

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

OFFICE OF THE SECRETARY  
DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250  
12-10-30

In re: )  
          ) P&S Docket No. 12- 0598  
          )  
New Holland Sales Stables, Inc., )  
          )  
and )  
          )  
Frank A. Fillippo, Inc. )  
          )  
          ) Respondents ) Complaint

There is reason to believe that the respondents named herein have willfully violated the Packers & Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*) and, therefore, this complaint is issued alleging the following:

I.

- (a) New Holland Sales Stables, Inc., referred to herein as Respondent New Holland, is a corporation organized under the laws of Pennsylvania. Respondent New Holland's mailing address is 101 W. Fulton Street, New Holland, PA 17557.
- (b) Respondent New Holland is, and at all times material herein was:
  - (1) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
  - (2) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis and as a livestock dealer to buy and sell livestock in commerce.

(c) Frank A. Fillippo, Inc., referred to herein as Respondent Fillippo, is a corporation organized under the laws of Pennsylvania. Respondent Fillippo's mailing address is 2667 Egypt Road, Norristown, PA 19401.

(d) Respondent Fillippo is, and at all times material herein was:

(1) Engaged in the business of buying and selling livestock in commerce as a dealer.

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

## II.

(a) On multiple occasions, involving approximately 777 head of livestock, between January 7, 2010 and April 1, 2010, Respondent New Holland purchased livestock at New Holland Sales Stables auction and failed to provide the buyers, on whose behalf Respondent New Holland was procuring the livestock, with a true or accurate written account of the purchases. Specifically, in each of these transactions, Respondent New Holland manipulated the price of livestock that it purchased for its customers by creating false auction market invoices. In total during this time period, Respondent New Holland delivered approximately 109 false auction market invoices to approximately 21 different buyers.

(b) Respondent New Holland recorded the purchases in the ring on invoices made out to Respondent Fillippo, paid its consignors based on the prices recorded on those invoices, subsequently recorded the transactions as re-sales by Respondent Fillippo, and marked up the prices in the process. These purported purchases and re-sales by Respondent Fillippo were false. Respondent New Holland then issued false invoices to the buyers, reflecting the marked-up prices. Respondent New Holland retained the difference between the amount remitted to the consignors and the marked-up prices charged to the buyers. The total amount retained by

Respondent New Holland as a result of its marking up the prices during this time period was approximately \$15,345. Respondent Fillippo received approximately \$50.00 per week from Respondent New Holland for the use of Respondent Fillippo's invoices to mark up the prices. By utilizing false invoices to mark up livestock prices, Respondents New Holland and Fillippo engaged in unfair, unjustly discriminatory, or deceptive practices in connection with receiving, marketing, buying, or selling on a commission basis or otherwise livestock.

### III.

By reason of the facts alleged in paragraph II herein, respondents willfully violated sections 312(a) of the Act (7 U.S.C. § 213(a)) and section 201.44 of the regulations (9 C.F.R. § 201.44).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and regulations issued thereunder, this complaint shall be served upon the respondents. The respondents shall have twenty (20) days following receipt of this complaint to file an answer with the Hearing Clerk, Room 1031 - South Building, United States Department of Agriculture, 1400 Independence Ave., S.W., Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing the 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 will constitute an admission of all the material allegations in this complaint and a waiver of hearing.

The Grain Inspection, Packers and Stockyards Administration requests:

(1) That unless the respondents fail to file an answer within the time allowed, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice; and

(2) That an order be issued requiring the respondents to cease and desist from the violations of the Act and the regulations found to exist, suspending respondents as registrants under the Act for a specified period of time, and assessing civil penalties against the respondents, jointly and severally, in accordance with the Act and as warranted by the facts and circumstances of this case.

Done at Washington, D.C.

this 24 day of August, 2012



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