

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. D- 12-0135
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)
Claypoole Livestock, Inc., and)
Timothy J. Claypoole)
)
)
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. §§ 181-229) (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) Claypoole Livestock, Inc., (Corporate Respondent) is a corporation organized and existing under the laws of the State of Colorado. Corporate Respondent's business mailing address is 3304 F Road, Clifton, CO 81520. Corporate Respondent's registered agent for service of process is Timothy J. Claypoole, 3304 F Road, Clifton, CO 81520.

(b) Corporate Respondent is, and at all times material herein 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;

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

(3) Not registered as a dealer or market agency with the Secretary of Agriculture.

(c) Timothy J. Claypoole (Individual Respondent) is an individual whose business mailing address is in the State of Colorado. Individual Respondent's address has been omitted from this Complaint in order to protect his personal privacy. Complainant has provided Individual Respondent's address to the Hearing Clerk so that service can be effectuated.

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

- (1) President of Corporate Respondent;
- (2) A director of Corporate Respondent;
- (3) An owner of Corporate Respondent;
- (4) Registered agent of Corporate Respondent; and
- (5) Responsible for the direction, management, and control of Corporate Respondent.

II.

On or about the dates and in the transactions set forth below, Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, purchased livestock and failed to pay, when due, the full purchase price of such livestock:

Purchase Date	Seller	No. of Head	Type of Livestock	Sale Price – Excluding Non-Livestock Charges	Payment Due Date Per 7 U.S.C. § 228b	Payment Date	Days Late
05/21/09	Delta Sales Yard	14	LAMBS	\$1,850.03	05/22/09	10/16/09	147
06/11/09	Delta Sales Yard	6	LAMBS	\$484.50	06/12/09	07/07/09	25
05/06/09	Western Slope Cattlemen's	8	CATTLE	\$6,107.88	05/07/09	05/08/09	1
05/13/09	Western Slope Cattlemen's	2	CATTLE	\$1,078.08	05/14/09	06/03/09	20
05/20/09	Western Slope Cattlemen's	1	CATTLE	\$290.70	05/21/09	07/14/09	54
06/24/09	Western Slope Cattlemen's	6	LAMBS	\$639.35	06/25/09	07/14/09	19
08/05/09	Western Slope Cattlemen's	10	CATTLE	\$10,209.60	08/06/09	08/08/09	2
08/12/09	Western Slope Cattlemen's	54	LAMBS	\$5,542.76	08/13/09	08/15/09	2
08/10/11	Western Slope Cattlemen's	24	LAMBS/ EWES	\$3,545.60	08/11/11	08/15/11	4

III.

On or about the dates and in the transactions set forth below, Corporate Respondent, under the direction, management, and control of Individual Respondent, in connection with its operations subject to the Act, issued checks for livestock purchases that were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented:

Purchase Date	No. of Head	Type of Livestock	Invoice Amount	Check Date	Check Number	Check Amount	Date Check Returned
05/21/09	14	LAMBS	\$1,843.07	05/25/09	3267	\$1,843.07	07/01/09 07/14/09
06/11/09	6	LAMBS	\$482.12	06/20/09	3228	\$482.12	07/01/09

Purchase Date	No. of Head	Type of Livestock	Invoice Amount	Check Date	Check Number	Check Amount	Date Check Returned
05/20/09	1	LAMBS	\$290.70	05/25/09	3266	\$290.70	06/15/09
06/24/09	6	LAMBS	\$639.35	06/28/09	3271	\$639.35	07/10/09
08/24/11	96	LAMBS	\$19,630.85	08/24/11	3630	\$19,630.85	08/30/11

IV.

On August 24, 2009, Individual Respondent received written notification from the Packers and Stockyards Program that he was operating subject to the Act and that he was required to register and to obtain a bond or bond equivalent as required by the Act and regulations. Notwithstanding such notice, Individual Respondent continued to direct, manage and control Corporate Respondent while engaging the business of a dealer buying and selling livestock in commerce, and the business of a market agency buying livestock on a commission basis, without registering or maintaining an adequate bond or bond equivalent as required by the Act and the regulations.

V.

By reason of the facts alleged in paragraphs II and III herein, Respondents have 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 herein, Respondents have 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) by engaging in operations subject to the Act without maintaining an adequate bond or bond equivalent.

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. Respondents shall 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.). Failure to file an answer shall constitute an admission of all the material allegations in this Complaint.

Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, requests:

1. That unless Respondents fail to file an answer within the time allowed therefore, or file an answer admitting all the material allegations in this Complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued requiring Respondents to cease and desist from the violations found to exist and assessing such civil penalties as are authorized by the Act and warranted under the facts and circumstances of this case.

Done at Washington, D.C.

this 21 day of December 2011



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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