

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

J. Link
Alan C.

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In re:) P. & S. Docket No. D-03-0004
)
Marie Stagno, d/b/a Stockton)
Livestock Auction Yards)
) Decision Without Hearing by Reason of
Respondent) Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.), hereinafter the "Act," by an Amended Complaint filed by the Deputy Administrator, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that Respondent has willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary Under Various Statutes (Rules of Practice) applicable to this proceeding (7 C.F.R. § 1.138).

Respondent admits the jurisdictional allegations in paragraph I of the Amended 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, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

Complainant agrees to the entry of this decision.

Findings of Fact

1. Marie Stagno, referred to herein as "Respondent," is an individual formerly doing business as Stockton Livestock Auction Yards. Respondent's business mailing address is P.O.

CC: Brett

Box 178, French Camp, California 95231-0178.

2. At all times material to this Complaint, Respondent was:

(1) Engaged in the business of operating Stockton Livestock Auction Yards, a posted stockyard subject to the provisions of the Act; and

(2) Engaged in the business of a market agency selling livestock on a commission basis.

(3) Registered with the Secretary of Agriculture as a market agency to sell livestock on a commission basis.

Conclusions

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

Order

Respondent, Marie Stagno, her agents and employees, directly or through any corporate or other device, in connection with its activities subject to the Act, shall cease and desist from:

1. Failing to properly maintain a Custodial Account For Shippers Proceeds, as required by Section 201.42 of the regulations (9 C.F.R. § 201.42), while operating as a market agency selling livestock on a commission basis;
2. Failing to remit the full amount of net proceeds due from the sale of livestock within the time period required by Section 201.43 of the regulations (9 C.F.R. § 201.43), in connection with operations as a market agency selling livestock on a commission basis;
3. Issuing checks for which there are insufficient funds on deposit and available in the account upon which the checks are drawn to pay the checks when presented; and

4. Misusing a custodial account for shippers proceeds by withdrawing funds for a purpose other than (1) for payment of the net proceeds to the consignor or shipper, or to any person that the market agency knows is entitled to payment, (2) to pay lawful charges against the consignment of livestock which the market agency shall, in its capacity as agent, be required to pay, or (3) to obtain any sums due the market agency as compensation for its services.

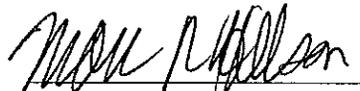
Respondent, Marie Stagno, is hereby suspended as a registrant under the Act for a period of 30 days.

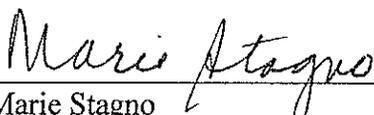
The provisions of this Order shall become effective on the sixth (6th) day after service upon Respondent.

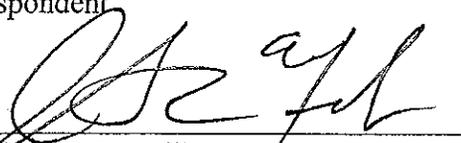
Copies of this Decision and Order shall be served upon the parties.

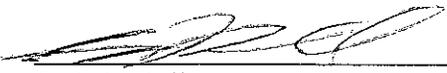
Issued in Washington, D.C.

this 2nd day of October, 2008.


Administrative Law Judge


Marie Stagno
Respondent


Andrew S. Mendlin
Attorney for Respondent


Gary F. Ball
Attorney for Complainant