

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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04/17/00

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In re:) P. & S. Docket No. D-03-0015
)
William C. Gomez, d/b/a)
Stuart Sale Barn and)
Perry Sales Pavilion,)
)
)
Respondent) Decision Without Hearing
) By Reason of Consent

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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 Respondent wilfully violated the Act and the regulations promulgated thereunder by the Secretary of Agriculture (9 C.F.R. § 201.1 *et seq.*). This decision is entered pursuant to the consent decision provision of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent William C. Gomez 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 decision.

The Complainant agrees to the entry of this decision.

Findings of Fact

1. William C. Gomez ("Respondent") is an individual doing business as Stuart Sale Barn, with a mailing address of 523 E Front, P.O. Box 476, Stuart, IA 50250, and also doing business as Perry Sales Pavilion, with a mailing address of 2738 E. Willis Ave., Perry, IA 50220.

2. Respondent, at all times material herein, was:

(a) Engaged in the business of conducting and operating Stuart Sale Barn, stockyard, a posted stockyard subject to the provisions of the Act, hereinafter referred to as "Stuart";

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

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

3. Respondent, at all times material herein, was:

(a) Engaged in the business of conducting and operating Perry Sales Pavilion, stockyard, a posted stockyard subject to the provisions of the Act, hereinafter referred to as "Perry";

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

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

Conclusions

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

Order

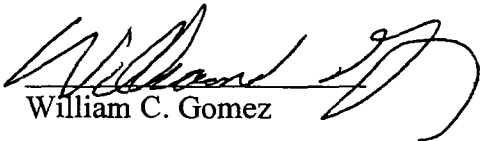
Respondent William C. Gomez, his agents and employees, directly or through any corporate or other device, in connection with operations subject to the Packers and Stockyards Act, shall cease and desist from:

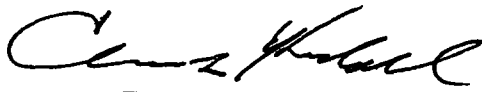
1. Failing to deposit in his Custodial Account for Shippers' Proceeds within the times prescribed in Section 201.42 of the regulations promulgated under the Act (9 C.F.R. § 201.42) amounts equal to the outstanding proceeds receivable due from the sale of consigned livestock;
2. Failing to otherwise maintain his Custodial Account for Shippers' Proceeds in strict conformity with the provisions of Section 201.42 of the regulations (9 C.F.R. § 201.42);
3. Using funds received as proceeds due from the sale of livestock sold on a commission basis for purposes of his own or for any purpose other than the payment of lawful marketing charges and the remittance of net proceeds to the consignors of livestock;
4. Failing to remit to the owners and consignors, when due, the net proceeds resulting from the sale of consigned livestock in accordance with Section 201.43 of the regulations (9 C.F.R. § 201.43); and
5. Issuing checks in payment of the net proceeds resulting from the sale of consigned livestock without having and maintaining sufficient funds on deposit and available in the account upon which such checks are drawn to pay such checks when presented.

Respondent William C. Gomez is suspended as a Registrant under the Act for a period of 21 days and thereafter until Respondent demonstrates that he is no longer insolvent and that custodial account shortages have been eliminated. A supplemental order may be issued after the expiration of 21 days and upon such demonstration.

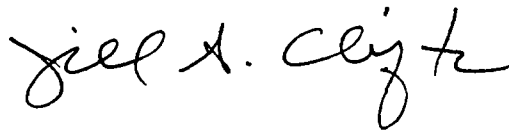
The provisions of this order shall become effective on the sixth day after service of this order on the Respondent.

Copies of this decision shall be served upon the parties.


William C. Gomez


Charles L. Kendall
Attorney for Complainant

Issued this 22 day of November 2004



Jill S. Clifton
Administrative Law Judge