

UNITED STATES DEPARTMENT OF AGRICULTURE 2012 APR 20 PM 12: 56  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: )  
) P&S Docket No. D-12-0376  
)  
)  
) Stephen Smeal, )  
)  
) d/b/a Fatted Calf Cattle Farms #6 )  
)  
) Respondent ) Complaint and  
Order to Show Cause

There is reason to believe that the respondent named herein has willfully violated the Packers & Stockyards Act, 1921, as amended and supplemented (7 U.S.C. §§ 181 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. §§ 201.1 *et seq.*) and that respondent's application for registration under the Act should be denied. Therefore, this Complaint and Order to Show Cause is issued alleging the following:

I

(a) Stephen Smeal is, and at all times material herein, was, an individual doing business as Fatted Calf Cattle Farms #6, and has a business mailing address of 1203 VZCR 2414, Canton, TX, 75103. Respondent Stephen Smeal, doing business as Fatted Calf Cattle Farms #6 is, and, at all times material herein, was:

- (1) Engaged in the business of buying livestock on a commission basis in commerce; and
- (2) Engaged in the business of a dealer buying and selling livestock in commerce;

b) Respondent is not currently registered with the Secretary of Agriculture under the Act and regulations but has an application for registration pending as described below in paragraph II.

## II

On or about March 23, 2012, respondent submitted a completed application for registration with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis and as a dealer to buy and sell livestock in commerce.

## III

(a) On or about May 14, 2010, respondent issued a check to Winnsboro Livestock and Dairy Auction in the amount of \$2,379.18 in payment for a livestock purchase made on December 18, 2009. That check was returned unpaid by the bank upon which it was drawn on or about May 20, 2010, because respondent did not have and maintain sufficient funds on deposit and available in the account upon which the check was drawn to pay it when presented. Respondent resubmitted that same check on or about June 7, 2010, and the check was again returned unpaid by the bank upon which it was drawn on or about June 10, 2010, because respondent did not have and maintain sufficient funds on deposit and available in the account upon which the check was drawn to pay it when presented.

(b) By virtue of the facts alleged above in subsection (a) of this paragraph, respondent purchased livestock and failed to pay, when due, for such livestock.

#### IV

(a) On or about the dates and in the transactions set forth in Appendix A, respondent purchased livestock and failed to pay, when due, the full purchase price of such livestock.

(b) As of the date of the filing of this Complaint and Order to Show Cause, to the best of Complainant's knowledge, approximately \$224,432.92 remains unpaid by respondent for livestock purchases.

#### V

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

By reason of the facts alleged in paragraphs I, II, III and IV, respondent is unfit to engage in activity as a market agency buying livestock on a commission basis in commerce and as a dealer to buy and sell livestock in commerce, and, therefore, respondent's application for registration under the Act as a market agency and as a dealer should be denied.

WHEREFORE, it is hereby ordered that this Complaint and Order to Show Cause shall be served upon the respondent for the purpose of determining whether

respondent has willfully violated the Act and regulations; and for the purpose of determining whether his application for registration as a market agency to buy livestock on a commission basis and as a dealer to buy and sell livestock should be denied. Respondent 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 respondent fails to file an answer within the time allowed, or files 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 respondent to cease and desist from the violations of the Act and the regulations found to exist, prohibiting the registration of respondent, and assessing such civil penalties against respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 20 day of April, 2012



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Deputy Administrator  
Packers and Stockyards Program

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Appendix A

<b>Purchase Date</b>	<b>Seller</b>	<b>Number of Head of Livestock Purchased</b>	<b>Net Invoice Amount</b>	<b>Payment due date per § 409 of the Act</b>	<b>Date Payment Made by Respondent</b>	<b>Outstanding Balance Owed by Respondent to Seller</b>
6/8/2009	Sulphur Springs Livestock Commission Co.	69	\$9,834.85	6/9/2009	8/18/2010 <sup>1</sup>	\$5,558.11
6/29/2009	Sulphur Springs Livestock Commission Co.	71	\$16,832.59	6/30/2009	Unpaid	\$16,832.59
7/6/2009	Sulphur Springs Livestock Commission Co.	56	\$11,097.10	7/7/2009	Unpaid	\$11,097.10
11/16/2009	Sulphur Springs Livestock Commission Co.	135	\$17,321.61	11/17/2009	Unpaid	\$17,321.61
3/15/2010	Sulphur Springs Livestock Commission Co.	89	\$17,759.78	3/16/2010	Unpaid	\$17,759.78
4/19/2010	Sulphur Springs Livestock Commission Co.	41	\$15,665.77	4/20/2010	Unpaid	\$15,665.77
5/3/2010	Sulphur Springs Livestock Commission Co.	35	\$16,587.51	5/4/2010	Unknown <sup>2</sup>	\$14,238.27
5/24/2010	Sulphur Springs Livestock Commission Co.	32	\$14,546.36	5/25/2010	Unknown <sup>3</sup>	\$6,900.41
6/7/2010	Sulphur Springs Livestock Commission Co.	49	\$12,435.18	6/8/2010	Unpaid	\$12,435.18
9/27/2011	Sulphur Springs Livestock Commission Co.	54	\$8,974.36	9/28/2011	Unpaid	\$8,974.36
12/12/2011	Sulphur Springs Livestock Commission Co.	18	\$6,106.75	12/13/2011	Unpaid	\$6,106.75
12/19/2011	Sulphur Springs Livestock Commission Co.	13	\$5,075.03	12/20/2011	Unpaid	\$5,075.03
2/27/2012	Sulphur Springs	12	\$4,498.94	2/28/2012	Unpaid	\$4,498.94

<sup>1</sup> Respondent paid \$4,276.74 on 8/18/2010. The remainder of the balance owed to Sulphur Springs Livestock Commission Co. for the 6/8/2009 purchase remains unpaid.

<sup>2</sup> Respondent paid \$2,451.24 for this purchase on an unknown date after the payment due date.

<sup>3</sup> Respondent paid \$7,645.95 for this purchase on an unknown date after the payment due date.

	Livestock Commission Co.					
1/14/2012	Van Zandt County Livestock Auction	57	\$32,349.22	1/17/2012	2/8/2012 <sup>4</sup>	\$31,245.15
					2/11/2012 <sup>5</sup>	\$30,216.87
					2/18/2012 <sup>6</sup>	\$28,216.87
					2/18/2012 <sup>7</sup>	\$27,465.76
					2/27/2012 <sup>8</sup>	\$21,053.66
					3/3/2012 <sup>9</sup>	\$18,153.44
1/21/2012	Van Zandt County Livestock Auction	38	\$19,268.83	1/23/2012	Unpaid	\$19,268.83
1/28/2012	Van Zandt County Livestock Auction	19	\$7,955.21	1/30/2012	Unpaid	\$7,955.21
2/4/2012	Van Zandt County Livestock Auction	6	\$3,708.33	2/6/2012	Unpaid	\$3,708.33
2/11/2012	Van Zandt County Livestock Auction	6	\$1,926.16	2/13/2012	Unpaid	\$1,926.16
2/18/2012	Van Zandt County Livestock Auction	8	\$1,932.88	2/21/2012	Unpaid	\$1,932.88
2/25/2012	Van Zandt County Livestock Auction	7	\$4,090.66	2/27/2012	Unpaid	\$4,090.66
3/3/2012	Van Zandt County Livestock Auction	12	\$3,420.69	3/5/2012	Unpaid	\$3,420.69
2/5/2010	Winnsboro Livestock and Dairy Auction	39	\$9,992.58	2/8/2010	1/3/2012 <sup>10</sup>	\$9,938.59
3/19/2010	Winnsboro Livestock and Dairy Auction	9	\$2,296.43	3/22/2010	Unpaid	\$2,296.43
4/16/2010	Winnsboro Livestock and Dairy Auction	9	\$2,771.10	4/19/2010	Unpaid	\$2,771.10
4/23/2010	Winnsboro Livestock and Dairy Auction	7	\$3,289.86	4/26/2012	Unpaid	\$3,289.86
4/30/2010	Winnsboro Livestock and Dairy Auction	8	\$3,288.30	5/3/2010	Unpaid	\$3,288.30
6/8/2010	East Texas Livestock	25	\$4,689.19	6/9/2010	6/15/2010	N/A
6/15/2010	East Texas	5	\$1,778.80	6/16/2010	6/22/2010	N/A

<sup>4</sup> The respondent paid \$1,104.07 on 2/8/2012 for the 1/14/2012 purchase.

<sup>5</sup> This check was for \$1,028.28

<sup>6</sup> This bank transfer payment was for \$2,000.00.

<sup>7</sup> This payment was a check for \$751.11.

<sup>8</sup> This payment was a check for \$6,412.10.

<sup>9</sup> This payment was a check for \$2,900.22.

<sup>10</sup> This payment was a check for \$53.99.

	Livestock					
6/22/2010	East Texas Livestock	3	\$1,605.75	6/23/2010	6/30/2010	N/A
6/29/2010	East Texas Livestock	10	\$5,985.21	6/30/2010	7/26/2010	N/A
7/6/2010	East Texas Livestock	12	\$1,402.20	7/7/2010	7/27/2010	N/A
7/13/2010	East Texas Livestock	15	\$7,239.81	7/14/2010	8/3/2010	N/A
7/20/2010	East Texas Livestock	8	\$5,154.43	7/21/2010	7/31/2010	N/A
7/27/2010	East Texas Livestock	18	\$4,736.90	7/28/2010	7/31/2010	N/A
8/3/2010	East Texas Livestock	9	\$3,403.04	8/4/2010	8/10/2010	N/A
8/10/2010	East Texas Livestock	5	\$1,989.40	8/11/2010	8/17/2010	N/A
8/17/2010	East Texas Livestock	10	\$5,091.08	8/18/2010	8/24/2010	N/A