



UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) P & S Docket No. 14-0029  
          ) )  
          ) Hughey P. Weyandt, III, )  
          ) )  
          ) )  
          ) Respondent. ) Complaint

There is reason to believe that respondent has willfully violated the 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." Therefore, this complaint is issued alleging the following:

I.

(a) Respondent is an individual whose mailing address is 645 Racers Road, Claysburg, PA 16625.

(b) Respondent is and all times material herein was:

- (1) Doing business as Morrison's Cove Livestock Auction;
- (2) 100% owner and responsible for the day to day direction, operation, management and control of Hughey P. Weyandt, III dba Morrison's Cove Livestock Auction;
- (3) Engaged in the business of a market agency and dealer; and
- (4) Registered with the Secretary of Agriculture as a market agency and a dealer.

## II.

(a) The Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a Notice of Violation (NOV) dated July 17, 2008, via certified mail to the respondent Hughey P. Weyandt, III dba Morrison's Cove Livestock Auction. The NOV informed the respondent, among other things, that respondent had a shortage in his custodial account for shippers' proceeds (custodial account) in the amount of \$21,237.00 for the period ending May 30, 2008. The NOV further informed the respondent that operating with a custodial account shortage is a violation of section 312(a) of the Act (7 U.S.C. § 213(a)), and that the failure to comply with the Act would result in appropriate disciplinary action.

(b) GIPSA sent a NOV dated November 24, 2009, via certified mail to the respondent. The NOV informed the respondent, among other things, that the respondent had a shortage in his custodial account in the amount of \$26,158.00 for the period ending June 30, 2009. The NOV further informed the respondent that operating with a custodial account shortage is a violation of section 312(a) of the Act (7 U.S.C. § 213(a)), and that the failure to comply with the Act would result in appropriate disciplinary action.

(c) GIPSA sent a NOV dated July 2, 2010, via certified mail to the respondent. The NOV informed the respondent, among other things, that the respondent had a shortage in his custodial account in the amount of \$2,175.00 for the period ending July 2, 2010. The NOV further informed the respondent that operating with a custodial account shortage is a violation of section 312(a) of the Act (7 U.S.C. § 213(a)), and that the failure to comply with the Act would result in appropriate disciplinary action.

(d) An administrative complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyard Administration, United States

Department of Agriculture alleged that the respondent, Hughey P. Weyandt, III dba Morrison's Cove Livestock Auction, willfully violated the Act and the regulations promulgated thereunder. Based on that administrative complaint, a Consent Decision was issued on June 8, 2005, In re: Hughey P. Weyandt dba Morrison's Cove Livestock Auction, P & S Docket No. D-05-0012.

The respondent, Hughey P. Weyandt, III, was ordered, inter alia, to cease and desist from: (1) failing to deposit in the Custodial Account for Shipper's Proceeds within the times prescribed in section 201.42 of the regulations (9 C.F.R. §201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock; and (2) failing to otherwise maintain the Custodial Account for Shipper's Proceeds in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. §201.42) and Hughey P. Weyandt, III was assessed a civil penalty in the amount of two thousand nine hundred dollars (\$2,900.00).

### III.

Respondent, on February 22, 2011, and again on April 26, 2011, failed to properly maintain and use his 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 February 22, 2011, respondent had outstanding checks drawn on his custodial account in the amount of approximately \$143,429.00, and had, to offset such checks, a bank balance in the custodial account in the amount of approximately \$73,881.00, no certificate of deposit designated as custodial funds, no deposits in transit and current proceeds receivable in the amount of approximately \$49,618.00, resulting in a custodial account shortage of approximately a negative \$19,929.00.

(b) As of April 26, 2011, respondent had outstanding checks drawn on his custodial account in the amount of approximately \$187,008.00, and had, to offset such checks, a bank

balance in the custodial account in the amount of approximately \$131,107.00, no certificate of deposit designated as custodial funds, no deposits in transit and current proceeds receivable in the amount of approximately \$50,667.00, resulting in a custodial account shortage of approximately a negative \$5,233.00.

(c) The custodial account shortages described herein were due in part to respondent's failure to reimburse the custodial account in full by the close of the seventh day after each sale deposit in the custodial account, within the time prescribed by section 201.42 of the regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock and to the withdrawal of bank fees/charges from his custodial account.

#### IV.

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

<u>Purchase Date</u>	<u>Seller</u>	<u>No. Head</u>	<u>Livestock Amount</u>	<u>Date Due</u>	<u>Date of Check</u>
01/10/11	Maplehurst Livestock Market, Inc.	35	8,789.20	01/11/11	01/15/11
01/13/11	Fredericksburg Livestock Exchange, Inc.	3	2,010.60	01/14/11	01/19/11
01/17/11	Maplehurst Livestock Market, Inc.	37	5,756.10	01/18/11	01/22/11
01/19/11	Finger Lakes Livestock Exchange, Inc.	6	271.42	01/20/11	01/24/11
01/24/11	Maplehurst Livestock Market, Inc.	30	8,147.72	01/25/11	01/29/11
02/07/11	Maplehurst Livestock Market, Inc.	49	8,854.45	02/08/11	02/11/11

02/28/11	Maplehurst Livestock Market, Inc.	51	8,994.51	03/1/11	03/04/11
03/07/11	Maplehurst Livestock Market, Inc.	47	6,673.54	03/08/11	03/12/11
03/21/11	Maplehurst Livestock Market, Inc.	49	10,730.97	03/22/11	03/26/11
04/04/11	Maplehurst Livestock Market, Inc.	43	9,200.63	04/05/11	04/09/11
04/11/11	Maplehurst Livestock Market, Inc.	34	7,012.15	04/12/11	04/16/11
03/07/11	Empire Livestock Market, LLC, Pavilion, NY	53	6,157.53	03/08/11	03/12/11
03/28/11	Empire Livestock Market, LLC, Pavilion, NY	51	5,750.52	03/29/11	04/07/11
03/28/11	Empire Livestock Market, LLC, Pavilion, NY	49	5,537.02	03/29/11	04/07/11

(b) As of the date of the issuance of this complaint the full purchase prices have been paid.

#### V.

By reason of the facts alleged in paragraphs II and III, the respondent has 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).

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

WHEREFORE, it is hereby ordered that this complaint shall be served upon the 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, 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 Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration 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 and the regulations found to exist, suspending respondent as a registrant under the Act for a reasonable specified

period and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 11<sup>th</sup> day of December, 2013

Susan B. Keith

Susan B. Keith  
Deputy Administrator  
Packers and Stockyards Program

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