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TRADE PRACTICES DIVISION

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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) P & S Docket No. D-11-0399  
 )  
 Haskell Livestock Auction Company, Inc., )  
 Bryan D. Rainey, aka B.D. Rainey, and )  
 Kathrene Francine Rainey, aka )  
 Francine Rainey, )  
 Respondents )

**DECISION WITHOUT HEARING BY REASON OF CONSENT AS TO KATHRENE  
 FRANCINE RAINEY, AKA FRANCINE RAINEY**

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, Packers and Stockyards Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that the Respondents willfully violated the Act and the regulations promulgated thereunder (9 C.F.R. § 201.1 *et seq.*) (Regulations). This consent decision as to Respondent Kathrene Francine Rainey, aka Francine Rainey, 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) (Rules of Practice).

Respondent Kathrene Francine Rainey, aka Francine Rainey, admits the jurisdictional allegations in paragraph I of the 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 consent decision.

Complainant agrees to the entry of this consent decision.

Findings of Fact

1. Haskell Livestock Auction Company, Inc. (Respondent Haskell), was a corporation organized and existing under the laws of the State of Texas. Respondent Haskell was involuntarily dissolved on April 1, 2009. Respondent Haskell's current mailing addresses are c/o Bryan D. Rainey and c/o Kathrene Francine Rainey, both in the State of Texas. The addresses will not be stated in this consent decision to protect the privacy of Mr. and Ms. Rainey. The address of Mr. Rainey was already provided to the Hearing Clerk's Office, United States Department of Agriculture, for the purposes of service. Complainant will have this consent decision served on Ms. Rainey and provide documentation of service to the Hearing Clerk's Office.

2. Respondent Haskell, at all times material to the Complaint, was:

- (a) Engaged in the business of a market agency selling livestock in commerce on a commission basis; and
- (b) Registered with the Secretary of Agriculture as a market agency to sell livestock in commerce on a commission basis.

3. Bryan D. Rainey, aka B.D. Rainey (Respondent B.D. Rainey), is an individual whose current mailing address was provided to the Hearing Clerk as provided in Finding of Fact 1 above.

4. Respondent B.D. Rainey, at all times material to the Complaint, was:

- (a) Engaged in the business of buying and selling livestock in commerce as a dealer for his own account or for the account of others;
- (b) Not registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce for his own account or for the account of others;

NOV-01-2011 09:56

TRADE PRACTICES DIVISION

202 690 1539 P.004

- (c) Operating as a dealer within the jurisdiction of the Act;
- (d) President and treasurer of Respondent Haskell;
- (e) General manager of Respondent Haskell;
- (f) Director of Respondent Haskell;
- (g) Fifty-one percent owner of Respondent Haskell; and
- (h) Responsible for the direction, management, and control of Respondent Haskell.

5. Kathrene Francine Rainey, aka Francine Rainey (Respondent F. Rainey), is an individual whose current mailing is in the State of Texas. Complainant will have this consent decision served upon Ms. Rainey as provided in Finding of Fact 1 above.

6. Respondent F. Rainey, at all times material to the Complaint, was:
- (a) Vice-president and secretary of Respondent Haskell;
  - (b) Forty-nine percent owner of Respondent Haskell; and
  - (c) Responsible for the direction, management, and control of Respondent Haskell.

7. Respondent B.D. Rainey and Respondent F. Rainey are the alter egos of Respondent Haskell.

#### Conclusion

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

#### Order

Respondent F. Rainey, her agents and employees, directly or through any corporate or other device, in connection with her operations subject to the Act, shall cease and desist from:

1. Failing to properly maintain the Custodial Account for Shippers' Proceeds in strict conformity with the Act and section 201.42 of the Regulations (9 C.F.R. § 201.42);
2. Using funds received from the sale of consigned livestock for any purpose other than payment to consignors of the amount due from the sale of their livestock and the payment of lawful marketing charges, including, but not limited to:
  - (a) the payment of Respondent B.D. Rainey's individual dealer purchases;
  - and
  - (b) the payment of bank charges;
3. Issuing custodial account checks without having sufficient funds on deposit and available in the Custodial Account for Shippers' Proceeds upon which the checks are drawn to pay the checks when presented for payment;
4. Failing to remit the proceeds of livestock sales in strict conformity with section 201.43 of the Regulations (9 C.F.R. § 201.43);
5. Failing to remit, when due, the proceeds of livestock sales in strict conformity with section 201.43 of the Regulations (9 C.F.R. § 201.43); and
6. Falsifying records in any form including, but not limited to, generating invoices and generating and issuing checks in purported payment for livestock purchases that did not occur.

Respondent F. Rainey shall keep and maintain accounts, records, and memoranda, which fully and correctly disclose the true nature of all transactions involved in her business subject to the Act as required by section 401 of the Act (7 U.S.C. § 221), including, but not limited to, an outstanding check listing, current balance sheet, accounts receivable listing, and all bank notices regarding its Custodial Account for Shippers' Proceeds.

Pursuant to 7 U.S.C. § 204, Respondent F. Rainey, as an alter ego of Respondent Haskell, is suspended as a registrant under the Act for a period of two (2) years and ten (10) months.

The provisions of this Order shall become effective on the sixth day after service of this order on the Respondent F. Rainey.

Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.

this 7<sup>th</sup> day of November, 2011

[Redacted Signature]

Administrative Law Judge

[Redacted Name]

Kathrene Francine Rainey, aka Francine Rainey  
Respondent

[Redacted Name]

Leah C. Battaglioli  
Attorney for Complainant