

REC'D - USDA/OALJ/OHC  
2020 AUG 11 PM1:00

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) HPA Docket No. 14-0057  
) HPA Docket No. 15-0167  
TIMOTHY LEE SMITH, an individual, ) HPA Docket No. 14-0059  
and EVERGREEN HORSE FARM, INC., ) HPA Docket No. 15-0168  
a Tennessee corporation, also known as )  
EVERGREEN WALKING HORSE FARM,) )  
Respondents. )

In re: ) HPA Docket No. 17-0194  
)  
TIMOTHY LEE SMITH, an individual, )  
)  
Respondent. )

AMENDED CONSENT DECISION AND ORDER  
AS TO RESPONDENT TIMOTHY LEE SMITH

The Consent Decision and Order as to Respondent Timothy Lee Smith issued on April 9, 2019, is amended by changing the disqualification dates for respondent Timothy Lee Smith, an individual, as provided for in this Order.

This proceeding was instituted under the Horse Protection Act (15 U.S.C. § 1821 *et seq.*) (HPA or Act) by complaints filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on January 9, 2014, August 14, 2015 (amended November 2, 2017), and February 1, 2017, alleging that the respondents violated the Act.

Respondent Timothy Lee Smith admits the jurisdictional allegations in the complaints as to him (HPA Dockets Nos. 14-0057, 15-0167, and 17-0194), specifically admits that the Secretary has jurisdiction in this matter, 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 Timothy Lee Smith and resolving any and all other alleged or potential violations of the Act by him occurring up to and including September 2, 2018. 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 Timothy Lee Smith is an individual residing in Tennessee, 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 May 22, 2009, respondent Timothy Lee Smith transported a horse (Out on Bond) to a horse show in Shelbyville, Tennessee, for the purpose of showing the horse in the horse show.

3. On or about May 22, 2009, respondent Timothy Lee Smith entered a horse (Out on Bond), for showing in class 29 in a horse show in Shelbyville, Tennessee.

4. On or about June 6, 2009, respondent Timothy Lee Smith transported a horse (FDR) to a horse show in Shelbyville, Tennessee, for the purpose of showing the horse in the horse show.

5. On or about June 6, 2009, respondent Timothy Lee Smith entered a horse (FDR) for showing in class 68 in a horse show in Shelbyville, Tennessee.

6. On August 27, 2011, respondent Timothy Lee Smith showed a horse (The Golden Sovereign) in class 80B in a horse show in Shelbyville, Tennessee.

7. On August 4, 2012, respondent Timothy Lee Smith showed a horse (The Golden Sovereign) in class 27 in a horse show in Wartrace, Tennessee.

8. On March 29, 2012, respondent Timothy Lee Smith showed a horse (Brother Sovereign) in class 14 in a horse show in Jackson, Mississippi.

9. On March 30, 2013, respondent Timothy Lee Smith showed a horse (Watch Number Seven) in class 86 in a horse show in Jackson, Mississippi.

10. On or about June 7, 2013, respondent Timothy Lee Smith entered a horse (Sovereign's Royal Gen) for showing in class 13 in a horse show in Lawrenceburg, Tennessee.

11. On or about March 19, 2016, respondent Timothy Lee Smith entered a horse (Gimme a Command) for showing in class 49 in a horse show in Shelbyville, Tennessee.

12. On April 1, 2016, respondent Timothy Lee Smith showed a horse (Miss June Carter Cash) in class 27A in a horse show in Jackson, Mississippi.

13. On April 2, 2016, respondent Timothy Lee Smith showed a horse (Gimme a Command) in class 58 in a horse show in Jackson, Mississippi.

14. On May 28, 2016, respondent Timothy Lee Smith showed a horse (Gimme a Command) in class 40 in a horse show in Shelbyville, Tennessee.

15. On or about July 23, 2016, respondent Timothy Lee Smith entered a horse (Gimme a Command), for showing in class 9 in a horse show in Pulaski, Tennessee.

16. On July 23, 2016, respondent Timothy Lee Smith entered a horse (Mason Dixie Line), for showing in class 22 in a horse show in Pulaski, Tennessee.

17. On or about August 25, 2016, respondent Timothy Lee Smith entered a horse (Ritz's Warrior) for showing in class 26A in a horse show in Shelbyville, Tennessee.

#### Conclusion of Law

Respondent Timothy Lee Smith 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 Timothy Lee Smith is disqualified for three years, beginning January 1, 2021, and ending January 1, 2024, from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, or other device, and from judging, managing or otherwise participating<sup>1</sup> in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, or other device.

2. Respondent Timothy Lee Smith is assessed a civil penalty of \$3,500, which shall be paid by September 2, 2020, by check made payable to USDA/APHIS, indicating that the payment is in reference to HPA Docket No. 14-0057, HPA Docket No. 15-0167, and HPA Docket No. 17-0194, and sent to:

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

The provisions of this order shall become final and effective on the date of issuance (the

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<sup>1</sup>"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.

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

[Redacted signature]

Timothy Lee Smith  
Respondent

[Redacted signature]

Walter F. Nichols  
Attorney for Respondent

[Redacted signature]

Lauren C. Axley  
Attorney for Complainant

[Redacted signature]

Thomas R. DeBfay, Jr.  
Attorney for Respondent

Done at Washington, D.C.,  
this 11 day of AUG 2020

[Redacted signature]

Jill S. Clifton  
Administrative Law Judge