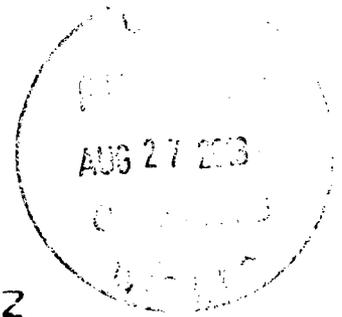


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. 13-0332
Victor Leone,)
Respondent) COMPLAINT

There is reason to believe that the respondent named herein has wilfully 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 issued thereunder (9 C.F.R. § 201.1 *et seq.*), and, therefore, this complaint is issued alleging the following:

I.

(a) Victor Leone, hereinafter referred to as the respondent, is an individual doing business in the state of New York. Respondent's business mailing address is his home address. In order to protect the personal privacy of the respondent, complainant is not providing Mr. Leone's address in this complaint, but complainant has provided the address to the Hearing Clerk so that service can be effected.

(b) Respondent at all times material herein was:

1. Engaged in the business of a dealer buying and selling livestock in commerce for his own account;
2. Required to be registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and operate with the required bond;
3. Was not registered with the Secretary of Agriculture as a dealer to buy and sell livestock for his own account, and was operating without the required bond.

II.

(a) Respondent was served a Notice of Default (NOD) Registration/Bonding by certified mail, on February 16, 2011, stating that it was necessary to be registered and obtain a bond or bond equivalent, the bond being no less than \$10,000.00, to secure the performance of his livestock operations under the Act.

(b) Further, respondent was notified that, if he continued his livestock operations under the Act after receipt of the NOD without providing adequate bond coverage or its equivalent, he would be in violation of 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).

(c) Notwithstanding such notice, respondent has continued to engage in business as a dealer without being registered as a dealer and without maintaining an adequate bond or its equivalent as required by the Act and the regulations. Records show that respondent engaged in sales transactions as a dealer with Empire Livestock Marketing, LLC Vernon, New York on September 8, 12, and 29, October 3, 13, and 20, November 28, and December 1, 2011 and on March 26, April 9, May 24 and October 15, 2012. (See Exhibit A).

(d) On or about September 8, 2011, and other dates, respondent failed to maintain proper records while acting as a dealer, in that he failed to create and maintain purchase invoices and a cash disbursements journal to fully and correctly disclose all livestock purchase transactions and cash payments for livestock, with a buyer's card being the only record, in violation of Section 401 of the Act (7 U.S.C. § 221).

III.

By reasons of the facts alleged in paragraph II herein, respondent Victor Leone, wilfully 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 and 201.30) and Section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has, in fact, wilfully violated the Act, this complaint shall be served upon the respondent. Respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 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 shall constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, GIPSA, request:

1. That unless the respondent fails to file an answer within the time frame allowed therefor, 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 governing proceedings under the Act; and
2. That such order or orders be issued, including an order requiring the respondent to cease and desist from the violations found to exist and assessing such civil penalties, as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

This 27th day of August, 2013

Susan B. Keith

Susan B. Keith

Deputy Administrator

Packers and Stockyards Program

Tracey Manoff
Attorney for Complainant
Marketing, Regulatory, and Food Safety Programs Division
Office of the General Counsel, USDA
Room 2324, South Building
1400 Independence Ave. S.W.
Washington, D.C. 20250-1400
Telephone: (202) 720-2434
Facsimile: (202) 690-4322



Exhibit A Livestock Tracing Schedule

Entity Information

On-Site Investigation Date		Entity Name						Mailing Address				Control Number	
2/22/2012		Victor Leone						5 Bolton Circle New Hartford, NY 13414				65187	
Exhibit Number	Purchase Date	Seller / Purchased From	No. Head Purchased	Tag/ID Number	Description	Livestock Amount	Sale / Invoice Date	Sold To	No. Head Sold	Tag/ID Number	Description	Livestock Amount	
A-1	9/8/2011	Ron	1	942	calf	\$15.00	9/8/2011		1	942	calf	\$83.95	
	9/8/2011	Billy	1	8588	calf	\$24.00	9/8/2011		1	8588	calf	\$134.30	
	9/8/2011	Billy	1	8589	calf	\$20.00	9/8/2011		1	8589	calf	\$74.10	
	9/8/2011		3			\$59.00		Empire Livestock Marketing, LLC Vernon, NY	3			\$292.35	
A-2	9/12/2011	Bob	1	X316	calf	\$30.00	9/12/2011	Empire Livestock Marketing, LLC Vernon, NY	1	X316	calf	\$117.00	
A-3		Bob	1	J601	calf	\$5.00			1	J601	calf	\$65.36	
		Bob	1	J602	calf	\$5.00			1	J602	calf	\$54.75	
	9/29/2011		2			\$10.00	9/29/2011	Empire Livestock Marketing, LLC Vernon, NY	2			\$120.11	
A-4	10/3/2011	Bob	1	J603	calf	\$5.00	10/3/2012	Empire Livestock Marketing, LLC Vernon, NY	1	J603	calf	\$45.20	
A-5		Bob	1	J613	calf	\$5.00	10/13/2012		1	J613	calf	\$55.50	
		Bob	1	J614	calf	\$5.00	10/13/2012		1	J614	calf	\$63.20	
	10/13/2011		2			\$10.00	10/13/2011	Empire Livestock Marketing, LLC Vernon, NY	2			\$118.70	
A-6		Bob	1	J623	calf	\$10.00	10/20/2012		1	J623	calf	\$99.60	
		Bob	1	J624	calf	\$5.00	10/20/2012		1	J624	calf	\$25.55	
		Bob	1	J625	calf	\$5.00	10/20/2012		1	J625	calf	\$28.14	
	10/20/2011		3			\$20.00	10/20/2011	Empire Livestock Marketing, LLC Vernon, NY	3			\$153.29	
A-7		Bob	1	C570	calf	\$5.00			1	C570	calf	\$79.00	
		Bob	1	C571	calf	\$5.00			1	C571	calf	\$61.50	
		Bob	1	C572	calf	\$5.00			1	C572	calf	\$63.14	
	11/28/2011		3			\$15.00	11/28/2011	Empire Livestock Marketing, LLC Vernon, NY	3			\$203.64	
A-8		Donsitto	1	C-662	calf	\$40.00	12/1/2011		1	C662	calf	\$58.80	
		Viveros	1	C663	calf	\$60.00	12/1/2011		1	C663	calf	\$79.90	
		Glowe	1	C664	calf	\$10.00	12/1/2011		1	C664	calf	\$17.28	
	12/1/2011		3			\$110.00	12/1/2011	Empire Livestock	3			\$155.98	
A-9	3/26/2012	Bob	1	C811	calf	\$10.00	3/26/2012		1	C811	calf	\$44.00	
	3/26/2012	Bob	1	C812	calf	\$10.00	3/26/2012		1	C812	calf	\$120.90	
	3/26/2012	Bob	1	C813	calf	\$5.00	3/26/2012		1	C813	calf	\$71.10	
	3/26/2012		3			\$25.00	3/26/2012	Empire Livestock Marketing, LLC Vernon, NY	3			\$236.00	
A-10	4/9/2012	Bob	1	C123	calf	\$10.00	4/9/2012		1	C123	calf	\$41.04	
	4/9/2012	Bob	1	C124	calf	\$10.00	4/9/2012		1	C124	calf	\$58.50	
	4/9/2012		2			\$20.00	4/9/2012	Empire Livestock Marketing, LLC Vernon, NY	2			\$99.54	
A-11	5/24/2012	Bob	1	C425	calf	\$30.00	5/24/2012	Empire Livestock Marketing, LLC Vernon, New York	1	C425	calf	\$88.20	
A-12	10/15/2012	Bob	1	C137	calf	\$20.00	10/15/2012	Empire Livestock Marketing, LLC Vernon, New York	1	C137	calf	\$57.00	