

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
)
Nancy Schrock d/b/a)
)
Midwest Exchange Regional Stockyards) Docket No. D-15- 0052
)
)
Respondent) Complaint

There is reason to believe that Nancy Schrock d/b/a Midwest Exchange Regional Stockyards, (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, the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture issues this complaint alleging the following:

I.

(a) Respondent is an individual with a business mailing address of P.O. Box 246, Mexico, Missouri 65265.

(b) Midwest Exchange Regional Stockyards, under the direction, management, and control of Respondent, is, and at all times material herein was:

- (i) Engaged in the business of a market agency selling livestock in commerce on a commission basis;
- (ii) Engaged in the business of a dealer buying or selling livestock in commerce; and

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

(c) Respondent, is, and at all times material herein was, 100 percent owner and the sole officer of Midwest Exchange Regional Stockyards, and formulated, directed, and controlled the policies, practices and activities of Midwest Exchange Regional Stockyards, including the acts and practices alleged in this complaint.

II.

On or about June 12, 2012, respondent signed a Civil Penalty Stipulation Agreement in which it was alleged that the respondent had custodial account shortages as of April 29, 2011, and June 30, 2011. The custodial shortages were caused, in part, by a combination of respondent not completing account reconciliation of the custodial account and custodial account misuses. Additionally, it was alleged that the respondent issued twenty (20) checks that were marked NSF per bank records. Respondent issued a check in payment of the civil penalty.

III.

(a) During the period from October 31, 2012 through November 30, 2012, as specified in this paragraph, respondent failed to maintain and use properly her custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock in that:

(i) As of October 31, 2012, respondent had outstanding checks drawn on her custodial account in the amount of \$77,439.34, and had, to offset such checks, a bank balance in the custodial account in the amount of \$31,997.45, no deposits in transit, and current proceeds receivable in the amount of \$3,882.6, resulting in a custodial account shortage in the amount of \$41,559.22.

(ii) As of November 30, 2012, respondent had outstanding checks drawn on her custodial account in the amount of \$84,928.35, and had, to offset such checks, a bank balance in the custodial account in the amount of \$32,738.06, and current proceeds receivable in the amount of \$43,260.73, resulting in a custodial account shortage in the amount of \$8,929.56.

- (b) The shortages in respondent's custodial account were due, in part, to respondent's
- (i) failure to reimburse the custodial account by the close of the next business day for employee, owner, and market purchases and by the close of the seventh business day for all other purchases; and
 - (ii) the payment of non-livestock expenses from the custodial account.

IV.

The respondent engaged in unfair and deceptive practices in that on the dates and in the amounts set forth below, respondent misused the custodial account by allowing transfer of funds from the custodial account to another business account and allowing the deduction of bank fees from the custodial account. The transfers and fees from the custodial account were for purposes unrelated to paying consignors or lawful livestock market charges.

(a) On September 28, 2012, \$2.00 were transferred out of the custodial account to pay the bank service charge.

(b) On October 4, 2012, \$400.00 were transferred out of the custodial account and applied to another business account.

(c) On October 23, 2012, \$2,000.00 were transferred out of the custodial account and applied to another business account.

(d) On October 25, 2012, \$1,000.00 were transferred out of the custodial account and applied to another business account.

(e) On November 11, 2012, \$1,500.00 were transferred out of the custodial account and applied to another business account.

V.

By reason of the facts alleged in paragraphs II, III, and IV, respondent has willfully violated sections 307 and 312(a) (7 U.S.C. §§ 208 and 213(a)) and sections 201.42 and 201.43 of the regulations thereunder, (9 C.F.R. §§ 201.42 and 201.43).

Wherefore, it is hereby ordered for the purpose of determining whether the respondent has willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondent. The 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, and assessing such civil penalties against the

respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 8th day of January, 2015

Susan B. Keith

Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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