

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Michael V. Bott, and
Tony Bott

Respondents

P. & S. Docket No. D-07-0173
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Complaint

There is reason to believe that Respondents have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181-229) ("Act") and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1-.200) ("Regulations"), and therefore this complaint is issued alleging:

I.

(a) Michael V. Bott is an individual whose business address is: 75 North, 200 West, Rupert, Idaho 83350.

(b) Michael V. Bott at all times material to this complaint was:

(1) Engaged in the business of a dealer, buying and selling livestock in commerce for his own account;

(2) Engaged in the business of a market agency, buying livestock in commerce on a commission basis; and

(3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce, a market agency buying on commission, and a market agency providing clearing services.

(c) Tony Bott is an individual whose business address is: 75 North, 200 West, Rupert,

Idaho 83350,

(d) Tony Bott at all times material to this complaint was:

(1) Engaged in the business of a dealer, buying and selling livestock in commerce for his own account;

(2) Engaged in the business of a market agency, buying livestock in commerce on a commission basis; and

(3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

II.

(a) Complainant's Western Regional Office sent a letter to Michael V. Bott dated February 5, 2001, advising him that an investigation had indicated that Michael V. Bott had failed to pay promptly for livestock purchases. The letter advised Michael V. Bott that failures to pay promptly violate section 409 of the Act (7 U.S.C. § 228b), and section 201.43 of the Regulations.

(b) The Complainant's Western Regional Office sent a letter dated April 4, 2005 to Tony Bott advising him that an investigation had indicated that he had failed to pay promptly for livestock purchases, and that he was failing to maintain adequate records. The letter advised Tony Bott that failures to pay promptly violate section 409 of the Packers and Stockyards Act (7 U.S.C. § 228b) and failures to maintain adequate records violate section 401 of the Act (7 U.S.C. § 221).

III.

(a) Michael V. Bott and Tony Bott ("Respondents"), under the name "MB

Livestock”, in connection with their operations subject to the Act, and in the transactions set forth below, failed to pay, when due, the full amount of the purchase price for livestock within the time period required by section 409 of the Act and the Regulations promulgated thereunder at 9 C.F.R. § 201.43.

Purchase Date	Seller	Livestock Amount (\$)	Date Payment Due	Date Of Payment	Days Late
06/03/2005	Treasure Valley Livestock Auction, Caldwell, Idaho (“Treasure Valley”)	\$79,971.74	06/06/2005	06/08/2005	2
06/10/2005	Treasure Valley	\$39,262.31	06/13/2005	06/15/2005	2
06/17/2005	Treasure Valley	\$86,380.56	06/20/2005	06/23/2005	3
07/01/2005	Treasure Valley	\$43,006.31	07/05/2005	07/06/2005	1
07/08/2005	Treasure Valley	\$70,476.65	07/11/2005	07/13/2005	2*
07/09/2005	Treasure Valley	\$944.35	07/11/2005	07/13/2005	2*
07/15/2005	Treasure Valley	\$97,542.72	07/18/2005	07/21/2005	3
07/22/2005	Treasure Valley	\$51,614.79	07/25/2005	07/28/2005	3
08/05/2005	Treasure Valley	\$65,504.92	08/08/2005	08/09/2005	1
08/12/2005	Treasure Valley	\$88,317.17	08/15/2005	08/17/2005	2 ^o
08/13/2005	Treasure Valley	\$3,251.60	08/15/2005	08/17/2005	2 ^o
08/19/2005	Treasure Valley	\$57,583.03	08/22/2005	08/23/2005	1
06/07/2005	Emmett Valley Livestock Auction, LLC., Emmett, Idaho (“Emmett Valley”)	\$78,637.92	06/08/2005	06/12/2005	4
06/14/2005	Emmett Valley	\$31,409.22	06/15/2005	06/19/2005	4
06/21/2005	Emmett Valley	\$52,656.59	06/22/2005	07/06/2005	14
06/28/2005	Emmett Valley	\$60,163.74	06/29/2005	07/08/2005	9
07/05/2005	Emmett Valley	\$40,737.87	07/06/2005	07/20/2005	14
07/12/2005	Emmett Valley	\$53,853.19	7/13/2005	07/20/2005	7
07/19/2005	Emmett Valley	\$30,206.18	07/20/2007	08/02/2005	13 [†]
07/26/2005	Emmett Valley	\$27,698.25	07/27/2005	08/02/2005	6 [†]

Purchase Date	Seller	Livestock Amount (\$)	Date Payment Due	Date Of Payment	Days Late
08/02/2005	Emmett Valley	\$32,642.60	08/03/2005	08/10/2005	7
08/09/2005	Emmett Valley	\$22,580.75	08/10/2005	08/22/2005	12 [†]
08/16/2005	Emmett Valley	\$39,963.06	08/17/2005	08/22/2005	5 [‡]
* Transactions paid with a single check [◊] Transactions paid with a single check [†] Transactions paid with a single check [‡] Transactions paid with a single check					

IV.

Respondents failed to keep records, as required by section 401 of the Act (7 U.S.C. § 221), that fully and correctly disclosed all transactions involved their business, in that Respondents failed to keep trucking or freight invoices and load make-up sheets.

V.

(a) By reason of the facts alleged in paragraph III, Respondents have willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

(b) By reason of the facts alleged in paragraph IV, Respondents have failed to keep records as required by 401 of the Act (7 USC § 221), and, therefore, have willfully engaged in an "unfair practice" under section 312(a) of the Act (7 U.S.C. § 213(a)).

WHEREFORE, it is ordered that for the purpose of determining whether Respondents have willfully violated the Act and the Regulations promulgated thereunder, this complaint shall be served upon Respondents. Respondents shall file an answer within 20 days with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with the Rules of Practice. Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, GIPSA, requests:

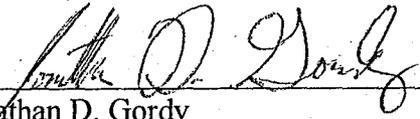
1. That unless Respondents fail to file an answer within the time allowed, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring Respondents 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 15 day of August, 2007



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



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