



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. 15-0065
)
Linton Livestock Auction Sales, Inc.,)
)
Respondent)
) Complaint

There is reason to believe that the Respondent named herein willfully violated the Packers & 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.*) and, therefore, this complaint is issued alleging the following:

I.

(a) Respondent Linton Livestock Auction Sales, Inc. is a corporation organized under the laws of the State of North Dakota, with its principal place of business located at Hwy 83 S, Linton, ND 58552. The Respondent's mailing address is P.O. Box 476, Linton, North Dakota 58552. The corporation's registered agent for service of process is: Denise Morman, 8375 Hwy 3, Wishek, ND 58495-9587.

(b) Respondent Linton Livestock Auction Sales, Inc., is, and at all times material herein was:
(1) Engaged in the business of a market agency selling livestock on a commission basis in commerce; and
(2) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis in commerce.

II.

(a) On or about June 30, 2009, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a Notice of Violation (NOV) via certified mail to Respondent. The NOV advised the Respondent that an analysis of the custodial bank account disclosed that the Respondent had a shortage in its custodial account of \$30,103 as of December 13, 2008, and that the custodial account funds were being misused by paying bank service charges directly from the custodial account. The NOV informed Respondent that operating with a custodial account shortage and the other actions enumerated in the NOV are violations of the Packers and Stockyards Act, and failure to comply with the Act and regulations may result in an administrative complaint being filed against it.

III.

During the period of March 29, 2013, through May 31, 2013, Respondent failed to properly use and maintain its 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 March 29, 2013, Respondent had outstanding checks drawn on its custodial account in the amount of \$89,406.05 and had, to offset such checks, a bank balance in the custodial account of \$68,136.32, no current proceeds receivable, with no deposits in transit, resulting in a custodial account shortage in the amount of \$21,269.73.

(b) As of April 30, 2013, Respondent had outstanding checks drawn on its custodial account in the amount of \$348,996.45 and had, to offset such checks, a bank balance in the custodial account of \$198,673.16, no current proceeds receivable, with no deposits in transit, resulting in a custodial account shortage in the amount of \$150,323.29.

(c) As of May 31, 2013, Respondent had outstanding checks drawn on its custodial account in the amount of \$17,275.07 and had, to offset such checks, a bank balance in the custodial account of \$9,214.58, no current proceeds receivable and no deposits in transit, resulting in a custodial account shortage in the amount of \$8,060.49.

(d) The custodial account shortages described herein were due in part to Respondent's failure to deposit in the custodial account, within the time prescribed by the regulations, an amount equal to the proceeds receivable for sales of consigned livestock, and due in part to Respondent's misuse of shippers' funds in the custodial account to pay bank charges.

IV.

By reason of the facts alleged in paragraph III, Respondent 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).

WHEREFORE, it is hereby ordered that this complaint shall be served upon the Respondent for the purpose of determining whether respondent 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 Grain Inspection, Packers and Stockyards Administration requests:

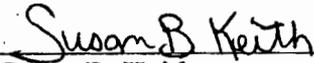
1. That unless Respondent fails to file an answer within the time allowed, or file an answer

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 Respondent as is authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 4th day of February, 2015



Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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