

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:

	)	P. & S. Docket No. 13-	0136
	)		
Benjamin W. Dunlap	)		
a/k/a Ben Dunlap,	)		
	)		
d/b/a Ben Dunlap Livestock	)		
	)		
d/b/a Dunlap Cattle and Farms,	)		
	)		
and d/b/a Phat Buzzard Cattle Co.)	)		
	)		
Respondent	)	Complaint	

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.*), 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 Benjamin W. Dunlap is an individual who is also known as Ben Dunlap. Respondent does business as Ben Dunlap Livestock, does business as Dunlap Cattle and Farms, and also does business as Phat Buzzard Cattle Co. Respondent has a business address of 4926 Bonlee-Bennett Road, Bear Creek, NC, 27207.

(b) Respondent Benjamin W. Dunlap, doing business as Ben Dunlap Livestock, doing business as Dunlap Cattle and Farms, and doing business as Phat Buzzard Cattle Co., at all times material herein was:

- (1) Engaged in the business of a dealer buying and selling livestock in commerce;
- (2) A dealer within the meaning of and subject to the provisions of the Act; and
- (3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

## II

On or about August 1, 2008, the Grain Inspection, Packers and Stockyards Administration (GIPSA) sent to respondent, via certified mail, a Notice of Violation (NOV). The NOV was delivered to respondent on or about August 4, 2008. The NOV stated that GIPSA had data indicating that respondent was not paying promptly for livestock purchased. The NOV indicated that respondent was buying livestock in commerce and not paying for such livestock by the close of the next business day after purchase as required by section 409 of the Packers and Stockyards Act. The NOV further informed respondent The NOV informed respondent that failure to correct the violations would result in appropriate disciplinary action.

### III

(a) Notwithstanding the facts alleged above in paragraph II, on or about the dates and in the transactions set forth in Appendix A, respondent purchased livestock and failed to pay, when due, the full purchase price of such livestock.

(b) As of the date of the filing of this Complaint, to the best of Complainant's knowledge, approximately \$83,659.02 remains unpaid by respondent for the livestock purchases alleged in this complaint.

### IV

By reason of the facts alleged in paragraphs II and III, respondent has willfully violated sections 312(a) (7 U.S.C. § 213(a)) and 409 (7 U.S.C. § 228b) of the Act and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that this complaint shall be served upon respondent for the purpose of determining whether respondent has willfully violated the Act and regulations. Respondent 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, S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 *et seq.*). Allegations

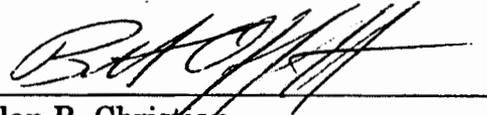
not answered shall be deemed admitted for the purpose of this proceeding. Failure to file an answer will constitute an admission of all the material allegations of this complaint.

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

1. That unless 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 accordance with the Rules of Practice; and
2. That such order or orders be issued, including an order requiring respondent to cease and desist from the violations of the Act and the regulations found to exist, suspending respondent as a registrant under the Act for a specified period of time, and assessing such civil penalties against respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 26<sup>th</sup> day of December, 2012

  
for Alan R. Christian  
Deputy Administrator  
Packers and Stockyards Program

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**APPENDIX A**

12/31/2007	Carolina Stockyards Co.	1	\$432.00	1/2/2008	Unpaid
9/24/2008	Carolina Stockyards Co.	4	\$2,389.30	9/25/2008	Unpaid
9/29/2008	Carolina Stockyards Co.	5	\$2,378.55	9/30/2008	Unpaid
10/13/2008	Carolina Stockyards Co.	8	\$2,535.00	10/14/2008	Unpaid
10/17/2008	Carolina Stockyards Co.	1	\$282.90	10/20/2008	Unpaid
10/24/2008	Carolina Stockyards Co.	1	\$305.50	10/27/2008	Unpaid
10/31/2008	Carolina Stockyards Co.	1	\$457.60	11/3/2008	Unpaid
11/7/2008	Carolina Stockyards Co.	1	\$690.30	11/10/2008	Unpaid
12/5/2008	Carolina Stockyards Co.	1	\$211.20	12/8/2008	Unpaid
12/12/2008	Carolina Stockyards Co.	30	\$8,042.70	12/15/2008	Unpaid
12/19/2008	Carolina Stockyards Co.	4	\$1,371.75	12/22/2008	Unpaid
2/20/2009	Carolina Stockyards Co.	20	\$6,778.80	2/23/2009	Unpaid
3/9/2009	Carolina Stockyards Co.	7	\$2,955.53	3/10/2009	Unpaid
3/16/2009	Carolina Stockyards Co.	1	\$173.25	3/17/2009	Unpaid
7/17/2009	Carolina Stockyards Co.	3	\$723.50	7/20/2009	Unpaid
7/20/2009	Carolina Stockyards Co.	1	\$378.00	7/21/2009	Unpaid
7/27/2009	Carolina Stockyards Co.	1	\$554.40	7/28/2009	Unpaid
8/14/2009	Carolina Stockyards Co.	1	\$321.60	8/17/2009	Unpaid

8/28/2009	Carolina Stockyards Co.	1	\$319.80	8/31/2009	Unpaid
9/4/2009	Carolina Stockyards Co.	13	\$5,129.70	9/8/2009	Unpaid
9/18/2009	Carolina Stockyards Co.	1	\$272.55	9/21/2009	Unpaid
9/21/2009	Carolina Stockyards Co.	1	\$333.45	9/22/2009	Unpaid
9/25/2009	Carolina Stockyards Co.	3	\$917.80	9/28/2009	Unpaid
11/9/2009	Carolina Stockyards Co.	6	\$2,169.88	11/10/2009	Unpaid
1/4/2010	Carolina Stockyards Co.	1	\$200.85	1/5/2010	Unpaid
4/16/2010	Carolina Stockyards Co.	2	\$933.75	4/19/2010	Unpaid
5/7/2010	Carolina Stockyards Co.	6	\$2,184.85	5/10/2010	Unpaid
7/12/2010	Carolina Stockyards Co.	1	\$498.55	7/13/2010	Unpaid
8/20/2010	Carolina Stockyards Co.	1	\$249.90	8/23/2010	Unpaid
8/23/2010	Carolina Stockyards Co.	1	\$442.25	8/24/2010	Unpaid
9/17/2010	Carolina Stockyards Co.	2	\$782.80	9/20/2010	Unpaid
10/15/2010	Carolina Stockyards Co.	4	\$1,140.80	10/18/2010	Unpaid
12/17/2010	Carolina Stockyards Co.	1	\$259.00	12/20/2010	Unpaid
12/20/2010	Carolina Stockyards Co.	3	\$1,030.75	12/21/2010	Unpaid
5/9/2011	Carolina Stockyards Co.	10	\$6,269.60	5/10/2011	Unpaid
5/13/2011	Carolina Stockyards Co.	1	\$736.00	5/16/2011	Unpaid
6/17/2011	Carolina Stockyards Co.	4	\$956.90	6/20/2011	Unpaid
6/20/2011	Carolina Stockyards Co.	3	\$1,868.50	6/21/2011	Unpaid
6/24/2011	Carolina Stockyards Co.	1	\$344.40	6/27/2011	Unpaid
9/16/2011	Carolina Stockyards Co.	5	\$1,253.60	9/19/2011	Unpaid

12/3/2011	Carolina Stockyards Co.	1	\$1,150.00	12/5/2011	Unpaid
2/17/2009	Powell Livestock, Inc.	8	\$2,061.76	2/18/2009	Unpaid
2/19/2009	Powell Livestock, Inc.	36	\$17,035.22	2/20/2009	Unpaid
2/11/2010	Powell Livestock, Inc.	3	\$515.08	2/12/2010	Unpaid
4/22/2010	Powell Livestock, Inc.	4	\$2,009.68	4/23/2010	Unpaid
8/5/2010	Powell Livestock, Inc.	4	\$1,609.72	8/6/2010	Unpaid