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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P&S Docket No. 12-0516
)
Anderson Livestock Auction, Co.,)
)
and)
)
Jerry Anderson,)
)
)
Respondents) Complaint

There is reason to believe that the respondents named herein 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, therefore, this complaint is issued alleging the following:

I.

- (a) Respondent Anderson Livestock Auction, Co., is a corporation organized under the laws of the State of Utah, with a mailing address of P.O. Box 451, Willard, Utah 84340.
- (b) Respondent Anderson Livestock Auction, Co., under the direction, management, and control of Respondent Jerry Anderson, is, and at all times material herein was:
 - (1) Engaged in the business of conducting and operating Anderson Livestock Auction, Co., a stockyard posted under and subject to the provisions of the Act;
 - (2) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency selling consigned livestock on a commission basis in commerce; and

- (3) Registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency to buy and sell livestock on a commission basis in commerce.
- (c) Respondent Jerry Anderson is an individual whose business mailing address is P.O. Box 451, Willard, Utah 84340.
- (d) Respondent Jerry Anderson is, and at all times material herein was:
 - (1) President of Respondent Anderson Livestock Auction, Co.;
 - (2) Owner of 100% of Respondent Anderson Livestock Auction, Co.; and
 - (3) Responsible for the direction, management and control of Respondent Anderson Livestock Auction, Co.
- (e) Respondent Jerry Anderson is, and at all times material herein was:
 - (1) Engaged in the business of conducting and operating Anderson Livestock Auction, Co., a stockyard posted under and subject to the provisions of the Act; and
 - (2) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency selling consigned livestock on a commission basis in commerce.

II.

On September 12, 2008, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a Notice of Violation (NOV) via certified mail, to Respondent Anderson Livestock Auction, Co. The NOV was claimed and signed for on September 17, 2008. The NOV advised that a GIPSA review disclosed that respondent's custodial account had shortages of \$118,445.22 and \$55,717.98 as of May 30, 2008, and July 31, 2008 respectively. The NOV further stated that respondent was required to correct the shortage immediately. The NOV informed respondent that

operating with a custodial account shortage violates sections 307(a) and 312(a) of the Packers and Stockyards Act (7 U.S.C. §§ 208 and 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42), and that failure to comply with the Act and regulations would result in appropriate disciplinary action.

III.

Respondent Anderson Livestock Auction, Co., under the direction, management, and control of Respondent Jerry Anderson, during the period of January 31, 2010, through April 5, 2010, failed to properly use and maintain its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock, in that:

(a) As of January 31, 2010, respondents had outstanding checks drawn on their custodial account in the amount of \$131,685.22 and had, to offset such checks, a bank balance in the custodial account of \$48,281.98, current proceeds receivable in the amount of \$59,663.79, and no deposits in transit, resulting in a custodial account shortage in the amount of \$23,739.45.

(b) As of April 5, 2010, respondents had outstanding checks drawn on their custodial account in the amount of \$155,890.93 and had, to offset such checks, a bank balance in the custodial account of \$70,801.73, current proceeds receivable in the amount of \$62,559.15, and no deposits in transit, resulting in a custodial account shortage in the amount of \$22,530.05.

(c) The custodial account shortages described herein were due in part to respondents' failure to deposit in the custodial account, within the time prescribed by the regulations, an

amount equal to the proceeds receivable for sales of consigned livestock and due in part to respondents' misuse of shippers' funds in the custodial account to pay bank fees.

IV.

By reason of the facts alleged in paragraphs II and III, respondents 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 willfully violated the Act and regulations. Respondents shall have twenty (20) days after receipt of this complaint 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.

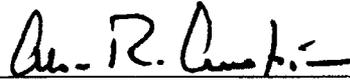
The Grain Inspection, Packers and Stockyards Administration requests:

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 an order requiring respondents to cease and desist from the violations of the Act and the regulations found to exist, suspending respondents as registrants under the Act for a specified period of time, and assessing such

civil penalties against respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 9 day of July, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

Lisa Jabaily
Attorney for the Complainant
Marketing, Regulatory, and Food Safety Programs Division
Office of the General Counsel
United States Department of Agriculture
Room 2319, South Building
1400 Independence Ave., S.W.
Washington, D.C. 20250-1400
(202) 720-1930