

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P&S Docket No. 13- 315
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)
)
Weldon Glidewell)
dba Mineral Wells)
Stockyards Company)
)
)
Respondent) Complaint

There is reason to believe that the respondent named herein have willfully violated 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) Weldon Glidewell, doing business as Mineral Wells Stockyards Company, hereinafter referred to as respondent, is an individual with a business mailing address of P.O. Box 968, Mineral Wells, Texas 76068.

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

- (1) Engaged in the business of a dealer buying and selling livestock in commerce for his own account and for the account of others;
- (2) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
- (3) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce and as a market agency to sell livestock in commerce on a commission basis.

II

(a) The Grain Inspection, Packers and Stockyards Administration (GIPSA) sent a Notice of Violation (NOV) dated August 30, 2011 via certified mail to the respondent. The NOV informed the respondent that during May 2011 respondent, a dealer, failed to pay the full amount of the purchase price for livestock before the close of the next business day following purchase and transfer of possession. The NOV further informed the respondent that he had to correct his payment practices immediately; that the failure to pay for livestock when due is a violation of section 409(a) of the Act (7 U.S.C. § 228b); and that the failure to comply with the Act would result in appropriate disciplinary action. GIPSA sent the NOV dated August 30, 2011 via certified mail to Respondent. The NOV was delivered on September 1, 2011.

(b) An administrative complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyard Administration, United States Department of Agriculture alleged that the respondent willfully violated the Act and the regulations promulgated thereunder. Based on that administrative complaint, a Consent Decision was issued on July 22, 2004, In re: Weldon Mack Glidewell dba Mineral Wells Stockyards Company and Weatherford Stockyards Company, P & S Docket No. D-03-0014. The respondent was ordered, inter alia, to cease and desist from: (1) failing to deposit in the Custodial Account for Shippers' Proceeds within the time prescribed an amount equal to the proceeds receivable from the sale of consigned livestock; (2) failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of section 201.42 of the regulations (9 C.F.R. 201.42); and (3) withdrawing market commissions and yardage fees for weekly services from the Custodial Account for Shippers' Proceeds while there are insufficient funds in the custodial account to pay consignors the net proceeds from the sale of consigned

livestock or to pay sellers the purchase price of consigned livestock bought by respondent at respondent's stockyards and was assessed a civil penalty in the amount of seven thousand dollars (\$7,000.00). The provisions of the order became effective on the sixth (6th) day after service of the order on the defendant.

III

(a) Respondent, during the period of December 31, 2011 through January 31, 2012, failed to properly maintain and use his custodial account, thereby endangering the faithful and prompt accounting of shippers' proceeds and the payments due the owners or consignors of livestock in that:

(1) As of January 31, 2012, respondent had outstanding checks drawn on his custodial account in the amount of \$37,828.96, and had, to offset such checks, a negative bank balance in the custodial account in the amount of \$38,258.81, a certificate of deposit designated as custodial funds in the amount of \$0, deposits in transit in the amount of \$0 and current proceeds receivable in the amount of \$0, resulting in a negative custodial account shortage in the amount of \$76,087.77.

(2) As of December 31, 2011 respondent had outstanding checks drawn on his custodial account in the amount of \$114,688.87, and had, to offset such checks, a bank balance in the custodial account in the amount of \$45,040.72, a certificate of deposit designated as custodial funds in the amount of \$0 and current proceeds receivable in the amount of \$25,496.13, with no deposits in transit, resulting in a custodial account shortage in the amount of \$44,152.02.

(b) The custodial account shortages described herein were due in part to respondents' failure to reimburse the custodial account for his own purchases made under the names of Price

Chapel Farms and Mineral Wells Stockyards, within the time prescribed by section 201.42 of the regulations (9 C.F.R. § 201.42), an amount equal to the proceeds receivable from the sale of consigned livestock and to the withdrawal of bank fees/charges from his custodial account.

IV

Respondent, on or about the dates and in the transaction set forth below, issued a check in payment for livestock purchase which check was returned unpaid by the bank upon which it was drawn because respondent did not have and maintain sufficient funds on deposit and available in the account upon which such check was drawn to pay such check when presented.

<u>Purchase Date</u>	<u>Payee</u>	<u>Amount</u>
11/29/11	Meridian Livestock	\$20,067.63

V

The respondent during the period from January 1, 2011 through January 31, 2012, misused custodial account funds, in that he failed to reimburse the custodial account for \$16,034.70 in bank charges for overdraft fees and returned check fees.

VI

(a) On or about the dates and in the transaction set forth below, respondent purchased livestock and failed to pay, when due, the full purchase price of such livestock.

<u>Purchase Date</u>	<u>Seller</u>	<u>No. Head</u>	<u>Livestock Amount</u>	<u>Date Due</u>	<u>Date Paid</u>
09/20/11	Meridian Livestock	59	29,331.81	09/21/11	10/04/11
09/22/11	West Auction, Inc.	9	1,725.83	09/23/11	10/06/11
09/22/11	West Auction, Inc.	6	2,557.70	09/23/11	10/06/11
09/26/11	Hubbard Livestock	2	409.63	09/27/11	10/10/11

09/27/11	Meridian Livestock	5	1,581.36	09/28/11	10/11/11
09/27/11	Meridian Livestock	18	8,411.50	09/28/11	10/11/11
09/29/11	West Auction, Inc.	2	508.75	09/30/11	10/06/11
10/03/11	Hubbard Livestock	7	1,609.50	10/4/11	10/10/11
10/04/11	Meridian Livestock	31	16,164.41	10/5/11	10/25/11
10/10/11	Hubbard Livestock	9	2,938.93	10/11/11	10/24/11
10/11/11	Meridian Livestock	8	3,135.85	10/12/11	10/25/11
10/13/11	West Auction, Inc.	2	1,002.00	10/14/11	10/20/11
10/17/11	Hubbard Livestock	9	4,362.68	10/18/11	10/24/11
10/20/11	West Auction, Inc.	19	11,409.65	10/21/11	10/27/11
10/24/11	Hubbard Livestock	1	585.00	10/25/11	10/31/11
10/25/11	Meridian Livestock	17	7,123.43	10/26/11	11/01/11
10/25/11	Meridian Livestock	17	10,349.57	10/26/11	11/01/11
10/27/11	West Auction, Inc.	13	7,641.41	10/28/11	11/03/11
11/01/11	Meridian Livestock	7	3,233.60	11/02/11	11/08/11
11/03/11	West Auction, Inc.	1	650.00	11/04/11	11/10/11
11/08/11	Meridian Livestock	7	4,640.93	11/09/11	11/15/11
11/10/11	West Auction, Inc.	12	6,416.75	11/11/11	11/17/11
11/14/11	Hubbard Livestock	4	2,129.50	11/15/11	11/21/11
11/15/11	Meridian Livestock	5	2,808.80	11/16/11	11/28/11
11/15/11	Meridian Livestock	20	12,910.76	11/16/11	11/28/11
11/17/11	West Auction, Inc.	3	1,980.00	11/18/11	12/01/11
11/21/11	Hubbard Livestock	1	270.00	11/22/11	11/28/11

11/29/11	Meridian Livestock	25	20,067.63	11/30/11	12/06/11
12/01/11	West Auction, Inc.	7	6,037.27	12/02/11	12/15/11
12/06/11	Meridian Livestock	1	1,102.50	12/07/11	12/16/11
12/12/11	Hubbard Livestock	4	3,387.18	12/13/11	12/19/11
12/15/11	West Auction, Inc.	2	1,448.10	12/16/11	12/28/11
12/19/11	Hubbard Livestock	6	3,035.00	12/20/11	12/28/11

(b) As of the date of the issuance of this complaint, the entire amount referred to in paragraph (a) above has been paid.

VII

By reason of the facts alleged in paragraphs III, IV, and V, the respondents have 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).

By reason of the facts alleged in paragraph VI herein, respondent willfully violated sections 312(a) and 409 of the Act (7 U.S.C. 213(a), 228b).

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

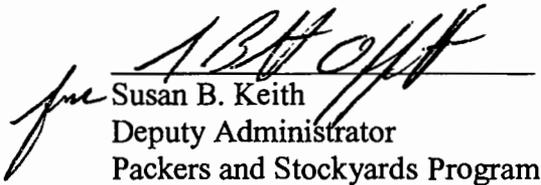
The Packers and Stockyards Program, Grain Inspection, Packers and Stockyards

Administration requests:

1. That unless the 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 the respondent to cease and desist from the violations of the Act found to exist, suspending respondents as registrants under the Act, and assessing such civil penalties against the respondent as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.

this 8th day of August, 2013


Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

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