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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2004 OCT 20 12 3 10

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In re:

Larry W. Mesimer and)
David Polk, d/b/a) HPA Docket No. 04-0002
David Polk Stables,)
Respondents)

Consent Decision and Order as to David Polk

This proceeding was instituted under the Horse Protection Act ("Act"), as amended (15 U.S.C. § 1821 et seq.), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents violated the Act. 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).

Respondent David Polk, doing business as David Polk Stables, admits the jurisdictional allegations in paragraph I of the complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent David Polk, doing business as David Polk Stables, is an individual whose mailing address is 3001 Highway 24/27, Midland, North Carolina 28027.

2. On June 8, 2001, respondent David Polk, doing business as David Polk Stables, entered for the purpose of showing or exhibiting the horse known as "Pusher's Lucky Charm" as entry number 55 in class number 2, at the Southwest Virginia Classic Horse Show in Dublin, Virginia.

Conclusions

Respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent David Polk, doing business as David Polk Stables, is disqualified for six months beginning October 19, 2004, 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

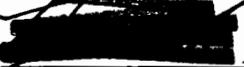
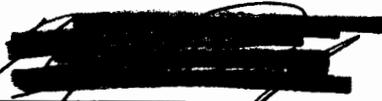
or inspection areas, or in any area where spectators are not allowed, and financing the participation of others in equine events.

2. Respondent David Polk, doing business as David Polk Stables, is assessed a civil penalty of \$1,100.

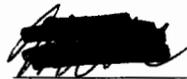
This order shall have the same effect as if entered after a full hearing and shall become effective upon issuance.

Copies of this decision shall be served upon the parties.

 
David Polk, d/b/a
David Polk Stables
Respondent


 
Frank Martin, Jr.
Attorney for Complainant

Done at Washington, D.C.
this 20th day of October, 2004

 
Administrative Law Judge