

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2017 MAY -2 PM 3: 19

RECEIVED

In re:)	
)	
DORIAN GABRIEL AYACHE, d/b/a)	AHPA / CTESA Docket No. 17-0013
THREE ANGELS FARMS,)	
)	
Respondent)	

DEFAULT DECISION AND ORDER

Appearances:

Thomas N. Bolick, Esq., with the Office of the General Counsel, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington D.C. 20250, for the Complainant Agricultural Marketing Service (AMS); and

Respondent, pro se.

Preliminary Statement

This administrative proceeding seeks the assessment of a civil penalty against Dorian Gabriel Ayache, d/b/a Three Angels Farms [Respondent], for violations of the Commercial Transport of Equines to Slaughter Act (7 U.S.C. § 1901 note) [CTESA], the Animal Health Protection Act (7 U.S.C. § 8301 *et seq.*) [AHPA or Complainant], and the regulations promulgated thereunder (9 C.F.R. § 88.1 *et seq.* and 9 C.F.R. § 91.1 *et seq.*, respectively) [Regulations], in accordance with the rules of practice applicable to this proceeding as set forth in 7 C.F.R. § 1.130 *et seq.* [Rules of Practice] and 9 C.F.R. § 70.1.

On December 14, 2016, 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. Copies of the Complaint, a cover letter from the USDA Hearing Clerk, and the Rules of Practice were mailed to Respondent at his last

known address, via both certified mail (return receipt requested) and regular mail. The copy of the Complaint sent by certified mail was returned to the Hearing Clerk on January 17, 2017, marked by the U.S. Postal Service as “UNCLAIMED,” “UNABLE TO FORWARD,” and “RETURN TO SENDER.” Section 1.147(c)(1) of the Rules of Practice states that “if any [complaint] is sent by certified or registered mail but is returned marked by the postal service as unclaimed or refused, it shall be deemed to be received by [respondent] on the date of remailing by ordinary mail to the same address.” 7 C.F.R. § 1.147(c)(1). Accordingly, the Hearing Clerk re-mailed the Complaint, Hearing Clerk’s letter, and Rules of Practice to the same address by regular mail on January 31, 2017. Therefore, Respondent is deemed to have been served with the Complaint on January 31, 2017.

Section 1.136 of the Rules of Practice states that an answer to a complaint should be filed with the Hearing Clerk within twenty (20) days after service of the complaint and that failure to file an answer or otherwise respond to an allegation of the complaint within twenty (20) days after service of the complaint shall be deemed both an admission of the allegation in the complaint and a waiver of a hearing. 7 C.F.R. § 1.136. Thus, Respondent’s answer was due no later than February 21, 2017, twenty days after service of the Complaint.¹ 7 C.F.R. § 136(a). Pursuant to section 1.136 of the Rules of Practice, Respondent was informed in both the Complaint and the Hearing Clerk’s 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 constitutes an admission of the allegations in the Complaint and waiver of a hearing. Despite being so notified, Respondent has not filed an answer

¹ February 20, 2017, was the twentieth day following the re-mailing of the Complaint by regular mail, but that day also was President’s Day, a federal holiday, so Respondent’s answer was due on the following business day, February 21, 2017.

to the Complaint.²

On March 3, 2017, pursuant section 1.139 of the Rules of Practice, Complainant filed a Proposed Decision and Order and “Motion for Adoption of Proposed Default Decision and Order” [Motion for Default]. 7 C.F.R. § 1.139. As of this date, Respondent has not filed any objections thereto.³

Respondent has failed to file an answer within the time prescribed in section 1.136(a) of the Rules of Practice and thus has failed to deny or otherwise respond to an allegation of the Complaint. In accordance with section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)), Respondent’s failure to answer to the Complaint is deemed an admission of the allegations in the Complaint. Furthermore, section 1.139 of the Rules of Practice (7 C.F.R. § 1.139) states that an admission of the allegations in a complaint constitutes a waiver of hearing. Because Respondent’s failure to answer constitutes an admission of the allegations in the Complaint pursuant to section 1.136(c), it is likewise deemed a waiver of hearing pursuant to section 1.139.

² The Hearing Clerk’s records reflect that, after being returned “unclaimed” from the U.S. Postal Service, the Complaint was re-mailed to Respondent on January 31, 2017. Respondent had twenty (20) days from the date of service to file a response. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. §§ 1.147(g), (h). In this case, Respondent’s answer was due by February 21, 2017 (*see supra* note 1). Respondent did not file an answer. Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision. 7 C.F.R. § 1.136(c). Other than a consent decision, the Rules of Practice and Procedure do not provide for exceptions to the regulatory consequences of an untimely filed answer.

³ The Hearing Clerk’s records reflect that the Motion for Default and Proposed Decision and Order were sent via certified mail to Respondent’s last known address on March 6, 2017; however, the mailing was returned to the Hearing Clerk’s Office as “refused.” In accordance with the Rules of Practice, the Hearing Clerk re-mailed the Motion for Default and Proposed Decision and Order by ordinary mail to the same address on March 16, 2017. Respondent had twenty (20) days from the date of service to file objections to the Motion. 7 C.F.R. § 1.139. Weekends and federal holidays shall not be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. §§ 1.147(g), (h). In this case, Respondent’s objections were due by April 5, 2017. Respondent did not file any objections by that date.

Accordingly, the material allegations in the Complaint are adopted and set forth in this default decision as the Findings of Fact. This Decision is issued pursuant to section 1.139 of the rules of practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Dorian Gabriel Ayache, d/b/a Three Angels Farms, has a mailing address in [REDACTED] and routinely engages in the commercial transportation of horses to slaughter in Mexico for profit.

2(a).

On or about January 9, 2012, Respondent commercially transported a shipment of 32 horses from an unknown location⁴ to Inter Meats, S.A. de C.V. [Inter Meats], a commercial horse slaughter plant located in Mexico, for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

⁴ The Complaint lists 27 commercial shipments of slaughter horses to Mexico whereby respondent allegedly violated the AHPA and/or the CTESA and their accompanying regulations in 9 C.F.R. Parts 88 and 91, but respondent's shipment on March 26, 2012, is the only shipment listed in the complaint that was accompanied by documents indicating the city and state where horses were loaded onto respondent's conveyance. These documents indicate that the horses in the March 26, 2012 shipment were loaded in [REDACTED] Tennessee. Additionally, all of the documents that accompanied the 27 commercial shipments of slaughter horses listed in this complaint list respondent as the owner/shipper of the horses and the address of the owner/shipper as (b) (6) [REDACTED]. For these reasons, complainant assumes that all 27 shipments of horses listed in this complaint originated in and were commercially transported from Three Angels Farms in [REDACTED] Tennessee.

2(b).

On or about January 9, 2012, Respondent commercially transported 32 horses from an unknown location to Inter Meats for slaughter. This shipment was accompanied by an International Health Certificate for Slaughter Horses Exported from the United States of America to Mexico (hereinafter, IHC), # T1241635, that appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on January 9. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

3(a).

On or about January 9, 2012, Respondent commercially transported a second shipment of 37 horses from an unknown location to Inter Meats for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

3(b).

On or about January 9, 2012, Respondent commercially transported a second shipment of 37 horses from an unknown location to Inter Meats for slaughter. This shipment was

accompanied by an IHC, # T1241636, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on January 9. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

4(a).

On or about March 16, 2012, Respondent commercially transported a shipment of 37 horses from an unknown location to Inter Meats for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

4(b).

On or about March 16, 2012, Respondent commercially transported a shipment of 37 horses from an unknown location to Inter Meats for slaughter. This shipment was accompanied by an IHC, # T1241736, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on March 16. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she

signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

5(a).

On or about March 16, 2012, Respondent commercially transported a second shipment of 33 horses from an unknown location to Inter Meats for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

5(b).

On or about March 16, 2012, Respondent commercially transported a second shipment of 33 horses from an unknown location to Inter Meats for slaughter. This shipment was accompanied by an IHC, # T1241737, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on March 16. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for Respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which

their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

6(a).

On or about March 26, 2012, Respondent commercially transported a shipment of 34 horses from Lebanon, Tennessee, to export pens owned and operated by C4 Cattle Company of Presidio, Texas, with the expectation that the horses would continue on to Mexico for commercial slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the receiver's address, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (2) the form did not have a statement of fitness indicating that all of the horses in the shipment were able to walk unassisted, in violation of 9 C.F.R. § 88.4(a)(3)(vii).

6(b).

On or about March 26, 2012, Respondent commercially transported a shipment of 34 horses from Lebanon, Tennessee, to export pens owned and operated by C4 Cattle Company of Presidio, Texas, with the expectation that the horses would continue on to Mexico for commercial slaughter. This shipment was accompanied by an IHC, # T1241735, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on March 16. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

6(c).

On or about March 26, 2012, Respondent commercially transported a shipment of 34

horses from Lebanon, Tennessee, to export pens owned and operated by C4 Cattle Company of Presidio, Texas, with the expectation that the horses would continue on to Mexico for commercial slaughter. When this shipment arrived at the export pens, one of the horses in the shipment was dead and two were in obvious physical distress, as demonstrated by the fact that both were down and unable to get up, but respondent did not contact the nearest Animal and Plant Health Inspection Service [APHIS] office about having an APHIS veterinarian come and examine the dead horse, and he did not seek veterinary assistance for the two distressed horses, in violation of 9 C.F.R. § 88.4(b)(2).

6(d).

On or about March 26, 2012, Respondent commercially transported a shipment of 34 horses from Lebanon, Tennessee, to export pens owned and operated by C4 Cattle Company of Presidio, Texas, with the expectation that the horses would continue on to Mexico for commercial slaughter. Respondent delivered the horses to the export pens at approximately 5 p.m. on March 27, but neither he nor his driver remained at the pens until the horses had been examined by a USDA representative, and they did not return to the pens to meet with the USDA representative upon his arrival, in violation of 9 C.F.R. § 88.5(b).

7(a).

On or about April 27, 2012, Respondent commercially transported a shipment of 39 horses from an unknown location to Carnicos de Jerez, S.A. de C.V. [Carnicos], a commercial horse slaughter plant located in Mexico, for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in

violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

7(b).

On or about April 27, 2012, Respondent commercially transported a shipment of 39 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287899, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on April 27. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

8(a).

On or about April 30, 2012, Respondent commercially transported a shipment of 34 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

8(b).

On or about April 30, 2012, Respondent commercially transported a shipment of 34 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287808, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on April 30. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

9(a).

On or about May 3, 2012, Respondent commercially transported a shipment of 40 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

9(b).

On or about May 3, 2012, Respondent commercially transported a shipment of 40 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287815, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 3. However, Dr. [REDACTED], who is licensed and accredited to

provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a)

10(a).

On or about May 4, 2012, Respondent commercially transported a shipment of 40 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

10(b).

On or about May 4, 2012, Respondent commercially transported a shipment of 40 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287822, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 4. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export

movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

11(a).

On or about May 4, 2012, Respondent commercially transported a second shipment of 41 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

11(b).

On or about May 4, 2012, Respondent commercially transported a second shipment of 41 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287823, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 4. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

12(a).

On or about May 11, 2012, Respondent commercially transported a shipment of 41 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the

required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

12(b).

On or about May 11, 2012, Respondent commercially transported a shipment of 41 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287845, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 11. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

13(a).

On or about May 11, 2012, Respondent commercially transported a second shipment of 44 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number

for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

13(b).

On or about May 11, 2012, Respondent commercially transported a second shipment of 44 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287846, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 11. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

14(a).

On or about May 21, 2012, Respondent commercially transported a shipment of 53 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

14(b).

On or about May 21, 2012, Respondent commercially transported a shipment of 53 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287871, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 21. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

15.

On or about May 21, 2012, Respondent commercially transported a second shipment of 43 horses from an unknown location to Inter Meats for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

16(a).

On or about May 21, 2012, Respondent commercially transported a third shipment of 36 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation

of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

16(b).

On or about May 21, 2012, Respondent commercially transported a third shipment of 36 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287877, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 21. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

17(a).

On or about May 29, 2012, Respondent commercially transported a shipment of 42 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list

the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

17(b).

On or about May 29, 2012, Respondent commercially transported a shipment of 42 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287891, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on May 29. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

18(a).

On or about May 29, 2012, Respondent commercially transported a second shipment of 42 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

18(b).

On or about May 29, 2012, Respondent commercially transported a second shipment of 42 horses from an unknown location to Carnicos for slaughter. This shipment was

accompanied by an IHC, # T1287891, which appeared to have been signed by an accredited veterinarian [REDACTED], D.V.M., on May 29. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

19(a).

On or about June 5, 2012, Respondent commercially transported a shipment of 36 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

19(b).

On or about June 5, 2012, Respondent commercially transported a shipment of 36 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287906, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 5. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and

stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

20(a).

On or about June 5, 2012, Respondent commercially transported a second shipment of 39 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

20(b).

On or about June 5, 2012, Respondent commercially transported a second shipment of 39 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287907, which appeared to have been signed by an accredited veterinarian, [REDACTED] D.V.M., on June 5. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. §

91.3(a).

21(a).

On or about June 5, 2012, Respondent commercially transported a third shipment of 39 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

21(b).

On or about June 5, 2012, Respondent commercially transported a third shipment of 39 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287909, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 5. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

22(a).

On or about June 11, 2012, Respondent commercially transported a shipment of 42 horses from an unknown location to Inter Meats for slaughter, but he did not properly fill out the

required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

22(b).

On or about June 11, 2012, Respondent commercially transported a shipment of 42 horses from an unknown location to Inter Meats for slaughter. This shipment was accompanied by an IHC, # T1287916, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 11. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

23(a).

On or about June 11, 2012, Respondent commercially transported a second shipment of 39 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number

for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

23(b).

On or about June 11, 2012, Respondent commercially transported a second shipment of 39 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287918, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 11. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

24(a).

On or about June 22, 2012, Respondent commercially transported a shipment of 39 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

24(b).

On or about June 22, 2012, Respondent commercially transported a shipment of 39 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287942, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 22. However, Dr. [REDACTED] who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

25(a).

On or about June 26, 2012, Respondent commercially transported a shipment of 35 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

25(b).

On or about June 26, 2012, Respondent commercially transported a shipment of 35 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287924, which appeared to have been signed by an accredited veterinarian, [REDACTED] D.V.M., on June 26. However, Dr. [REDACTED] who is licensed and accredited

to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

26(a).

On or about June 26, 2012, Respondent commercially transported a second shipment of 44 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

26(b).

On or about June 26, 2012, Respondent commercially transported a second shipment of 44 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287976, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 26. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their

export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

27(a).

On or about June 26, 2012, Respondent commercially transported a third shipment of 37 horses from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

27(b).

On or about June 26, 2012, Respondent commercially transported a third shipment of 37 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287977, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on June 26. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

28(a).

On or about July 3, 2012, Respondent commercially transported a shipment of 35 horses

from an unknown location to Carnicos for slaughter, but he did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the form did not list the owner/shipper's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not list the receiver's telephone number, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) the form did not list the vehicle license number for the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the form did not list the time when and the place where the horses were loaded into the conveyance, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

28(b).

On or about July 3, 2012, Respondent commercially transported a shipment of 35 horses from an unknown location to Carnicos for slaughter. This shipment was accompanied by an IHC, # T1287984, which appeared to have been signed by an accredited veterinarian, [REDACTED], D.V.M., on July 3. However, Dr. [REDACTED], who is licensed and accredited to provide veterinary services in Oklahoma and Texas, denied that she signed this form and stated that she has never written an IHC for respondent or otherwise worked with him. By using an IHC on which Dr. [REDACTED]'s signature appears to have been forged, respondent failed to have a valid IHC accompany the horses from the state in which their export movement originated to their destination in Mexico, in violation of 9 C.F.R. § 91.3(a).

Conclusions of Law

By reason of the Findings of Fact set forth above, Respondent Dorian Gabriel Avache, d/b/a Three Angels Farms, violated the Commercial Transport of Equines to Slaughter Act (7 U.S.C. § 1901 note) and the Animal Health Protection Act (7 U.S.C. § 8301 *et seq.*).

Therefore, the following Order is issued.

ORDER

By reason of the Findings of Fact set forth above, Respondent Dorian Gabriel Avache, d/b/a Three Angels Farms, is hereby assessed a civil penalty of seventy-one-thousand, six-hundred, and fifty dollars (\$71,650.00). Respondent shall send a certified check or money order for seventy-one-thousand, six-hundred, and fifty dollars (\$71,650.00), made payable to the U.S. Department of Agriculture, to USDA APHIS, P.O. Box 979043, St. Louis, Missouri 63197-9000, within thirty (30) days from the effective date of this Order.

Respondent shall indicate on the certified check or money order that this payment is in reference to AQ/CTESA Docket No. 17-0013.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties with courtesy copies provided via email where available.

Done at Washington, D.C.,
this 20th day of May, 2017


Bobbie J. McCartney
Chief Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building, Room 1031
1400 Independence Avenue, SW
Washington, D.C. 20250-9203
Tel: 202-720-4443
Fax: 202-720-9776