

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
ON 09/30/09

2009 SEP 30 AM 10:47

In re:

C. B. Schley

P & S Docket No. D-09-

0201

RECEIVED

COMPLAINT

Respondent

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

I

- (a) C. B. Schley (hereinafter “Respondent Schley”) is an individual, whose business mailing address is 603 South FM 1291, Fayetteville, TX 78940.
- (b) Respondent Schley, at all times material herein, was:
 - (1) Engaged in the business of buying and selling livestock in commerce for his own account as a dealer; and
 - (2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

II

(a) By letter of notice dated December 14, 2004, the Packers and Stockyards Program put Respondent on notice, via certified mail, that Schley's payment practices were in violation of section 409 of the Act. The letter was received by Respondent.

Despite the letter of notice, Respondent continued failing to pay, when due, for livestock purchases. All of Respondent's failures to pay, when due, for livestock purchases are set forth below:

Seller	Purchase Date	No. Head	Total Invoice	Livestock Amount	Due Date Per §409	Date Paid	Days Late
Navasota Livestock Auction Co.	9/1/07	21	\$6,525.44	\$6,525.44	9/4/07	9/17/07	13
Navasota Livestock Auction Co.	9/8/07	32	\$11,156.38	\$11,156.38	9/10/07	9/22/07	12
Navasota Livestock Auction Co.	9/22/07	28	\$6,518.33	\$6,518.33	9/24/07	10/20/07	26
Four County Auction Center, Inc.	10/2/07	14	\$6,755.10	\$6,755.10	10/3/07	10/9/07	6
Four County Auction Center, Inc.	10/9/07	8	\$3,762.80	\$3,762.80	10/10/07	10/16/07	6
Wharton Livestock Auction,	10/10/07	37	\$13,937.09	\$13,937.09	10/11/07	11/14/07	34

Inc.							
Four County Auction Center, Inc.	10/16/07	8	\$2,648.78	\$2,648.78	10/17/07	10/23/07	6
Four County Auction Center, Inc.	10/23/07	9	\$3,629.73	\$3,629.73	10/24/07	10/30/07	6
Four County Auction Center, Inc.	11/6/07	8	\$3,323.33	\$3,323.33	11/7/07	11/14/07	7
Wharton Livestock Auction, Inc.	11/7/07	35	\$8,805.03	\$8,805.03	11/8/07	1/11/08	64
Wharton Livestock Auction, Inc.	11/14/07	38	\$10,047.01	\$10,047.01	11/15/07	1/11/08	57
Four County Auction Center, Inc.	11/20/07	6	\$1,725.15	\$1,725.15	11/21/07	11/27/07	6
Wharton Livestock Auction, Inc.	11/28/07	27	\$6,667.85	\$6,667.85	11/29/07	1/11/08	43
Wharton Livestock Auction, Inc.	12/5/07	36	\$9,082.03	\$9,082.03	12/6/07	1/17/08	42
Wharton Livestock Auction, Inc.	12/12/07	31	\$8,255.51	\$8,255.51	12/13/07	2/7/08	56

Wharton Livestock Auction, Inc.	12/19/07	22	\$5,138.75	\$5,138.75	12/20/07	2/7/08	49
--	----------	----	------------	------------	----------	--------	----

III

By reason of the facts alleged in paragraph II (a) herein, Respondent Schley has willfully violated section 312(a) (7 U.S.C. §§ 213(a)) by failing to pay, when due, for livestock purchases as required by Section 409 of the Act (7 U.S.C. § 228b).

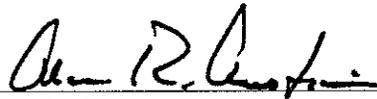
WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether the Respondent has willfully violated the Act and the regulations issued thereunder. Respondent shall have twenty (20) days after receipt of this complaint in which to file an answer 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 shall constitute an admission of all the material allegations of this complaint.

The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (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 accord with the Rules of Practice governing proceedings under the Act.

2. That such order or orders be issued, including an order requiring Respondent Schley, to cease and desist from the violations of the Act with respect to the matters alleged herein, and assessing such penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 30 day of September 2009



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



Brian P. Sylvester
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel
1400 Independence Avenue, S.W.
Room 2313-S
Washington, D.C. 20250-1413
Telephone: (202) 720-2869