

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	A.Q. Docket No. 08-0125	
)		
)		
Jack Reinert,)		Default Decision and Order
)		
Respondent)		
)		

This is an administrative proceeding for the assessment of a civil penalty for violations of the Commercial Transportation of Equine for Slaughter Act, 7 U.S.C. § 1901 note, and 9 C.F.R. part 88 in accordance with the rules of practice in 7 C.F.R. §§ 1.130 et seq. and 380.1 et seq.

On May 22, 2008, 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. The complaint was eventually properly served on Respondent.¹

¹The Motion for Adoption of Default Decision recites the rather convulsed history of the attempts to assure that Respondent was properly served. Since Respondent did file an answer the timeliness of which is not contested, I simply note that service was accomplished.

On August 12, 2008, the Hearing Clerk received Respondent's partial answer to the complaint. Respondent's partial answer consists of an undated and unsigned handwritten statement that refers to an affidavit that respondent gave IES Investigator Don Borchert on August 24, 2006. This affidavit only addresses the violations alleged in counts XI and XII of the complaint. Respondent's answer failed to deny or otherwise address counts I through X of the complaint. Section 1.136(c) of the rules of practice (7 C.F.R. § 1.136(c)) provides that the failure to deny or otherwise respond to an allegation of the complaint shall be deemed an admission of the allegations in the complaint. Section 1.139 of the rules of practice (7 C.F.R. § 1.139) further states that the admission of the allegations in the complaint constitutes a waiver of hearing. Therefore, Respondent's failure to deny or otherwise address counts I through X of the complaint thus constitutes both an admission of the allegations set forth in those counts and a waiver of hearing on those counts. Accordingly, the material allegations in counts I through X of the complaint are adopted and set forth in this default decision as the Findings of Fact, and this decision is issued pursuant to section 1.139 of the rules of practice applicable to this proceeding (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Jack Reinert is a licensed livestock buyer in South Dakota and has been buying horses since 1987. Respondent has a mailing address of 23422 329th Avenue, Reliance, South Dakota 57569. Respondent has a second mailing address of 23808 333rd Avenue, Reliance, South Dakota 57569.²

2. On or about July 7, 2003, respondent shipped 32 horses in commercial transportation

²According to the Motion for Default Decision, Respondent is currently incarcerated.

from Sisseton, South Dakota, to Dallas Crown, Inc., in Kaufman, Texas (hereinafter referred to as Dallas Crown), for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) it listed only 23 horses rather than each horse being transported, in violation of 9 C.F.R. § 88.4(a)(3); (2) it did not indicate the breed/type of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) the prefix for each horse's USDA back tag number was not recorded properly, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

3. (a) On or about February 1, 2004, Respondent shipped 47 horses in commercial transportation from Philip, South Dakota, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv), and (2) it did not indicate the breed/type of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v).

(b) On or about February 1, 2004, Respondent shipped 47 horses in commercial transportation from Philip, South Dakota, to Dallas Crown for slaughter. The shipment contained a stallion but Respondent did not load it on the conveyance so that it was completely segregated from the other horses to prevent it from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

(c) On or about February 1, 2004, Respondent shipped 47 horses in commercial transportation from Philip, South Dakota, to Dallas Crown for slaughter. At least two (2) horses in the shipment went down while en route to the slaughter plant such that they were not able to

get up and had to be euthanized on the conveyance upon its arrival at Dallas Crown. The fact that these two (2) horses became nonambulatory en route indicated that they were in obvious physical distress, yet Respondent and/or his driver thus did not check the physical condition of

the horses at least once every six (6) hours or, in the alternative, did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(d) On or about February 1, 2004, Respondent shipped 47 horses in commercial transportation from Philip, South Dakota, to Dallas Crown for slaughter. At least two (2) horses in the shipment went down while en route to the slaughter plant such that they were not able to get up and had to be euthanized on the conveyance upon its arrival at Dallas Crown. Respondent and/or his driver thus failed to handle these two (2) horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

4. On or about February 5, 2004, Respondent shipped 37 horses in commercial transportation from Gregory, South Dakota, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) it listed only 35 horses rather than each horse being transported, in violation of 9 C.F.R. § 88.4(a)(3); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) it did not indicate the breed/type of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v).

5. On or about February 22, 2004, Respondent shipped 28 horses in commercial transportation from Minot, North Dakota, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) it did not indicate the breed/type of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v)

and (2) the date and time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

6. On or about February 23, 2004, Respondent shipped 22 horses in commercial transportation from Fairbury, Nebraska, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) it did not list the name of auction/market, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) it did not indicate the breed/type of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) the date and time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

7.(a) On or about June 30, 2004, Respondent shipped 45 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter but did not apply a USDA back tag to each horse in the shipment, in violation of 9 C.F.R. § 88.4(a)(2).

(b) On or about June 30, 2004, Respondent shipped 45 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) it did not indicate the color and sex of any of the listed horses, physical characteristics that could be used to identify the horses, in violation of 9 C.F.R. § 88.4(a)(3)(v), and (2) it did not list the prefixes and numbers of the USDA back tags for any horse in the shipment, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

(c) On or about June 30, 2004, Respondent shipped 45 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter. Respondent failed to

maintain a copy of the owner/shipper certificate, VS Form 10-13, for one year following the date of signature, in violation of 9 C.F.R. § 88.4(f).

8. (a) On or about August 8, 2004, Respondent shipped 42 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the shipment included a horse, USDA back tag # USBG 7801, that had a pre-existing injury to its right front leg, but there was no indication that this horse had a pre-existing injury or other unusual condition that may have caused it to have special handling needs, in violation of 9 C.F.R. § 88.4(a)(3)(viii).

(b) On or about August 8, 2004, Respondent shipped 42 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter. One of the horses, USDA back tag # USBG 7828, had a pre-existing injury to its left rear hoof and another horse, USDA back tag # USBG 7801, had a pre-existing injury to its right front leg such that neither horse could not bear weight on all four limbs, yet Respondent shipped them with the other horses. Respondent and/or his driver thus failed to handle the two (2) injured horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

(c) On or about August 8, 2004, Respondent shipped 42 horses in commercial transportation from Rushville, Nebraska, to Dallas Crown for slaughter. Respondent failed to maintain a copy of the owner/shipper certificate, VS Form 10-13, for one year following the date of signature, in violation of 9 C.F.R. § 88.4(f).

9. On or about November 21, 2004, Respondent shipped 47 horses in commercial

transportation from Fort Pierre, South Dakota, to Dallas Crown for slaughter. One horse in the shipment, a bay mare without a USDA back tag, did not want to stand during said transportation but kept lying down, thereby causing it to be kicked and stepped on by the other horses in the shipment. By reason of the foregoing, this horse was in obvious physical distress, yet Respondent failed to obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

10. On or about December 8, 2004, Respondent shipped 46 horses in commercial transportation from Sisseton, South Dakota, to Dallas Crown, Inc., in Kaufman, Texas (hereinafter referred to as Dallas Crown), for slaughter but did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv).

Conclusion

By reason of the Findings of Fact set forth above, Respondent Jack Reinert violated the Commercial Transportation of Equines for Slaughter Act, 7 U.S.C. § 1901 note. Therefore, the following Order is issued.

Order

Respondent Jack Reinert is hereby assessed a civil penalty of forty eight thousand one hundred and fifty dollars (\$48,150.00). This penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

Respondent Jack Reinert shall indicate that payment is in reference to A.Q. Docket No. 08-0125.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon Respondent Jack Reinert 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).

Done at Washington, D.C.
this 19th day of June, 2009.

Marc R. Hillson
Chief Administrative Law Judge