

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	
	)	P&S Docket No. <u>12-0598</u>
	)	
New Holland Sales Stables, Inc.,	)	
	)	
and	)	
	)	
Frank A. Fillippo, Inc.	)	
	)	
Respondents	)	Consent Decision and Order

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 Program, Grain Inspection, Packers and Stockyards Administration (GIPSA), United States Department of Agriculture, alleging that respondents New Holland Sales Stables, Inc., and Frank A. Fillippo, Inc. willfully violated the Act and the regulations promulgated thereunder (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).

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

(a) New Holland Sales Stables, Inc., referred to herein as Respondent New Holland, is a corporation organized under the laws of Pennsylvania. Respondent New Holland's mailing address is 101 W. Fulton Street, New Holland, PA 17557.

(b) Respondent New Holland is, and at all times material herein was:

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

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

(c) Frank A. Fillippo, Inc., referred to herein as Respondent Fillippo, is a corporation organized under the laws of Pennsylvania. Respondent Fillippo's mailing address is 2667 Egypt Road, Norristown, PA 19401.

(d) Respondent Fillippo is, and at all times material herein was:

(1) Engaged in the business of buying and selling livestock in commerce as a dealer.

(2) Registered with the Secretary of Agriculture as a dealer to buy and sell livestock in commerce.

#### 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 New Holland and Respondent Fillippo, their agents and employees, directly or through any corporate or other device, shall cease and desist from:

1. Manipulating the price of livestock by creating false auction market invoices for customers;
2. Failing to keep and maintain accounts, records, and memoranda which fully and accurately disclose the true nature of their operations subject to the Act, including, but not limited to purchase and sale invoices, bank statements, canceled checks, and deposit slips.

In accordance with section 312(b) of the Act (7 U.S.C. § 213(b)), the respondents are assessed, jointly and severally, a civil penalty in the amount of seventy-five thousand dollars (\$75,000.00).

Respondent New Holland shall be suspended as a registrant under the Act for a period of one hundred and eighty (180) days. However, this period of suspension will be held in abeyance provided that respondent New Holland is in compliance with the terms of this Consent Decision and Order. It is within GIPSA's sole discretion to determine whether Respondent New Holland is in compliance with the terms of this Consent Decision and Order. If GIPSA determines that Respondent New Holland is not in compliance with the terms of this Consent Decision and Order, GIPSA may petition the ALJ to order the one hundred and eighty (180) day suspension held in abeyance to become effective immediately without further procedure. If GIPSA has not petitioned the ALJ to order the one hundred and eighty (180) day suspension against Respondent New Holland within two years from the effective date of this consent decision and order, the suspension will be terminated.

Respondent Fillippo shall be suspended as a registrant under the Act for a period of one hundred and eighty (180) days. However, this period of suspension will be held in abeyance provided that Respondent Fillippo is in compliance with the terms of this Consent Decision and Order. It is within GIPSA's sole discretion to determine whether Respondent Fillippo is in

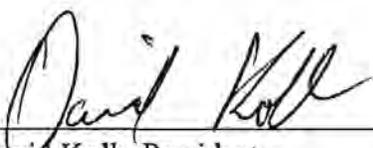
compliance with the terms of this Consent Decision and Order. If GIPSA determines that Respondent Fillippo is not in compliance with the terms of this Consent Decision and Order, GIPSA may petition the ALJ to order the one hundred and eighty (180) day suspension held in abeyance to become effective immediately without further procedure. If GIPSA has not petitioned the ALJ to order the one hundred and eighty (180) day suspension against Respondent Fillippo within two years from the effective date of this consent decision and order, the suspension will be terminated.

Pursuant to section 303 of the Act (7 U.S.C. § 303), respondents are prohibited from operating as a market agency or dealer without being registered with the Secretary of Agriculture and without maintaining an adequate bond or bond equivalent.

This Order shall have the same force and effect as if entered after full hearing. The provisions of this order shall become effective on the sixth day after service of this consent decision and order on the respondent.

Copies of this decision shall be served upon the parties.

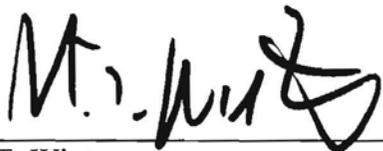
Respondent New Holland Sales Stables, Inc.,

By   
David Kolb, President  
New Holland Sales Stables, Inc.

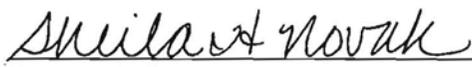
Respondent Frank A. Fillippo, Inc.,



By Frank Fillippo, President and Owner  
Frank A. Fillippo, Inc.



Michael T. Winters  
Attorney for Respondents

*for*   
Lauren Axley  
Attorney for Complainant

Done at Washington, D.C.

this 27<sup>th</sup> day of November, 2012

  
Administrative Law Judge