

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:

P&S Docket No. 08-0117

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Valley Stockyards, Inc.,
Robert C. Elliot, and
Melissa J. Elliot

Respondents

Complaint

There is reason to believe that the Respondents named in this Complaint have willfully violated provisions of 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) Valley Stockyards, Inc. (“Respondent Valley”) is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania. Its last known mailing address was P.O. Box 231, Athens, Pennsylvania 18810.
- (b) Respondent Valley, at all times material to this Complaint, was:
 - (1) Engaged in the business of conducting and operating the Valley Stockyards Inc. stockyard, a posted stockyard subject to the provisions of the Act;
 - (2) Engaged in the business of a market agency buying and selling livestock in commerce on a commission basis;
 - (3) Engaged in the business of a dealer buying and selling livestock in commerce for its own account; and

(4) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for its own account and as a market agency to buy and sell livestock on a commission basis.

(c) Respondent Valley no longer operates a posted stockyard.

(d) Robert C. Elliot & Melissa J. Elliot (“Individual Respondents”) are individuals. Upon information and belief, the addresses of the Individual Respondents are:

(1) Robert C. Elliot, 290A RR 1 Box 290A, Milan, PA 18831

(2) Melissa J. Elliot, 742 Main St., Athens, PA 18810

(e) Individual Respondents, at all times material to this complaint, each owned 50% of the issued stock of Respondent Valley, and were responsible for the management, direction, and control of Respondent Valley.

II.

(a) Respondent Valley, under the direction, management and control of the Individual Respondents, misused custodial funds by writing a check to cash for \$6,500.00 from its Custodial Account for Shipper’s Proceeds (“custodial account”) with Citizens & Northern Bank, for which there was no consigned livestock. This amount was deposited in a livestock purchaser’s account at Citizens & Northern Bank. After Respondents’ deposit, Citizens & Northern Bank honored a check drawn on the purchaser’s account in the amount of \$37,891.25. Using the funds from this check, Respondent Valley then obtained a cashier’s check from Citizens & Northern Bank for the \$37,891.25 and deposited the cashier’s check in its custodial account. When Citizens & Northern Bank discovered that a stop payment order had been issued for the purchaser’s check,

the bank rescinded the cashier's check and closed Respondent Valley's custodial account. Shortly thereafter, Respondents opened a new custodial account in Peoples State Bank.

(b) In part due to Respondent Valley's misuse of custodial account funds in its Citizens & Northern Bank custodial account, as described in paragraph II(a) above, Respondent Valley, under the direction, management and control of the Individual Respondents, during the period February 15, 2006, through April 20, 2006, and thereafter failed to maintain and use properly Respondent Valley's custodial account with Peoples State Bank, thereby endangering the faithful and prompt accounting of the custodial account and the payment of portions of the custodial account due the owners and consignors of livestock, in that:

(1) As of February 15, 2006, Respondent Valley had outstanding proceeds due shippers in the amount of \$168,798.28 that had been due from custodial account with Citizens & Northern Bank and expense items remaining in the account in the amount of \$10,423.71 and had to offset those proceeds due shippers and expense items against a balance in its custodial account with Peoples State Bank of \$60,388.54, which resulted in a deficiency of \$118,833.45.

(2) As of April 20, 2006, Respondent Valley had outstanding checks drawn on its custodial account with People's State Bank in the amount of \$21,333.55, outstanding proceeds due shippers in the amount of \$126,940.86 that had been due from its closed custodial account with Citizens & Northern Bank and expense items remaining in the account in the amount of \$8,145.71 and had to offset those amounts against a balance

in the custodial account with People's State Bank of \$32,285.47, which resulted in a deficiency of \$124,134.65.

(c) Such shortages were also due, in part, to the failure of the Respondents to deposit in the custodial account, within the time prescribed by the regulations, an amount equal to the proceeds receivable from the sale of consigned livestock.

III.

(a) Respondent Valley, under the direction, management, and control of the Individual Respondents, on or about the dates and in the transactions set forth below, issued checks in payment for livestock purchases which checks were returned unpaid by the bank upon which they were drawn because Respondents did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay the checks when presented.

Sale Date	Payee	Amount
01/02/06	Vicke Kibbe	\$562.40
01/02/06	R. Hidden Valley Farm	\$4,691.38
01/02/06	Lantland Farms	\$615.09
01/09/06	Norman Allen	\$6,327.66
01/09/06	R. Hidden Valley Farm	\$548.38
01/09/06	Iva-Jen Farms	\$1,295.31
01/09/06	Donald Brooks	\$446.39
01/09/06	Mundy Brook Farm	\$1,009.63
01/11/06	Donald Brooks	\$597.50
01/11/06	Paul Winch	\$166.50
01/16/06	Terry Grant	\$1,242.20
01/16/06	Jeffery Klossner	\$822.50
01/16/06	Merle Lawton	\$418.91
Total		\$18,743.85

(b) Respondent Valley, under the direction management and control of the Individual Respondents, on or about the dates and in the transactions set forth below, issued checks in payment for livestock purchases which checks were returned unpaid by the bank upon which they were drawn because Respondents custodial account had been closed by Citizens & Northern Bank due to Respondents' misuse of custodial account funds as more fully described in paragraph II(a) above.

Sale Date	Payee	Amount
11/02/05	Ed Traver	\$9,174.81
01/02/06	Glenn Warren	\$885.28
01/09/06	Robert Rubenstein	\$47.90
01/09/06	Cold Creek Farm	\$345.20
01/16/06	Duane Wilcox	\$239.40
01/16/06	Vaughn Jennings, Jr.	\$373.62
01/16/06	Corey Miles	\$513.20
Total		\$11,579.41

IV.

On or about the dates and in the transactions set forth in paragraph III and in Appendix A, Respondent Valley, under the direction, management, and control of the Individual Respondents, failed to remit, when due, the net proceeds of the sales of livestock to the consignors of the livestock, by failing to timely deliver the net proceeds from the sale to those consignors.

V.

Respondent Valley, under the direction, management, and control of the Individual Respondents, failed to maintain adequate records which fully and correctly disclosed all the transactions involved in their business in that: Respondents failed to

keep records which correctly disclosed the date checks were written and correctly disclosed dates that sales were held, and Respondents failed to maintain copies of invoices and copies of checks.

VI.

By reason of the facts alleged in paragraph I, the Individual Respondents were the alter ego of the Respondent Valley.

By reason of the facts alleged in paragraph II, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and sections 201.42(c) and 201.42(d) of the regulations (9 C.F.R. § 201.42(c)-(d)).

By reason of the facts alleged in paragraph III, Respondents have wilfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213).

By reason of the facts alleged in paragraph IV, Respondents have wilfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213) and section 201.43(a) of the regulations (9 C.F.R. § 201.43(a)) by failing to remit, when due, the net proceeds to consignors.

By reason of the facts alleged in paragraph V, Respondents failed to maintain records as required by section 401 of the Act (7 U.S.C. § 221) and willfully violated section 312(a) of the Act as a result (7 U.S.C. § 213(a)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondents have, in fact, willfully violated the Act and the regulations, this complaint shall be served upon Respondents. Respondents shall 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.*).

Appendix A

Sale Date	Consignor	No. of Head	Amount Due
01/18/2006	Nicholas Musshafen	1	\$325.60
01/18/2006	Gary Braund	1	\$196.00
01/18/2006	Shipman Farm	1	\$538.42
01/18/2006	Roy Beardslee	4	\$259.70
01/23/2006	Davis Farms	1	\$324.20
01/23/2006	Julia Vance	4	\$777.00
01/23/2006	Dave Turner	1	\$159.00
01/23/2006	Mundy Brook Farm	4	\$291.90
01/23/2006	Ball Farms	1	\$184.20
01/23/2006	Marshall Watkins	1	\$187.40
01/23/2006	Lance Blakemore	2	\$405.20
01/23/2006	Lucina Friedrichsen	2	\$418.60
01/23/2006	Arvo Rautine	1	\$178.60
01/23/2006	Robert Rabenstein	1	\$471.60
01/23/2006	Jim Jenkins	1	\$92.70
01/23/2006	Amos Killiker	1	\$410.30
01/23/2006	Frank Lyons	2	\$423.00
01/23/2006	Roy Beardslee	2	\$271.90
01/23/2006	Dean Cady	1	\$93.00
01/23/2006	Coldcreek Farm	2	\$348.60
01/23/2006	Tim Rodgers	1	\$202.00
01/23/2006	Mark Hostetler	2	\$346.70
01/23/2006	Pete Roorda	1	\$167.00
01/23/2006	Therson Strouse	3	\$442.10
01/23/2006	R. Hidden Valley Farm	4	\$472.80
01/23/2006	Mann Farm Partnership	1	\$149.20
01/23/2006	Vicke Kibbe	2	\$223.40
01/23/2006	Candy Cooney	3	\$374.40
01/23/2006	Al Sparling	1	\$210.20
01/23/2006	Larry Jones	1	\$730.00
01/23/2006	Terry Wales	1	\$727.34
01/23/2006	Dick Prutsman	1	\$752.44
01/23/2006	Alice Robert	10	\$4,034.08
01/23/2006	Robinson Farms	4	\$466.87
01/23/2006	John Shabloski	2	\$918.26
01/23/2006	Donnie Pepper	3	\$759.02
01/23/2006	Steve Chaffee	4	\$1,413.91
01/23/2006	Willie Pettey	2	\$1,413.70
01/23/2006	Neal Boxer	4	\$1,592.24
01/23/2006	Michael Ink	3	\$782.20
01/23/2006	William Davis III	2	\$772.54
01/23/2006	Dan Costley	2	\$617.26
01/23/2006	Schweiger Farm	2	\$1,027.61
01/23/2006	Jim Cady	1	\$525.54
01/23/2006	Holub Farms Inc.	3	\$1,114.40
01/25/2006	R. Hidden Valley Farm	3	\$707.51
01/25/2006	William Steele	1	\$696.00
Total			\$94,141.75

Failure to file an answer shall constitute an admission of all material allegations of this complaint.

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

1. That unless Respondents fail to file an answer within the time allowed therefore, or file an answer admitting all material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued, including an order requiring Respondents to cease and desist from the violations found to exist, suspending Respondents as registrants under the Act, and assessing such civil penalties, jointly and severally, as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 9 day of May, 2008



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



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