

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P. & S. Docket No D-12-0131  
)  
Sammy Simmons and Wendy )  
Simmons, d/b/a People's Livestock )  
of Cartersville )  
)  
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.; hereinafter "Act") and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter "Regulations"), and, therefore, this Complaint is issued alleging the following:

I.

(a) Respondent Sammy Simmons is a an individual whose business mailing address is P.O. Box 964 Cartersville, Georgia 30120, and whose business address is 407 Burnt Hickory Rd., Cartersville, Georgia 30120.

(b) At all times material to this complaint, Respondent Sammy Simmons:

(1) was a 51% owner and operator in the general partnership of People's Livestock of Cartersville;

(2) was registered, with Respondent Wendy Simmons, with the Department Agriculture as a market agency selling livestock on commission;

(3) was responsible, with Respondent Wendy Simmons, for the day-to-day management, operation, and control of People's Livestock of Cartersville;

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(4) purchased and sold livestock;  
(5) sold livestock on commission;  
(6) was a market agency and dealer within the meaning of the Act and regulations.

(c) At all times material to this complaint, Respondent Wendy Simmons:

(1) was a 49% owner and office manager in the general partnership of People's Livestock of Cartersville;

(2) was registered, with Respondent Sammy Simmons, with the Department Agriculture as a market agency selling livestock on commission;

(3) was responsible, with Respondent Sammy Simmons, for the day-to-day management, operation, and control of People's Livestock of Cartersville;

(4) was a market agency within the meaning of the Act and regulations.

## II.

On April 18, 2007, in *In re: Sammy and Wendy Simmons, d/b/a Peoples Livestock of Cartersville*, P&S Docket No. D-05-0018, Respondents were ordered to cease and desist from (1) issuing checks to consignors or shippers of livestock that are returned unpaid by the bank upon which they were drawn because Respondents do not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn when presented and (2) failing to remit the full amount of the net proceeds due from the sale price of livestock on a commission basis within the time period required by section 201.43 of the regulations.

### III.

(a) From the period of December 1, 2008 to January 31, 2009, Respondents sold livestock on a commission basis and in purported payment of the net proceeds thereof issued at least 50 checks to consignors for livestock consigned to their market for sale which checks were returned unpaid by the bank upon which they were drawn because Respondents did not have an maintain sufficient funds on deposit and available in the accounts upon which those checks were drawn to pay the checks when presented.

(b) Respondent, in the transactions described in paragraph (a) above, failed to timely remit, when due, the net proceeds due from the sale price of those livestock on a commission basis.

### IV.

As of January 31, 2009, Respondents had outstanding checks drawn on its custodial account in the amount of \$125,019.33, and had to offset those checks, a balance in its custodial account of negative \$3,205.13, proceeds receivable of \$8,485.75, and Deposits in Transit in the amount of \$15,028.60 resulting in a deficiency of \$104,710.11.

### V.

By reason of the facts alleged in paragraphs III-IV, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)), and sections 201.42 and 201.43 of the Regulations (9 C.F.R. §§ 201.42-.43).

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, S.W., Washington, D.C. 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, 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 as are authorized by the Act and warranted under the  
circumstances.

Done at Washington, D.C.

this 21 day of December, 2011



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Deputy Administrator  
Packers and Stockyards Program

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