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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) [HPA]
) Docket No. **13-0348**
John Allen)
)
Respondent) **Order Vacating Dismissal**

Appearances:

Frank Martin, Jr., Esq. with the Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant (APHIS);¹ and

John Allen, the Respondent, also known as Jonathan Allen and Jon Allen, a resident of North Carolina, who represents himself (appears *pro se*).

1. The Order of Dismissal filed on October 2, 2014 was entered because APHIS could not then locate John Allen.
2. The Order of Dismissal filed on October 2, 2014 is VACATED, and HPA Docket No. 13-0348 regarding John Allen, also known as Jonathan Allen and Jon Allen, is reinstated as an active case.

1. The Complainant is the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (“APHIS” or “Complainant”).

3. None of the filings in HPA Docket No. 13-0348 went to John Allen's correct address after Respondent John Allen's attorney moved to withdraw as counsel on January 10, 2014, even though the attorney's certificate of service that was part of the motion to withdraw accurately reported Respondent John Allen's address, which is still his current address, more than a year-and-a-half later.

4. APHIS and the Judge and the Hearing Clerk failed to use the address that the Hearing Clerk has had on record in HPA Docket No. 13-0348 since January 10, 2014 for John Allen, also known as Jonathan Allen and Jon Allen, until the Complaint in a new case, HPA Docket No. 15-0063, which repeats the allegations of HPA Docket No. 13-0348, included that same address.

5. The issues in both cases, HPA Docket No. 13-0348 and HPA Docket No. 15-0063, are whether John Allen, also known as Jonathan Allen and Jon Allen, knowingly violated section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)):

(a) on or about July 27, 2012, by entering the horse "Jose's High Society", while "Jose's High Society" was sore, for the purpose of showing or exhibiting "Jose's High Society" as entry 292 in class number 24 at the Marshall County Horseman's Association Horse Show in Lewisburg, Tennessee; and

(b) on or about August 3, 2012, by entering the horse "Mr. Onyx", while "Mr. Onyx" was sore, for the purpose of showing or exhibiting "Mr. Onyx" as entry


233 in class number 13 at the Belfast Lions Club 52nd Annual Horse Show in Belfast, Tennessee; and

(c) on or about August 26, 2012, by entering the horse "I'm Innocent", while "I'm Innocent" was sore, for the purpose of showing or exhibiting "I'm Innocent" as entry 204 in class number 93 at the 74th Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee.

6. By separate order I will consolidate HPA Docket Nos. 13-0347 and 13-0348 with HPA Docket No. 15-0063 for hearing.

Copies of this order vacating dismissal shall be served by the Hearing Clerk upon each of the parties (to Respondent by both ordinary and certified mail; to APHIS's counsel by in-person delivery to an Office of the General Counsel representative), **with a courtesy copy by ordinary mail to counsel in HPA Docket No. 13-0347.**

Done at Washington, D.C.
this 17th day of September 2015



Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
Stop 9203 South Building Room 1031
1400 Independence Ave SW
Washington, DC 20250-9203
202-720-4443
FAX 202-720-9776
OALJHearingClerks@ocio.usda.gov