

UNITED STATES DEPARTMENT OF AGRICULTURE

2007 JUN 29 AM 11: 26

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:

Scott Nemitz,) P. & S. Docket No. D-09-0142
Respondent) Complaint

There is reason to believe that the Respondent has wilfully 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 is issued alleging the following:

I

(a) Scott Nemitz Cooper, hereinafter referred to as Respondent, is an individual doing business out of his private residence located in western Iowa.

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

(1) A market agency buying livestock in commerce on a commission basis;

and

(4) Individually registered with the Secretary of Agriculture as a dealer and market agency buying on commission under the Act. Packers and Stockyards Program records show this registration as inactive.

II

(a) Respondent, in the 15 transactions and on the 10 dates set forth below, purchased livestock on a commission basis for six different principals at Dunlap Livestock Auction, a posted stockyard located in Dunlap, Iowa, without filing the required bond under the Act and the regulations.

Purchase Date	Principal Identified on Market Records	No. of Head of Cattle	Total Livestock Purchase Amt.	Included Buying Commission
5/27/08	Les Wiese	3	\$ 2,224.75	\$ 15.00
5/27/08	Warren Dirksen	19	\$14,382.50	\$ 68.00
6/03/08	Les Wiese	8	\$ 6,039.70	\$ 43.00
6/03/08	Crossroads Cattle John Reisz	25	\$17,091.08	\$138.00
6/04/08	Crossroads Cattle John Reisz	5	\$ 3,419.70	\$ 25.00
6/24/08	Aaron Schwanz	17 6	\$15,405.76 \$ 4,573.80	\$260.00
7/01/08	John M. Dorfler	1	\$ 1,427.25	\$110.00
7/01/08	Warren Dirksen	1 5	\$ 1,900.00 \$ 3,630.00	\$175.00
7/08/08	Aaron Schwanz	10	\$ 7,739.75	\$160.00
7/15/08	John M. Dorfler	6	\$ 3,368.40	\$135.00
7/22/08	Warren Dirksen	10	\$ 7,083.05	\$154.00
7/29/08	Warren Dirksen	12	\$ 9,232.58	\$165.00
8/19/08	Aaron Schwanz	18	\$11,927.70	\$100.00
8/19/08	Bruce Bruck Pigeon Creek	16	\$14,000.00	\$160.00
8/19/08	John M. Dorfler	12 2	\$ 9,502.33 \$ 1,579.35	\$162.00

(b) Respondent operated as market agency buying on commission in the above transactions despite having received from Resident Agent Casey Sturgill on September 28, 2007, a written Notice of Default issued on August 7, 2007, that continuing livestock operations in

commerce without properly registering and filing a bond or bond equivalent is a violation of the Packers and Stockyards Act regulations issued thereunder (7 U.S.C. § 203; 9 CFR §§ 201.27-201.34). Respondent was provided at this time with copies of the registration and bonding forms and instructions.

(c) Respondent operated as market agency buying on commission in the above transactions despite having received on February 2, 2008, a certified mail letter dated January 14, 2008, that provided Respondent with notice that the clearing services that Producers Livestock Marketing Association was no longer providing clearing services for Respondent and, therefore, Respondent would have to provide his own bond coverage or provide someone else to clear Respondent.¹ Respondent was personally provided with additional registration and bonding forms on March 1, 2008, and with a set of replacement forms by mail on September 2, 2008.

III

By reason of the facts alleged in paragraph II herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. §§ 213(a)), and section 201.29(b) of the regulations (9 C.F.R. § 201.29(b)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act and the regulations thereunder, this complaint shall be served upon Respondent. Respondent shall 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

¹ Respondent's livestock purchases as a commission buyer for Producers Livestock Marketing Association were covered under a rider to its surety bond from November 9, 2007 until he was deleted as a clearee by another rider dated January 9, 2008.

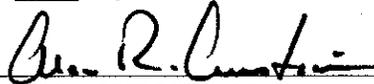
Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.) (hereinafter, "Rules of Practice").

Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, GIPSA, requests:

1. That unless Respondent fails to file an answer within the time allowed therefor, 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 found to exist, suspending Respondent as a registrant under the Act, and assessing such civil penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.
this 29 day of June 2009.


ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program



ERIC PAUL
Attorney for Complainant
Telephone: (202) 720-2460