

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0192

In re: Terry Wayne Sims
also known as Terry Sims,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Horse Protection Act ("Act"), as amended (15 U.S.C. §§ 1821-1831), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that Respondent violated the Act.

Copies of the complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were sent by the Hearing Clerk by certified mail and received by the Respondent on or about March 29, 2012. The Rules of Practice require a Respondent to file an Answer within 20 days of the receipt of a complaint. On April 19, 2012, the Hearing Clerk sent a letter to the Respondent notifying him that a timely answer had not been received.

As Respondent failed to file an answer within the time prescribed in the Rules of Practice, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

Findings of Fact

1. Terry Wayne Sims also known as Terry Sims (“Respondent”) is an individual whose current mailing address is in Louisville, Kentucky.
2. The Respondent is the *de facto* owner of a horse known as “Smooth Skyes”. The registered owner of “Smooth Skyes” was the juvenile daughter of the Respondent.
3. On July 29, 2009, the Respondent signed a consent decision to resolve prior allegations of violations of the Act in the case of *In re Terry Logan Lunsford, Terry Wayne Sims also known as Terry Sims and Charles Sims*, HPA Dkt. No. 08-0111. In that Decision, Respondent was disqualified effective September 21, 2009 for eight uninterrupted months 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.
4. On or about August 29, 2009 prior to the onset his period of disqualification, Respondent Terry Wayne Sims transported the horses known as “Smooth Skyes” and “Outer Limits” to the 71st Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee while the horses were sore.
5. On or about August 29, 2009 prior to the onset his period of disqualification, Respondent entered a horse known as “Outer Limits” as Entry No. 1479, Class No. 80, at the 71st Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee while the horse was sore.
6. On or about August 30, 2009, prior to the onset his period of disqualification Respondent entered and allowed the entry of a horse known as “Smooth Skyes” as Entry No. 1476, Class No. 84 A, at the 71st Annual Tennessee Walking Horse National Celebration in Shelbyville, Tennessee while the horse was sore.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent violated sections 5(1) and 5(2)(A), (B), and (D) of the Act, 15 C.F.R. §§1824(1) and 1824(2)(A), (B) and (D).

Order

1. Respondent is disqualified 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 disqualification shall continue for three uninterrupted years or until the civil penalty is paid in full, whichever event should last occur.
2. The Respondent is assessed a civil penalty of \$6,600.
3. Pursuant to the Rules of Practice, this decision becomes final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145. The provisions of this order shall become effective on the first day of the month after this decision becomes final.

Copies of this decision shall be served upon the parties.

July 20, 2012

Peter M. Davenport
Chief Administrative Law Judge