

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0148

In re: Roger L. McCord,

Respondent

Default Decision and Order

This is an administrative proceeding for the assessment of a civil penalty for a violation of the Animal Health Protection Act (7 U.S.C. §§ 8301 *et seq.*)(Act) and the regulations promulgated thereunder (9 C.F.R. Part 79) in accordance with the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.130 *et seq.* and 7 C.F.R. Part 70).

This proceeding was instituted by a complaint filed on February 24, 2011 by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. A copy of the Complaint and a copy of the Rules of Practice governing the proceeding was placed in the United States mail and sent certified mail. The mail was returned as “unclaimed” and the mail was resent by ordinary mail pursuant to 7 C.F.R. §1.147(c)(1).

The respondent failed to file an answer to the complaint within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the rules of practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. The failure to file an answer also constitutes a waiver of hearing. 7 C.F.R. § 1.139. Accordingly, the following Findings of Fact, Conclusions of Law and Order will be entered.

Findings of Fact

1. Roger L. McCord is an individual whose mailing address is in Ash Flat, Arkansas.
2. On or about March 8, 2008, the Respondent moved one hundred and one (101) live goats for sale in interstate commerce, from his farm in Arkansas to Hillbilly Auction in Missouri, without identifying each goat in a manner approved by the Administrator, Animal and Plant Health Inspection Service and without obtaining the required Certificates of Veterinary Inspection for scrapie, in violation of 9 C.F.R. § 79.3(a)(5).
3. On or about March 8, 2008, the Respondent moved three (3) live sheep for sale in interstate commerce, from his farm in Arkansas to Hillbilly Auction in Missouri, without identifying each sheep in a manner approved by the Administrator, Animal and Plant Health Inspection Service and without obtaining the required Certificates of Veterinary Inspection for scrapie, in violation of 9 C.F.R. § 79.3(a)(7).

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. By reasons of the facts contained in the Findings of Fact above, the Respondent violated 9 C.F.R. §§ 79.3(a)(5) and 79.3(a)(7).

Order

1. The Respondent is hereby assessed a penalty of five thousand dollars (\$5,000.00). 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:

U.S. BANK
P.O. Box 979043
St. Louis, Missouri 63197-9000

Respondent shall indicate that payment is in reference to Docket No. 11-0148.

2. This Order shall be final and effective thirty-five (35) days after service of this Decision and Order upon 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 the Default Decision and Order shall be served on the parties by the Hearing Clerk.

August 2, 2011

Peter M. Davenport
Chief Administrative Law Judge