

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	HPA Docket No. 17-0022
)	
CHARLES GLEGHORN, an individual,)	
)	DECISION AND ORDER
Respondent.)	BY REASON OF DEFAULT

This proceeding was instituted under the Horse Protection Act (15 U.S.C. § 1821 et seq.)(Act or HPA) by a complaint filed on December 23, 2016, by the Administrator of the Animal and Plant Health Inspection Service (APHIS), alleging that the respondent violated the Act with respect to two horses, "The Sportster" and "Generating the Command."

On January 5, 2017, the Office of the Hearing Clerk sent respondent copies of the complaint and the Rules of Practice by certified mail (7015 3010 0001 5187 5679) addressed to the respondent as follows:

Charles Gleghorn


According to the U.S. Postal Service, the certified mailing was delivered to respondent on January 10, 2017. CX 1, CX 2. The respondent was required to file an answer to the complaint in this case no later than January 30, 2017. The respondent did not file an answer to the complaint in this case until February 1, 2017. On February 1, 2017, complainant filed a motion for a decision and order by reason of default. The Hearing Clerk's records reflect that the Respondent have failed to file a timely answer to the Complaint. 1

1 The Respondents had twenty (20) days from the date of service to file a response. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. §§ 1.147(g), (h). In this case, the Respondents' Answer was due by January 30, 2017 but was not filed until February 1, 2017. Failure to file a timely answer or failure to deny or

Consequently, the material facts alleged in the complaint are all admitted by the respondent's failure to file a timely answer, or any answer at all, and those material facts are adopted and set forth herein as Findings of Fact and Conclusions of Law. This decision and order is issued pursuant to section 1.139 of the Rules of Practice.

FINDINGS OF FACT

1. Charles Gleghorn is an individual whose business mailing address is [REDACTED] [REDACTED]. At all times mentioned herein, Mr. Gleghorn was a "person" and an "exhibitor," as those terms are defined in the regulations issued pursuant to the Act (9 C.F.R. § 11.1 et seq.)(Regulations).

2. The nature and circumstances of the prohibited conduct alleged in this complaint are that Mr. Gleghorn entered a horse in a horse show while the horse was "sore" (as that term is defined in the Act and the Regulations) and bearing a prohibited substance, and Mr. Gleghorn allowed the entry of a horse that he owned in the horse show while that horse was sore. The extent and gravity of the prohibited conduct is great. Congress enacted the HPA to end the practice of making gaited horses, including Tennessee Walking Horses, "sore" for the purpose of altering their natural gait to achieve a higher-stepping gait and gaining an unfair competitive advantage during performances at horse shows.²

otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision. 77 C.F.R. § 1.136(c). Regrettably, other than a consent decision, the Rules of Practice and Procedure do not provide for exceptions to the regulatory consequences of an untimely filed answer.

²"When the front limbs of a horse have been deliberately made 'sore,' usually by using chains or chemicals, 'the intense pain which the animal suffered when placing his forefeet on the ground would cause him to lift them up quickly and thrust them forward, reproducing exactly [the distinctive high-stepping gait of a champion Walker].' H.R. Rep. No. 91-1597, 91st Cong., 2d Sess. 2 (1970), reprinted in 1970 U.S.C.A.N. 4870, 4871. Congress' reasons for prohibiting this

3. The respondent is culpable for the violations alleged in this complaint. Exhibitors and owners of horses are absolute guarantors that those horses will not be sore within the meaning of the HPA when they are entered or shown.³

4. APHIS has issued multiple warning letters to the respondent. APHIS issued an Official Warning (TN 10097) to Mr. Gleghorn with respect to his having entered a horse (Loose N' Busty) in a horse show on September 9, 2009, which horse APHIS found was bearing prohibited substances (decamethylcyclopentasiloxane, benzocaine, lidocaine and sulfur). In 2012, APHIS issued an Official Warning (NC 130084) to Mr. Gleghorn with respect to his having entered Unforgettable Pusher in a horse show on July 27, 2012, which horse APHIS found was sore. On June 6, 2014, APHIS issued an Official Warning (TN 130384) to Mr. Gleghorn with respect to his having entered a horse (Knee Deep in Cash) in a horse show on August 26, 2012, which horse APHIS found was bearing a prohibited substance (o-aminoazotoluene). On January 23, 2015, APHIS issued an Official Warning (TN 140094) to Mr. Gleghorn with respect to his having allowed the entry of Unforgettable Pusher in a horse show on June 7, 2013, which horse APHIS found was sore. On November 23, 2015, APHIS issued an Official Warning (TN 150037) to Mr. Gleghorn with respect to his having allowed the entry of Knee Deep in Cash in a horse show on August 22, 2014, which horse APHIS found was sore. On July 19, 2016, APHIS issued an Official Warning (TN 160122) to Mr. Gleghorn with respect to his having allowed the entry of

practice were twofold. First, it inflicted unnecessary pain on the animals; and second, those who made their animal 'sore' gained an unfair competitive advantage over those who relied on skill and patience. In 1976, Congress significantly strengthened the Act by amending it to make clear that intent to make a horse 'sore' is not a necessary element of a violation." *In re Gary R. Edwards, at al.*, 55 Agric. Dec. 892 (1996).

³*In re Gary R. Edwards, at al.*, 55 Agric. Dec. 892, 979 (1996); *In re Carl Edwards & Sons Stables, etc., et al.*, 56 Agric. Dec. 529 (1997).

Pusher's General in a horse show on August 30, 2015, which horse APHIS found was sore and was bearing a prohibited substance.

CONCLUSIONS OF LAW

1. On or about August 27, 2016, Mr. Gleghorn entered a horse he owned (Generating the Command) while the horse was sore, for showing in class 81 in a horse show in Shelbyville, Tennessee, in violation of the Act (15 U.S.C. § 1824(2)(B)).

2. On August 27, 2016, Mr. Gleghorn entered Generating the Command while the horse was bearing prohibited substances, for showing in class 81 in a horse show in Shelbyville, Tennessee, in violation of the Act (15 U.S.C. § 1824(7)).

3. On or about August 28, 2016, Mr. Gleghorn allowed the entry of a horse he owned (The Sportster) while the horse was sore, for showing in class 85 in a horse show in Shelbyville, Tennessee, in violation of the Act (15 U.S.C. § 1824(2)(D)).

ORDER

1. Respondent is assessed a \$6,600 civil penalty which shall be paid by certified check or money order, made payable to the "Treasurer of the United States," indicating that the payment is in reference to HPA Docket No. 17-0022, and sent to:

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

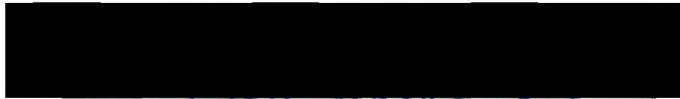
2. Respondent is disqualified for three years from showing or exhibiting any horse in any horse show, horse exhibition, horse sale, or horse auction, directly or indirectly through any agent, employee, corporation, partnership, or other device, and from judging or managing any horse show, horse exhibition, horse sale, or horse auction.

This Decision and Order shall be final and effective without further proceedings thirty-five

(35) days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties with courtesy copies provided via email where available.

Done at Washington, D.C.,
this 9th day of February, 2017



Bobbie J. McCartney
Chief Administrative Law Judge