

USDA
OALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE

SEP 18 PM 12:39

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:	)	HPA Docket No. 17-0176
	)	HPA Docket No. 17-0177
JOE COOPER, an individual; SCOTT	)	HPA Docket No. 17-0178
COOPER, an individual; GARY	)	HPA Docket No. 17-0179
EDWARDS, an individual; LARRY	)	HPA Docket No. 17-0180
EDWARDS, an individual; NANCY	)	HPA Docket No. 17-0181
HODGES, an individual; DAVID	)	HPA Docket No. 17-0182
LATHAM, an individual; DANIEL	)	HPA Docket No. 17-0183
MCSWAIN, an individual; ROBERT	)	HPA Docket No. 17-0184
KEITH MCSWAIN, an individual; KEN	)	HPA Docket No. 17-0185
MOORE, etc., an individual; CHUCK	)	HPA Docket No. 17-0186
TOLHURST, an individual; and SHARON)	
TOLHURST, an individual,)	
)	
Respondents.	)	CONSENT DECISION AND
	)	ORDER AS TO RESPONDENT
	)	CHUCK TOLHURST

This proceeding was instituted under the Horse Protection Act (15 U.S.C. § 1821 *et seq.*)(HPA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on January 17, 2017, alleging that the respondents violated the Act.

Respondent Chuck Tolhurst 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 Chuck Tolhurst, and resolving any and all other alleged or potential violations of the Act by him occurring up to and including September 4, 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 Chuck Tolhurst 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).

2. On or about August 25, 2016, respondent Chuck Tolhurst allowed the entry of a horse he owned (I'm Into Cash), for the purpose of showing the horse, in class 32 in a horse show in Shelbyville, Tennessee.

Conclusion of Law

Respondent Chuck Tolhurst 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 Chuck Tolhurst is disqualified for four months, 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 participating¹ in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, or other device.

2. Respondent Chuck Tolhurst 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. 17-0185, and sent to:


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

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.

The provisions of this order shall become final and effective as of September 4, 2017.
This order may be executed in counterparts. Copies of this decision shall be served upon the parties.




Chuck Tolhurst
Respondent



Thomas B. Kakassy
Attorney for Respondent

Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.,
this 18 day of Sept 2017



Jill S. Clifton
Administrative Law Judge

The provisions of this order shall become final and effective as of September 4, 2017.

This order may be executed in counterparts. Copies of this decision shall be served upon the parties.

Chuck Tolhurst
Respondent



Colleen A. Carroll
Attorney for Complainant

Thomas B. Kakassy
Attorney for Respondent

Done at Washington, D.C.,
this 18 day of Sept 2017



Jill S. Clifton
Administrative Law Judge

CERTIFICATE OF SERVICE

Chuck Tolhurst, Respondents

Docket: 17-0185

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 the CONSENT DECISION AND SIGNED ORDER AS TO RESPONDENT CHUCK TOLHURST has been furnished and was served upon the following parties on September 18, 2017 by the following:

USDA (OGC) - Electronic Mail

Colleen A. Carroll, OGC

Colleen.Carroll@ogc.usda.gov

Ada Quick, OGC

Ada.Quick@ogc.usda.gov

USDA (APHIS) - Electronic Mail

IES, APHIS

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

Tom@kakassvlaw.com

Amy L. Choate


Administrative Assistant

Amy@kakassvlaw.com

Chuck Tolhurst

(b) (5)

Respectfully Submitted,


Rencé 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
(202) 720-4443