

USDA
C. D. H. C.

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) P. & S. Docket No. D-10- 0297
)
Robert Trindade and)
Patricia Trindade,)
d/b/a Newman Livestock Auction,)
)
Respondents) Complaint

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

I

(a) 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.

(b) Respondents, at all times material herein, were:

- (1) Engaged in the business of a market agency selling livestock in commerce on a commission basis;
- (2) Engaged in the business of a dealer buying and selling livestock in commerce for their own account; and
- (3) 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.

II

Respondents, during the period of September 30, 2008, through December 31, 2008, failed to maintain their Custodial Account for Shippers' Proceeds (hereinafter "custodial account"), thereby endangering the faithful and prompt accounting therefor and the payment of portions thereof due the owners and consignors of livestock, in that:

(a) As of September 30, 2008, Respondents had outstanding checks drawn on the custodial account in the amount of \$798,611.39, and had to offset such checks a balance in the custodial account of \$38,494.16 and proceeds receivable in the amount of \$134,213.96, resulting in a shortage of \$625,903.27 in funds available to pay shippers their net proceeds;

(b) As of November 30, 2008, Respondents had outstanding checks drawn on the custodial account in the amount of \$820,621.37; Respondents had to offset such checks a balance in the custodial account of \$30,861.21, deposits in transit in the amount of \$81,207.51, and proceeds receivable in the amount of \$88,236.58, resulting in a shortage of \$620,316.07 in funds available to pay shippers their net proceeds;

(c) As of December 31, 2008, Respondents had outstanding checks drawn on the custodial account in the amount of \$722,487.31, and had to offset such checks a negative balance in the custodial account of (-\$1,760.36) and proceeds receivable in the amount of \$83,523.30, resulting in a shortage of \$640,724.37 in funds available to pay shippers their net proceeds.

III

Respondents engaged in unfair and deceptive practices by misusing their custodial account, in that:

(a) Respondents, during the period of September 2, 2008, through September 26, 2008, permitted County Bank to deduct bank charges for a total of \$995.00 from the custodial account, and failed to reimburse the custodial account for any such bank charges;

(b) Respondents, during the period of October 2, 2008, through October 31, 2008, permitted County Bank to deduct bank charges for a total of \$2,695.00 from the custodial account, and failed to reimburse the custodial account for any such bank charges;

(c) Respondents, during the period of November 5, 2008, through November 26, 2008, permitted County Bank to deduct bank charges for a total of \$2,105.00 from the custodial account, and failed to reimburse the custodial account for any such bank charges;

(d) Respondents, on or about September 24, 2008, misused custodial funds by transferring \$25,000.00 from the custodial account to the general account, not for the payment of proceeds to consignors or shippers, to pay lawful required charges, or to obtain sums due the market.

(e) Respondents, on or about October 20, 2008, misused custodial funds by transferring \$30,000.00 from the custodial account to the general account, not for the payment of proceeds to consignors or shippers, to pay lawful required charges, or to obtain sums due the market.

IV

(a) Respondent, on or about the dates and in the transactions set forth below, sold livestock on a commission basis and in purported payment of the net proceeds thereof issued checks to consignors or shippers of such livestock which were returned unpaid by the bank because Respondent did not have and maintain sufficient funds on deposit and available in the account upon which such checks were drawn to pay such checks when presented.

Sale Date	Consignor	No. of Head	Check Number	Amount of Check
11/18/08	Natall Melo	24	15795	\$6,590.18
10/21/08	Veldhuis North	7	15392	\$4,697.21
10/23/08	OLF Tracy	85	15452	\$24,112.89
10/28/08	Veldhuis North	7	15498	\$4,563.33
10/30/08	Gallo Cattle Co.	61	15541	\$29,778.11
11/13/08	P H Ranch	111	15764	\$65,063.66
12/02/08	Joe Jordao	8	15972	\$2,756.35
12/02/08	David Vaz Dairy	8	15997	\$4,310.86
12/09/08	T & M Borba Dairy	18	16067	\$9,196.69
12/11/08	Bettencourt and Marson Dairy	18	16114	\$14,554.98
12/11/08	Prison Industry Authority	20	16143	\$3,173.44
12/16/08	Prison Industry Authority	1	16179	\$413.86
12/16/08	Prison Industry Authority	18	16181	\$104.87
12/18/08	Emanuel B. Silva	7	16209	\$4,750.44
Totals		393		\$174,066.87

(b) Respondents, on or about the dates and in the transactions set forth in Appendix A attached hereto, failed to remit the net proceeds due from the sale of livestock on a commission basis to 89 consignors for 168 consignments, in the total amount of \$492,454.54.

V

By reason of the facts alleged in paragraphs II and III herein, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and section 201.42 of the regulations (9 C.F.R. § 201.42).

By reason of the facts alleged in paragraph IV herein, Respondents willfully violated sections 307 and 312(a) of the Act (7 U.S.C. §§ 208, 213(a)) and section 201.43 of the regulations (9 C.F.R. § 201.43).

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondents have in fact willfully violated the Act and the regulations thereunder, this complaint will be served upon Respondents. Respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 *et seq.*). Failure to file an answer will constitute an admission of all the material allegations of this complaint.

Packers and Stockyards Program, GIPSA, requests:

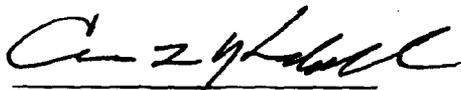
1. That unless Respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in accordance with the Rules of Practice governing proceedings under the Act; and
2. That such order or orders be issued, including an order requiring Respondents to cease and desist from the violations found to exist, suspending Respondents' registration under the Act, and assessing such civil penalties as are authorized by the Act and warranted in the premises.

Done at Washington, D.C.

this 11 day of May, 2010



Alan R. Christian
Deputy Administrator
Packers and Stockyards Program



Charles L. Kendall
Attorney for Complainant
Telephone: (202) 720-9405

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
10/17/2006	Albert Mendes Dairy	20	\$16,462.96	10/18/2006	\$15,741.56
11/7/2006	Albert Mendes Dairy	12	\$7,889.41	11/8/2006	\$7,537.30
11/30/2006	Albert Mendes Dairy	7	\$3,104.36	12/1/2006	\$2,959.77
12/5/2006	Albert Mendes Dairy	10	\$4,709.66	12/6/2006	\$4,491.93
2/20/2007	Albert Mendes Dairy	22	\$13,446.95	2/21/2007	\$12,831.52
4/26/2007	Albert Mendes Dairy	7	\$4,389.27	4/27/2007	\$3,136.51
5/17/2007	Albert Mendes Dairy	12	\$7,113.19	5/18/2007	\$6,702.59
8/2/2007	Albert Mendes Dairy	7	\$2,964.78	8/3/2007	\$2,813.05
8/2/2007	Acoreano Sport Club	1	\$684.00	8/3/2007	\$100.00
8/2/2007	Jose Silveira	6	\$4,390.99	8/3/2007	\$3,694.41
8/14/2007	Albert Mendes Dairy	2	\$1,294.85	8/15/2007	\$1,236.17
8/14/2007	Albert Mendes Dairy	49	\$13,601.45	8/15/2007	\$12,899.57
10/11/2007	Albert Mendes Dairy	22	\$10,833.00	10/12/2007	\$10,148.35
10/23/2007	Joseph Borba	4	\$1,874.75	10/24/2007	\$1,786.44
10/30/2007	Hilmar Holy Rosary	1	\$363.75	10/31/2007	\$345.93
11/6/2007	Joseph Borba	2	\$1,253.50	11/7/2007	\$1,196.51
12/20/2007	Joseph Borba	2	\$1,214.45	12/21/2007	\$1,158.57
1/17/2008	Carlos Estacio	1	\$169.85	1/18/2008	\$146.70
1/17/2008	Albert Mendes Dairy	19	\$11,023.69	1/18/2008	\$10,510.31
1/22/2008	Jose Silveira	4	\$1,534.54	1/23/2008	\$1,459.74
2/5/2008	David Alves	2	\$818.50	2/6/2008	\$660.73
2/28/2008	Albert Mendes Dairy	12	\$7,171.51	2/29/2008	\$6,843.74
3/6/2008	Dave Nervino	1	\$292.50	3/7/2008	\$277.57
3/13/2008	Albert Mendes Dairy	22	\$11,000.73	3/14/2008	\$10,486.95
3/13/2008	Manuel Morris	2	\$717.00	3/14/2008	\$661.79
3/20/2008	Albert Mendes Dairy	4	\$950.60	3/21/2008	\$898.37
4/17/2008	Petaluma	1	\$336.30	4/18/2008	\$319.60
4/22/2008	L.B. Des	6	\$3,998.67	4/23/2008	\$600.00
5/6/2008	Jose Silveira	7	\$3,928.15	5/7/2008	\$3,747.31
5/8/2008	Albert Mendes Dairy	20	\$9,849.34	5/9/2008	\$9,372.81
6/5/2008	Calif. Clover Leaf	3	\$910.58	6/6/2008	\$817.48
6/10/2008	Albert Mendes Dairy	27	\$16,557.59	6/11/2008	\$557.59

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
6/17/2008	Patterson FDES	1	\$730.40	6/18/2008	\$697.69
7/3/2008	Albert Mendes Dairy	29	\$25,842.33	7/7/2008	\$24,608.68
7/3/2008	Oakland Festa	1	\$144.90	7/7/2008	\$118.76
7/10/2008	Bill Massa	1	\$926.50	7/11/2008	\$885.83
7/10/2008	L. B. Festa	1	\$301.67	7/11/2008	\$301.67
8/5/2008	Taylor Jordao	3	\$2,918.50	8/6/2008	\$2,790.86
9/2/2008	Manuel Bento	2	\$728.10	9/3/2008	\$691.41
9/2/2008	Jeff Perry	1	\$620.78	9/3/2008	\$592.53
9/2/2008	Rose Mary Woida	1	\$995.50	9/3/2008	\$952.03
9/4/2008	Manuel R Tetreira	4	\$1,899.86	9/5/2008	\$1,751.19
9/4/2008	Joe Barcellos	1	\$645.29	9/5/2008	\$366.04
9/23/2008	Stevensen Pentecost	1	\$476.70	9/24/2008	\$454.29
9/23/2008	Tiberio Reis	18	\$13,746.10	9/24/2008	\$12,823.08
9/30/2008	Rose Mary Woida	4	\$2,778.26	10/1/2008	\$1,320.63
10/7/2008	Rose Mary Woida	2	\$1,513.95	10/8/2008	\$723.19
10/7/2008	Joe B Lopes Dairy	5	\$2,616.38	10/8/2008	\$2,424.59
10/21/2008	RMRC Dairy	1	\$560.50	10/22/2008	\$534.69
10/21/2008	Dairy Central	9	\$2,506.75	10/22/2008	\$2,277.78
10/21/2008	Tony L Lopes Dairy, LP	9	\$4,088.53	10/22/2008	\$3,894.11
10/23/2008	Albert Mendes Dairy	2	\$288.30	10/24/2008	\$262.03
10/23/2008	Kay Mesman	5	\$3,819.92	10/24/2008	\$3,640.24
10/30/2008	Dustin Kuykendall	1	\$750.00	10/31/2008	\$677.75
11/6/2008	Jose A. Areias	2	\$998.33	11/7/2008	\$921.69
11/6/2008	Albert Mendes Dairy	1	\$793.80	11/7/2008	\$758.52
11/6/2008	Kay Mesman	1	\$815.45	11/7/2008	\$779.29
11/6/2008	OLF - Tracy	1	\$300.00	11/7/2008	\$300.00
11/11/2008	Phil V. Fanelli	7	\$2,387.48	11/12/2008	\$2,264.04
11/11/2008	Festa DO Agricultors	8	\$859.75	11/12/2008	\$754.83
11/18/2008	Eleanor Brindeiro	1	\$10.00	11/19/2008	\$1.94
11/18/2008	Tony Marcelino	4	\$1,329.43	11/19/2008	\$1,214.60
11/18/2008	Joe Meirinho and Son Dairy	5	\$4,185.69	11/19/2008	\$4,000.49
11/20/2008	Kay Mesman	2	\$752.03	11/21/2008	\$691.39

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
11/20/2008	Delbert Rocha	3	\$1,033.60	11/21/2008	\$982.49
11/20/2008	Heduno Silveira	4	\$2,753.77	11/21/2008	\$2,573.77
11/20/2008	Joseph Borba	6	\$3,848.97	11/21/2008	\$3,674.39
11/25/2008	Luis C. Nues & Sons Dairy	1	\$58.00	11/26/2008	\$44.92
11/25/2008	Everett Vaz	7	\$3,566.18	11/26/2008	\$3,400.04
12/2/2008	Eleanor Brindeiro	2	\$45.00	12/3/2008	\$28.87
12/2/2008	Phil V. Fanelli	7	\$1,263.63	12/3/2008	\$1,167.55
12/2/2008	John Morris	1	\$867.10	12/3/2008	\$828.85
12/2/2008	Tony Marcelino	3	\$2,168.75	12/3/2008	\$2,041.54
12/2/2008	Kay Mesman	3	\$1,562.08	12/3/2008	\$1,489.51
12/2/2008	John Morris	2	\$1,852.05	12/3/2008	\$1,770.75
12/2/2008	Heduno Silveira	5	\$2,709.79	12/3/2008	\$2,484.53
12/2/2008	Praia Holsteins	2	\$784.00	12/5/2008	\$590.39
12/4/2008	Tony L Lopes Dairy, LP	6	\$3,631.07	12/5/2008	\$3,465.34
12/4/2008	Prison Industry Authority	12	\$4,953.94	12/5/2008	\$4,486.47
12/4/2008	R V Dairy	44	\$25,107.63	12/5/2008	\$23,686.38
12/4/2008	James Vieira	2	\$775.60	12/5/2008	\$738.02
12/9/2008	Germano Soares	11	\$5,826.09	12/10/2008	\$5,556.00
12/9/2008	John Borba Dairy Farms	9	\$3,403.07	12/10/2008	\$3,180.87
12/9/2008	Manuel Morris	6	\$2,012.84	12/10/2008	\$1,911.15
12/9/2008	Silva Brothers	6	\$2,883.31	12/10/2008	\$2,729.93
12/9/2008	Luis and Frances Sousa	2	\$841.50	12/10/2008	\$777.24
12/9/2008	Joseph Borba	1	\$564.40	12/10/2008	\$538.43
12/11/2008	Alvarino Azevedo	9	\$3,319.30	12/12/2008	\$3,157.09
12/11/2008	John Borba Dairy Farms	10	\$4,781.64	12/12/2008	\$4,474.36
12/11/2008	A & M De Sousa Dairy	3	\$1,818.13	12/12/2008	\$1,735.16
12/11/2008	Tony L Lopes Dairy, LP	7	\$3,266.32	12/12/2008	\$3,100.06
12/11/2008	Germano Soares	8	\$3,113.30	12/12/2008	\$2,950.11
12/11/2008	Luis and Frances Sousa	2	\$666.80	12/12/2008	\$608.11
12/11/2008	Val Martins	10	\$6,968.13	12/12/2008	\$6,564.74
12/16/2008	Joe Soares	11	\$8,110.24	12/17/2008	\$7,747.38
12/16/2008	George Souza	1	\$1,100.00	12/17/2008	\$1,046.79

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
12/16/2008	Brasil and Machado Dairy	24	\$1,057.55	12/17/2008	\$623.72
12/16/2008	A & M De Sousa Dairy	2	\$1,298.24	12/17/2008	\$1,239.43
12/16/2008	Joe Jordao	3	\$1,209.80	12/17/2008	\$1,148.23
12/16/2008	Anthony Lopes, Jr. Dairy	2	\$745.56	12/17/2008	\$709.18
12/16/2008	Tony L Lopes Dairy	16	\$7,745.96	12/17/2008	\$7,370.19
12/16/2008	Tony Marcelino	2	\$865.33	12/17/2008	\$804.09
12/16/2008	Joe Meirinho and Son Dairy	7	\$2,950.73	12/17/2008	\$2,807.96
12/16/2008	Jeff Perry	3	\$1,069.20	12/17/2008	\$1,016.64
12/16/2008	Praia Holsteins	1	\$387.20	12/17/2008	\$368.43
12/16/2008	Anselmo Sousa	3	\$1,402.05	12/17/2008	\$1,296.98
12/16/2008	Luis Sousa	1	\$1,026.75	12/17/2008	\$970.01
12/16/2008	Mark Vieira	4	\$1,342.68	12/17/2008	\$1,269.32
12/16/2008	Anthony Vierra Dairy	1	\$312.00	12/17/2008	\$296.28
12/16/2008	Tony L Lopes Dairy	9	\$6,144.18	12/17/2008	\$5,867.28
12/18/2008	John Borba Dairy Farms	3	\$1,283.10	12/19/2008	\$1,221.86
12/18/2008	A & M De Sousa Dairy	2	\$1,112.63	12/19/2008	\$1,061.34
12/18/2008	Tony L Lopes Dairy	3	\$1,316.71	12/19/2008	\$1,254.09
12/18/2008	Bernadino Gonzalez	1	\$625.69	12/19/2008	\$585.23
12/18/2008	Val Martins	7	\$5,348.81	12/19/2008	\$5,110.31
12/18/2008	Kay Mesman	1	\$782.33	12/19/2008	\$747.52
12/18/2008	Silva Dairy Farms	6	\$3,457.35	12/19/2008	\$3,298.67
12/18/2008	Germano Soares	8	\$5,175.06	12/19/2008	\$4,940.55
12/18/2008	Joe Soares	7	\$3,854.39	12/19/2008	\$3,676.55
12/18/2008	Luis and Frances Sousa	2	\$623.78	12/19/2008	\$567.43
12/23/2008	Jose M Jorge Dairy	9	\$4,713.26	12/24/2008	\$4,494.45
12/23/2008	Joey Jorge	1	\$525.25	12/24/2008	\$500.87
12/23/2008	A.A.A Dairy	1	\$451.20	12/24/2008	\$429.83
12/23/2008	Luis Agueda	5	\$2,005.08	12/24/2008	\$1,843.43
12/23/2008	Bettencourt & Marson Dairy	8	\$3,567.63	12/24/2008	\$3,268.39
12/23/2008	Cesar Rocha	7	\$2,871.03	12/24/2008	\$668.69
12/23/2008	Don Sousa Machado	1	\$616.05	12/24/2008	\$587.99
12/23/2008	A & M De Sousa Dairy	4	\$1,624.98	12/24/2008	\$1,546.79

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
12/23/2008	Rafael Dores	1	\$630.80	12/24/2008	\$602.14
12/23/2008	Anthony Lopes, Jr. Dairy	2	\$722.05	12/24/2008	\$684.99
12/23/2008	Tony L Lopes Dairy	12	\$6,113.06	12/24/2008	\$5,823.48
12/23/2008	Manuel or Mary Mendes	5	\$2,787.89	12/24/2008	\$2,659.45
12/23/2008	Tony Morris	9	\$5,519.50	12/24/2008	\$5,148.95
12/23/2008	Fernando Oliveira	1	\$649.19	12/24/2008	\$619.78
12/23/2008	Carl Perry	8	\$3,349.71	12/24/2008	\$3,189.30
12/23/2008	Jeff Perry	1	\$584.10	12/24/2008	\$557.34
12/23/2008	Luis and Frances Sousa	2	\$710.58	12/24/2008	\$651.35
12/23/2008	Velduis South	15	\$8,554.31	12/24/2008	\$8,065.25
12/23/2008	Anselmo Sousa	3	\$894.40	12/24/2008	\$805.35
12/30/2008	Luis Agueda	4	\$1,115.95	12/31/2008	\$1,000.92
12/30/2008	Azevedo Dairy, Inc.	5	\$1,175.39	12/31/2008	\$1,098.81
12/30/2008	John Borba Dairy Farms	21	\$9,652.99	12/31/2008	\$9,015.98
12/30/2008	Eleanor Brindeiro	6	\$125.00	12/31/2008	\$76.61
12/30/2008	Alma Casey	4	\$2,174.58	12/31/2008	\$2,014.09
12/30/2008	Francisco H Coelho	6	\$3,077.73	12/31/2008	\$2,934.47
12/30/2008	Manuel Costa	7	\$4,386.71	12/31/2008	\$4,187.26
12/30/2008	A & M De Sousa Dairy	9	\$5,365.52	12/31/2008	\$5,115.36
12/30/2008	Rafael Dores	1	\$471.00	12/31/2008	\$448.83
12/30/2008	Prison Industry Authority	7	\$165.00	12/31/2008	\$68.53
12/30/2008	Prison Industry Authority	2	\$1,219.25	12/31/2008	\$1,143.65
12/30/2008	Phil V. Fanelli	11	\$2,529.09	12/31/2008	\$2,368.34
12/30/2008	Island Dairy, Inc.	2	\$423.75	12/31/2008	\$363.26
12/30/2008	Joe Jordao	7	\$3,843.40	12/31/2008	\$3,666.00
12/30/2008	Joey Jorge	3	\$1,357.90	12/31/2008	\$1,293.62
12/30/2008	Anthony Lopes, Jr. Dairy	2	\$858.60	12/31/2008	\$817.65
12/30/2008	Tony L Lopes Dairy	35	\$11,557.99	12/31/2008	\$10,889.78
12/30/2008	Val Martins	4	\$3,834.15	12/31/2008	\$3,666.27
12/30/2008	Kay Mesman	2	\$1,529.53	12/31/2008	\$1,461.34
12/30/2008	Manuel Morris	18	\$9,417.11	12/31/2008	\$8,923.21
12/30/2008	Luis Oliveira Dairy	5	\$2,050.40	12/31/2008	\$1,951.90

Appendix A

Sale Date	Seller's Name	Number of Head	Livestock Amount	Due Date	Amount Due and Unpaid
12/30/2008	P H Ranch	4	\$938.55	12/31/2008	\$877.64
12/30/2008	Agnelo Rocha	4	\$1,930.30	12/31/2008	\$1,839.74
12/30/2008	Joe Soares	7	\$2,252.48	12/31/2008	\$2,125.99
12/30/2008	Maximino Silverira	9	\$4,805.54	12/31/2008	\$4,574.05
12/30/2008	Germano Soares	26	\$15,626.32	12/31/2008	\$14,825.69
12/30/2008	Luis and Frances Sousa	2	\$680.43	12/31/2008	\$594.24
12/30/2008	Stevinson Corp	7	\$3,363.78	12/31/2008	\$3,149.85
12/30/2008	Vieira Livestock	3	\$1,483.80	12/31/2008	\$1,414.39
	Totals	1093	\$547,277.67		\$492,454.54