

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-07- 0178
)
Dustin Lewis, a/k/a Dusty Lewis)
)
Respondent)
) Complaint

There is reason to believe that the Respondent named herein has willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter "Act"), and, therefore, this complaint is issued alleging the following:

I

(a) Dustin Lewis, a/k/a Dusty Lewis (hereinafter "Respondent"), is an individual whose mailing address is HC 88, Box 110, Bassett, Nebraska 68714.

(b) Respondent at all times material to the complaint was:

- (1) Engaged in the business of buying and selling livestock in commerce as a dealer 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 for his own account.

II

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

Purchase Date	Seller	No. of Head	Due Date	Amount Due	Date Paid ¹	Check No.	Check Amount	Days Late
5/13/05	Burwell Livestock	20	5/16/05	\$13,878.80	6/8/05 ²	7180	\$23,177.06 ³	23
		13		\$8,590.66				
		2		\$703.10				
5/24/05	Atkinson Livestock	9	5/25/05	\$5,762.94	5/27/05	7177	\$13,919.03 ³	2
		4		\$6,364.15				
		1		\$1,781.94				
5/24/05	Atkinson Livestock	3	5/25/05	\$2,503.33	6/8/05	7206	\$7,508.33	14
		6		\$5,005.00				
5/27/05	Burwell Livestock	38	5/31/05	\$23,442.81	7/22/05	70024	\$47,473.00 ^{3,4}	52
		1		\$1,526.13				
		3		\$1,546.85				
		10		\$6,519.30				
6/17/05	Burwell Livestock	9	6/20/05	\$5,511.68				32
		2		\$2,782.55				
		4		\$2,389.35				
		6		\$4,367.73				
6/2/05	Valentine Livestock	10	6/3/05	\$6,321.70	6/16/05	7221	\$10,544.55	13
		7		\$3,687.05				
		1		\$535.80				
7/28/05	Valentine Livestock	17	7/29/05	\$10,635.00	8/1/05	7314	\$12,635.00 ⁵	3
8/12/05	Burwell Livestock	18	8/15/05	\$10,402.93	8/26/05	7371	\$29,422.78 ³	11
		7		\$8,614.11				
		13		\$9,001.74				
		3		\$1,395.00				
8/16/05	Atkinson Livestock	11	8/17/05	\$6,132.03	8/30/05	7409	\$17,241.55	13
		9		\$11,109.52				
8/25/05	Valentine Livestock	27	8/26/05	\$16,136.35	8/28/05	7370	\$16,136.35	2
9/16/05	Burwell Livestock	1	9/19/05	\$646.60	9/28/05	7485	\$3,526.13 ³	9
		3		\$1,213.15				
		3		\$1,661.88				

¹ Unless otherwise noted, the issue date of the check is used as the payment date.

² Check number 7180 was issued by Respondent on May 27, 2005, and was deposited by Burwell Livestock Market, Inc. (hereinafter "Burwell"), into its account at Tier One Bank on the same date. Tier One Bank stamped the check "non-sufficient funds" and returned the check to Burwell. Burwell re-deposited the check on June 8, 2005. The date of re-deposit is used as the payment date.

³ Includes additional non-livestock costs such as vet fees and pregnancy checking.

⁴ Amount paid takes into account deduction of \$699.30 for a dead cow that was part of the May 27, 2005, purchase. Respondent overpaid for the combined purchases on May 27, 2005, and June 17, 2005, by 40¢.

⁵ Amount paid includes \$1,999.72 due from a previous purchase with interest. Respondent overpaid for the balance by 28¢.

(b) On or about the dates and in the transactions set forth below, Respondent issued checks in payment for livestock purchases, which checks were returned unpaid by the bank upon which they were drawn. These checks were returned because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

Purchase Date	Seller	No. of Head	Check Date	Check No.	NSF Check Amount
5/13/05	Burwell Livestock	35	5/27/05	7180	\$23,177.06
6/2/05	Valentine Livestock	18	6/16/05	7221	\$10,544.55
6/7/05	Atkinson Livestock	35	6/7/05	7208	\$36,546.52
8/2/05	Atkinson Livestock	15	8/2/05	7346	\$12,645.15
Totals		103			\$82,913.28

III

Respondent, in connection with his operations subject to the Act, failed to keep and maintain records which fully and correctly disclosed all the transactions involved in his business as a livestock dealer and market agency as required by section 401 of the Act (7 U.S.C. § 221). Specifically, Respondent failed to keep and maintain a check ledger, all market agency buying on commission purchase invoices, all market agency buying on commission record of commissions received, all livestock purchase and sale invoices for dealer activities, all settlement sheets, load make-up sheets, and non-sufficient funds check notices.

IV

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

By reason of the facts alleged in paragraph III, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)), by failing to keep and maintain records that fully and

correctly disclosed all transactions involved in his business as required by section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether Respondent has willfully violated the Act. 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 Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter "Rules of Practice"). 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.

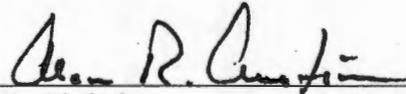
The Packers and Stockyards Program, GIPSA, requests:

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

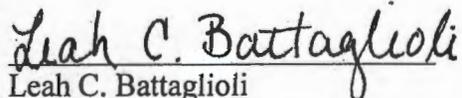
2. That such order or orders be issued, including an order requiring Respondent to cease and desist from the violations of the Act found to exist and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 23 day of August, 2007



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



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