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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	A.Q. Docket No. 11-0053
)	
Roy Joseph Simon and/or Joe Simon Enterprises,)	
Inc.,)	
)	
)	
Respondent)	Consent Decision

This proceeding was instituted under the Commercial Transportation of Equines for Slaughter Act (7 U.S.C. § 1901 note) (the Act) by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service alleging that Roy Joseph Simon and/or Joe Simon Enterprises, Inc. (hereinafter, the respondent), violated the Act and regulations promulgated thereunder (9 C.F.R. §§ 88 et seq.). The complainant and the respondent have agreed that this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision only, the respondent specifically admits that the Secretary of the United States Department of Agriculture has jurisdiction in this matter, neither admits nor denies the remaining allegations in the complaint, and admits to the Findings of Fact set forth below.

The respondent waives:

- (a) Any further procedure;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;

(c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision; and

(d) Any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the respondent in connection with this proceeding.

Findings of Fact

1. *The respondent Roy Joseph Simon and/or Joe Simon Enterprises, Inc., is a resident of the state of Minnesota with a mailing address of 9724 267th Street West, Lakeville, Minnesota 55044.*

2. On or about November 8, 2005, 68 horses were commercially transported for slaughter.

3. On or about November 9, 2005, 33 horses were commercially transported for slaughter.

4. On or about November 13, 2005, 46 horses were commercially transported for slaughter.

5. On or about August 5, 2006, 53 horses were commercially transported for slaughter.

6. On or about August 27, 2006, 50 horses were commercially transported for slaughter.

7. On or about September 10, 2006, 42 horses were commercially transported for slaughter.

Conclusions

The respondent has admitted the jurisdictional facts and has agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

Order

The respondent Roy Joseph Simon and/or Joe Simon Enterprises, Inc., is assessed a civil penalty of twenty four thousand dollars (\$24,000.00), payable in 48 installments of five hundred dollars (\$500.00) each. The respondent shall send a certified check or money order for the first installment of five hundred dollars (\$500.00), payable to the Treasurer of the United States, to

U.S. Bank
P.O. Box 979043
St. Louis, Missouri 63197

within thirty (30) days from the effective date of this Order. The certified check or money order shall include the docket number of this proceeding. The second installment of five hundred dollars (\$500.00) shall be due on or

before October 1, 2011, and the remaining forty-six (46) installments of five hundred dollars (\$500.00) each shall be due on or before the first day of each month thereafter until the twenty-four thousand dollar (\$24,000.00) civil penalty is paid in full. Each monthly installment shall be paid by a certified check or money order made payable to the Treasurer of the United States at the mailing address listed above. Each certified check or money order shall include the docket number of this proceeding.

Notwithstanding the payment schedule set forth herein, the respondent *Roy Joseph Simon and/or Joe Simon Enterprises, Inc.*, may pay off the remaining balance in full at any point during the payment schedule without incurring any penalty costs. If the respondent fails to pay any part of the twenty-four thousand dollar (\$24,000.00) civil penalty in accordance with the schedule of payments set forth herein, the Administrator, APHIS, reserves the right to request a hearing and to seek the full amount of the civil penalties for all violations of the *Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) and 9 C.F.R. part 88* that respondent *Roy Joseph Simon and/or Joe Simon Enterprises, Inc.*, is alleged to have committed up to and including the

effective date of this order, minus any amount already paid by him pursuant to this order.

This Order shall be in settlement of every non-adjudicated violation of the Act and the regulations promulgated thereunder that respondent Roy Joseph Simon and/or Joe Simon Enterprises, Inc., allegedly has committed or may have committed up to and including the effective date of this order.

This Order shall become effective when served on the respondent.

[Redacted signature]

ROY JOSEPH SIMON
and/or JOE SIMON ENTERPRISES, INC.
Respondent

[Redacted signature]

THOMAS NEIL BOLICK
Attorney for Complainant

[Redacted signature]

JONATHAN K. REPPE, ESQ.
Attorney for Respondent

Issued this 15 day of July, 2011

at Washington, D.C.



for Administrative Law Judge

Janice K. Bullard