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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. 12-0514
)
Intermountain Livestock, Inc.,)
)
and)
)
Dennis Arnzen,)
)
)
Respondents) Complaint

There is reason to believe that the respondents named herein willfully violated the Packers & Stockyards Act, 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) Respondent Intermountain Livestock, Inc. is a corporation organized under the laws of the State of Oregon, with a mailing address of 60654 Livestock Road, La Grande, Oregon 97850.
- (b) Respondent Intermountain Livestock, Inc., under the direction, management, and control of Respondent Dennis Arnzen, is, and at all times material herein was:
 - (1) Engaged in the business of conducting and operating Intermountain Livestock, Inc., a stockyard posted under and subject to the provisions of the Act;
 - (2) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency buying and selling livestock on a commission basis in commerce; and

- (3) Registered with the Secretary of Agriculture as a dealer buying and selling livestock in commerce and as a market agency to buy and sell livestock on a commission basis in commerce.
- (c) Respondent Dennis Arnzen is an individual whose business mailing address is 60654 Livestock Road, La Grande, Oregon 97850.
- (d) Respondent Dennis Arnzen is, and at all times material herein was:
 - (1) President of Respondent Intermountain Livestock, Inc.;
 - (2) Owner of 100% of Respondent Intermountain Livestock, Inc.; and
 - (3) Responsible for the direction, management and control of Respondent Intermountain Livestock, Inc.
- (e) Respondent Dennis Arnzen is, and at all times material herein was:
 - (1) Engaged in the business of conducting and operating Intermountain Livestock, Inc., a stockyard posted under and subject to the provisions of the Act; and
 - (2) Engaged in the business of a dealer buying and selling livestock in commerce and as a market agency buying and selling livestock on a commission basis in commerce.

II.

(a) On March 29, 2007, the Grain, Inspection, Packers and Stockyards Administration (GIPSA) sent a letter via certified mail to respondents. The letter was delivered on April 2, 2007. The letter informed respondents that a GIPSA investigation of respondents' records indicated that respondents failed to properly maintain their custodial account. The letter specified that respondents' custodial accounts had shortages of \$2,401.67, \$2,605.89, \$222.31, and \$32,364.22 as of August 31, 2006, October 31, 2006, December 15, 2006 and January 26,

2007, respectively. The letter informed respondents that failure to reimburse the account timely is a violation of sections 307(a) and 312(a) of the Packers and Stockyards Act (7 U.S.C. §§ 208 and 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42), and failure to comply with the Act and regulations would result in appropriate disciplinary action.

(b) On May 18, 2009, GIPSA sent a Notice of Violation (NOV) via certified mail to Respondent Intermountain Livestock, Inc. The NOV was delivered on May 26, 2009. The NOV informed Respondent Intermountain Livestock, Inc. that a GIPSA review of its records indicated that Respondent Intermountain Livestock, Inc. failed to properly maintain its custodial account. The NOV specified that Respondent Intermountain Livestock, Inc.'s custodial accounts had shortages of \$16,185.82, \$16,221.03, \$5,146.80 and \$16,410.96 as of February 27, 2009, March 31, 2009 (two different accounts from different banks on same date), and April 13, 2009, respectively. The NOV informed Respondent Intermountain Livestock, Inc. that operating with a custodial account shortage is a violation of sections 307(a) and 312(a) of the Packers and Stockyards Act (7 U.S.C. §§ 208, 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42), and failure to comply with the Act and regulations would result in appropriate disciplinary action.

(c) On April 26, 2010, GIPSA sent a NOV via certified mail to respondents. The NOV was delivered on April 30, 2010. The NOV informed respondents that a GIPSA review of respondents' records indicated that respondents failed to properly maintain their custodial account. The NOV specified that respondents' custodial account had shortages of \$39,838.69, \$30,888.54, and \$39,928.41 as of November 30, 2009, February 26, 2010, and March 31, 2010, respectively. The NOV informed respondents that operating with a custodial account shortage is a violation of sections 307(a) and 312(a) of the Packers and Stockyards Act (7 U.S.C. §§ 208,

213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42), and failure to comply with the Act and regulations would result in appropriate disciplinary action.

(d) On December 7, 2011, the respondents and GIPSA entered into a Civil Penalty Stipulation Agreement (Agreement) to resolve additional findings that respondents had custodial account shortages of \$5,020.84 and \$63,026.44 on October 31, 2010, and on December 21, 2010, respectively. The Agreement informed respondents that their custodial account shortages were in violation of section 307(a) of the Act (7 U.S.C. § 208(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42). The Agreement assessed respondents a civil penalty of \$5,000.

III.

Respondent Intermountain Livestock, Inc., under the direction, management, and control of Respondent Dennis Arnzen, during the period of December 30, 2011, through February 29, 2012, failed to properly use and maintain its custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock, in that:

(a) As of December 30, 2011, respondents had outstanding checks drawn on their custodial account in the amount of \$510,090.23 and had, to offset such checks, a bank balance in the custodial account of \$485,592.62, with no current proceeds receivable and no deposits in transit, resulting in a custodial account shortage in the amount of \$24,497.61.

(b) As of January 31, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$308,053.47 and had, to offset such checks, a bank balance in the custodial account of \$213,526.31, current proceeds receivable in the amount of \$82,959.77, with no deposits in transit, resulting in a custodial account shortage in the amount of \$11,567.39.

(c) As of February 29, 2012, respondents had outstanding checks drawn on their custodial account in the amount of \$172,196.36 and had, to offset such checks, a bank balance in the custodial account of \$82,907.49, current proceeds receivable in the amount of \$72,794.46, with no deposits in transit, resulting in a custodial account shortage in the amount of \$16,494.41.

(d) The custodial account shortages described herein were due, in part, to respondents' failure to deposit in the custodial account, within the time prescribed by the regulations, an amount equal to the proceeds receivable for sales of consigned livestock.

IV.

By reason of the facts alleged in paragraphs II and III, respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42).

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

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

1. That unless respondents fail to file an answer within the time allowed, or file 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 respondents to cease and desist from the violations of the Act and the regulations found to exist, and assessing such civil penalties against respondents as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 5 day of July, 2012



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

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