

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	P. & S. Docket No. D-09-0185
	)	
McLaughlin Livestock, Inc., Mitchell	)	
Livestock Auction, Inc., Watertown	)	
Sales Barn, Inc.	)	
	)	
Respondents	)	
	)	Amended Complaint

There is reason to believe that the Respondents named herein, which have the same owners, Shon Sawyer and Joe Varner, have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter “Act”), therefore, this complaint is issued alleging the following:

I.

(a) McLaughlin Livestock, Inc. (hereinafter “Respondent McLaughlin”), is a corporation organized and existing under the laws of the State of South Dakota, whose mailing address is 400 Sale Barn Road, P.O. Box 559, McLaughlin, South Dakota 57642.

(b) At all times material herein, Respondent McLaughlin was:

(1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(c) Mitchell Livestock Auction, Inc. (hereinafter “Respondent Mitchell”), is a corporation organized and existing under the laws of the State of South Dakota, whose mailing address is 1801 East Spruce, P.O. Box 516, Mitchell, South Dakota 57301.

(d) At all times material herein, Respondent Mitchell was:

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

(2) Engaged in the business of a market agency selling 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 its own account; and

(4) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

(e) Watertown Sales Barn, Inc. (hereinafter "Respondent Watertown"), is a corporation organized and existing under the laws of the State of South Dakota, whose mailing address is 1005 9th Avenue, S.W., P.O. Box 256, Watertown, South Dakota, 57201.

(f) At all times material herein, Respondent Watertown was:

(1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and

(2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

## II.

(a) As of December 31, 2006, Respondent McLaughlin had current assets of \$311,669.96 and current liabilities of \$356,159.05, resulting in an excess of current liabilities over current assets in the amount of \$44,489.09.

(b) As of June 30, 2007, Respondent McLaughlin had current assets of \$890.24 and current liabilities of \$23,092.69, resulting in an excess of current liabilities over current assets in the amount of \$22,202.45.

(c) As of September 30, 2007, Respondent McLaughlin had current assets of \$6,167.17 and current liabilities of \$41,596.91, resulting in an excess of current liabilities over current assets in the amount of \$35,429.74.

(d) As of December 31, 2007, Respondent McLaughlin had current assets of \$428,132.07 and current liabilities of \$451,673.42, resulting in an excess of current liabilities over current assets in the amount of \$23,541.35.

(e) As of December 31, 2008, Respondent McLaughlin had current assets of \$7,591.00 and current liabilities of \$123,473.00, resulting in an excess of current liabilities over current assets in the amount of \$115,882.00.

(f) During the period December 31, 2006, through December 31, 2008, and to the present, Respondent McLaughlin engaged in the business of a market agency selling livestock in commerce on a commission basis, notwithstanding that its current liabilities exceeded its current assets.

(g) As of December 31, 2006, Respondent Mitchell had current assets of \$3,552,508.74 and current liabilities of \$3,849,296.50, resulting in an excess of current liabilities over current assets in the amount of \$296,787.76.

(h) As of June 30, 2007, Respondent Mitchell had current assets of \$158,817.34 and current liabilities of \$398,920.46, resulting in an excess of current liabilities over current assets in the amount of \$240,103.12.

(i) As of September 30, 2007, Respondent Mitchell had current assets of \$180,739.88 and current liabilities of \$474,456.00, resulting in an excess of current liabilities over current assets in the amount of \$293,716.12.

(j) As of December 31, 2007, Respondent Mitchell had current assets of \$4,195,691.94 and current liabilities of \$4,396,386.43, resulting in an excess of current liabilities over current assets in the amount of \$200,694.49.

(k) During the period December 31, 2006, through December 31, 2007, Respondent Mitchell engaged in the business of a dealer buying and selling livestock in commerce for its own account, and a market agency selling livestock in commerce on a commission basis, notwithstanding that its current liabilities exceeded its current assets.

(l) As of December 31, 2006, Respondent Watertown had current assets of \$5,317.87 and current liabilities of \$83,425.42, resulting in an excess of current liabilities over current assets in the amount of \$78,107.55.

(m) As of June 30, 2007, Respondent Watertown had current assets of \$26,071.43 and current liabilities of \$195,128.15, resulting in an excess of current liabilities over current assets in the amount of \$169,056.72.

(n) As of September 30, 2007, Respondent Watertown had current assets of \$160,384.33 and current liabilities of \$450,874.84, resulting in an excess of current liabilities over current assets in the amount of \$290,490.51.

(o) As of December 31, 2007, Respondent Watertown had current assets of \$1,144,494.31 and current liabilities of \$1,456,882.40, resulting in an excess of current liabilities over assets in the amount of \$312,388.09.

(p) As of December 31, 2008, Respondent Watertown had current assets of \$861,034.00 and current liabilities of \$1,353,248, resulting in an excess of current liabilities over current assets in the amount of \$492,214.00.

(q) During the period December 31, 2006, through December 31, 2008, and to the present, Respondent Watertown engaged in the business of a market agency selling livestock in commerce on a commission basis, notwithstanding that its current liabilities exceeded its current assets.

### III.

By reason of the facts alleged in paragraph II herein, the financial condition of Respondent McLaughlin, Respondent Mitchell, and Respondent Watertown do not meet the requirements of the Act (7 U.S.C. § 204) and Respondents have wilfully 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:

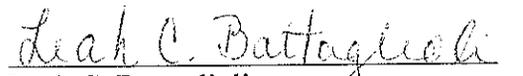
1. That unless Respondents fail to file an answer within the time allowed, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

2. That such order or orders be issued, including an order requiring Respondents to cease and desist from the violations of the Act and the Regulations found to exist, and suspending Respondents as registrants under the Act.

Done at Washington, D.C.

this 28 day of August, 2009

  
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Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

  
Leah C. Battaglioli  
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McLaughlin Livestock, Inc., Mitchell	)	
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Sales Barn, Inc.	)	
	)	
Respondents	)	

Motion to Amend Complaint

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter "Act") by a Complaint filed on August 27, 2009, by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture alleging that the Respondents willfully violated the Act.

Complainant makes this motion because Respondents have allegedly violated section 312(a) of the Act (7 U.S.C. § 213(a)) and not section 202(a) of the Act (7 U.S.C. § 192(a)). Therefore, pursuant to section 1.137(a) of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.137(a)), Complainant respectfully requests that the Amended Complaint be entered and served by the Hearing Clerk.

Respectfully submitted,

  
 Leah C. Battaglioli  
 Attorney for Complainant