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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	HPA Docket No. 16-0139
)	
ROBERT KEITH MCSWAIN, an)	
individual,)	
)	
Respondent.)	
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In re:)	HPA Docket No. 17-0176
)	HPA Docket No. 17-0177
JOE COOPER, an individual;)	HPA Docket No. 17-0178
SCOTT COOPER, an individual;)	HPA Docket No. 17-0179
GARY EDWARDS, an individual;)	HPA Docket No. 17-0182
LARRY EDWARDS, an individual;)	HPA Docket No. 17-0183
DANIEL MCSWAIN, an individual;)	HPA Docket No. 17-0184
ROBERT KEITH MCSWAIN, an)	
individual; KEN MOORE, also known as)	CONSENT DECISION AND
SLIM MOORE, an individual,)	ORDER AS TO RESPONDENTS
)	DANIEL MCSWAIN AND
Respondents.)	ROBERT KEITH MCSWAIN

These proceedings were instituted under the Horse Protection Act (15 U.S.C. § 1821 *et seq.*)(HPA or Act), by complaints filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on July 25, 2016, and January 17, 2017, respectively, alleging that the respondents violated the Act.

Respondents Daniel McSwain and Robert Keith McSwain admit the jurisdictional allegations as to them in the complaints, specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, and waive oral hearing and further procedure. The parties consent and agree to the entry of this decision for the purpose of settling these proceedings as to respondents Daniel McSwain and Robert Keith McSwain, and resolving any and all other alleged or potential violations of the Act by them occurring up to and including October 18, 2017. This decision is entered pursuant to the consent decision provisions of the

Rules of Practice applicable to these proceedings (7 C.F.R. § 1.138).

Findings of Fact

1. Respondent Daniel McSwain is an individual residing in [REDACTED] and at all times mentioned herein, was a "person" and an "exhibitor," as those terms are defined in the regulations promulgated under the Act (9 C.F.R. Parts 11 and 12)(Regulations).

2. Respondent Robert Keith McSwain is an individual residing in [REDACTED] and at all times mentioned herein, was a "person" and an "exhibitor," as those terms are defined in the Regulations.

3. On or about August 24, 2013, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 82B in a horse show in Shelbyville, Tennessee.

4. On or about July 26, 2014, respondent Robert Keith McSwain allowed a horse he owned (Honors) to be shown in class 29 in a horse show in Pulaski, Tennessee.

5. On or about August 23, 2014, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 82A in a horse show in Shelbyville, Tennessee.

6. On or about August 29, 2015, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 83 in a horse show in Shelbyville, Tennessee.

7. On or about July 1, 2016, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 40 in a horse show in Shelbyville, Tennessee.

8. On or about August 27, 2016, respondent Daniel McSwain allowed the entry of a

horse he owned (Honors), for the purpose of showing the horse in class 84B in a horse show in Shelbyville, Tennessee.

9. On or about September 3, 2016, respondent Daniel McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 190 in a horse show in Shelbyville, Tennessee.

10. On or about August 27, 2016, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors), for the purpose of showing the horse in class 84B in a horse show in Shelbyville, Tennessee.

11. On or about September 3, 2016, respondent Robert Keith McSwain allowed the entry of a horse he owned (Honors) for the purpose of showing the horse in class 190 in a horse show in Shelbyville, Tennessee.

Conclusion of Law

Respondents Daniel McSwain and Robert Keith McSwain having admitted the findings and conclusions set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent Daniel McSwain is disqualified for eight months, beginning November 1, 2017, and ending June 30, 2018, from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating¹ in any horse show, horse exhibition, or horse sale or auction, directly or indirectly

¹“Participating” means engaging in any activity beyond that of a spectator in connection with a horse show, horse exhibition, or horse sale or auction, 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.

through any agent, employee, or other device.

2. Respondent Robert Keith McSwain is disqualified for eighteen months, beginning November 1, 2017, and ending April 30, 2019, from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating² in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, or other device.

3. Respondents Daniel McSwain and Robert Keith McSwain are jointly and severally assessed a civil penalty of \$19,800, which shall be paid by November 1, 2017, by check made payable to USDA/APHIS, indicating that the payment is in reference to HPA Dockets Nos. 16-0139, 17-0182, and 17-0183, and sent to:

USDA, APHIS, MISCELLANEOUS
P.O. Box 979043
St. Louis, Missouri 63197-9000

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²See Note 1.

The provisions of this order shall become final and effective November 1, 2017. This consent decision and order may be executed in counterparts. Copies of this decision shall be served upon the parties.

[Redacted]

Daniel McSwain
Respondent

Colleen A. Carroll
Attorney for Complainant

[Redacted]

Robert Keith McSwain
Respondent

[Redacted]

G. Taylor Wilson
Attorney for Respondents

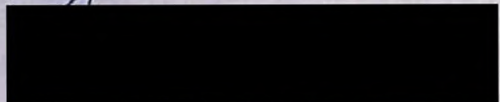
Done at Washington, D.C.,
this 20 day of Oct 2017

[Redacted]

Jill S. Clifton
Administrative Law Judge

The provisions of this order shall become final and effective November 1, 2017. This consent decision and order may be executed in counterparts. Copies of this decision shall be served upon the parties.

Daniel McSwain
Respondent

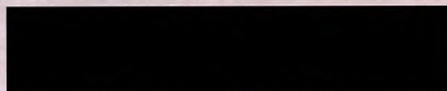


Colleen A. Carroll
Attorney for Complainant

Robert Keith McSwain
Respondent

G. Taylor Wilson
Attorney for Respondents

Done at Washington, D.C.,
this 20 day of Oct 2017



Jill S. Clifton
Administrative Law Judge