

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P & S Docket No. D-10-0052
Sam D. Holder, aka Bill Holder,)
and Mark K. Holder, d/b/a)
Trousdale County Livestock Market)
)
)
Respondents) Complaint

There is reason to believe that the Respondents named herein have willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.; hereinafter “Act”), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter “Regulations”), and, therefore, this complaint is issued alleging the following:

I.

(a) Sam D. Holder, aka Bill Holder, and Mark K. Holder, (hereinafter “Respondents”) are individuals d/b/a Trousdale County Livestock Market, a partnership, whose business mailing address is P.O. Box 49, Hartsville, Tennessee 37074.

(b) At all times material herein, Respondents were:

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

II.

Respondents were placed on notice, by certified mail received on or about March 3, 2008,¹ that a custodial account analysis for the period ending December 31, 2007, had disclosed that they had mishandled their custodial account. Specifically, Respondents were notified that their custodial account had been mishandled because they had (1) failed to reimburse the custodial account by the close of the next business day for owner, officer, and employee purchases; (2) failed to reimburse the custodial account by the close of the next business day for purchases made by a buyer to whom the market had extended credit; (3) failed to reimburse the custodial account in full by the seventh day after each sale for proceeds that had not been collected from buyers; and (4) permitted bank charges to be deducted from the custodial account. Respondents were directed to section 201.42(c) and (d) of the Regulations (9 C.F.R. § 201.42(c) and (d)) 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.

Respondents, during the period of July 29, 2008, through September 30, 2008, failed to maintain properly their “Custodial Account for Shippers’ Proceeds” (hereinafter “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 29, 2008, Respondents had outstanding checks drawn on their custodial account in the amount of \$203,947.38, and had to offset such checks, a balance in the custodial account in the amount of \$32,658.53 and proceeds receivable of \$102,906.86, resulting in a deficiency of \$68,381.99.

¹ United States Postal Service Domestic Return Receipt for Article Number 7007 1490 0004 0742 1635 was stamped as received in Hartsville, Tennessee on March 3, 2008. Respondent Sam D. Holder signed and returned the return receipt to Complainant’s Atlanta, Georgia regional office, but failed to date it.

(b) As of September 30, 2008, Respondents had outstanding checks drawn on their custodial account in the amount of \$118,930.34, and had to offset such checks, a balance in the custodial account in the amount of \$24,551.49 and proceeds receivable of \$46,810.13, resulting in a deficiency of \$47,568.72.

(c) The shortages in Respondents' custodial account were due, in part, to Respondents' failure to deposit in their 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.

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

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.

Done at Washington, D.C.

this 3 day of December, 2009



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



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