

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:)
) P & S Docket No. D-13-0331
)
Calvin Plummer, Jr.)
)
)
)
)
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) Calvin Plummer, Jr., herein referred to as Respondent, is an individual. Respondent's business mailing address is a home address. In order to protect the personal privacy of Respondent, Complainant is not providing Respondent's address in this Complaint, but 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) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account.

II

On or about the dates and in the transactions set forth in Appendix A, Respondent engaged in the business of a dealer without maintaining an adequate bond or bond equivalent.

III

On or about the dates and in the transactions set forth in Appendix B, Respondent failed to pay the full purchase price of such livestock. As of the date of the filing of this Complaint, Respondent owes livestock sellers approximately \$30,000.00 for livestock purchases.

IV

On or about the dates and in the transactions set forth in Appendix C, Respondent issued checks in payment for livestock purchases which were returned by the bank upon which they were drawn; these checks were returned because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which the checks were drawn to pay such checks when presented.

V

By reason of the facts alleged in paragraphs II, III and IV, 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.

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 27th day of August, 2013

Susan B. Keith
Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

Brian Sylvester
Attorney for Complainant
U.S. Department of Agriculture
Office of the General Counsel
1400 Independence Avenue, S.W.
Room 2313-S
Washington, D.C. 20250-1413

Appendix A

Schedule of transactions in which Respondent Operated without Bond and Registration

Purchase Date	No. Head Purchased	Livestock Amount	Seller / Purchased From	Purchased For	Commission Amount
1/4/2011	141	\$102,645.31	Clinton Livestock Auction, LLC, Clinton, OK	John Anderson, Hatley Livestock, LLC, John Flaming	\$392.82
1/18/2011	156	\$112,317.97	Clinton Livestock Auction, LLC, Clinton, OK	Rowdy Little, Hatley Livestock, LLC, John Anderson	\$437.80
1/25/2011	76	\$49,599.00	Clinton Livestock Auction, LLC, Clinton, OK	Rowdy Little	\$228.00
2/8/2011	114	\$94,375.93	Clinton Livestock Auction, LLC, Clinton, OK	John Anderson, Rowdy Little, John Flaming	\$261.34
2/15/2011	176	\$146,854.06	Clinton Livestock Auction, LLC, Clinton, OK	Rowdy Little, John Flaming, John Anderson	\$418.49
2/22/2011	107	\$74,934.50	Clinton Livestock Auction, LLC, Clinton, OK	John Anderson, Kim Theftord, Rowdy Little, Hatley Livestock, LLC	\$304.13
3/1/2011	66	\$55,031.53	Clinton Livestock Auction, LLC, Clinton, OK	John Flaming, John Anderson	\$148.33
3/22/2011	22	\$17,976.30	Clinton Livestock Auction, LLC, Clinton, OK	John Flaming, John Anderson	\$52.23
4/5/2011	22	\$21,039.55	Clinton Livestock Auction, LLC, Clinton, OK	John Flaming	\$37.93
5/11/2011	24	\$16,271.09	Rex Flaming's Hobart Stockyards, LLC	Marty Richardson	\$72.00
5/18/2011	5	\$4,410.80	Rex Flaming's Hobart Stockyards, LLC	John Flaming	\$15.00
6/22/2011	91	\$64,700.43	Hobart Stockyards	Marty Richardson, John Flaming, Monte Tucker, Cherokee Livestock	\$227.80
6/29/2011	74	\$45,831.66	Hobart Stockyards	Cherokee Livestock	\$164.63
7/6/2011	156	\$109,899.00	Hobart Stockyards	Cherokee Livestock, XL Four Star Beef	\$659.93
7/13/2011	111	\$72,608.79	Hobart Stockyards	XL Four Star Beef, Truman Schrock	\$595.01
7/20/2011	162	\$101,024.35	Hobart Stockyards	XL Four Star Beef, JRC Cattle Co., Truman Schrock	\$954.31

Appendix B

Schedule of Unpaid Livestock Purchases

Respondent Calvin Plummer, Jr.											
Purchase Date	Seller's Name	Number of Head	Livestock Amount	Net Invoice Adjustments	Net Invoice	Due Date	Payment Date	Check Number	Unpaid Amount	Date Instrument Returned	Remarks
11/9/2010	Clinton Livestock Auction, LLC	84	\$50,584.73	\$0.00	\$50,584.73	11/10/2010	11/22/2010	Unknown	\$4,784.73	12/1/2010	Plummer repaid \$45,800.00 by cashier's check on 12/1/2010.
11/16/2010	Clinton Livestock Auction, LLC	33	\$20,074.64	\$0.00	\$20,074.64	11/17/2010	12/13/2010	9366	\$20,074.64	12/21/2010	
11/30/2010	Clinton Livestock Auction, LLC	26	\$18,428.25	\$4,784.73	\$23,212.98	12/1/2010	12/17/2010	9364	\$18,428.25	12/27/2010	Check issued included unpaid \$4,784.73 from 11/9/10
		143	\$89,087.62		\$93,872.35						
									\$43,287.62		

Appendix C

Schedule of Checks Returned NSF for Livestock

Purchase Date	Seller's Name	Number of Head	Livestock Amount	Net Invoice Adjustments	Net Invoice	Due Date	Payment Date	Check Number	Payment Amount	Date Instrument Returned	Remarks
11/9/2010	Clinton Livestock Auction, LLC	84	\$50,584.73	\$0.00	\$50,584.73	11/10/2010	11/22/2010	Unknown	\$50,584.73	12/1/2010	Plummer repaid \$45,800.00 by cashier's check on 12/1/10.
11/16/2010	Clinton Livestock Auction, LLC	33	\$20,074.64	\$0.00	\$20,074.64	11/17/2010	12/13/2010	9366	\$20,074.64	12/21/2010	
11/30/2010	Clinton Livestock Auction, LLC	26	\$18,428.25	\$4,784.73	\$23,212.98	12/1/2010	12/17/2010	9364	\$23,212.98	12/27/2010	Check issued included unpaid \$4,784.73 from 11/9/10.

\$93,872.35

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143 \$89,087.62