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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) P. & S. Docket No. D-06-0001
)
)
Gulf Coast Livestock Commission Co.,)
Inc., and Victor J. Garcia,)
) Decision Without Hearing by Reason of
Respondents) Consent

This proceeding was instituted under the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 et seq.) (hereinafter referred to as the "Act"), by a complaint filed by the Deputy Administrator, Packers and Stockyards Programs, Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, alleging that Respondents willfully violated the Act and the regulations promulgated thereunder. 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 applicable to this proceeding (7 C.F.R. § 1.138).

Respondents 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, and consent and agree, 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. Gulf Coast Livestock Commission Co., Inc. (hereinafter, "the corporate Respondent"), is a corporation whose business mailing address is P.O. Box 1351, Angleton,

Texas 77516. The registered agent of the corporate Respondent is M. Robert Garcia, Attorney at Law, whose address is 405 Main #810, Houston, Texas 77002.

2. The corporate Respondent was at all times material herein:

(a) Engaged in the business of a market agency, selling livestock on a commission basis, and as a dealer, buying and selling livestock for its own account; and

(b) Not registered with the Secretary of Agriculture.

3. Victor J. Garcia (hereinafter, "the individual Respondent), is an individual whose address is 11767 Katy Freeway, Suite 1150, Houston, Texas 77079.

4. The individual Respondent was at all times material herein:

(a) President of the corporate Respondent;

(b) Responsible for the direction, management and control of the corporate Respondent, including the acts and practices alleged herein; and

(c) Engaged in the business of a dealer, buying and selling livestock for his own account.

Conclusions

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

Order

Respondents Gulf Coast Livestock Commission Co., Inc., and Victor J. Garcia, their agents and employees, directly or through any corporate or other device, in connection with their activities subject to the Act, shall cease and desist from:

1. Engaging in the business of a market agency, selling livestock on a commission basis, and as a dealer, buying and selling livestock for the corporate Respondent's own account or for the accounts of others, without proper registration and bonding;

2. Selling livestock on a commission basis and in purported payment to the consignors for such livestock, issuing checks which were returned unpaid by the bank upon which they were drawn because the corporate 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;

3. Failing to remit the full amount of the net proceeds for livestock, within the time period required by the Act and by section 201.43 of the regulations (9 C.F.R. § 201.43);

4. Buying livestock on a dealer basis and in purported payment to the sellers of such livestock, issuing checks which were returned unpaid by the bank upon which they were drawn because the corporate 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; and

5. Failing to pay the full amount of the purchase price for livestock, within the time period required by the Act;

The corporate Respondent and the individual Respondent will not be registered under the Act for a period of five (5) years. Pursuant to section 303 of the Act (7 U.S.C. § 203), no person may operate as a market agency or dealer subject to the Act without first being registered in the manner prescribed by the Secretary. Provided, however, that upon application to Packers and Stockyards Programs, a supplemental order may be issued permitting Respondents to be

registered under the Act at any time after 150 days, upon demonstration that all livestock consignors, sellers or shippers identified in the complaint have been paid in full.


The individual Respondent may not be employed by a dealer, market agency or packer subject to the Act, for a period of 150 days.


The provisions of this order shall become effective on the sixth day after service of this order on Respondents.


Copies of this decision shall be served upon the parties.

Issued this 20th day of

December, 2005.


Administrative Law Judge


Victor J. Garcia, President
for Gulf Coast Livestock Commission Co., Inc.


Victor J. Garcia
Respondents


Andrew Y. Stanton
Attorney for Complainant