

agency clearing service operating under the name of Tri-State Livestock. Respondent Hill also entered into a trust fund agreement for the use of one or more letters of credit in lieu of the bond required of livestock market agencies and dealers operating subject to the Act and regulations.

In June, 2004, respondent Clark applied to the Grain Inspection, Packers & Stockyards Administration for registration as a dealer buying or selling livestock at the same operating address as Tri-State Livestock, and in August, 2004, respondent Hill signed a rider to the trust fund agreement making respondent Clark a clearee of said agreement.

On December 1, 2007, respondent Hill sent the Grain Inspection, Packers & Stockyards Administration a letter stating that she wanted to terminate her registration as a dealer buying or selling livestock and her trust fund agreement and that she was no longer clearing for respondent Clark under said agreement. On December 3, 2007, the Grain Inspection, Packers & Stockyards Administration sent respondent Hill a letter notifying her that her registration had been rendered inactive and that the agency was initiating action to terminate her trust fund. The agency's letter also notified respondent Hill of her obligation to file an application for registration and secure a bond if she wished to resume operating subject to the Act and informed her that operating subject to the Act without complying with the registration provisions of the Act and without filing an adequate bond or bond equivalent are violations of the Act and regulations and could subject her to disciplinary action.

On December 3, 2007, the Grain Inspection, Packers & Stockyards Administration also sent respondent Clark a letter notifying him that respondent Hill had removed him as a clearee of her trust fund agreement and that he had to discontinue all livestock operations for which bonding was required under the Act unless and until he had a new bond or bond equivalent. The agency's letter also informed respondent Clark that operating subject to the Act without filing an

adequate bond or bond equivalent are violations of the Act and regulations and could subject him to disciplinary action. On January 11, 2008, respondent Clark sent the Grain Inspection, Packers & Stockyards Administration a letter stating that he had discontinued his livestock operations and requesting that his registration be made inactive.

III

During the period from April 30, 2008, through December 18, 2008, in 33 transactions involving their purchase of 3135 head at four different livestock auctions or companies for a total purchase price of \$1,952,505.60, and in five transactions involving their sale of 165 head to Lone Star Beef Processors, LP, in San Angelo, Texas, for a total sale price of \$115,890.01, respondents engaged in the business of a dealer buying and selling livestock in commerce without being registered with the Secretary and without maintaining an adequate bond or bond equivalent.

IV

(a) On August 28, 2008, and November 13, 2008, the respondents issued two insufficient funds checks, one in the amount of \$89,184.65 and the other in the amount of \$31,486.62, to Cattleman's Livestock Commission Company in payment for their livestock purchases. The respondents thus failed to have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented for payment, in violation of section 312(a) of the Act (7 U.S.C. §§ 213(a)).

(b) By issuing the insufficient fund checks on the dates referenced in Count IV(a) of this complaint, the respondents also failed to pay the full amount of the livestock purchase prices within the time period required by the Act, in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

V

In 15 of the transactions referenced in Count III of this complaint, involving their purchase of 2092 head at Cattlemen's Livestock Commission Company for a total purchase price of \$1,380,430.90, the respondents failed to pay, when due, the full amount of the livestock purchase prices within the time period required by the Act, in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

VI

In six of the transactions referenced in Count III of this complaint, involving their purchase of 342 head from Cattleman's Livestock Commission Company of Dalhart, Texas, for total purchase price of \$150,394.53 and their purchase of 16 head from Five States Livestock Auction of Clayton, New Mexico, for a total purchase price of \$9,606.82, the respondents failed to pay the full amount of the livestock purchase prices, in violation of sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

VII

By reason of the facts alleged in paragraph III, the respondent has 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 and 201.30).

By reason of the facts alleged in paragraphs IV, V, and VI, the respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondents. The respondents shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington,

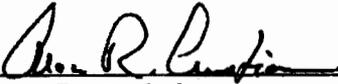
D.C. 20250-9200, in accordance with the Rules of Practice governing the proceedings under the Act (7 C.F.R. §§ 1.130 *et seq.*). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations in this complaint and a waiver of hearing.

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

1. That unless the 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 an order be issued requiring the respondents to cease and desist from the violations of the Act and the regulations found to exist; prohibiting the respondents, for a specified period, from engaging in business in any capacity for which registration and bonding are required under the Act; and assessing such civil penalties against the respondents as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 19 day of January, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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