



United States
Department of
Agriculture

CERTIFIED RECEIPT REQUESTED

November 18, 2011

Office of
Administrative
Law Judges

Harvey Rodriguez
1000 Bethlehem Church Road
Shelbyville, TN 37160

Hearing Clerk

Room 1031
South Building

Michelle Hasting
725 S Cannon Blvd
Shelbyville, TN 37160

1400 Independence
Avenue SW

Washington, DC
20250-9200

Dear Respondents:

(202) 720-4443
(202) 720-9776 fax

Subject: Harvey Rodriguez and Michelle Hasting Respondents
Docket Number 11-0242

Enclosed is a copy of the Default Decision and Order issued in this proceeding by Chief Administrative Law Judge Peter M. Davenport on November 18, 2011. Please note that each party has **thirty (30) days** after being served with a copy of this Default Decision and Order to file an appeal to the Department's Judicial Officer.

If no appeal is filed, the Default Decision and Order shall become final and effective as to each party **thirty-five (35) days** after the date of service. However, if an appeal is filed the Default Decision and Order is not final for purposes of judicial review. Upon completion of judicial review, an Order will be issued by the Secretary of Agriculture or the Judicial Officer.

If you elect to file an appeal, please note that an original and three (3) copies of the appeal are required. Please refer to the Uniform Rules of Practice (7 C.F.R. § 1.145) to obtain information regarding the procedure for filing an appeal. Lastly, you received a copy of the Uniform Rules of Practice when you were served with the Complaint.

Sincerely,

L. Eugene Whitfield
Hearing Clerk

Enclosure(s)

Sent To: Robert Ertman, OGC
Ruth Ann McDermott-APHIS

CMA: 11/18/11

USDA
OALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0242

In re: Harvey Rodriguez,
and Michelle Hasting,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Horse Protection Act, as amended (15 U.S.C. § 1821 *et seq.*), herein referred to as the Act, 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.

A copy of the complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were mailed to Respondent Harvey Rodriguez, by certified mail, return receipt requested, on June 30, 2011. These were returned marked "unclaimed" and were served on Respondent by first class mail on August 5, 2011. A copy of the complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were mailed to Respondent Michelle Hasting, by certified mail, return receipt requested, and were signed for by Respondent on June 29, 2011.

Respondents failed to file an answer within the time prescribed and 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. Respondent Harvey Rodriguez is an individual with a mailing address in Shelbyville, Tennessee.

2. Respondent Michelle Hasting is an individual with a mailing address in Shelbyville, Tennessee.

3. At all times material hereto, Harvey Rodriguez was the trainer and an owner of the horse known as "Broken Dreams" entered as Entry No. 165, Class No. 9 at the Eagleville Lions Club Horse Show at Shelbyville, Tennessee on June 20, 2009..

4. At all times material hereto, Michelle Hasting was an owner of the horse known as "Broken Dreams" which was entered as Entry No. 165, Class No. 9, on June 20, 2009, at the Eagleville Lions Club Horse Show at Eagleville, Tennessee.

5. On June 20, 2009, Harvey Rodriguez, entered for the purpose of showing or exhibiting the horse known as "Broken Dreams" as Entry No. 165, in Class No. 9, at the Eagleville Lions Club Horse Show at Eagleville, Tennessee, while the horse was sore.

6. On June 20, 2009, Michelle Hasting, entered and allowed the entry for the purpose of showing or exhibiting of "Broken Dreams" as Entry No. 165, in Class No. 9, at the Eagleville Lions Club Horse Show at Eagleville, Tennessee, while the horse was sore.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Respondent Harvey Rodriguez's entry of the horse known as "Broken Dreams" as Entry No. 165, in Class No. 9 at the Eagleville Lions Club Horse Show at Eagleville, Tennessee on June 20, 2009 for the purpose of showing or exhibiting while the horse was sore violated section 5(2)(B) of the Act (15 U.S.C. § 1824(2)(B)).

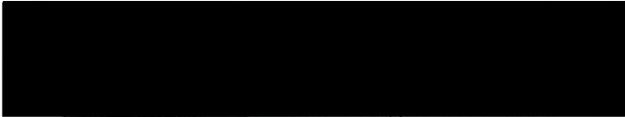
3. Respondent Michelle Hasting's actions in entering and allowing the entry "Broken Dreams" as Entry No. 165, in Class No. 9, at the Eagleville Lions Club Horse Show at Eagleville, Tennessee on June 20, 2009 for the purpose of showing or exhibiting while the horse was sore violated sections 5(2)(B) and (D) of the Act (15 U.S.C. §§ 1824(2)(B), (D)).

Order

1. Respondents Harvey Rodriguez and Michelle Hasting are each assessed a civil penalty of \$2,200, which shall be paid by a certified check or money order made payable to the Treasurer of United States and shall be sent to Robert A. Ertman, Attorney, Office of the General Counsel, United States Department of Agriculture, Room 2313 South Building, Washington, D.C. 20250-1417.
2. Respondents Harvey Rodriguez and Michelle Hasting are each disqualified for an uninterrupted period of one year 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.
3. For the purposes of this Order, "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 any horse show, horse exhibition, or horse sale or auction, personally giving instructions to exhibitors, and being present in the warm-up or inspection areas, or in any area where spectators are not allowed. Jurisdiction is retained for the limited purpose of enforcement of this paragraph.
4. This Order shall be effective on the first day after this Decision and Order becomes final. This Decision and Order shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145).

Copies of this decision shall be served upon the parties.

November 18, 2011


Peter M. Davenport
Chief Administrative Law Judge