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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-10-0297
)
Robert Trindade and)
Patricia Trindade,)
d/b/a Newman Livestock Auction,)
)
) Decision Without Hearing
Respondents) By Reason of Consent

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 *et seq.*), by a Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that the Respondents willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*). This decision is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By the Secretary (7 C.F.R. § 1.138).

Respondents admit the jurisdictional allegations in paragraph I of the Complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The Complainant agrees to the entry of this decision.

Findings of Fact

1. Robert Trindade and Patricia Trindade, hereinafter referred to as the Respondents, are partners in a partnership doing business as Newman Livestock Auction, with a business address of 2011 E. Stuhr Road, Newman, California 95360, and a mailing address of P.O. Box 475, Newman, California 95360.

2. Respondents, at all times material herein, were:

(a) Engaged in the business of a market agency selling livestock in commerce on a commission basis;

(b) Engaged in the business of a dealer buying and selling livestock in commerce for their own account; and

(c) Registered with the Secretary of Agriculture as a market agency selling livestock in commerce on a commission basis and as a dealer buying and selling livestock in commerce.

Conclusions

Respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order


Respondents Robert Trindade and Patricia Trindade, their agents and employees, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from:


1. Using funds received as proceeds due from the sale of livestock sold on a commission basis for purposes of their own or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors of livestock;
2. Failing to otherwise maintain their Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Failing to remit the net proceeds due from the sale of livestock on a commission basis;
4. Issuing checks in purported payment of the net proceeds for livestock sold on a commission basis without sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented.


In accordance with 7 U.S.C. § 204, the registration of Respondents Robert Trindade and Patricia Trindade is suspended for a period of five (5) years. *Provided*, however, that upon application of Respondents to Packers and Stockyards Program a supplemental order may be issued terminating the suspension of Respondent at any time after three (3) years, upon demonstration by Respondents of circumstances warranting the termination. Further, this order may be modified upon application to Packers and Stockyards Program to permit Respondents' salaried employment by a specified registrant or packer for so long as Respondents continue to comply with the plan of restitution outlined in the Understanding entered into by the parties.


The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.



Robert Trindade


Patricia Trindade


Richard C. Conway, Esq.
Attorney for Respondents


Charles L. Kendall
Attorney for Complainant

Issued this day of * '-7, 2012


Administrative Law Judge