

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

Jeremy T. Gorham d/b/a) P. & S. Docket No. D-09-0183
Euclid Stockyards,)
Respondent) Complaint

There is reason to believe that 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) Jeremy T. Gorham, hereinafter referred to as “Respondent”, is an individual doing business as Euclid Stockyards, whose business address is 14185 South Euclid Avenue, Ontario, CA 91762.

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

- (1) Engaged in the business of buying and selling livestock in commerce on a commission basis;
- (2) Registered with the Secretary of Agriculture as a market agency buying and selling livestock on commission.

II

(a) Respondent failed to maintain and use properly his custodial account for shippers' proceeds, endangering the faithful and prompt accounting therefor and the payment of portions thereof due the owners and consignors of livestock, in that:

(1) As of April 30, 2008, Respondent had outstanding checks drawn on the custodial account in the amount of \$642,599.72, and had to offset those checks a balance in the custodial account in the amount of \$143,928.36, and proceeds receivable in the amount of \$210,373.22, resulting in a deficiency of \$288,298.14 in funds available to pay shippers their proceeds; and

(2) As of July 31, 2008, Respondent had outstanding checks drawn on the custodial account in the amount of \$527,571.00, and had to offset those checks a balance in the custodial account in the amount of \$224,360.76, and proceeds receivable in the amount of \$165,527.03, resulting in a deficiency of \$137,683.21 in funds available to pay shippers their proceeds.

(b) Such deficiencies were due, in part, to Respondent's failure to deposit in the custodial account for shippers' proceeds within the time prescribed by the regulations, an amount equal to the proceeds receivable from the sale of livestock consigned to the market on a commission basis.

(c) Respondent failed to maintain and use properly the custodial account on and about the dates set forth above despite having been placed on notice by a certified mail letter dated February 15, 2005, that (1) a custodial account shortage of \$21,006.45 on October 29, 2004, was caused by the market's failure to reimburse the account timely for delinquent market and customer purchases; and (2) operating with a shortage in the custodial account and failure of a market to properly maintain its custodial account is in violation of section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42(c) of the regulations.

III

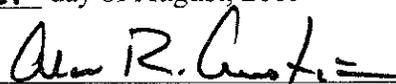
By reason of the facts alleged in paragraph II herein, the Respondent has wilfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42).

WHEREFORE, it is hereby ordered for the purpose of determining whether Respondent has in fact violated the Act and the regulations issued 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 proceedings under the Act (7 C.F.R. § 1.130 et seq.) Failure to file an answer shall constitute an admission of all the material allegations of this Complaint.

The Grain Inspection, Packers and Stockyards Administration (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 governing proceedings under the Act; and
2. That such order or orders be issued, including orders requiring Respondent to cease and desist from violating the Act with respect to the matters alleged herein, 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 21 day of August, 2009



ALAN R. CHRISTIAN
Deputy Administrator
Packers and Stockyards Program

Eric Paul

ERIC PAUL

Attorney for Complainant

Telephone (202) 720-2460