

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

2012 FEB 24 PM 4:09

In re:

Marshall Livestock Auction, Inc. -
Special Account, and Carey Jones,

Respondents

) P & S Docket No. D-12-0243

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Amended Complaint and
Order to Show Cause

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There is reason to believe that respondents Marshall Livestock Auction, Inc.- Special Account and Carey Jones 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 that respondents are unfit to engage in business as a dealer or market agency under the Act. Therefore, this Complaint and Order to Show Cause is issued alleging the following:

I

(a) Respondent Marshall Livestock Auction, Inc. - Special Account is a corporation organized and existing under the laws of the State of Missouri. Its principal place of business and mailing address is 1399 N. Odell, Marshall, MO 65340.

(b) Respondent Carey Jones is an individual whose principal place of business and mailing address is identical to the address provided in subsection (a) above.

(c) Respondent Marshall Livestock Auction, Inc. - Special Account, under the direction, management, and control of respondent Carey Jones, 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 the account of others or as a market agency buying livestock in commerce on a commission basis; and

(2) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account or the account of others and as a market agency to buy livestock in commerce on a commission basis.

(d) Respondent Carey Jones at all times material herein was:

(1) President of respondent Marshall Livestock Auction, Inc. - Special Account;

(2) One-hundred percent owner of respondent Marshall Livestock Auction, Inc. - Special Account;

(3) Registered agent of respondent Marshall Livestock Auction, Inc. - Special Account;

(4) Responsible for the day-to-day management, direction, and control of respondent Marshall Livestock Auction, Inc. - Special Account.

II

During the period from February 13, 2010, through April 10, 2010, on or about the dates and in the transactions set forth in Appendix A, and incorporated herein by reference, respondent Marshall Livestock Auction, Inc. - Special Account, under the direction, management, and control of respondent Carey Jones, failed to pay, within the time period required by the Act, the full purchase price of such livestock.

III

(a) On August 16, 2011, GIPSA sent respondents a Notice of Default – Annual Report notifying them that they had failed to file a correct Annual Report of Dealer Or Market Agency Buying on Commission for fiscal year ending March 31, 2011. Respondents received the notice on August 19, 2011. The notice of default notified respondents that 30 days from the receipt of the notice, if they failed to file their annual report, their registration would expire as provided in section 201.10 of the Regulations (9 C.F.R. §

201.10). Respondents were further notified that if they continued to operate and failed to renew their registration that they would be in violation of the Act and regulations and subject to civil penalties.

(b) Despite the notice of default, respondents failed to file their annual report within the 30 days and were notified by certified letter dated September 20, 2011, and served on them on September 23, 2011, that their registration to conduct business under the Act had expired due to their failure to comply with federal regulations. Respondents were further notified that they must immediately cease their activities subject to the Act and that failure to do so could result in the filing of a complaint against them in which civil penalties would be sought. Respondents were also notified that if they wished to continue operating as a dealer and a market agency that they must submit a new application for registration along with any delinquent annual reports.

(c) On or about October 3, 2011, respondents submitted an application for registration, along with their corrected annual report, to GIPSA to operate as a dealer buying and selling livestock and as a market agency buying on commission.

IV

By reason of the facts alleged in paragraph II, respondents Marshall Livestock Auction, Inc. - Special Account and Carey Jones have willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228(b)).

By reason of the facts alleged in paragraphs II and III, respondents are unfit to engage in the business of a livestock dealer buying and selling livestock or market agency buying on commission.

WHEREFORE, it is hereby ordered that this Complaint and Order to Show Cause shall be served upon the respondents for the purpose of determining whether respondents have willfully violated the Act and regulations and for the purpose of determining whether

their application for registration as a dealer and market agency to buy livestock on commission should be denied. Respondents shall have twenty (20) days after receipt of this Complaint and Order to Show Cause 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 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 of this Complaint and Order to Show Cause.

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: (1) an order requiring respondents to cease and desist from the violations of the Act with respect to the matters alleged herein, and assessing such civil penalties against respondents as are authorized by the Act and warranted under the premises; and (2) an order denying respondents' application for registration.

Done at Washington, D.C.

this 24 day of February, 2012


ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program

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Appendix A

**Marshall Livestock Auction – Special Cattle Account and Carey Jones
Schedule of Failure to Pay within time period required by the Act for Livestock**

Purchase Date	Seller's Name	No. of Head	Livestock Amount	Payment Due Date	Payment Date	Check No.	Days Late
2/13/2010	Salem Livestock Auction	62	\$37,065.89	2/16/2010	2/17/2010	10794	1
2/4/2010	Calloway Livestock Center	41	\$37,185.00	2/5/2010	2/8/2010	10783	3
2/8/2010	Tina Stockyards	38	\$18,519.08	2/9/2010	2/11/2010	10790	2
2/10/2010	Springfield L/S Marketing	22	\$9,680.76	2/11/2010	2/13/2010	10791	2
2/10/2010	Joplin Regional Stockyards	9	\$4,985.58	2/11/2010	2/13/2010	10792	2
2/24/2010	Joplin Regional Stockyards	41	\$22,154.45	2/25/2010	2/27/2010	10900	2
2/22/2010	Tina Stockyards	56	\$31,434.21	2/23/2010	2/25/2010	10808	2
3/1/2010	Miller County Regional Stockyards	46	\$23,746.33	3/2/2010	3/5/2010	10904	3
3/3/2010	Joplin Regional Stockyards	60	\$31,863.51	3/4/2010	3/7/2010	10913	3
2/23/2010	Interstate Regional Stockyards	86	\$57,214.76	2/24/2010	3/3/2010	10911	7
2/23/2010	Interstate Regional Stockyards	66	\$49,372.48	2/24/2010	3/3/2010	10910	7
3/5/2010	Eastern Missouri Commission	94	\$47,291.05	3/8/2010	3/10/2010	10908	2
3/5/2010	Eastern Missouri Commission	57	\$27,738.65	3/8/2010	3/10/2010	10907	2
3/1/2010	Tina Stockyards	18	\$9,047.33	3/2/2010	3/6/2010	10909	4
3/5/2010	Eastern Missouri Commission	34	\$17,307.01	3/8/2010	3/9/2010	10906	1
3/4/2010	Calloway Livestock Center	42	\$23,900.65	3/5/2010	3/8/2010	10905	3
3/10/2010	Interstate Regional Stockyards	80	\$42,286.92	3/11/2010	4/4/2010	10916	24
3/10/2010	Joplin Regional Stockyards	45	\$27,650.00	3/11/2010	3/15/2010	10809	4
3/12/2010	Eastern Missouri Commission	153	\$77,460.01	3/15/2010	3/17/2010	10899	2
2/26/2010	Eastern Missouri Commission	14	\$7,581.80	3/1/2010	3/10/2010	10917	9
3/9/2010	Interstate Regional Stockyards	71	\$48,836.86	3/10/2010	4/1/2010	10944	22

3/8/2010	Tina Stockyards	12	\$6,965.38	3/9/2010	3/12/2010	10918	3
3/8/2010	Miller County Regional Stockyards	60	\$29,708.17	3/9/2010	3/12/2010	10919	3
3/17/2010	Joplin Regional Stockyards	34	\$18,404.18	3/18/2010	3/21/2010	10924	3
3/16/2010	Interstate Regional Stockyards	92	\$51,612.13	3/17/2010	4/4/2010	10923	18
3/26/2010	Eastern Missouri Commission	52	\$30,458.00	3/29/2010	3/30/2010	10929	1
3/25/2010	MoKan Livestock Market	4	\$2,587.30	3/26/2010	3/27/2010	11050	1
3/31/2010	Joplin Regional Stockyards	61	\$34,731.48	4/1/2010	4/6/2010	11061	5
3/13/2010	Marshall Livestock Auction	77	\$36,391.88	3/15/2010	3/16/2010	10831	1
		39	\$21,989.63	3/15/2010	3/18/2010	10836	3
		34	\$17,545.99	3/15/2010	3/20/2010	10839	5
3/27/2010	Marshall Livestock Auction	41	\$20,106.60	3/29/2010	3/30/2010	10941	1
		18	\$10,584.65	3/29/2010	3/31/2010	10942	2
		69	\$34,804.75	3/29/2010	4/1/2010	10945	3
		53	\$27,750.98	3/29/2010	4/3/2010	10951	5
4/10/2010	Marshall Livestock Auction	41	\$24,916.43	4/12/2010	4/13/2010	10968	1
		52	\$24,198.35	4/12/2010	4/14/2010	10969	2
		43	\$20,604.75	4/12/2010	4/15/2010	10970	3
Totals		1,917	\$1,065,682.98	Average No. of Days Late			4.4