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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P. & S. Docket No. D- 11- 0053  
)  
)  
Den-Franco Corporation, )  
a.k.a. Chiappetti Lamb & Veal )  
and Dennis Chiappetti, )  
)  
Respondents ) Amended Complaint and Notice of Hearing

There is reason to believe that Respondents have willfully violated the provisions of the Packers and Stockyards Act, 1921 (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 "the regulations"). Therefore, this complaint and notice of hearing is issued alleging the following:

I

(a) Den-Franco Corporation a.k.a. Chiappetti Lamb & Veal (hereinafter "corporate Respondent") is a corporation organized and existing under the laws of the State of Illinois. Its business mailing address is or was 8910 W. 192<sup>nd</sup> Street, Suite E, Mokena, Illinois 60448.

(b) Corporate 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

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

(c) Dennis Chiappetti (hereinafter "individual Respondent") is an individual whose business mailing address is or was 8910 W. 192<sup>nd</sup> Street, Suite E, Mokena, Illinois 60448.

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

- (1) President of the corporate Respondent;
- (2) Owner of 100% of the stock of the corporate Respondent;
- (3) Responsible for the direction, management and control of the business

activities of the corporate Respondent, including the acts and practices alleged herein; and

- (4) A packer within the meaning of and subject to the Act.

## II

(a) On April 5, 2004, Respondents received a Letter of Notice from the Packers and Stockyards Program, stating that Respondents' business practices were in violation of sections 409 (7 U.S.C. § 228b) of the Act; specifically, that Respondents failed to pay for livestock by the close of the next business day after purchase, pursuant to section 409(a). The letter also stated that any delay of payments or attempt to delay payments was a violation of section 409(c) of the Act (7 U.S.C. § 228b(c)) and an unfair practice under the Act.

(b) On July 24, 2009, the Packers and Stockyards Program received a Proof of Claim against Respondents' Trust Agreement with Letter of Credit, filed by Gary P. Leick, in the amount of \$76,000.00 for unpaid livestock purchased by Respondents in May 2009. As of October 2009, the claimant was paid a pro-rata share of its claim amounting to \$24,713.08.

(c) On June 19, 2009, the Packers and Stockyards Program received a Proof of Claim against Respondents' Trust Agreement with Letter of Credit, filed by Larry Van Handel, in the amount of \$121,225.62 for unpaid livestock purchased by Respondents in April 2009. As of October 2009, the claimant was paid a pro-rata share of its claim amounting to \$39,372.02.

(d) On June 29, 2009, the Packers and Stockyards Program received Proof of Claim

against Respondents' Trust Agreement with Letter of Credit, filed by Joseph Coplan, in the amount of \$71,072.07 for unpaid livestock purchased by Respondents in May 2009. As of October 2009, the claimant was paid a pro-rata share of its claim amounting to \$23,110.65.

(e) On July 2 2009, the Packers and Stockyards Program received a Proof of Claim against Respondents' Trust Agreement with Letter of Credit, filed by Dion R. Van Well, in the amount of \$262,321.78 for unpaid livestock purchased by Respondents in May 2009. As of October 2009, the claimant was paid a pro-rata share of its claim amounting to \$85,299.80.

(f) On July 1 2009, the Packers and Stockyards Program received Proof of Claim against Respondents' Trust Agreement with Letter of Credit, filed by Ron Diny, in the amount of \$151,090.20 for unpaid livestock purchased by Respondents in May 2009. As of October 2009, the claimant was paid a pro-rata share of its claim amounting to \$47,504.45.

### III

(a) Respondents, between March 2008 and November 2008, entered into veal contracts with producers wherein Respondents agreed to pay a guaranteed minimum price per head. Between August 2008 and February 2009, Respondents paid eight contract veal producers \$140,548.58 less than the guaranteed minimum contracted prices for 2499 calves.

(b) Respondents, in connection with the veal contracts it entered into with producers, delayed the harvest dates of calves of five (5) producers for up to a month past the contracted period, and delayed payments for calves.

### IV

Respondents, between August 2008, and February 2009, purchased approximately 1536 head of livestock from 7 sellers in the amount of 1,264,157.67 and failed to pay, when due, for

such livestock purchases. Respondents' payments were made between 7 and 49 days late.

V

By reason of the facts alleged in paragraph I herein, corporate Respondent, Den-Franco Corporation a.k.a. Chiappetti Lamb & Veal, is the alter ego of individual Respondent, Dennis Chiappetti.

By reason of the facts alleged in paragraph III herein, Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b).

By reason of the facts alleged in paragraph IV herein, Respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228b), and section 201.43(b) of the regulations (9 C.F.R. § 201.43(b)).

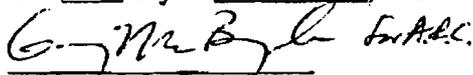
WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondents have, in fact, willfully violated the Act and regulations issued there under, this complaint and notice of hearing shall be served upon Respondents. Respondents shall have twenty (20) days after receipt of this complaint and notice of hearing 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.). The answer shall be filed with an original and three copies, fully and completely stating the nature of the defense and admitting or denying, specifically and in detail, each material allegation of this complaint and notice of hearing. Allegations not answered will be deemed admitted for the purpose of this proceeding. Failure to file an answer shall constitute an admission of all the material allegations of this complaint and notice of hearing, unless prior to the time required to file an answer, the parties have agreed to a consent decision pursuant to section 1.138 of the

Rules of Practice (7 C.F.R § 1.138).

Respondents are hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing as provided by sections 1.136 and 1.141 of the Rules of Practice, a hearing will be held in accordance with the Rules of Practice, at a place and time to be later designated before an administrative law judge. At the hearing, Respondents 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 requiring Respondents to cease and desist from violating the Act with respect to matters alleged herein, and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 2 day of November, 2010



ALAN R. CHRISTIAN

Deputy Administrator,  
Packers and Stockyards Program



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