

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P & S Docket No. D-11-0406  
Robert Morales Cattle Company, )  
d/b/a K-M Cattle, and Robert Morales, )  
Respondents ) 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.) (Act), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and, therefore, this complaint is issued alleging the following:

I.

(a) Robert Morales Cattle Company, d/b/a K-M Cattle (Corporate Respondent),<sup>1</sup> was a corporation organized and existing under the laws of the State of Utah. Corporate Respondent's corporate status expired on or about July 6, 2010, due to its failure to file a renewal. Corporate Respondent's current mailing address is in care of its registered agent, Robert Morales, in the State of Utah. The address will not be stated in the complaint to protect the privacy of Mr. Morales, but will be provided to the Hearing Clerk's Office United States Department of Agriculture, for the purposes of service of this complaint.

(b) At all times material herein, Corporate Respondent was:

- (1) Engaged in the business of buying and selling livestock in commerce as a dealer for its own account or for the account of others;

<sup>1</sup> Corporate Respondent's application for registration indicated that it was a corporation, that its corporate name was "Robert Morales" and that it had a trade name of "K-M Cattle." The State of Utah did not have a corporation registered under the name of "Robert Morales" or "K-M Cattle." However, it did have a corporation registered under the name of "Robert Morales Cattle Company" listing Robert Morales as the registered agent. Some invoices also identified the livestock buyer as "Robert Morales c/o Robert Morales Cattle Co." Therefore, the complaint names "Robert Morales Cattle Company, d/b/a K-M Cattle," as the Corporate Respondent.

(2) Engaged in the business of a market agency buying livestock in commerce on a commission basis;

(3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account or for the account of others; and

(4) Registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis.

(c) Robert Morales (Individual Respondent) is an individual whose current mailing address will be provided to the Hearing Clerk as provided in subparagraph (a) above.

(d) At all times material herein, Individual Respondent was:

(1) President of Corporate Respondent;

(2) Director of Corporate Respondent;

(3) One hundred percent owner of Corporate Respondent;

(4) Registered agent of Corporate Respondent; and

(5) Responsible for the direction, management, and control of Corporate Respondent.

## II.

On April 1, 2008, the Western Regional Office of Complainant mailed Individual Respondent a Notice of Violation letter. Individual Respondent was served with the Notice of Violation letter on April 3, 2008. In the Notice of Violation letter, Individual Respondent was notified that he had failed to pay for livestock in a timely manner in violation of section 409 of the Act (7 U.S.C. § 228b). Individual Respondent was also notified that he had failed to maintain a means to trace his dealer transactions from purchase to sale by failing to maintain all purchase and sales invoices, load make-up sheets, and trucking records as required by section

401 of the Act (7 U.S.C. § 221). Individual Respondent was further notified that he had failed to zero balance his scale, print scale tickets when the scale was zero balanced, identify the name of the buyer on his scale tickets, use serially numbered scale tickets, and keep copies of executed or voided scale tickets in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.49 and 201.73-1 of the Regulations (9 C.F.R. §§ 201.49, 201.73-1).

### III.

Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, commencing on or about June 3, 2008, and continuing through July 31, 2008, in approximately 23 transactions, purchased livestock in the total amount of approximately \$293,211.00 and failed to pay, when due, the full purchase price of such livestock. Corporate Respondent's payments were made between approximately 1 and 160 days late. Corporate Respondent purchased livestock from the following sellers: (1) Producers Livestock Marketing Association, Jerome, Idaho; (2) Twin Falls Livestock Commission, Co., Twin Falls, Idaho; (3) Burley Livestock Auction, LLC, Burley, Idaho; (4) Blackfoot Livestock Commission, Co., Blackfoot, Idaho, (5) Dale T. Smith & Sons Meat Packing Co., Draper, Utah; (6) The Stockman's Market, Inc., Visalia, California; and (7) Shasta Livestock Auction Yard, Cottonwood, California.

### IV.

(a) Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, failed to keep and maintain records which fully and correctly disclosed all the transactions involved in its business as a dealer and market agency as required by section 401 of the Act (7 U.S.C. § 221). Specifically, Corporate Respondent failed to keep and maintain load make-up sheets, all

purchase and sale invoices, all scale tickets, and all bank statements.

(b) Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, failed to issue scale tickets in conformity with the requirements of section 201.49 and 201.73-1 of the Regulations (9 C.F.R. §§ 201.49, 201.73-1). Specifically, Corporate Respondent issued scale tickets that were not serially numbered, did not identify the buyer of the livestock, did not identify the name, initials, or number of the person who weighed the livestock, and contained no record of zero balancing per the requirements of section 201.73-1 of the Regulations (9 C.F.R. § 201.73-1).

#### V.

By reason of the facts alleged in paragraph I, Individual Respondent is the alter ego of Corporate Respondent.

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

By reason of the facts alleged in paragraph IV, Respondents willfully violated sections 312(a) and 401 of the Act (7 U.S.C. §§ 213(a), 221) and sections 201.49 and 201.73-1 of the Regulations (9 C.F.R. §§ 201.49, 201.73-1) by failing to keep and maintain records that fully and correctly disclosed all transactions involved in their business.

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, SW., Washington, DC 20250-9200, in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary

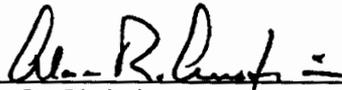
Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter "Rules of Practice"). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint.

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, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 14 day of September, 2011



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Packers and Stockyards Program

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