

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

A.Q. Docket No.: 10-0150

In re: Dale Haley d/b/a Rushville Horse Sale,

Respondent

Default Decision and Order

This is an administrative proceeding for the assessment of a civil penalty for violations of the Commercial Transportation of Equine for Slaughter Act, 7 U.S.C. § 1901 note, and the regulations promulgated thereunder (9 C.F.R. part 88), in accordance with the rules of practice applicable to this proceeding as set forth in 7 C.F.R. §§ 1.130 et seq. and 380.1 et seq.

On March 5, 2010, the Administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), initiated this proceeding by filing an administrative complaint against respondent. The complaint was mailed to Respondent via certified mail, return receipt requested. Respondent signed for the complaint on March 10, 2010. Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent was informed in the complaint and the letter accompanying the complaint that an answer should be filed with the Hearing Clerk within twenty (20) days after service of the complaint, and that failure to file an answer within twenty (20) days after service of the complaint would constitute an admission of the allegations in the complaint and waiver of a hearing. No Answer has been filed.

Section 1.136(c) of the rules of practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) or to deny or otherwise

respond to an allegation of the complaint shall be deemed an admission of the allegations in the complaint. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. Respondent Dale Haley is a resident of Rushville, Indiana doing business as Rushville Horse Sale. He is a licensed livestock dealer who buys and commercially transports horses to slaughter in commerce.

2. On or about April 3, 2005, respondent shipped 33 horses in commercial transportation to Cavel International in DeKalb, Illinois (hereinafter referred to as Cavel), for slaughter.

a. Respondents' driver stated that one of the horses fought with the other horses during said transportation. By failing to completely segregate each aggressive horse on the conveyance so that no aggressive horse could come into contact with any other horse on the conveyance, Respondent violated of 9 C.F.R. § 88.4(a)(4)(ii).

b. On or about April 3, 2005, respondent shipped 33 horses in commercial transportation to Cavel for slaughter. As one of the horses was injured while fighting with the other horses during said transportation, Respondent failed to handle the horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

3. On or about June 6, 2005, respondent shipped 31 horses in commercial transportation to Cavel for slaughter but failed to properly complete the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies:

a. There was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv),

and

b. The place where the horses were loaded onto the conveyance was incorrectly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

4. On or about December 15, 2005, respondent shipped 34 horses in commercial transportation to Cavel for slaughter but failed to properly complete the required owner-shipper certificate, VS Form 10-13. The form was deficient as the five boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii).

5. On or about December 18, 2005, respondent shipped 33 horses in commercial transportation to Cavel for slaughter but failed to properly complete the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies:

a. The owner/shipper failed to sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3);

b. The owner/shipper's name, address, and telephone number were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i);

c. The receiver's address and telephone number were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii);

d. The name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); and

e. The statement that the horses had been rested, watered, and fed prior to the commercial transportation had not been signed, in violation of 9 C.F.R. § 88.4(a)(3)(x).

6. On or about December 18, 2005, respondent shipped a second load of 32 horses in commercial transportation to Cavel for slaughter but failed to properly complete the required

owner-shipper certificate, VS Form 10-13. The form had the following deficiencies:

- a. The owner/shipper failed to sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3);
- b. The owner/shipper's name, address, and telephone number were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i);
- c. The receiver's address and telephone number were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii);
- d. The name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); and
- e. The statement that the horses had been rested, watered, and fed prior to the commercial transportation had not been signed, in violation of 9 C.F.R. § 88.4(a)(3)(x).

6. On or about November 20, 2006, respondent shipped a load of 33 horses in commercial transportation to Cavel for slaughter but did not properly complete the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies:

- a. It did not list the breed of a horse bearing USDA back tag # USDS 987 in violation of 9 C.F.R. § 88.4(a)(3)(v); and
- b. it did not list the breed and sex of a horse bearing USDA back tag # USDS 991, in violation of 9 C.F.R. § 88.4(a)(3)(v).

7. On or about December 17, 2006, respondent shipped 35 horses in commercial transportation to Cavel for slaughter but did not properly complete the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies:

- a. The form did not list the color of a horse bearing USDA back tag # USDS 1433, in violation of 9 C.F.R. § 88.4(a)(3)(v); and

b. The five boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii).

8. On or about September 9, 2008, respondent shipped 35 horses in commercial transportation to Cavel for slaughter but did not properly complete the required owner-shipper certificate, VS Form 10-13. The form was deficient as the USDA back tag numbers for 15 horse were listed incorrectly, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reason of the Findings of Fact set forth above, respondent violated the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note).

Order

1. Respondent Dale Haley d/b/a Rushville Horse Sale is hereby assessed a civil penalty of six thousand one hundred twenty five dollars (\$6,125.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

Respondent Dale Haley d/b/a Rushville Horse Sale shall indicate that payment is in reference to A.Q. Docket # 10-0150.

2. This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this default decision and order upon

respondent unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.145).

Peter M. Davenport
Chief Administrative Law Judge

September 3, 2010