock for his own account or the accounts of others is currently in an inactive status.

II.

(a) On November 25, 1994, Respondent consented to the entry of a Decision in P&S Docket No. D-94-46 that ordered him to cease and desist from operating subject to the Act without a bond. The order remains in effect. The order provides:

Respondent Philip W. Ambrose, his agents and employees, directly or indirectly through any corporate or other device, in connection with his operations subject to the Packers and Stockyards Act, shall cease and desist from engaging in business in any capacity for which bonding is required under the Packers and Stockyards Act, as amended and supplemented, and the regulations, without filing and maintaining an adequate bond or its equivalent, as required by the Act and the regulations.

(b) On December 24, 2008, Respondent was notified by certified mail that Respondent's surety bond would terminate on January 22, 2009. The letter referenced §312 of the Act (7 U.S.C § 213) and sections 201.29-201.30 of the regulations (9 C.F.R §§ 201.29-201.30), and notified the Respondent of his obligation to secure a bond or bond equivalent unless he intended to terminate his operations subject to the Act. The letter also stated that, unless Respondent provided proof of suitable bond or bond equivalent to the Packers and Stockyards Program, Respondent must discontinue all livestock operations for which bonding is required under the Act upon termination of his bond.

(c) On December 27, 2008, Respondent returned the letter with his signed "Statement of Operations" that certified that he had discontinued livestock operations. Notwithstanding this certification, Respondent resumed operations subject to the Act as a market agency buying on commission in the fall of 2010 without obtaining a bond or bond equivalent.

III.

During the period from about September 29, 2010 through February 24, 2011, and continuing to the present, Respondent engaged in the business of a market agency, purchasing livestock on a commission basis, for the account of the JBS Packerland meatpacking plant, which operates subject to the Act, located in Tolleson, Arizona. During this period, in approximately 47 transactions, Respondent purchased approximately 2,584 head of cattle for the account of JBS Packerland at a gross cost of \$2,070,198.40. In return for his services as a market agency he received a commission of \$.35 per cwt for cattle he purchased, in the total amount of \$12,548.60.

IV.

By reason of the facts alleged in paragraphs II and III, Respondent 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).

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 the regulations. Respondent shall have twenty (20) days after receipt of this complaint 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 found to exist, suspending Respondent as a registrant under the Act, and assessing such penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 8 day of September, 2011



ALAN R. CHRISTIAN
Deputy Administrator,
Packers and Stockyards Program

JONATHAN D. GORDY
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Trade Practices Division
1400 Independence Avenue, S.W.
Room 2004, South Building
Washington, D.C. 20250
Telephone: (202) 720-5065