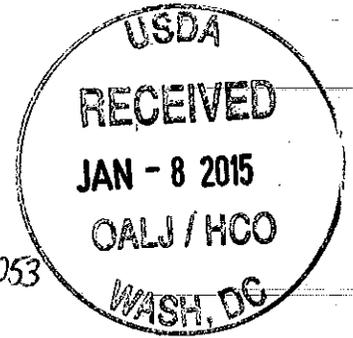


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. 15-0053
)
)
) H & P Cattle, LLC,)
) d/b/a Gowan Stockyards)
)
)
) 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.) (Act) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations), and therefore, this complaint is issued alleging the following:

I.

(a) H & P Cattle, LLC, d/b/a Gowan Stockyards (Respondent) is a limited liability company organized and existing under the laws of the State of Mississippi with a mailing address of PO Box 3336, Kosciusko, Mississippi 39090.

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

- (1) Engaged in the business of conducting and operating a stockyard, H & P Cattle, LLC, d/b/a Gowan Stockyards, No. MS-119, physically located at 911 Blackjack Road, Kosciusko, Mississippi 39090, which is posted under and subject to the provisions of the Act;
- (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 market agency selling

livestock in commerce on a commission basis.

II.

(a) Respondent, during the approximate time period of April 13, 2011 through August 15, 2012, in approximately 16 transactions involving approximately 40 head of livestock, generated or permitted to be generated purchase invoices with false information at the request of Mr. Donnie Miller, who at the time, was an unregistered livestock dealer and market agency buying on commission. Specifically, Mr. Miller purchased livestock at Respondent's stockyard and Respondent permitted Mr. Miller to personally use Respondent's computer or permitted Respondent's personnel, at Mr. Miller's direction, to generate purchase invoices that (1) listed the livestock as having been purchased under a false name, Johnny Cook, instead of listing Mr. Miller as the purchaser or listing the person or entity for whom Mr. Miller was procuring the livestock as the purchaser; (2) represented that Mr. Miller had resold the livestock at Respondent that he had purchased at Respondent earlier the same day when in fact Mr. Miller had not resold the livestock through the ring at Respondent and had only electronically transferred the livestock onto new purchase invoices for Mr. Miller's customers; and/or (3) listed purchase prices for the approximately 40 head of livestock that were higher than the actual purchase prices. Mr. Miller then transmitted the invoices with the marked up prices to his customers on whose behalf Mr. Miller procured the livestock.

(b) In a sworn affidavit signed by Peggy Watkins, Office Manager for Respondent, Ms. Watkins admitted that after the sale, Mr. Miller went to the office and moved livestock to different buyers. Ms. Watkins further admitted that computer entries are made by both Mr. Miller and office staff. A copy of the affidavit is attached hereto as Exhibit A and incorporated by reference.

III.

(a) Respondent, during the approximate time period of May 4, 2011, through April 11, 2012, in approximately 3 transactions involving 8 head of livestock, generated or permitted to be generated purchase invoices with false information at the request of Mr. Miller. Specifically, Mr. Miller purchased cow/calf pairs at Respondent and Respondent permitted Mr. Miller to personally use Respondent's computer or permitted Respondent's personnel, at Mr. Miller's direction, to generate purchase invoices that (1) split the cow/calf pairs and represented that Mr. Miller had resold each individual animal at Respondent later the same day when in fact Mr. Miller had not resold each individual animal through the ring at Respondent and had only electronically transferred each individual animal onto new purchase invoices for Mr. Miller's customers; (2) listed fabricated weights for at least one animal of each split cow/calf pair; and (3) listed fabricated prices for each animal of the split cow/calf pairs. Mr. Miller then transmitted the invoices with the fabricated weights and prices to his customers on whose behalf Mr. Miller procured the livestock.

(b) In one of the 16 transactions referenced in paragraph II above that occurred on or about May 2, 2012, Respondent generated or permitted to be generated a purchase invoice with a fabricated weight for 1 head of livestock at the request of Mr. Miller.

IV.

Respondent, in connection with its operations subject to the Act, by reason of the facts alleged in paragraphs II and III above, failed to keep and maintain accounts, records, and memoranda that fully and correctly disclosed all transactions involved in its business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221) and as more fully specified in section 203.4 of the Statements of General Policy Under the Act (9 C.F.R. § 203.4).

Specifically, Respondent failed to keep and maintain purchase invoices that accurately reflected the price, weight, and purchaser of livestock.

V.

By reason of the facts alleged in paragraph II herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.53 of the Regulations (9 C.F.R. § 201.53).

By reason of the facts alleged in paragraph III herein, Respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.53 and 201.55 of the Regulations (9 C.F.R. §§ 201.53, 201.55).

By reason of the facts alleged in paragraphs II, III, and IV herein, Respondent has willfully violated section 401 of the Act (7 U.S.C. § 221).

WHEREFORE, it is hereby ordered that this complaint shall be served upon Respondent for the purpose of determining whether Respondent willfully violated the Act and the Regulations. Respondent 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, SW., Washington, DC 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.) (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 requests:

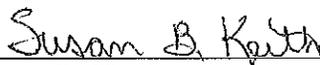
1. That unless Respondent fails to file an answer within the time allowed, or files an

answer admitting all the material allegations of this complaint, 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 Respondent to cease and desist from the violations of the Act and the Regulations found to exist, an order requiring Respondent to keep and maintain all accounts, records, and memoranda that fully and correctly disclose all transactions involved in its business, suspending Respondent as a registrant under the Act for a specified period of time, and assessing such civil penalties against Respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 8th day of January, 2015



Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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