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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Mitchell Stanley and	)	CTESA and AHPA Docket No. **19-J-0118**
Gregory Stanley, doing business as	)	
Stanley Bros Farms, LLC; and	)	
Stanley Bros Farms, LLC,	)	
	)	
Respondents.	)	

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT as to RESPONDENT MITCHELL STANLEY; and as to RESPONDENT GREGORY STANLEY; and as to RESPONDENT STANLEY BROS FARMS, LLC

Appearances:

Tracey Manoff, Esq., with the Office of the General Counsel, United States Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250, for the Complainant, the Administrator of the Animal and Plant Health Inspection Service; and

the Respondent Mitchell Stanley, representing himself (appearing pro se), and representing Stanley Bros Farms, LLC; and
the Respondent Gregory Stanley, representing himself (appearing pro se), and representing Stanley Bros Farms, LLC; and
the Respondent Stanley Bros Farms, LLC.

Preliminary Statement

1. The case caption regarding ONLY docket **19-J-0118** is AMENDED to:

In re:	)	
	)	
Mitchell Stanley and	)	CTESA and AHPA Docket No. **19-J-0118**
Gregory Stanley, doing business as	)	
Stanley Bros Farms, LLC; and	)	
Stanley Bros Farms, LLC,	)	
	)	
Respondents.	)	

2. The Complaint, filed on July 2, 2019, was assigned two docket numbers,

19-J-0117 and **19-J-0118**

This Decision and Order regarding only docket **19-J-0118** has no impact on docket 19-J-0117 regarding a different entity or entities scheduled for Hearing during 2020.

3. The Complainant is the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture ("APHIS"). The Complaint alleged, among other things, that Stanley Bros Farms, LLC (also known as Stanley Brothers Farms, LLC), a limited liability company registered in the State of Arkansas, and two officers-managers of the company, Mitchell Stanley and Gregory Stanley, violated the Commercial Transportation of Equine for Slaughter Act ("CTESA") (7 U.S.C. § 1901 note) and its Regulations (9 C.F.R. Part 88); and the Animal Health Protection Act ("AHPA"), and its Regulations (9 C.F.R. Parts 88 and 91). [The relevant provisions of 9 C.F.R. Part 91 that were in effect in 2014 were attached in Exhibit 1 to the Complaint.]

Procedural History regarding only 19-J-0118

4. Respondent Stanley Bros Farms, LLC (also known as Stanley Brothers Farms, LLC), a limited liability company registered in the State of Arkansas, and two officers-managers of the company, Respondent Mitchell Stanley and Respondent Gregory Stanley, were served on July 8, 2019 with a copy of the Complaint and the Hearing Clerk's letter dated July 2, 2019. Each of these Respondents failed to file an answer within the twenty-day period prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).

5. United States Postal Service records (including the "green card" returned to the Hearing Clerk) show that on July 8, 2019, these Respondents received the certified mailing that included a copy of the Complaint and the accompanying Hearing Clerk's letter.

6. Each of these Respondents had twenty (20) days from July 8, 2019, the date of service, to file an answer. 7 C.F.R. § 1.136(a). 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(h). Each answer of these Respondents was due to be filed on or before July 29, 2019. None of these Respondents filed an answer, or anything.

7. On August 7, 2019, I issued an order directing the parties to show cause: "Order to Show Cause Why Default Should Not be Entered Against Respondent Mitchell Stanley and Against Respondent Gregory Stanley and Against Respondent Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC" ("Show Cause Order"). This Order directed these Respondents to file within 20 days of August 7, 2019, a writing to show cause why default should not be entered in accordance with 7 C.F.R. § 1.136(c). APHIS filed, on August 9, 2019, a "Motion for Adoption of Proposed Default Decision and Order Against Respondents Mitchell Stanley, Gregory Stanley, and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC", with accompanying proposed default decision.

8. Respondent Stanley Bros Farms, LLC (also known as Stanley Brothers Farms, LLC), Respondent Mitchell Stanley, and Respondent Gregory Stanley were served with my "Show Cause Order" and with APHIS's Motion with accompanying proposed default decision.

Each of these Respondents failed to respond to my "Show Cause Order"[1] and each of these Respondents failed to file any objections to APHIS's Motion with accompanying proposed default decision.[2]

9. Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed an admission of the allegations in the Complaint. 7 C.F.R. § 1.136(c).

10. Respondent Stanley Bros Farms, LLC (also known as Stanley Brothers Farms, LLC), Respondent Mitchell Stanley, and Respondent Gregory Stanley failed to answer the Complaint. This Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, was and/or is a limited liability company registered in the State of Arkansas.

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[1] The Show Cause Order was issued on August 7, 2019; therefore, these Respondents were required to respond on or before August 27, 2019. As of this date, November 12, 2019, these Respondents have not filed a response.

[2] United States Postal Service records reflect that the Motion for Default and Proposed Decision and the Hearing Clerk's letter dated August 21, 2019, were sent to these Respondents via certified mail delivered on August 26, 2019. Respondents had twenty (20) days from the date of service to file objections thereto. 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(h). These Respondents' objections were due to be filed by September 16, 2019. As of this date, November 12, 2019, these Respondents have not filed any objections.

Respondent Mitchell Stanley and Respondent Gregory Stanley were and/or are listed as officers-managers of the company.

2. Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, work cooperatively to buy and commercially transport horses intended for slaughter from different states to Texas, and within the State of Texas, for export to Mexico for slaughter. Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC purportedly lease horse pens at Chula Vista, near Eagle Pass, Texas, to facilitate export of slaughter horses to Mexico.

3. M & M Livestock and the Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, each qualify as an "owner/shipper", as defined in 9 C.F.R. § 88.1.

> An owner/shipper is any individual partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture (production of food or fiber).

9 C.F.R. § 88.1.

4. As owner-shippers, M & M Livestock and the Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, are responsible to control the work being done in connection with transporting horses to slaughter.

5. As owner-shippers, M & M Livestock and the Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, are accountable once the horse purchase occurs and do not need to be present when the horses are loaded onto conveyances for

commercial transportation to slaughter to be held accountable for any violations involving those horses.

6. On or about July 3 and July 7, 2014, while commercially transporting and exporting slaughter horses from Texas to Mexico, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, presented inauthentic origin health certificates for endorsement to (b) (6) [redacted], D.V.M. the authorized APHIS veterinarian in the State of origin (Texas) (International Health Certificates T-1489613, T-1489614, T-1489615, T-1489616 and T-1489617) because the accredited APHIS veterinarian, (b) (6) [redacted] D.V.M., stated that the signature on the origin health certificate was not his, in violation of 9 C.F.R. § 91.3(a).

7. On July 24, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, removed official identification devices, USDA backtags, from horses transported interstate from Louisiana and Oklahoma to Texas prior to and destined for slaughter in Mexico, in violation of 9 C.F.R. § 88.4(a)(2). A Texas Animal Health Commission (TAHC) investigator observed the official identification devices being removed by these Respondents' employees/agents from horses penned in these Respondents' leased Chula Vista pens, located outside of Eagle Pass, Texas. The investigator observed Louisiana and Oklahoma sale barn USDA backtags and was able to recover seven backtags: 72KS9646, 72DO3998, 72DO3971, 72KS9451, 72DO4150, 72KS9712,

and 72KS9452. (72 is the state code for Louisiana). The words "Do Not Remove" are on the backtags.

8. Before and through July 24-25, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, purchased horses intended for slaughter in Mexico at sale points in Louisiana (36 horses) and Oklahoma (34 horses) and commercially transported said horses to Texas for export to Mexico, and failed to prepare owner-shipper certificates (VS Form 10-13) for these horses, documenting transport from Louisiana and Oklahoma to Texas, in violation of 9 C.F.R. § 88.4(a)(3). Invoices show Respondent Stanley Brothers purchased some of the horses at the Kinder Livestock Auction, Inc. in Kinder, LA and at Dominique's Livestock Market, Inc. in Opelousas, LA. Invoices show two of the Oklahoma horses originated at Atoka Livestock, LLC, Oklahoma. The TAHC investigator observed these horses and a Stanley Brothers truck at Respondents' leased pens at Chula Vista, Texas.

9. Before and through July 24-25, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, prepared owner-shipper certificates (VS Form 10-13) (no date), in conjunction with international health certificates, that lacked the time of loading, driver's name and vehicle license, in violation of 9 C.F.R. § 88.4(a)(3). The numbers of the origin health certificates documenting export of these horses from Texas to Mexico are T14-89694 and T14-89695.

10. Before and through July 24-25, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, purchased a horse originating at a sales point in Kansas, identified with official USDA sale barn backtag 48RN4948, and intended for slaughter, commercially transported the horse to these Respondents' facilities in Texas, and failed to prepare an owner-shipper certificate for this horse, (VS Form l0-13) documenting transport from Kansas to Texas, in violation of 9 C.F.R. § 88.4(a)(3).

11. On July 25, 2014, M & M Livestock and its agent, (b) (6) [redacted], presented incomplete owner-shipper certificates (VS 10-13), numbered T-14 89693 and T-14 89696 to a TAHC investigator in order to move slaughter horses under a TAHC hold order from the Chula Vista pens, in that the owner-shipper certificates lacked the date and time of loading onto the conveyance, and/or the driver's name and vehicle license number, in violation of 9 C.F.R. § 88.4(a)(3).

12. Before and through November 3, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, 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 these Respondents a sale of these horses for slaughter and transported the horses to these Respondents' facilities in Texas. These Respondents 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 TAHC 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 MONK0342. Federal and state investigators observed a Stanley Bros truck transporting the horses from Chula Vista pens to the Texas Department of Agriculture export pens.

13. On November 3, 2014, Respondents Mitchell Stanley, Gregory Stanley and Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, commercially transported horses intended for slaughter (the same horses referenced in paragraph 12) from these Respondents' 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. These Respondents had only 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

1. The Secretary of Agriculture has jurisdiction over these Respondents and the subject matter.
2. By reason of the Findings of Fact (above), owner-shipper M & M Livestock and owner-shipper Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, a limited liability company registered in the State of Arkansas, and two officers-managers of the company, Respondent Mitchell Stanley and Respondent Gregory Stanley, violated the Commercial Transportation of Equine for Slaughter Act ("CTESA") (7 U.S.C. § 1901 note) and its Regulations (9 C.F.R. Part 88); and the Animal Health Protection Act ("AHPA"), and its Regulations (9 C.F.R. Parts 88 and 91). [The relevant provisions of 9 C.F.R. Part 91 that were in effect in 2014 were attached in Exhibit 1 to the Complaint.]
3. By reason of the Findings of Fact (above), owner-shipper M & M Livestock and owner-shipper Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, a limited liability company registered in the State of Arkansas, and two officers-managers of the company, Respondent Mitchell Stanley and Respondent Gregory Stanley, willfully violated 9 C.F.R. § 88.4(a)(2), 9 C.F.R. § 88.4(a)(3), and 9 C.F.R. § 91.3(a).

4. Civil penalties are authorized by section 903(c)(3) of the CTESA (7 U.S.C. § 1901 note), 9 C.F.R. § 88.6, and section 10414 of the AHPA (7 U.S.C. § 10414).

Order

Owner-shipper M & M Livestock and owner-shipper Stanley Bros Farms, LLC, also known as Stanley Brothers Farms, LLC, a limited liability company registered in the State of Arkansas, and two officers-managers of the company, Respondent Mitchell Stanley and Respondent Gregory Stanley, are jointly and severally assessed civil penalties totaling four thousand dollars (**$4,000.00**), which they shall pay by certified check(s), cashier's check(s), or money order(s), payable to the order of "**Treasurer of the United States**", within 60 days after this Decision becomes final. The certified check(s), cashier's check(s), or money order(s) shall be marked **APHIS 19-J-0118** and sent to:

USDA APHIS General
P.O. Box 979043
St. Louis, MO 63197-9000

Finality

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, as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145). See Appendix A for 7 C.F.R. § 1.145.

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.,
this 12th day of November 2019

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
United States Department of Agriculture
Stop 9203, South Building, Room 1031
1400 Independence Avenue, SW
Washington, DC 20250-9203
Tel: 202-720-4443
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SM.OHA.HearingClerks@USDA.GOV

APPENDIX A

7 C.F.R.:

TITLE 7—AGRICULTURE

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 1—ADMINISTRATIVE REGULATIONS

. . . .

SUBPART H—RULES OF PRACTICE GOVERNING FORMAL ADJUDICATORY PROCEEDINGS INSTITUTED BY THE SECRETARY UNDER VARIOUS STATUTES

. . .

§ 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, if the decision is a written decision, or within 30 days after issuance of the Judge's decision, if the decision is an oral decision, a party who disagrees with the decision, any part of the decision, or any ruling by the Judge or who alleges any deprivation of rights, may appeal the decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.141(h)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the appeal petition and the arguments regarding each issue shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations, or authorities being relied upon in support of each argument. A brief may be filed in support of the appeal simultaneously with the appeal petition.

(b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

(c) *Transmittal of record.* Whenever an appeal of a Judge's decision is filed and a response thereto has been filed or time for filing a response has expired, the Hearing Clerk shall transmit to the Judicial Officer the record of the proceeding. Such record shall include: the pleadings; motions and requests filed and rulings thereon; the transcript or recording of the testimony taken at the hearing, together with the exhibits filed in connection therewith; any documents or papers filed in connection with a pre-hearing conference; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the proceeding; the Judge's decision; such exceptions, statements of objections and briefs in support thereof as may have been filed in the proceeding; and the appeal petition, and such briefs in support thereof and responses thereto as may have been filed in the proceeding.

(d) *Oral argument.* A party bringing an appeal may request, within the prescribed time

for filing such appeal, an opportunity for oral argument before the Judicial Officer. Within the time allowed for filing a response, appellee may file a request in writing for opportunity for such an oral argument. Failure to make such request in writing, within the prescribed time period, shall be deemed a waiver of oral argument. The Judicial Officer may grant, refuse, or limit any request for oral argument. Oral argument shall not be transcribed unless so ordered in advance by the Judicial Officer for good cause shown upon request of a party or upon the Judicial Officer's own motion.

(e) *Scope of argument.* Argument to be heard on appeal, whether oral or on brief, shall be limited to the issues raised in the appeal or in the response to the appeal, except that if the Judicial Officer determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

(f) *Notice of argument; postponement.* The Hearing Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed a reasonable amount of time in advance of the date fixed for argument.

(g) *Order of argument.* The appellant is entitled to open and conclude the argument.

(h) *Submission on briefs.* By agreement of the parties, an appeal may be submitted for decision on the briefs, but the Judicial Officer may direct that the appeal be argued orally.

(i) *Decision of the [J]udicial [O]fficer on appeal.* As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Judicial Officer, upon the basis of and after due consideration of the record and any matter of which official notice is taken, shall rule on the appeal. If the Judicial Officer decides that no change or modification of the Judge's decision is warranted, the Judicial Officer may adopt the Judge's decision as the final order in the proceeding, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. A final order issued by the Judicial Officer shall be filed with the Hearing Clerk. Such order may be regarded by the respondent as final for purposes of judicial review without filing a petition for rehearing, reargument, or reconsideration of the decision of the Judicial Officer.

[42 FR 743, Jan. 4, 1977, as amended at 60 FR 8456, Feb. 14, 1995; 68 FR 6341, Feb. 7, 2003]

7 C.F.R. § 1.145