

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Petaluma Livestock Auction Yard, Inc.,)	P&S Docket No. 19-J-0129
)	
and)	
)	
Manuel A. Brazil)	P&S Docket No. 19-J-0130
)	
)	
Respondents)	Consent Decision and Order

REC'D - USDA/OALJ/HCO'
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This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (Act) by a Complaint filed by the Deputy Administrator, United States Department of Agriculture (USDA), Agricultural Marketing Service, Fair Trade Practices Program alleging that Respondents Petaluma Livestock Auction Yard, Inc., and Manuel A. Brazil willfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 et seq.) (Regulations). This Consent Decision and Order is entered pursuant to the consent decision provision of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.138).

Respondents Petaluma Livestock Auction Yard, Inc., and Manuel A. Brazil 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; waive all rights to seek judicial review and otherwise challenge or contest the validity of this Consent Decision, including waiving challenges to the Administrative Law Judge's authority to enter this Consent Decision and Order under the

Administrative Procedure Act and the Constitution of the United States, and waive 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 Respondents Petaluma Livestock Auction Yard, Inc., and Manuel A. Brazil in connection with this proceeding or any action against any USDA employee(s) 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 Consent Decision and Order.

Findings of Fact

1. Petaluma Livestock Auction Yard, Inc. (Respondent Petaluma) is a corporation organized under the laws of the State of California with its principal place of business located at 84 Corona Road, Petaluma, California 94952. Its mailing address is PO Box 750115, Petaluma, California 94975.
2. Respondent Petaluma, under the direction, management, and control of Respondent Manuel A. Brazil is, and at all times material to the Complaint was:
 - (a) Engaged in the business of, and operating as, a stockyard posted under and subject to the provisions of the Act;
 - (b) Engaged in the business of a market agency selling livestock in commerce on a commission basis;
 - (c) Engaged in the business of a dealer buying and selling livestock in commerce for its own account;
 - (d) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis, and registered as a dealer to buy and sell livestock in commerce for its own account;
 - (e) Owner of premises located at 130 N. Santa Fe Grade Road, Newman,

California 95360 consisting of, among other things, a slaughterhouse building, related holding areas, and pens;

(f) Engaged in the business of buying livestock in commerce for the purposes of slaughter;

(g) Engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce; and

(h) A packer within the meaning of and subject to the provisions of the Act.

3. Manuel A. Brazil (Respondent Brazil) is an individual whose business mailing address is (b) (6)

4. Respondent Brazil is, and at all times material to the Complaint was:

(a) Engaged in the business of conducting and operating Respondent Petaluma, a stockyard posted under and subject to the provisions of the Act;

(b) President of Respondent Petaluma;

(c) Secretary/Treasurer of Respondent Petaluma;

(d) Sole shareholder of Respondent Petaluma;

(e) Sole director of Respondent Petaluma;

(f) Agent for Service of Process for Respondent Petaluma;

(g) Responsible for the direction, management, and control of Respondent Petaluma;

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

- (i) A market agency within the meaning of and subject to the provisions of the Act;
- (j) Engaged in the business of a dealer buying and selling livestock in commerce for the account of others;
- (k) A dealer within the meaning of and subject to the provisions of the Act;
- (l) Engaged in the business of buying livestock in commerce for the purposes of slaughter;
- (m) Engaged in the business of marketing meats, meat food products, or livestock products in an unmanufactured form acting as a wholesale broker, dealer, or distributor in commerce; and
- (n) A packer within the meaning of and subject to the provisions of the Act.

Conclusions

Respondent Petaluma and Respondent Brazil, 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 Petaluma and Respondent Brazil, their agents, employees, successors and assigns, directly or indirectly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from:

1. Operating as both a market agency selling livestock in commerce on a commission basis and a packer;

2. Permitting any packer, or owner, officer, agent or employee of such packer, independently or in combination with others, to have an ownership interest in, finance, or participate in the management or operation of Respondent Petaluma as a market agency;
3. Permitting Respondent Petaluma as a market agency, or an owner, officer, agent or employee of Respondent Petaluma, independently or in combination with others, to have an ownership interest in, finance, or participate in the management or operation of any packer;
4. Failing to otherwise operate in compliance with section 201.67 of the Regulations (9 C.F.R. § 201.67);
5. Permitting Respondent Petaluma as a market agency to enter into any agreement, relationship or association with any packer, or any other buyer, which has a tendency to lessen the loyalty of Respondent Petaluma to its consignors or impair the quality of Respondent Petaluma's market agency selling services; and
6. Failing to otherwise operate in compliance with section 201.61 of the Regulations (9 C.F.R. § 201.61).

This Consent Decision and Order shall have the same force and effect as if entered after full hearing. The provisions of this Order shall become final upon issuance and effective 30 days after issuance.

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



Respondent,
Petaluma Livestock Auction Yard, Inc.

By Manuel A. Brazil

Title: PRESIDENT, V.P., ETC.



Manuel A. Brazil
Respondent



Gerard D. Eftink
Attorney for Respondents



Bruce Ramsey
Attorney for Respondents



Leah C. Battaglioli
Attorney for Complainant



Quynh H. Nguyen
Attorney for Complainant

Done at Washington, DC

this 28th day of September 2021

s/ Jill S Clifton (& see next page)

Jill S. Clifton
Administrative Law Judge



Respondent,
Petaluma Livestock Auction Yard, Inc.

By: Manuel A. Brazil

Title: PRESIDENT, V.P. ETC.



Manuel A. Brazil
Respondent



Gerard D. Eftink
Attorney for Respondents



Bruce Ramsey
Attorney for Respondents

Leah C. Battaglioli
Attorney for Complainant

Quynh H. Nguyen
Attorney for Complainant

Done at Washington, DC

this 28th day of September 2021



Jill S. Clifton

Digitally signed by JILL
CLIFTON

Date: 2021.09.28 13:04:58
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Jill S. Clifton
Administrative Law Judge