

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P & S Docket No. D-12-0188
)
)
) JLA, LLC d/b/a Marshall
) Livestock Auction and
) Carey Jones,
)
) 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) JLA, LLC d/b/a Marshall Livestock Auction (Respondent JLA) is a Missouri limited liability company with a mailing address of 1399 N. Odell, Marshall, MO 65340.
- (b) Respondent JLA is and at all times material herein 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 on a commission basis.
- (c) Carey Jones (Respondent Jones) is an individual whose mailing address is 1399 N. Odell, Marshall, MO 65340.
- (d) Respondent Jones is and at all times material herein was:
- (1) Fifty percent owner of Respondent JLA; and

(2) Responsible for the day-to-day management, direction, and control of Respondent JLA.

II

(a) In a certified Notice of Violation letter dated August 17, 2009, and served upon Respondents on or about August 20, 2009, the Midwestern Regional Office of Complainant informed Respondents that operating with a custodial account shortage is an unfair practice in violation of section 312(a) of the Packers and Stockyards Act (7 U.S.C. § 213(a)). Notwithstanding this notice, during the period of March 15, 2010 through April 15, 2010, Respondent JLA, under the direction, management, and control of Respondent Jones, failed to properly maintain its Custodial Account for Shippers' Proceeds, thereby endangering the faithful and prompt accounting therefor and the payment of portions due to the owners or consignors of livestock in that:

(1) As of March 15, 2010, Respondent JLA had outstanding checks drawn on its Custodial Account for Shippers' Proceeds (custodial account) in the amount of \$319,961.76, and had to offset such checks a balance in the custodial account of \$960.10 and proceeds receivable of \$72,781.12, resulting in a deficiency of \$246,220.54 in funds available to pay livestock shippers.

(2) As of March 31, 2010, Respondent JLA had outstanding checks drawn on its custodial account in the amount of \$168,131.76 and had to offset such checks a balance in the custodial account of (\$16,728.52) and proceeds receivable of \$82,661.62, resulting in a deficiency of \$102,198.66 in funds available to pay livestock shippers.

(3) As of April 15, 2010, Respondent JLA had outstanding checks drawn on its custodial account in the amount of \$170,042.73 and had to offset such checks a balance in the custodial account of \$3,069.53 and proceeds receivable of \$50,752.00, resulting in a deficiency of \$116,221.20 in funds available to pay livestock shippers.

(b) The shortages in Respondent JLA's custodial account were due, in part, to Respondent JLA's failure to deposit in its custodial account, within the time prescribed by section 201.42 of the regulations (9 C.F.R. §201.42), an amount equal to the proceeds receivable from the sale of consigned livestock, whether or not such proceeds had been collected by the market agency, its transfers of custodial funds into its general account; withdrawals made by the bank to repay a line of credit, and the deduction of bank charges from the custodial account.

III

Respondent JLA, under the direction, management, and control of Respondent Jones, on or about the dates and in the transactions set forth in Appendix A and incorporated herein by reference, misused its custodial account by withdrawing funds for a purpose other than (1) for payment of the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, or (3) to obtain any sums due the market agency as compensation for its services.

IV

By reason of the facts alleged in paragraphs II-III, Respondent JLA, under the direction, management, and control of Respondent Jones, has 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).

WHEREFORE, it is hereby ordered that this complaint shall be served upon the Respondents for the purpose of determining whether Respondents have willfully violated the Act and the regulations. The Respondents shall have twenty (20) days after receipt of this complaint to file an answer with the Hearing Clerk, United States Department of

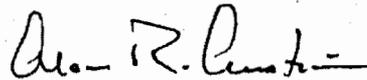
Agriculture, Washington D.C. 20250, in accordance with the Rules of Practice Governing Proceedings Under the Act (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice). Allegations not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, 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 found to exist, suspending Respondents as a registrants under the Act, and assessing such civil penalties against Respondents as are authorized by the Act and warranted in the circumstances.

Done at Washington, D.C.

this 20 day of January, 2012



ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program

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Appendix A

JLA, LLC d/b/a Marshall Livestock Auction and Carey Jones Schedule of Custodial Misuse

Date of Misuse	Description of Misuse	Amount
3/1/2010	Withdrawal for Line of Credit Payment	\$55,000
3/4/2010	Withdrawal for Line of Credit Payment	\$30,000
3/8/2010	Withdrawal for Line of Credit Payment	\$135,000
3/15/2010	Transfer to General Account	\$6,000
3/22/2010	Withdrawal for Line of Credit Payment	\$115,000
3/29/2010	Withdrawal for Line of Credit Payment	\$35,000
3/29/2010	Transfer to General Account	\$5,000
3/31/2010	Bank Service Charge	\$59.90
4/1/2010	Withdrawal for Line of Credit Payment	\$15,000
4/5/2010	Withdrawal for Line of Credit Payment	\$150,000
4/12/2010	Withdrawal for Line of Credit Payment	\$50,000
4/15/2010	Transfer to General Account	\$10,000
TOTAL		\$606,059.90