

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P & S Docket No. 12-0762
)	
Freightout.com, LLC)	
)	
and)	
)	
Lloyd H. Minifie)	
)	
)	
Respondents)	Complaint and Notice of Hearing

There is reason to believe that respondents named herein have willfully violated the provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), hereinafter referred to as the "Act," and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*), hereinafter referred to as the "regulations." Therefore, this complaint and notice of hearing is issued alleging the following:

I.

- (a) Freightout.com, LLC is a limited liability company organized under the laws of the State of New Mexico with its principal place of business located at 8550 Buchanan Dr., Prescott, Arizona 86305. The registered agent for Freightout.com, LLC is Lloyd H. Minifie.
- (b) Freightout.com, LLC has a business mailing address of P.O. Box 3540, Moriarty, New Mexico.
- (c) Freightout.com, LLC conducts business as Western Way Custom Meat, LLC and as Western Way Meats.
- (d) Lloyd H. Minifie is an individual whose business mailing address is P.O. Box 3540, Moriarty, New Mexico 87035.

(e) Lloyd H. Minifie, with his wife Susan Minifie, at all times material herein was an owner of Freightout.com, LLC.

(f) Lloyd H. Minifie, at all times material herein, was responsible for the direction, management and control of the activities and practices of Freightout.com, LLC, including the acts and practices referred to in this complaint.

(g) Freightout.com, LLC and Lloyd H. Minifie are collectively referred to herein as respondents.

(h) Respondents at all times material herein were engaged in the business of buying livestock in commerce for the purpose of slaughter, and of manufacturing or preparing meats or meat food products for sale or shipment in commerce.

(i) Respondents at all times material herein were packers within the meaning of and subject to the provisions of the Act.

II.

By written notice dated November 19, 2010 and received on November 22, 2010 respondents were notified by the Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (P&SP) that the failure to pay for livestock when due was a violation of section 202 (7 U.S.C. §192) and section 409 (7 U.S.C. §228b) of the Act. The Notice of Violation stated that the failure to take immediate steps to correct the violations and bring the respondents' operation into compliance with the provisions of the Act could result in sanctions under the Act.

III.

By written notice dated December 23, 2010, and received on December 27, 2010, respondents were notified by the P&SP that because their average annual purchases of livestock exceeded \$500,000, they were required to file and maintain a reasonable bond or bond equivalent to secure the performance of their livestock purchase obligations, (7 U.S.C. § 204), and that the respondents were required to file a \$10,000 bond or bond equivalent.

IV.

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

<u>Purchase Date</u>	<u>Seller</u>	<u>No. Head</u>	<u>Invoice Amount</u>	<u>Date Due</u>	<u>Date Paid</u>
01/03/11	Highland Dairy	9	9,802.00	01/04/11	01/21/11
01/20/11	Highland Dairy	10	10,580.80	01/21/11	03/30/11
02/06/11	Highland Dairy	10	10,921.00	02/07/11	Unpaid
02/21/11	Highland Dairy	10	8,991.40	02/22/11	Unpaid
03/09/11	Highland Dairy	11	13,899.20	03/10/11	Unpaid
04/01/11	Highland Dairy	9	10,339.20	04/04/11	Unpaid

(b) As of April 25, 2011, approximately \$44,000 of the \$64,533 referred to in paragraph (a) above remains unpaid.

V.

From January 4, 2010 to April 1, 2011 respondents engaged in business as a packer purchasing livestock in commerce without having and maintaining a reasonable bond or bond equivalent, as required by the Act and the regulations promulgated thereunder.

VI.

By reason of the facts alleged in paragraphs II and IV of this Complaint and Notice of Hearing, respondents willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a) and 228(b)).

By reason of the facts alleged in paragraphs III and V of this Complaint and Notice of Hearing, respondents willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

WHEREFORE, it is hereby ordered that for the purpose of determining whether respondents have in fact willfully violated the Act, this Complaint and Notice of Hearing shall be served upon the respondents. The respondents shall have twenty (20) days after receipt of this Complaint and Notice of Hearing in which 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.*). Failure to file an answer will constitute an admission of all the material allegations of this Complaint and Notice of Hearing.

Respondents are hereby notified that unless the hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a place and time to be designated later. At the hearing, respondents will have the

right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act which require that the respondents to cease and desist from violating the Act with respect to the matters alleged herein and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 7 day of June, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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