

2012 FEB -9 PM 12: 55

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0367

In re: Timothy Wayne Holley,

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.)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act.

Copies of the complaint and the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151) were served upon the Respondent by certified mail. This material was signed for by Dona Butler on September 1, 2011. The respondent was informed in the accompanying letter of service that an Answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. Respondent failed to file an answer within the time prescribed in the Rules of Practice, and upon Motion filed by the Complainant, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice.

Findings of Fact

1. Respondent Timothy Wayne Holley is an individual doing business as Tim Holley and Sons Stables whose mailing address is in Amory, Mississippi.

2. On or about August 27, 2006, Timothy Wayne Holley entered for the purpose of showing or exhibiting the horse "A Shot in the Arm," as entry number 1179 in class number 79-B at the 68th Annual Tennessee Walking Horse National Celebration, in Shelbyville, Tennessee.

3. Respondent Timothy Wayne Holley was disqualified for a period of ten years, beginning May 10, 2007, from showing, exhibiting or entering any horse in any horse show, or from otherwise participating in such events, pursuant to a Decision and Order issued in HPA Docket No. 06-0005

(In re Timothy Wayne Holley and Tim Holley and Sons Stables). The Order states:

"Respondent Holley is disqualified for 10 years from showing, entering any horse, directly or indirectly through any agent, employee, family member, corporation, partnership, 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, family member, corporation, partnership, or other device." (In re Holley, WL 3170313, 2 (U.S. Dep't of Agric. 2007).

4. Respondent participated as a judge at the Northwest Saddle Club Point Show in Senatobia, Mississippi on May 22, 2010 and at the Northwest Saddle Club Jackpot Show in Senatobia, Mississippi on October 9, 2010.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.

2. Between May 22, 2010 and October 9, 2010, Timothy Wayne Holley violated his federal disqualification by participating in such horse show and exhibitions on or about the dates set forth below:

Northwest Saddle Club Point Show
Senatobia, Mississippi
May 22, 2010

Northwest Saddle Club Jackpot Show
Senatobia, Mississippi
October 9, 2010

3. On or about August 27, 2006, Timothy Wayne Holley entered the horse "Shot in the Arm"

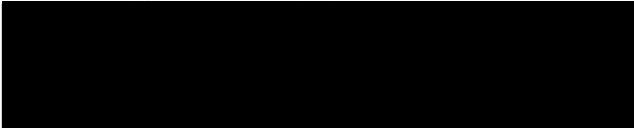
for the purpose of showing or exhibiting the horse at the 68th Annual Tennessee Walking Horse National Celebration, in Shelbyville, Tennessee, while the horse was sore, in violation of section 5(2)(B) of the Act (15 U.S.C. §1824(2)(B)).

Order

1. Respondent Timothy Wayne Holley is assessed a civil penalty of \$19,400.
2. Respondent Timothy Wayne Holley is disqualified for an additional uninterrupted period of ten years 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.
4. Jurisdiction is retained for the limited purpose of enforcement of this paragraph.
5. This Order shall have the same effect as if entered after a full hearing and shall become effective on the first day after service of this decision on the Respondent.

Copies of this Decision and Order shall be served on the parties by the Hearing Clerk.

February 9, 2012


Peter M. Davenport
Chief Administrative Law Judge