

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	P & S Docket No. D- 07-0202
)	
E. N. A. Meat Packing, Inc.)	
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)	
Respondent)	Complaint and Notice of Hearing

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 "Act"), and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.; hereinafter referred to as the "Regulations"), therefore, this complaint and notice of hearing is issued alleging the following:

I.

- (a) E.N.A. Meat Packing, Inc, hereinafter referred to as "Respondent," is a corporation organized and existing under the laws of the State of New Jersey and whose mailing address is 240 E. 5th Street, Paterson, New Jersey 07524.
- (b) At all times material herein, Respondent was:
 - (1) Engaged in the business of buying livestock in commerce for purposes of slaughter; and
 - (2) A packer within the meaning of that term under the Act and subject to the Act.
- (c) Respondent's average annual purchases of livestock exceeded \$500,000.

II.

(a) By virtue of previous disciplinary actions against it, P & S Docket No. D- 91 - 28, Respondent had actual notice that the Packers and Stockyards Act required all packers whose average annual purchases exceeded \$500,000 to file and maintain a surety bond or bond equivalent. Specifically, in 1992, Respondent was found to have willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30) and Respondent, its agents and its employees, were ordered to cease and desist from purchasing livestock for slaughter without filing and maintaining an adequate bond or equivalent.

(b) On June 26, 2006, the Packers and Stockyards Program received a surety notification from Selective Insurance Company of America stating that bond B190853 for Principal, E.N.A. Meat Packing Corporation, was set to terminate on July 24, 2006. On June 27, 2006, the Packers and Stockyards Program responded to the notification with a letter informing the Selective Insurance Company of America that a bond may not terminate for at least 30 days after written notification after the Packers and Stockyards Program receives written notification. The letter, which referenced 9 C.F.R. § 201.34, specified that the termination date for the bond would be July 26, 2006 because the Packers and Stockyards Program did not receive written notification until June 26, 2006.

(c) On June 27, 2006 the Packers and Stockyards Program sent Respondent a certified letter which stated that the Respondent's surety bond would be terminated on July 26, 2006. The letter referenced 9 C.F.R. § 201.29 which requires packers to file and maintain bonds and reminded the Respondent that violators are subject to disciplinary action under the Act.

(d) On September 8, 2006, a Packers and Stockyards Program representative personally informed Respondent that they were in violation of the Act and that they must refrain from engaging in activities subject to the Act until the bonding requirements had been met. Notwithstanding such notice, and subsequent telephone inquiries, Respondent continued to engage in the business as a packer without maintaining an adequate bond or its equivalent as required by the Act and the Regulations.

III.

On or about the dates and in the transactions set forth below, Respondent purchased livestock for the purpose of slaughter without maintaining an adequate bond or bond equivalent. The transactions occurred at Caroso Cattle Company, Inc., in Frankfort, New York, a registered dealer, New Holland Sales Stables, Inc., a posted stockyard in New Holland, Pennsylvania and from Brussels Livestock and Ontario Livestock Exchange, Inc., livestock dealers in Ontario, Canada.

Summary of Livestock Transactions for E.N.A. Meat Packing Corporation

<u>Seller</u>	<u>Purchase Date</u>	<u>Number of Head</u>	<u>Livestock Amount</u>
Caroso Cattle Co. 205 Jackson Road Frankfort, New York 13340	26-Jul-06	13	\$10,259.25
	09-Aug-06	13	\$11,699.81
	13-Aug-06	25	\$16,788.13
	03-Sep-06	32	\$17,344.29
Brussels Livestock Box 59 Brussels, Ontario NOG 1 HO	06-Jul-06	17	\$9,793.22
	27-Jul-06	13	\$7,580.86
	03-Aug-06	18	\$6,587.54
	17-Aug-06	7	\$4,899.48
Ontario Livestock Exc., Inc. Box 443 Waterloo, Ontario N2J 4A9	22-Jun-06	n/a	\$6,671.13
	06-Jul-06	n/a	\$8,487.76
	10-Aug-06	50	\$17,572.73
	17-Aug-06	n/a	\$15,746.92
	24-Aug-06	n/a	\$16,254.28
	31-Aug-06	22	\$9,005.89
New Holland Sales Stbbs, Inc. 101 W. Fulton St. New Holland, PA 17557	06-Jul-06	19	\$18,509.59
	31-Jul-06	1	\$1,087.80
	03-Aug-06	23	\$18,417.56
	17-Aug-06	8	\$5,591.40
TOTAL			\$202,297.64

IV

By reason of the facts alleged in paragraphs II and III, Respondent has willfully violated section 202(a) of the Act (7 U.S.C. § 192(a)), and sections 201.29 and 201.30 of the Regulations (9 C.F.R. §§ 201.29, 201.30).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact willfully violated the Act and Regulations, this Complaint and Notice of Hearing shall be served upon Respondent.

Respondent shall have twenty (20) days after receipt of this Complaint and Notice of Hearing 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 Formal Adjudicatory Administrative 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 shall constitute an admission of all the material allegations of this Complaint and Notice of Hearing unless parties have agreed to a consent decision pursuant to section 1.138 of the Rules of Practice (7 C.F.R. § 1.138). Respondents are hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a time and place to be designated later.

At the hearing, Respondent will have the right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act

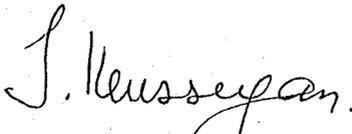
requiring that Respondent cease and desist from violating the Act with respect to matters alleged herein and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 21 day of September 2007



Alan R. Christian
Deputy Administrator,
Packers and Stockyards Program



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