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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Otis Lewis Fortner II d/b/a  
Lewie Fortner Livestock

Respondent

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P. & S. Docket No. D-09- 090

Complaint

There is reason to believe that the Respondent named herein has willfully violated 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,” and therefore this complaint is issued alleging the following:

I.

(a) Otis Lewis Fortner II d/b/a Lewie Fortner Livestock, hereinafter referred to as “the Respondent,” is an individual whose mailing address is P.O. Box 339, Kite, Georgia 31049.

(b) Respondent at all times material to this complaint was:

- (1) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account; and
- (2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

II.

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

| <b>PURCHASED FROM</b>           | <b>PURCHASE DATE</b> | <b>NO. OF HEAD</b> | <b>LIVESTOCK AMOUNT</b> | <b>DUE DATE PER \$409</b> | <b>UNPAID BALANCE</b>    |
|---------------------------------|----------------------|--------------------|-------------------------|---------------------------|--------------------------|
| Alabama Livestock Auction, Inc. | 10/14/08             | 58                 | \$22,638.31             | 10/15/08                  | \$22,920.64 <sup>1</sup> |
| Alabama Livestock Auction, Inc. | 10/21/08             | 39                 | \$13,873.40             | 10/22/08                  | \$14,059.25 <sup>2</sup> |
| <b>TOTALS</b>                   |                      | <b>97</b>          | <b>\$36,511.71</b>      |                           | <b>\$36,979.89</b>       |

(b) As of the date of issuance of this complaint, all of the \$36,979.89 referred to in paragraph II (a) above remains unpaid.

III.

By reason of the facts alleged in paragraph II, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether Respondent has willfully violated the Act and Regulations. Respondent shall have twenty (20) days after receipt of this complaint 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.; "Rules of Practice"). 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.

<sup>1</sup> This total includes a commission for \$282.33.

<sup>2</sup> This total includes a commission for \$185.85.

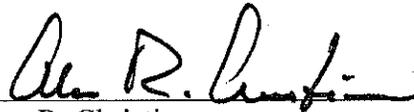
Packers and Stockyards Program, GIPSA, requests:

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

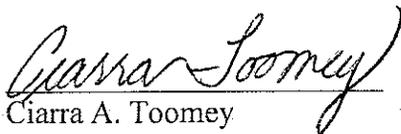
2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act found to exist, and suspending Respondent as a registrant under the Act, as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 3 day of April, 2009



Alan R. Christian  
Deputy Administrator,  
Packers and Stockyards Program



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