

7017 SEP 13 AM 10: 09

RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	HPA Docket No. 17-0030
)	HPA Docket No. 17-0031
	MIKE HANNAH, un individual; and)	
	HERB MURRATH, an individual.)	
)	CONSENT DECISION AND
	Respondents.	}	ORDER AS TO RESPONDENT
)	HERB MURRATH

This proceeding was instituted under the Horse Protection Act (15 U.S.C. § 1821 of seq.)(HPA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service. United States Department of Agriculture (APHIS), on December 28, 2016, alleging that the respondents violated the Act.

Respondent Herb Murrath admits the jurisdictional allegations in the complaint, specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, and waives oral hearing and further procedure. The parties consent and agree to the entry of this decision for the purpose of settling this proceeding as to respondent Herb Murrath, and resolving any and all other alleged or potential violations of the Act by him occurring up to and including August 31, 2017. This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Findings of Fact

- 1. Respondent Herb Murrath is an individual residing in 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. Paris 11 and 12).
- 2. On or about August 29, 2016, respondent Murrath allowed the entry of a horse he owned (Turheel's Star of Ritz), for the purpose of showing the horse, in class 115C in a horse show

in Shelbyville, Tennessee.

Conclusion of Law

Respondent Murrath having admitted the findings of fact set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondent Murrath is disqualified for four months, either (initial one):

beginning September 4, 2017, and ending January 3, 2018, or

beginning January 1, 2018, and ending April 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 participating in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, or other device.

2. Respondent Murrath is assessed a civil penalty of \$550, which shall be paid by October 1, 2017, by check made payable to USDA/APHIS, indicating that the payment is in reference to HPA Docket No. 17-0031, and sent to:

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

Jill.

1111

////

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.

The provisions of this order shall become final and effective as of August 31, 2017. This order may be executed in counterparts. Copies of this decision shall be served upon the parties.

Herb Murrath Respondent

Colleen A. Corroll Attorney for Complainant I.. Thomas Austin Attorney for Respondent

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

Channing D. Strotter
Administrative Law Judge

CERTIFICATE OF SERVICE

Herb Murrath, Respondents Docket No. 17-0031

Having personal knowledge of the foregoing, I declare under penalty of perjury that the information herein is true and correct and this is to certify that a copy of <u>CONSENT DECISION AND SIGNED ORDER AS TO RESPONDENT HERB MURRATH</u> has heen furnished and was served upon the following parties on <u>September 13, 2017</u> by the following:

USDA (OGC) - Electronic Mail
Colleen Carroll, Esq. OGC
Colleen.Carroll@ogc.usda.gov
Leah Battaglioli, OGC
Leah.Battaglioli@ogc.usda.gov
Ada Quick, OGC
Ada.Quick@ogc.usda.gov

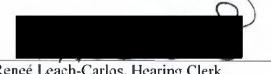
USDA (APHIS) - Electronic Mail IES, AHPIS IESLegals@aphis.usda.gov AC RSS Mailbox, APHIS ac.rss.mailbox@aphis.usda.gov

Respondent(s) – Electronic Mail Thomas B. Kakassy P.O. Box 2436 Gastonia, NC 28053 Tel: (704) 867-1795 Fax: (704) 867-1820

Amy Choate Administrative Assistant Amy@kakassylaw.com

Tom@kakassylaw.com

Respectfully Submitted,



Reneé Leach-Carlos, Hearing Clerk USDA/Office of Administrative Law Judges Hearing Clerk's Office 1400 Independence Ave., SW, Room 1031-S Washington, DC 20250-9203 Phone: 202-720-4443