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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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| In re: |) | HPA Docket No. 17-0081 |
| |) | HPA Docket No. 17-0082 |
| EDGAR ABERNATHY, an individual dba |) | HPA Docket No. 17-0083 |
| ABERNATHY STABLES; |) | HPA Docket No. 17-0084 |
| CARROLL COUNTS, an individual; |) | |
| VIRGINIA COUNTS, an individual; and |) | |
| DARIUS NEWSOME, an individual, |) | |
| Respondents. |) | CONSENT DECISION AND |
| |) | ORDER AS TO RESPONDENT |
| |) | EDGAR ABERNATHY |

This proceeding was instituted under the Horse Protection Act (15 U.S.C. § 1821 *et seq.*)(HPA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on January 9, 2017, alleging that the respondents violated the Act.

Respondent Edgar Abernathy admits the jurisdictional allegations in the complaint as to him, specifically admits that the Secretary has jurisdiction in this matter, ^{see e.g. 11/} [redacted] denies the remaining allegations, and waives oral hearing and further procedure. The parties consent and agree to the entry of this decision for the purpose of settling this proceeding as to respondent Abernathy, and resolving any and all other alleged or potential violations of the Act by him occurring up to and including September 2, 2018. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

1. Respondent Edgar Abernathy is an individual residing in [redacted] and doing business as Abernathy Stables, and at all times mentioned herein was a "person" and an "exhibitor," as those terms are defined in the regulations promulgated under the Act (9 C.F.R. Parts 11 and 12).

2. On or about August 26, 2016, Mr. Abernathy entered a horse (Cash's Bold and Fresh) for showing in class 54 in a horse show in Shelbyville, Tennessee.

Conclusion of Law

Respondent Edgar Abernathy having admitted the findings of fact set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent Edgar Abernathy is disqualified for four months, beginning November 13, 2018, and ending March 12, 2019, from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating¹ in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, or other device.

2. Respondent Edgar Abernathy is assessed a civil penalty of \$550, which shall be paid by November 13, 2018, by check made payable to USDA/APHIS, indicating that the payment is in reference to HPA Docket No. 17-0081, and sent to:

USDA, APHIS, MISCELLANEOUS
P.O. Box 979043
St. Louis, Missouri 63197-9000

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¹"Participating" means engaging in any activity beyond that of a spectator in connection with a horse show, horse exhibition, or horse sale or auction, and includes, without limitation, transporting or arranging for the transportation of horses to or from equine events, personally giving instructions to exhibitors, being present in the warm-up or inspection areas, or in any area where spectators are not allowed, and financing the participation of others in equine events.

The provisions of this order shall become final and effective on November 13, 2018. This order may be executed in counterparts. Copies of this decision shall be served upon the parties.


Edgar Abernathy
Respondent


Jan Rochester
Attorney for Respondent


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.,
this 7th day of *November* 2018


Channing D. Strother
Acting Chief Administrative Law Judge