

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P. & S. Docket No. D-07-0009
)	
PM Beef Holdings, LLC,)	
)	Complaint and Notice
Respondent)	of Hearing

There is reason to believe that Respondent named herein has willfully violated 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 and Notice of Hearing is issued alleging the following:

I

(a) Respondent, PM Beef Holdings, LLC. (hereinafter, "Respondent"), is a limited liability company organized and existing under the laws of the State of Delaware. Respondent's mailing address is 7200 Glen Forest Drive, No. 306, Richmond, VA 23226. Respondent is the 100% owner of PM Windom, located in Windom, Minnesota, a slaughter facility.

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

- (1) Engaged in the business of buying livestock in commerce for purposes of slaughter;
- (2) Engaged in the business of slaughtering cattle and manufacturing or preparing meat or meat products for sale or shipment in commerce; and
- (3) A packer within the meaning of and subject to the Act.

II

(a) Respondent, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth below, issued checks in purported payment for livestock purchased for slaughter at Respondent's PM Windom facility, which checks were returned unpaid by the bank upon which they were drawn because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which they were drawn to pay such checks when presented.

Seller	Purchase or Kill Date	No. of Head	Net Invoice Total	Date Payment Due	Check No. of NSF Check	Date Payment Made	Days Late
Producers Livestock Marketing Association	6-03-03	44	\$39,865.60	6-04-03	82576	6-17-03	13
Producers Livestock Marketing Association	6-04-03	42	\$41,673.20	6-05-03	82605	6-17-03	12
Producers Livestock Marketing Association	6-04-03	44	\$43,703.30	6-05-03	82606	6-17-03	12
Producers Livestock Marketing Association	6-26-03	41	\$41,159.07	6-27-03	82720	7-08-03	11
Producers Livestock Marketing Association	6-30-03	42	\$36,811.50	7-01-03	82738	7-10-03	9
Producers Livestock Marketing Association	7-08-03	88	\$87,885.90	7-09-03	82773	7-17-03	8
Producers Livestock Marketing Association	7-08-03	42	\$39,808.80	7-09-03	82774	7-17-03	8
Producers Livestock Marketing Association	7-09-03	41	\$34,284.88	7-10-03	82775	7-17-03	7
Producers Livestock Marketing Association	7-09-03	42	\$40,059.60	7-10-03	82776	7-17-03	7
Producers Livestock Marketing Association	7-15-03	41	\$37,753.22	7-16-03	82792	7-24-03	8
Producers Livestock Marketing Association	7-15-03	120	\$119,454.00	7-16-03	82793	7-24-03	8

Seller	Purchase or Kill Date	No. of Head	Net Invoice Total	Date Payment Due	Check No. of NSF Check	Date Payment Made	Days Late
43 Cattle Co.	5-29-03	82	\$81,286.86	6-04-03	82558	6-17-03	13
43 Cattle Co.	5-29-03	3	\$1,471.94	6-04-03	82559	6-26-03	22
43 Cattle Co.	6-5-03	35	\$32,521.32	6-11-03	82625	6-26-03	15
Glacier Beef	6-12-03	80	\$80,090.10	6-18-03	82669	6-23-03	5
Glacier Beef	6-12-03	42	\$37,440.39	6-18-03	82675	6-23-03	5
Glacier Beef	6-13-03	40	\$41,173.09	6-19-03	82679	6-23-03	4
Glacier Beef	6-13-03	38	\$39,831.47	6-19-03	82680	6-23-03	4
Knox County Feeders	5-29-03	40	\$40,948.82	6-04-03	82571	6-16-03	12
Knox County Feeders	5-29-03	40	\$43,322.46	6-04-03	82572	6-16-03	12
Knox County Feeders	5-29-03	40	\$40,797.94	6-04-03	82574	6-16-03	12
Leroy Forsberg	6-09-03	80	\$85,201.47	6-10-03	82637, 82638, 82639	6-18-03	8
Leroy Forsberg	6-09-03	115	\$125,087.25	6-10-03	82641, 82643, 82644	6-18-03	8
Aaron Allen	5-21-03	5	\$3,436.71	5-28-03	82517	6-23-03	26
Larry Olson	6-12-03	20	\$21,013.24	6-18-03	82671	6-26-03	8
Glen Kesteloot	6-17-03	74	\$74,383.45	6-18-03	9977	6-23-03	5
Total			\$1,310,465.58				

(b) Respondent, in connection with its operations subject to the Act, on or about the dates and in the transactions set forth above in paragraph II(a), and also in the transactions set forth below, failed to pay the full amount of the purchase price for livestock within the time period required by the Act.

Seller	Purchase or Kill Date	No. of Head	Net Invoice Total	Date Payment Due	Date Payment Made	Days Late
Merle Stilwell	5-07-03	36	\$37,533.87	5-13-03	5-14-03	1
43 Cattle Co.	5-13-03	37	\$32,760.33	5-19-03	5-20-03	1
43 Cattle Co.	5-13-03	53	\$48,243.79	5-19-03	5-20-03	1
Skogen Livestock	5-13-03	155	\$152,487.87	5-19-03	5-20-03	1
Amana Farms, Inc.	6-05-03	38	\$35,248.05	6-11-03	6-12-03	1
Total			\$306,273.91			

(c) Respondent, in connection with the transactions with Producers Livestock, Leroy Forsberg and Glen Kesteloot, noted in paragraph II(a) above, purchased livestock on credit from livestock sellers without obtaining a written acknowledgment from the sellers that they were waiving their rights under the trust provisions of the Act.

III

(a) As of December 31, 2003, Respondent had current assets of \$19,529,598 and current liabilities of \$28,738,216, resulting in an excess of current liabilities over current assets in the amount of \$9,208,618.

(b) As of December 31, 2004, Respondent had current assets of \$18,150,647 and current liabilities of \$22,875,634, resulting in an excess of current liabilities over current assets in the amount of \$4,724,987.

(c) As of December 31, 2005, Respondent had current assets of \$15,539,516 and current liabilities of \$30,979,301, resulting in an excess of current liabilities over current assets in the amount of \$15,439,785.

(d) As of February 28, 2006, Respondent had current assets of \$16,659,151 and current liabilities of \$32,460,171, resulting in an excess of current liabilities over current assets in the amount of \$15,801,020.

(e) During the period December 31, 2003, through February 28, 2006, and to the present time, Respondent has engaged in the business of a packer, notwithstanding the fact that its current liabilities have exceeded its current assets.

IV

By reason of the facts alleged in paragraph II(a) and (b) herein, Respondent has willfully violated sections 202(a) and 409 of the Act (7 U.S.C. §§ 192(a), 228b).

By reason of the facts alleged in paragraph II(c) herein, Respondent has willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)) and section 201.200 of the Regulations (9 C.F.R. § 201.200).

By reason of the facts alleged in paragraph III herein, Respondent's financial condition does not meet the requirements of the Act (7 U.S.C. § 204) and Respondent has willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)).

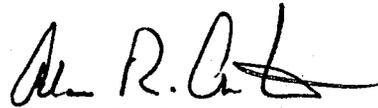
WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act and Regulations, this Complaint and Notice of Hearing shall be served upon Respondent. Respondent shall have twenty (20) days after receipt of this Complaint and Notice of Hearing 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 Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (hereinafter, "Rules of Practice"). Failure to file an

answer shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing.

Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a time and place to be designated later. At the hearing, Respondent will have the right to appear and show cause why an appropriate Order should not be issued in accordance with the provisions of the Act requiring that Respondent cease and desist from violating the Act with respect to matters alleged herein and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 19 day of October, 2006



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Deputy Administrator
Packers and Stockyards Program
Grain Inspection, Packers and Stockyards
Administration

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