

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

USDA
OALJ/OHC
2012 AUG 27 AM 11:32

In re:)
Franklin LaRue McWaters,)
Respondent) Docket No. 12-0603
Complaint

RECEIVED

There is reason to believe that the respondent named herein has violated the Horse Protection Act, as amended (15 U.S.C. § 1821 et seq.), herein referred to as the Act. Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Franklin LaRue McWaters, hereinafter referred to as the respondent, is an individual whose mailing address is 110 1st Avenue, Ashford, AL 36312.

B. At all times material hereto, respondent was the trainer and owner of the horse known as "Your Wish My Command" and entered this horse as Entry No. 7, Class No. 5, on May 21, 2009, at the Spring Fun Show at Shelbyville, Tennessee.

C. At all times material hereto, respondent was the trainer and owner of the horse known as "Your Wish My Command" and entered this horse as Entry No. 127, Class No. 31, on August 27, 2009, at the Tennessee Walking Horse National Celebration at Shelbyville, Tennessee.

II

On May 21, 2009, at the Spring Fun Show at Shelbyville, Tennessee, the respondent failed and refused to permit an APHIS Veterinary Medical Officer to complete the inspection of the

horse known as "Your Wish My Command", in violation of section 5(9) of the Horse Protection Act (15 U.S.C. § 1824(9)).

III

On August 27, 2009, at the Tennessee Walking Horse National Celebration at Shelbyville, Tennessee, the respondent failed and refused to permit an APHIS Veterinary Medical Officer to complete the inspection of the horse known as "Your Wish My Command", in violation of section 5(9) of the Horse Protection Act (15 U.S.C. § 1824(9)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

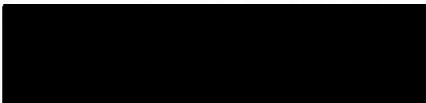
2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances including an order:

(a) Assessing civil penalties against the respondent in accordance with section 6(b) of the Act (15 U.S.C. § 1825(b)); and

(b) Disqualifying the respondent for a specified period as provided in section 6(c) of the Act (15 U.S.C. § 1825(c)) from (1) showing, exhibiting or entering any horse, or otherwise participating in any horse show or exhibition, and (2) judging or managing any horse show, horse exhibition, horse sale or auction.

Done at Washington, D.C.
this 24th day of August, 2012

Adly



Administrator
Animal and Plant Health
Inspection Service

ROBERT A. ERTMAN
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1417
Telephone (202) 720-4982
robert.ertman@ogc.usda.gov