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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P & S Docket No. D-11-0325
Comanche Livestock)	
Exchange LLC, and)	
Michael Dean Cagel,)	
)	
Respondents)	Complaint

There is reason to believe that the financial condition of Comanche Livestock Exchange, LLC, named as Respondent herein, does not meet the requirements of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (the Act), and that Respondents named herein have willfully violated provisions of the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; (Regulations)), and, therefore, this complaint is issued alleging the following:

I.

(a) Comanche Livestock Exchange, LLC (Respondent Comanche Livestock Exchange) is a limited liability company organized and existing under the laws of the state of Texas. Its mailing address is: P.O. Box 117, Comanche, TX 76442.

(b) At all times material herein, Respondent Comanche Livestock Exchange was:

- (1) A posted stockyard subject to the provisions of the Act;
- (2) Engaged in the business of a market agency, selling livestock on a commission basis; and
- (3) Engaged in the business of a dealer buying and selling livestock in commerce under the Act; and

- (4) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account, and as a market agency selling livestock on commission.

(c) Michael Dean Cagel (Respondent Cagel) is an individual. Respondent Cagel's business mailing address is identical to the address provided in subsection (a) above.

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

- (1) The one hundred percent owner of Respondent Comanche Livestock Exchange; and
- (2) Responsible for the day-to-day management, direction, and control of Respondent Comanche Livestock Exchange.

II.

On or about April 16, 2009, the USDA Grain Inspection, Packers and Stockyards Administration's Western Regional Office mailed a Notice of Violation to the Respondents, via certified mail, noting that a custodial account analysis disclosed Respondents had failed to maintain and properly use their custodial account.¹ Specifically, the Respondents were notified that their custodial account had been improperly maintained because the custodial account had shortages of \$115,170.03 and \$112,524.29 as of October 27, 2008 and January 27, 2009, respectively; the shortages were caused by the Respondents' failure to timely reimburse the custodial account for uncollected accounts receivable, failing to timely pay for market purchases, and misuse of custodial funds by depositing funds in the general account.

¹ United States Postal Service Domestic Return Receipt for Article Number 7108 2133 3936 1515 7270 was signed for and received on April 20, 2009.

Respondents were notified of the provisions of section 201.42(c) of the Regulations (9 C.F.R. § 201.42(c)) and further informed that failure to take immediate steps to correct the violations and bring their operations into compliance with the Act could result in administrative action.

III.

Respondent Comanche Livestock Exchange, under the direction, management, and control of Respondent Cagel, during the period of July 31, 2009 through November 10, 2009, failed to properly maintain its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payment due the owners or consignors of livestock in that:

(a) As of July 31, 2009, Respondent Comanche Livestock Exchange had outstanding checks drawn on the custodial account in the amount of \$144,844.02 and had to offset such checks, a balance in the custodial account in the amount of \$1,381.74, proceeds receivable of \$0.00, and proceeds on hand of \$0.00 resulting in a deficiency of \$143,462.28 in funds available to pay shippers' proceeds.

(b) As of September 30, 2009, Respondent Comanche Livestock Exchange had outstanding checks drawn on the custodial account in the amount of \$241,067.16 and had to offset such checks, a balance in the custodial account in the amount of \$79,998.62, proceeds receivable of \$8,862.38, and proceeds on hand of \$0.00 resulting in a deficiency of \$152,206.16 in funds available to pay shippers' proceeds.

(c) As of November 10, 2009, Respondent Comanche Livestock Exchange had outstanding checks drawn on the custodial account in the amount of \$316,308.33 and had to offset such checks, a balance in the custodial account in the amount of \$1,563.39, proceeds

receivable of \$170,301.42, and proceeds on hand of \$0.00 resulting in a deficiency of \$144,443.52 in funds available to pay shippers' proceeds.

(d) The shortages in Respondent Comanche Livestock Exchange's custodial account were due, in part, to Respondent Comanche Livestock Exchange's failure, under the management, direction and control of Respondent Cagel, to deposit into the custodial account, within the time prescribed by section 201.42 of the Regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock and to the withdrawal of bank charges from their custodial account.

IV.

(a) As of July 31, 2009, Respondent Comanche Livestock Exchange, LLC had current assets of \$29,034.03 and current liabilities of \$176,130.63, resulting in an excess of current liabilities over current assets in the amount of \$147,096.60.

(b) As of September 30, 2009, Respondent Comanche Livestock Exchange, LLC had current assets of \$19,895.03 and current liabilities of \$187,366.07, resulting in an excess of current liabilities over current assets in the amount of \$167,471.04.

(c) During the period July 31, 2009, through September 30, 2009, Respondent Comanche Livestock Exchange, LLC, under the management, direction, and control of Respondent Cagel, operated subject to the Act while its current liabilities exceeded its current assets.

V.

By reason of the facts alleged in paragraph I herein, Respondent Cagel is the alter ego of Respondent Comanche Livestock Exchange.

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

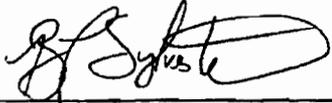
By reason of the facts alleged in paragraph IV herein, the financial condition of Respondent Comanche Livestock Exchange, LLC, does not meet the requirements of the Act (7 U.S.C. § 204) and, as a result, the Respondents have willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondents for the purpose of determining whether Respondents have willfully violated the Act and the Regulations. Respondents 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, Grain Inspection, Packers and Stockyards Administration (GIPSA), requests:

1. That unless Respondents fail 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 Respondents to cease and desist from the violations of the Act found to exist, suspending Respondents as

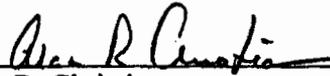
registrants under the Act, and assessing such civil penalties against Respondents, jointly and severally, as are authorized by the Act and warranted in the circumstances.



Brian P. Sylvester
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Office of the General Counsel
United States Department of Agriculture
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1400 Independence Avenue, S.W.
Washington, D.C. 20250-1413

Done at Washington, D.C.

this 27 day of July, 2011



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program