

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
Michael McBarron, an individual,) Docket No. AHPA/CTESA 19-J-0117
Respondent.) CONSENT DECISION AND ORDER

REC'D - USDA/OALJ/OHC
2019 DEC 20 AM 9:13

This proceeding was instituted under the Commercial Transportation of Equine for Slaughter Act, as amended, (7 U.S.C. § 1901 note) (CTESA) and the Animal Health Protection Act, as amended, (7 U.S.C. § 8301 *et seq.*) (AHPA), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service, alleging that the Respondent Michael McBarron (herein "Respondent") violated the CTESA and the AHPA and the regulations promulgated thereunder (9 C.F.R. § 88.1 *et seq.* and 9 C.F.R. 91.1 *et seq.*, respectively). The Complainant and the Respondent have agreed that this proceeding should be terminated by entry of this Consent Decision, and have agreed to the following stipulations:

1. For the purpose of this Consent Decision only, Respondent specifically admits the Secretary of the United States Department of Agriculture has jurisdiction in this matter, specifically admits to the allegations in paragraph 13 and 14 of the complaint and the Findings of Fact as set forth below, neither admits nor denies the remaining allegations in the complaint and waives:

(a) Any further procedure;

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

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

2. The Respondent also stipulates and agrees that the United States Department of Agriculture is the "prevailing party" in this proceeding and waives any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1908 (5 U.S.C. §§ 504 *et seq.*) for fees and other expenses incurred by the Respondent in connection with this proceeding. Each party agrees to pay its own attorney's fees and court costs.

Findings of Fact

1. The Respondent was and is a livestock dealer whose business activities include buying, selling and transporting horses for export to and slaughter in Mexico. The Respondent conducts business transactions governed by the AHPA and CTESA.

2. Respondent qualifies as an "owner-shipper" as defined in 9 C.F.R. § 88.1.

3. Before and through November 3, 2014, Respondent obtained horses at sale points originating in Alabama (36 horses) and Missouri (2 horses); the horses were transported to Blake Wilf in Romance, Arkansas, who negotiated with Respondent a sale of these horses for slaughter and transported the horses to Respondent's facilities in [REDACTED]. Respondent failed to prepare the owner-shipper certificates (VS Form 10-13) for these horses that documented transport from Arkansas to Texas, in violation of 9 C.F.R. § 88.4(a)(3). The horses were observed by state and federal investigators at the Texas Department of Agriculture export pens. The Texas Animal Health Commission investigator was able to obtain some of the official USDA sale barn backtags - 64FE8928, 64FE8930, 64FE8931, 64FE8932, 64FE8933, 64FE8934, 64FE8938, 64FE8939, 64FE8944, 64FE8949 and 64FE8950. (The state prefix code for Alabama is 64).

Two of the horses were identified with Missouri quarantine tags MOEX1460 and MOHK0342 (corrected). Federal and state investigators observed a Stanley Bros truck transporting the horses from Chula Vista pens to the Texas Department of Agriculture export pens.

4. On November 3, 2014, Respondent commercially transported horses intended for slaughter (the same horses referenced in paragraph 3) from Respondent's Chula Vista pens to the Texas Department of Agriculture pens, without an owner-shipper certificate (VS Form 10-13) that documented the transport of horses from Chula Vista to the Texas Department of Agriculture pens, in violation of § 88.4(a)(3). A Stanley Brothers truck was observed driving the horses from the Chula Vista pens to the Texas Department of Agriculture pens. Respondent only had an owner-shipper certificate (VS Form 10-13), numbered T-1590068, that documented these horses being loaded at Forney, Texas. As these horses were transported from Forney to Chula Vista and un-loaded, a new owner-shipper certificate was required when the horses were re-loaded onto a transport vehicle and transported to the Texas Department of Agriculture pens.

Conclusions of Law

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

Order

The Respondent, Michael McBarron, is assessed a civil penalty of ten thousand dollars (\$10,000.00). The Respondent shall send a bank/certified check or money order, payable to the Treasurer of the United States, for ten thousand dollars (\$10,000.00) to USDA APHIS, P.O. Box 979043, St. Louis, MO 63197-9000, payable within thirty (30) days from the effective date of

this Order. The bank/certified check or money order should include the docket number of this proceeding. Respondent should make and keep a copy of this payment for his records.

The provisions of this Order shall become effective on the day this Consent Decision and Order is issued.

Copies of this Decision and Order shall be served upon the parties.



Aaron Wiley
Attorney for Respondent



Tracey Manoff
Attorney for Complainant



Michael McBarron
Respondent

Issued the 20 day of Dec 2019



Administrative Law Judge Jill S. Clifton