

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

1921
FILED

In re:)
Lester J. Gemmen Jr.,) P & S Docket No. D-12-0354
Respondent)
Complaint)

There is reason to believe that the Respondent named herein has willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), herein referred to as the Act, and, therefore, this Complaint is issued alleging the following:

I.

(a) Lester J. Gemmen, Jr., herein referred to as Respondent, is an individual. Respondent's business mailing address is his home address. In order to protect the personal privacy of the Respondent, Complainant is not providing Mr. Gemmen's address in this Complaint, however Complainant has provided the address to the Hearing Clerk so that service can be effected.

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

(1) Engaged in business as a dealer, buying and selling livestock in commerce for his own account; and

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

II

On July 12, 2010, the Midwestern Regional Office (MRO) of the Packers and Stockyards Program sent a Notice of Violation (NOV) to Respondent via certified mail, notifying Respondent of his payment practice violations for the period of April through June 2010 and advising Respondent to comply with the payment practice provisions of the Act.¹ Specifically, the NOV advised Respondent to take immediate steps to correct the alleged violations and bring his operation into compliance with the Act. Notwithstanding this notice, Respondent continued to fail to pay, when due, for livestock purchases as set forth in Appendix A.

III

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

WHEREFORE, it is hereby ordered that this Complaint shall be served upon Respondent for the purpose of determining whether the 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.*). 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.

¹ The delivery receipt from the U. S. Postal Service (item number 7108 2133 3938 2215 4970) shows that Respondent signed for the NOD on July 14, 2010.

The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (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, this proceeding be set for oral hearing in accord with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued, including an order requiring Respondent to cease and desist from violating the Act with respect to the matters alleged herein, and assessing such penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 10 day of April, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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