

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In)	
re:)	
Richard Reece)	P & S Docket No. D-15- <u>0133</u>
)	
)	
Respondent)	Complaint

There is reason to believe that the Respondent named herein has willfully violated the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), hereinafter referred to as the “the Act” and, therefore, this Complaint is issued pursuant to the Rules of Practice Governing Proceedings Under the Act (7 C.F.R. § 1.130 *et seq.*) (“Rules of Practice”) alleging the following:

I.

1. Richard L. Reece, (hereinafter “Respondent”) is an individual with a mailing address of P.O. Box 112, Adel, IA, 50003.
2. At all times material to this complaint, the Respondent was
 - (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account; and
 - (b) Registered with the Secretary of Agriculture as an individual dealer to buy and sell livestock in commerce.

II.

A Default Decision was issued on July 19, 2011, by Administrative Law Judge Janice Bullard in the case of *In re Richard Reece*, P&S Docket No. 11-0213. The Complaint in that matter alleged that Respondent failed to pay when due for livestock purchases at Colfax

Livestock Sales, Ltd. and Waverly Sales Co. Respondent did not timely file an Answer to the Complaint and the Answer that was filed late was deemed to have admitted the allegations of the Complaint. Respondent was found to have willfully violated the Act, was ordered to cease and desist from failing to pay the full purchase price of livestock when due and failing to pay the purchase price of livestock, and was assessed a civil penalty of forty thousand, six hundred twenty-five dollars (\$40,625.00). Respondent appealed the ALJ's Default Decision on September 14, 2011, and on September 22, 2011, Complainant filed an Opposition to Respondent's Appeal. Judicial Officer William Jensen upheld the Default Decision in his Decision and Order filed October 17, 2011.

III.

1. Respondent, on or about the dates and in the transactions set forth below failed to pay the full amount of the purchase price for livestock within the time period required by the Act. Respondent paid with checks dated the date of the sale, but delivered those checks on the date of deposit. Colfax Livestock Sales deposits payments received for livestock purchases on the same day they are received. The number of days late as shown in the table below, is determined by the date of the deposit.

Failure to Pay When Due								
Seller's Name	Purchase Date	No. of Head	Net Invoice	Due Date	Check Date	Deposit Date	Days Late	Check Amount ¹
Colfax Livestock Sales	9/7/2013	285	\$35,169.34	9/9/2013	9/7/2013	9/14/2013	5	\$35,169.34
	9/14/2013	241	\$28,209.58	9/16/2013	9/14/2013	9/21/2013	5	\$14,109.58
								\$14,100.00
	10/5/2013	305	\$42,142.26	10/7/2013	10/5/2013	10/12/2013	5	\$24,000.00
								\$18,142.26
	10/12/2013	233	\$29,549.08	10/15/2013	10/12/2013	10/19/2013	4	\$29,549.08
	10/19/2013	273	\$45,781.04	10/21/2013	10/19/2013	10/26/2013	5	\$30,181.04
\$15,600.00								
11/2/2013	46	\$4,086.50	11/4/2013	11/2/2013	11/9/2013	5	\$4,086.50	
11/16/2013	251	\$39,678.43	11/8/2013	11/16/2013	11/23/2013	5	\$30,000.00	
							\$9,678.43	

¹ If a single transaction has multiple check amounts, the transaction was paid for with multiple checks.

	12/7/2013	207	\$34,371.11	12/9/2013	12/7/2013	12/14/2013	5	\$12,371.11 \$22,000.00
Waverly Sales Co.	10/14/2013	194	\$19,202.73	10/15/2013	10/22/2013	Wire transfer on 10/22/2013	7	\$19,202.73
	12/16/2013	182	\$22,999.23	12/17/2013	12/24/2013	Wire transfer on 12/24/2013	7	\$22,999.23

2. Respondent, on or about the date and in the transaction set forth in the chart below failed to pay the full amount of the purchase price for such livestock. As of April 28, 2015, Respondent owes Tjernagel Family Livestock, L.L.P. \$57,504.68 for the March 31, 2014, transaction referenced in the chart below.

Failure to Pay				
Seller's Name	Purchase Date	No. of Head	Net Invoice	Due Date
Tjernagel Family Livestock, L.L.P.	3/31/2014	378	\$57,504.68	4/1/2014

IV.

By reason of the facts alleged in paragraphs II and III, Respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a), 228b).

WHEREFORE, it is hereby ordered that this Complaint shall be served upon Respondent for the purpose of determining whether Respondent has willfully violated the Act. Respondent shall have twenty (20) days after receipt of this Complaint in which to 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.*) (“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.

Packers and Stockyards Program, GIPSA, requests:

1. That unless Respondent fails to file an Answer within the time allowed, or files an Answer admitting all the material allegations of this Complaint, or unless this proceeding is disposed of by the issuance of a consent decision as provided in Section 1.138 of the Rules of Practice (7 C.F.R. § 1.138), this proceeding be set for oral hearing in accordance with the Rules of Practice; and

2. That such order be issued, including an order requiring Respondents to cease and desist from the violations of the Act and the Regulations found to exist and assessing such civil penalties against the Respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 15th day of June, 2015

Susan B. Keith

Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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