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UNITED STATES DEPARTMENT OF AGRICULTURE JUN 01 -7 AM 9:59

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-12- 0012
Ocala Livestock Market, Inc., Michael)
Yeomans, aka Tony Yeomans, and)
Tobitha Yeomans)
Respondents) Complaint

There is reason to believe that the Respondents named herein have 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) Ocala Livestock Market, Inc. (Respondent Ocala), is a corporation organized and existing under the laws of the State of Florida. Respondent Ocala's current mailing address is P.O. Box 539, Lowell, FL 32663.

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

(1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

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

(c) Michael Yeomans, aka Tony Yeomans (Respondent Tony Yeomans), is an individual whose current mailing address is in the State of Florida. The address

will not be stated in the complaint to protect the privacy of Respondent Tony Yeomans, but will be provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service of this complaint.

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

- (1) President of Respondent Ocala;
- (2) Secretary of Respondent Ocala;
- (3) Fifty percent owner of Respondent Ocala; and
- (4) In conjunction with Respondent Tobitha Yeomans, is responsible for the direction, management, and control of Respondent Ocala.

(e) Tobitha Yeomans is an individual whose current mailing address is the same address as Respondent Tony Yeomans. The address will be provided to the Hearing Clerk as stated in subparagraph (a) above.

(f) At all times material herein, Respondent Tobitha Yeomans was:

- (1) Vice-President of Respondent Ocala;
- (2) Treasurer of Respondent Ocala;
- (3) Registered agent of Respondent Ocala;
- (4) Fifty percent owner of Respondent Ocala; and
- (5) In conjunction with Respondent Tony Yeomans, is responsible for the direction, management, and control of Respondent Ocala.

II.

(a) By letter dated November 14, 2005, and served on November 17, 2005, the Eastern Regional Office of the Packers and Stockyards (P&S) Program informed

Respondents Ocala and Tony Yeomans that an investigation of Respondent Ocala conducted during the week of September 26, 2005, revealed that Respondent Ocala was operating with custodial account shortages. Respondents Ocala and Tony Yeomans were further informed that the shortage was caused by Respondent Ocala's failure to deposit the collected proceeds from the sale of livestock before the close of the next business day and by Respondent Ocala's failure to reimburse the custodial account for bank charges in violation of section 201.42 of the Regulations (9 C.F.R. § 201.42). Respondent Ocala was permitted 30 days to bring its operations into compliance with the Act and the Regulations and was informed that failure to correct its practices could result in administrative action.

(b) On or about June 6, 2007, the Eastern Regional Office of the P&S Program sent Respondents Ocala and Tony Yeomans a Notice of Violation letter informing them that as of December 31, 2006, and January 23, 2007, respectively, Respondent Ocala was operating with custodial account shortages in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)). The Notice of Violation letter was served on June 15, 2007. The Eastern Regional Office requested Respondents Ocala and Tony Yeomans to inform the office, within 30 days of receipt, of the actions they had taken to correct the violation and that their failure to do so could result in civil penalties.

(c) On or about June 18, 2010, the Eastern Regional Office of the P&S Program sent Respondent Ocala a Notice of Violation letter informing it that its annual report for the year ending December 31, 2009, disclosed that Respondent

Ocala was operating with a custodial account shortage in violation of section 201.42 of the Regulations (9 C.F.R. § 201.42). The Eastern Regional Office informed Respondent Ocala that it was required to correct the shortage and requested that Respondent Ocala, on or before August 31, 2010, file a special report that showed a custodial account analysis as of July 30, 2010. Respondent Ocala filed the special report on September 7, 2010.

(d) On or about June 18, 2010, the Eastern Regional Office of the P&S Program sent Respondent Ocala a Notice of Violation letter informing it that its annual report for the year ending December 31, 2009, disclosed that Respondent Ocala's current liabilities exceeded its current assets in violation of section 312(a) of the Act (7 U.S.C. § 213(a)). The Eastern Regional Office informed Respondent Ocala that it was required to correct the insolvency and requested that Respondent Ocala, on or before August 31, 2010, file a special report setting forth its financial condition as of July 31, 2010. Respondent Ocala filed the special report on August 19, 2010.¹

III.

Respondent Ocala, under the direction, management and control of Respondents Tony Yeomans and Tobitha Yeomans, during the time period of July 30, 2010, through October 4, 2010, failed to maintain properly its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

(a) As of July 30, 2010, Respondent Ocala had outstanding checks drawn

¹ The special report set forth Respondent Ocala's financial condition as of July 30, 2010.

on its custodial account in the approximate amount of \$191,167.28 and proceeds due shippers in the amount of \$3,117.84 and had to offset such checks and proceeds due shippers, a balance in its custodial account of \$26,319.30, and proceeds receivable in the amount of \$144,292.08 resulting in a deficiency of approximately \$23,673.74.

(b) As of October 4, 2010, Respondent Ocala had outstanding checks drawn on its custodial account in the approximate amount of \$483,999.96 and proceeds due shippers in the amount of \$34,908.44 and had to offset such checks and proceeds due shippers, a balance in the custodial account of \$15,287.48, deposits in transit of \$21,044.67, and proceeds receivable of \$265,968.23 resulting in a deficiency of approximately \$216,608.02.

(c) The shortages in Respondent Ocala's custodial account were due, in part, to the misuse of the custodial account by using custodial account funds to make payments on the line of credit and to pay for property taxes.

IV.

Respondent Ocala, under the direction, management and control of Respondents Tony Yeomans and Tobitha Yeomans, on or about the dates and in the transactions set forth in Appendix A and incorporated herein by reference, misused its custodial account by using custodial account funds to make payments on the line of credit and to pay property taxes.

V.

(a) As of July 30, 2010, Respondent Ocala had current assets of approximately \$9,725.75 and current liabilities of approximately \$307,832.14, resulting in an excess of current liabilities over current assets in the approximate amount of \$298,106.39.

(b) As of October 4, 2010, Respondent Ocala had current assets of approximately \$91,638.92 and current liabilities of approximately \$394,072.23, resulting in an excess of current liabilities over current assets in the approximate amount of \$302,433.31 .

(c) During the period July 30, 2010, through October 4, 2010, and to the present, Respondent Ocala engaged in the business of a market agency selling livestock in commerce on a commission basis, notwithstanding that its current liabilities exceeded its current assets.

VI.

By reason of the facts alleged in paragraph I, Respondent Ocala is the alter ego of Respondents Tony Yeomans and Tobitha Yeomans.

By reason of the facts alleged in paragraph III-IV, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), and section 201.42 of the Regulations (9 C.F.R. § 201.42).

By reason of the facts alleged in paragraph V, the financial condition of Respondent Ocala does not meet the requirements of the Act (7 U.S.C. § 204) and Respondents have wilfully violated section 312(a) of the Act (7 U.S.C. § 213(a)).

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, United States Department of Agriculture, Washington, DC 20250, 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.) (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, suspending Respondents as registrants under the Act, 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 6 day of October, 2011



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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APPENDIX A



US Department of Agriculture
Grain Inspection, Packers and Stockyards Administration
Packers and Stockyards Program (P&SP)
Custodial Account Misuse

| Entity Information | | | | |
|--------------------|------------------------------------|---|--|--|
| Investigation Date | Entity Name | DBA | Mailing Address | |
| 10/4/2010 | Ocala Livestock Market, Inc. (OLM) | and Michael Anthony and Tobitha Yeomans | P.O. Box 539, Lowell FL 32663 | |
| Date of Withdrawal | Amount | Date Cleared | Remarks | |
| 10/1/2010 | \$56,000.00 | 10/1/2010 | Custodial account bank statement shows \$56,000 was transferred out of the account to pay on the line of credit. "CSH MGMNT TRANSFER OUT Loan 10077000110057" is referring to the tranfer of funds. A line of credit history shows \$56,000 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfers. | |
| 10/4/2010 | \$22,000.00 | 10/4/2010 | Custodial account bank statement shows \$22,000 was transferred out of the account to pay on the line of credit. "CSH MGMNT TRANSFER OUT Loan 10077000110057" is referring to the tranfer of funds. A line of credit history shows \$22,000 was applied to the balance on the line of credit. The custodial account was not in balance at the time of the transfers. | |
| 10/14/2010 | \$8,021.63 | 10/14/2010 | Marion County Property taxes were paid from the custodial account. | |