

UNITED STATES DEPARTMENT OF AGRICULTURE

DEC 15 AM 10:31

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:	)	HPA Docket Nos. 13-0348, 15-0063
	)	
JOHN ALLEN,	)	
	)	
Respondent	)	DECISION AND ORDER BASED ON
	)	FAILURE TO APPEAR AT HEARING

This proceeding was instituted under the Horse Protection Act ("Act"), as amended (15 U.S.C. §§ 1821, et seq.)(HPA or Act), by a complaint filed on September 13, 2013, by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), alleging that the respondent violated the Act. This initial decision and order is entered pursuant to the Rules of Practice applicable to this proceeding (7 C.F.R. §§ 1.141(e), 1.142(c)).

In its complaint, APHIS seeks penalties against the respondent for violating the Act on three occasions. On October 18, 2013, the respondent filed an answer that contained both admissions and denials of the material allegations in the complaint.

On December 14, 2016, I presided over an oral hearing in this matter by audio-visual telecommunication, with locations in Murfreesboro, Tennessee, and Washington, D.C. Complainant was represented by Jonathan Gordy, Office of the General Counsel, U.S. Department of Agriculture. Respondent was *pro se*.

Respondent John Allen was duly notified of the hearing dates, the hearing locations, and the hearing time. The respondent did not appear at the hearing at either location, and did not have good cause not to appear at the hearing. Consequently, the respondent is deemed to have waived a hearing in this matter, to have admitted all of the material allegations of fact contained in the complaint, and to have admitted any facts that may have been presented at the hearing.

The complainant orally moved for issuance of a decision pursuant to the Rules of Practice (7 C.F.R. §§ 1.141(e), 1.142(c)).

I granted complainant's motion, and issue this initial decision and order on December 14, 2016.

Findings of Fact

1. Respondent John Allen is an individual whose mailing address is (b) (6)  
(b) (6)
2. On or about July 27, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Jose's High Society" as entry number 292 in class number 24, at the Marshall County Horseman's Association Horse Show in Lewisburg, Tennessee.
3. On or about August 3, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Mr. Onyx" as entry number 233 in class number 13, at the Belfast Lions Club 52"d Annual Horse Show in Belfast, Tennessee.
4. On or about August 26, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "I'm Innocent" as entry number 204 in class number 93, at the 74rd Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee.
5. On or about July 27, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Jose's High Society" as entry number 292 in class number 24, at the Marshall County Horseman's Association Horse Show in Lewisburg, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore.
6. On or about August 3, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Mr. Onyx" as entry number 233 in class number

13, at the Belfast Lions Club 52nd Annual Horse Show in Belfast, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore.

7. On or about August 26, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "I'm Innocent" as entry number 204 in class number 93, at the 74th Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore

#### Conclusions of Law

1. The Secretary of Agriculture has jurisdiction over the subject matter and Respondent.

2. On or about July 27, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Jose's High Society" as entry number 292 in class number 24, at the Marshall County Horseman's Association Horse Show in Lewisburg, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore.

3 ~~2~~ <sup>YSC</sup>. On or about August 3, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "Mr. Onyx" as entry number 233 in class number 13, at the Belfast Lions Club 52nd Annual Horse Show in Belfast, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore.

4 ~~2~~ <sup>YSC</sup>. On or about August 26, 2012, respondent John Allen entered for the purpose of showing or exhibiting the horse known as "I'm Innocent" as entry number 204 in class number 93, at the 74th Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee, in violation of section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)), while the horse was sore.

or cashiers check(s) or money order(s)  
JSC

Order

1. Respondent John Allen is assessed a civil penalty of \$6,600, to be paid by certified ~~check~~ check(s) JSC made payable to the Treasurer of the United States, within 60 days of the effective date of this decision and order, and remitted to USDA APHIS General, P.O. Box 979043, St. Louis, Missouri, 63197-9000. The certified check shall include the docket number, 13-0348, 15-0063, for this proceeding.

2. Respondent John Allen is disqualified for 3 years, beginning December 14, 2016, and continuing through December 13, 2019, from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating in any horse show, horse exhibition, or horse sale or auction. "Participating" means engaging in any activity beyond that of a spectator 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 be final and effective thirty five (35) days after service of this decision and order upon the 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).

Copies of this decision shall be served upon the parties.

Done at Washington, D.C.

this 15 of December 2016, nunc  
pro tunc to 14 Dec 2016

  
Jill S. Clifton  
Administrative Law Judge