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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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| In re:                    | ) | P&S Docket No. 12- | 0562 |
|                           | ) |                    |      |
| Don and Carol Boyer d/b/a | ) |                    |      |
| Boyer Cattle Co.,         | ) |                    |      |
|                           | ) |                    |      |
| 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.*), and, therefore, this complaint is issued alleging the following:

I

(a) Don and Carol Boyer, referred to herein as the respondents, are individuals doing business as Boyer Cattle Co., with a mailing address of P.O. Box 483, Mentone, Indiana 46539.

(b) The respondents are, and at all times material herein were:

(1) Engaged in the business of a market agency buying livestock in commerce on a commission basis; and

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to buy livestock in commerce on a commission basis.

## II

(a) On August 16, 2011, the Grain Inspection, Packers and Stockyards Administration (GIPSA) notified respondents that, based upon respondents' last annual report, the \$30,000 surety bond which they maintained to secure the performance of their livestock obligations under the Act was inadequate and that it was necessary to increase their bond from \$30,000 to \$50,000. A copy of the regulations was enclosed, providing that without adequate bond, respondents must discontinue all livestock operations for which bonding is required under the Act. On September 20, 2011, a Notice of Default was sent to respondents by certified mail and received on September 21, 2011.

(b) Based upon a review of respondents' livestock purchases from January 3 to September 6, 2011, GIPSA determined that an increase to \$40,000 would be adequate. GIPSA contacted respondents on December 7, 2011, to convey this figure; however, respondents were unwilling to increase their bond to \$40,000.

(c) Notwithstanding such notice, during the period from November 1, 2011 to at least January 9, 2012, in ten transactions involving 1945 head of livestock, respondents continued to engage in the business of a market agency buying livestock in commerce on a commission basis without maintaining an adequate bond as required by the Act and the regulations.

## III

By reason of the facts alleged in paragraphs II, the respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29, 201.30).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations promulgated thereunder, this complaint shall be served upon the respondents. The respondents shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the 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 shall constitute an admission of all the material allegations in this complaint and a waiver of hearing.

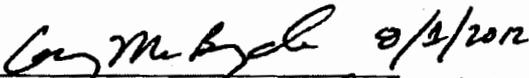
GIPSA's Packers and Stockyards Programs requests:

1. That unless the 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 an order be issued requiring the respondents to cease and desist from the violations of the Act and the regulations found to exist; prohibiting the respondents, for a specified period, from engaging in business in any capacity for which bonding is required under the Act; and

assessing such civil penalties against the respondents as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C., this

1 day of August, 2012

  
Alan R. Christian *for A.C.C.*  
Deputy Administrator  
Packers and Stockyards Programs

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