

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P. & S. Docket No. D-98-15
)
Valley Livestock Auction, Inc., Buddy D.)
Wagoner, and Carolyn M. Wagoner,)
)
Respondents.) **DECISION**

This proceeding was instituted under the Packers and Stockyards Act (7 U.S.C. § 181 et seq.) 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 the respondents willfully violated the Act. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The 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.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Valley Livestock Auction, Inc., hereinafter referred to as respondent Valley, is a corporation organized and existing under the laws of the State of New Mexico. Its business mailing address is 7715 Broadway, S.E., Albuquerque, New Mexico 87105. Valley has three operating locations, Sun Valley, Arizona, Albuquerque, New Mexico, and Milan, New Mexico.
2. Respondent Valley is and at all times material herein was:

(a) Engaged in the business of conducting and operating the Valley Livestock Auction stockyards in Sun Valley, Arizona, Albuquerque, New Mexico, and Milan, New Mexico, posted stockyards subject to the provisions of the Act;

(b) Engaged in the business of selling livestock in commerce on a commission basis; and

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

3. Buddy D. Wagoner, hereinafter referred to as respondent Buddy Wagoner, is an individual whose business mailing address is 7715 Broadway, S.E., Albuquerque, New Mexico 87105.

4. Respondent Buddy Wagoner was:

(a) President of respondent Valley; and

(b) Owner of fifty percent of the stock of Valley.

5. Carolyn M. Wagoner, hereinafter referred to as respondent Carolyn Wagoner, is an individual whose business mailing address is 7715 Broadway, S.E., Albuquerque, New Mexico 87105.

6. Respondent Carolyn Wagoner was:

(a) Secretary-Treasurer of respondent Valley; and

(b) Owner of fifty percent of the stock of Valley.

7. Respondents Buddy Wagoner and Carolyn Wagoner are:

(a) Responsible for the direction, management and control of respondent Valley; and

(b) Engaged in the business of selling livestock in commerce on a commission basis.

Conclusions

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

Order

Respondent Valley and its alter egos Buddy D. Wagoner and Carolyn M. Wagoner, their officers, directors, agents, employees, successors and assigns, directly and through any corporate or other device, in connection with their operations subject to the Act shall cease and desist from:

1. Failing to deposit in their Custodial Account for Shippers' Proceeds within the times prescribed in Section 201.42 of the regulations (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock;

2. Failing to otherwise maintain the Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42);
and

3. Issuing custodial checks for any purpose other than as payment of the proceeds of the sale of livestock to consignors or as payment for other lawful marketing charges.

Respondent Valley and its alter egos Buddy D. Wagoner and Carolyn M. Wagoner, are suspended as registrants under the Act for a period of twenty-eight (28) days.

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

Copies of this decision shall be served on the parties.

VALLEY LIVESTOCK AUCTION, INC.

By Buddy D. Wagoner

Pres
Title

Buddy D. Wagoner
BUDDY D. WAGONER
Respondent

Carolyn M. Wagoner
CAROLYN M. WAGONER
Respondent

Stephan M. Vidmar
STEPHAN M. VIDMAR
Attorneys for Respondents

Jane McCavitt
JANE McCAVITT
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Issued this 8th day of February, 2000.

James Hunt
Administrative Law Judge