

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Michelle L. Harnish, d.b.a.	)	
Wyalusing Livestock Market	)	P&S Docket No. D-19-J-0055
and Auction,	)	
	)	
Respondent	)	Consent Decision and Order

This proceeding was instituted under the Packers and Stockyards Act (P&S Act or Act), 7 U.S.C. §§ 181 *et seq.*, by a Complaint filed by the Acting Deputy Administrator, Fair Trade Practices Program, Agricultural Marketing Service, United States Department of Agriculture alleging that Respondent willfully violated the Act and the regulations promulgated thereunder (regulations at 9 C.F.R. §§ 201.1 *et seq.*). This Decision and Order is entered pursuant to the consent decision provision of the rules of practice applicable to this proceeding, 7 C.F.R. § 1.138.

Respondent admits the jurisdictional allegations in paragraph I of the Complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure; waives all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waives any

action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 *et seq.*) for fees and other expenses incurred by Respondent in connection with this proceeding or any action against any USDA employee in their individual capacity. The parties consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this Decision.

Findings of Fact

- (a) Respondent is an individual doing business as Wyalusing Livestock Market and Auction (Wyalusing), operating as a sole proprietor based in the state of Pennsylvania. At all times during the period of alleged violations, Respondent's office and principal place of business was 44312 Route 6, Wyalusing, Pennsylvania 18853. Subsequent to the violations alleged in this complaint, Respondent relocated to 30506 Rt. 187, Rome, Pennsylvania, 18837, which is also her mailing address.
- (b) Respondent is, and at all times material herein, was:
  - (1) Engaged in the business of a market agency, as that term is defined and used in the Act and the regulations promulgated thereunder; and
  - (2) Registered as a market agency selling consigned livestock in commerce on a commission basis.

### Conclusions

Respondent having admitted the jurisdictional facts, and the parties having agreed to the entry of this Consent Decision, this Consent Decision will be entered.

### Order

Respondent Michelle L. Harnish, d.b.a. Wyalusing Livestock Market and Auction, and her (and its) agents, employees, successors, and assigns, directly or indirectly or through any corporate or other device, in connection with Respondent's activities subject to the Packers and Stockyards Act, shall cease and desist from:

- (1) failing to properly use and maintain the market agency custodial account; and
- (2) operating while current liabilities exceeded its current assets.

Respondent's registration is suspended for a period of 14 days. However, that suspension is held in abeyance, provided that: 1) Respondent pays a civil penalty of \$6,000.00, to be paid in \$250.00 monthly installments until paid (Respondent shall send certified check(s) or money order(s), and reference on each the designation P&S Docket No. D-19-J-0055, made payable to the U.S. Treasury and mailed to USDA-AMS-FTPP-PSD, P.O. Box 979064, St. Louis, Missouri 63197-9000); and 2) Respondent completes periodic required reports, specifically the "*PSD 7001 Status of Custodial Bank Account for Shippers' Proceeds Special Report*" and the "*PSD 7002 Supplemental Balance Sheet Special Report*," signs them, and emails copies as a set to the Packers and Stockyards Division (PSD) Enforcement Branch at PSDWashingtonDC@usda.gov. Once this Consent Decision is final and effective, PSD will

notify Respondent of the dates on which reports shall be due. The Packers and Stockyards Division (PSD) will request the first set of reports within approximately 30 days from service of this Consent Decision. A detailed letter will be sent with instructions to Respondent regarding both reports immediately upon execution of this Consent. After receiving each set of reports, PSD will review them, and, if any issues are identified with Respondent's custodial account or Respondent's solvency, PSD will notify Respondent, in writing, that Respondent has 14 days to cure (with instructions for said cure). If Respondent fails to cure within the 14 days, Respondent's above stated 14 day suspension will begin 30 days after the 14 day cure deadline. If Respondent altogether fails to file a report when requested, this failure may be considered a violation of this agreement, triggering the stated 14 day suspension. Such failure may also be alternatively prosecuted under section 402 of the P&S Act (7 U.S.C. § 222) and the Federal Trade Commission Act (sections 6-10, 15 U.S.C. §§ 44-50) made applicable by section 402.

If Respondent complies with all of the above terms for a period of 24 months (the length of time to pay the \$6,000.00 civil penalty at \$250.00 per month), then Respondent's 14 day suspension will be permanently abated, and the case will be closed.

This Consent Decision and Order shall have the same force and effect as if entered after a full hearing. The provisions of this Order shall become final and effective upon on the sixth (6th) day after service of this Consent Decision and Order on Respondent.

Copies of this Decision shall be served upon the parties forthwith.

[Redacted]

Michelle Harnish  
For Respondent

CHRISTOPHER YOUNG  
Digitally signed by CHRISTOPHER YOUNG  
Date: 2021.01.15 13:19:39 -0500

Christopher Young  
Attorney for Complainant

1-6-21  
Date

\_\_\_\_\_  
Date

Done at Washington, D.C.

this 15 day of JAN, 2021

[Redacted]

Jill S. Clifton  
Administrative Law Judge