



UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
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)
Russell Ortmeier d/b/a Austen Farms,) P&S Docket No. D-15-0024
)
)
Respondent) Complaint

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

I.

- (a) Russell Ortmeier d/b/a Austen Farms, referred to herein as the respondent, is an individual with a business mailing address of 6311 N. 104th Street, Omaha, Nebraska 68134.
- (b) The respondent is, and at all times material herein was:
 - (1) Engaged in the business of a dealer buying and selling livestock in commerce;
 - (2) A dealer within the meaning of and subject to the provisions of the Act; and
 - (3) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

II.

On February 23, 2013, the respondent received a Notice of Default from the Grain Inspection, Packers & Stockyards Administration notifying him of his obligation to file an application for registration and secure a bond if he wished to engage in the business of buying

and selling livestock in interstate commerce. The Notice of Default also informed the respondent that continuing livestock operations in commerce without complying with the registration provisions of the Act and without filing an adequate bond or bond equivalent are violations of the Act and regulations and could subject him to disciplinary action.

Notwithstanding the Notice of Default, the respondent has continued to engage in the business of buying and selling livestock in commerce without registering with the Secretary or maintaining an adequate bond or bond equivalent as required by the Act and regulations.

III.

(a) During the period from December 7, 2012, through December 31, 2012, in fourteen transactions involving his purchase of a total of 784 head of livestock at six different auction markets in Iowa and Nebraska for a total purchase price of \$732,410.86, the respondent engaged in the business of a dealer buying and selling livestock in commerce without being registered with the Secretary and maintaining an adequate bond or bond equivalent.

(b) In the fourteen transactions referenced in paragraph III (a) of this complaint, the respondent issued checks in the amount of \$732,410.86 in payment for the livestock purchased, but the checks were returned unpaid by the bank because respondent failed to have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented for payment.

(c) By issuing insufficient funds checks in the fourteen transactions referenced in paragraph III (a) of this complaint, respondent failed to pay, when due, the full purchase price of the livestock.

IV.

By reason of the facts alleged in paragraphs II and III, the respondent has willfully violated sections 312(a) and 409 of the Act (7 U.S.C. §§ 213(a) and 228b) and sections 201.29, 201.30, and 201.43 of the regulations (9 C.F.R. §§ 201.29, 201.30, and 201.43).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondent. The respondent shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the proceedings under the Act (7 C.F.R. §§ 1.130 *et seq.*). 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 in this complaint and a waiver of hearing.

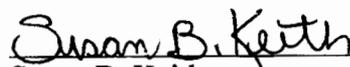
The Grain Inspection, Packers and Stockyards Administration, Packers and Stockyards Program, requests:

1. That unless the respondent fails to answer within the time allowed, or files an answer admitting all material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
2. That an order be issued requiring the respondent to cease and desist from the violations of the Act and the regulations found to exist, prohibiting the respondent from engaging in business in any capacity for which registration and bonding are required under the Act and regulations without properly registering and providing such bond, and assessing such civil

penalties against the respondent as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 12th day of November, 2014.



Susan B. Keith

Deputy Administrator

Packers and Stockyards Program

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