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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P&S Docket No. 12- **0600**
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)
Mark Kasmiersky,)
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)
Respondent) Complaint

There is reason to believe that the respondent named herein has willfully violated the Packers & Stockyards Act of 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) Mark Kasmiersky, referred to herein as the respondent, is an individual with a mailing address of P.O. Box 66, Fayetteville, Texas 78940.
- (b) The respondent is, and at all times material herein was:
 - (1) Engaged in the business of a market agency buying livestock in commerce on a commission basis; and
 - (2) Not registered with the Secretary of Agriculture as a market agency to buy livestock in commerce on a commission basis.

II.

- (a) In 2009 the respondent was registered with the Secretary of Agriculture to engage in the business of a market agency buying livestock in commerce on a commission basis and he had a \$20,000 Clause 2 bond. The respondent failed to file his annual report for 2009, and on April 16,

2010, GIPSA sent him a Notice of Default-Annual Report notifying him that his annual report was delinquent. Respondent still did not file his annual report for 2009, and on August 11, 2010, GIPSA sent him a Registration Expiration Notice notifying him that his failure to file his annual report had resulted in the expiration of his registration. The notice also informed respondent of his obligation to file a new application for registration and to submit the delinquent annual report if he wished to engage in the business of buying and selling livestock in interstate commerce and that engaging in business in any capacity that is subject to the Act without complying with the registration provisions of the Act is a violation of the Act and regulations and could subject him to disciplinary action.

(b) On September 22, 2010, the surety sent respondent and the Packers & Stockyards Program a letter stating that his bond would be terminated and void as of November 3, 2010. On September 27, 2010, GIPSA sent respondent a Bond Termination Notice notifying him of his obligation to secure a bond if he wished to engage in the business of buying and selling livestock in interstate commerce. The notice also informed respondent that engaging in business in any capacity that is subject to the Act without filing an adequate bond or bond equivalent is a violation of the Act and regulations and could subject him to disciplinary action.

(c) During the period from May 16, 2011, through July 14, 2011, in seventeen transactions involving his purchase of a total of 180 head at Flatonia Livestock Commission Company in Flatonia, Texas, and Hauerland Livestock Company LLC d/b/a Columbus Livestock Company in Columbus, Texas, for a total purchase price of \$97,431.81, the respondent engaged in the business of a market agency purchasing livestock in commerce on a commission basis

without being registered with the Secretary and maintaining an adequate bond or bond equivalent.

III

By reason of the facts alleged in paragraph II, the respondent has willfully violated section 312(a) of the Act (7 U.S.C. § 213(a)) and sections 201.29 and 201.30 of the regulations (9 C.F.R. §§ 201.29 and 201.30).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondent. The respondent shall have twenty (20) days following receipt of this complaint to file an Answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250-9200, in accordance with the Rules of Practice governing the 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 in this complaint and a waiver of hearing.

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

1. That unless the respondent fails to answer within the time allowed, or files an answer admitting all material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and
2. That an order be issued requiring the respondent to cease and desist from the violations of the Act and the regulations found to exist, prohibiting the respondent from engaging

in business in any capacity for which registration and bonding are required under the Act and regulations without properly registering and providing such bond, and assessing such civil penalties against the respondent as are authorized by the Act and warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 23 day of August, 2012.



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program

Leah C. Battaglioli
Attorney for the Complainant
Office of the General Counsel
Marketing, Regulatory, and Food Safety Programs Division
Room 2309, Stop 1413
U.S. Department of Agriculture
1400 Independence Avenue, SW.
Washington, D.C. 20250
Telephone: (202) 720-5191