

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Randy G. Smith and Jeff Smith  
d/b/a Smith Horse Company,

Respondents.

) A Q. Docket No. 08-0146  
)  
)  
)  
)  
) Consent Decision

This proceeding was instituted under the Animal Health Protection Act (AHPA), 7 U.S.C. §§ 8301 et seq., and the Commercial Transportation of Equine for Slaughter Act, 7 U.S.C. § 1901 note (collectively, the Acts), by a complaint filed by the Acting Administrator of the Animal and Plant Health Inspection Service (APHIS) alleging that respondents violated the Acts and regulations promulgated thereunder (9 C.F.R. §§ 75 et seq. and 88 et seq.). The complainant and respondents have agreed that this proceeding should be terminated by entry of this Consent Decision.

For the purposes of this Consent Decision only, respondents specifically admit that the Secretary of the United States Department of Agriculture has jurisdiction in this matter, neither admit nor deny the remaining allegations in the complaint, and admit to the Findings of Fact set forth below.

Respondents waive:

- (a) Any further procedure;
- (b) Any requirement that the final decision in this proceeding contain findings and conclusions with respect to all material issues of fact, law, or discretion, as well as the reasons or bases thereof;
- (c) All rights to seek judicial review and otherwise challenge or contest the validity of this decision; and

(d) Any action against the United States Department of Agriculture under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the respondents in connection with this proceeding.

Findings of Fact

1. Respondent Randy G. Smith d/b/a Smith Horse Company is a commercial slaughter horse buyer with a mailing address of 5403 North Monroe, Hutchinson, Kansas 67502.

2. Jeff Smith d/b/a Smith Horse Company is respondent Randy G. Smith's business partner and has a mailing address of 2235 Avenue W, Sterling, Kansas 67579.

3. (a) On or about April 27, 2004, 29 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

(b) On or about April 27, 2004, 29 horses were shipped in commercial transportation for slaughter, including five (5) stallions that were not properly segregated from each other and every other horse in the shipment.

(c) On or about April 27, 2004, 29 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

4. (a) On or about May 25, 2004, 55 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

(h) On or about May 25, 2004, 55 horses were shipped in commercial transportation for slaughter, including four (4) stallions that were not properly segregated from each other and every other horse in the shipment.

(c) On or about May 25, 2004, 55 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

5. (a) On or about May 30, 2004, 106 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

(b) On or about May 30, 2004, 106 horses were shipped in commercial transportation for slaughter, including six (6) stallions that were not properly segregated from each other and every other horse in the shipment.

(c) On or about May 30, 2004, 106 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

6. (a) On or about May 31, 2004, 115 horses were shipped in commercial transportation for slaughter, including five (5) stallions that were not properly segregated from each other and every other horse in the shipment.

(b) On or about May 31, 2004, 115 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

7. On or about June 1, 2004, 43 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

8. (a) On or about August 15, 2004, 41 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

(b) On or about August 15, 2004, 41 horses were shipped in commercial transportation for slaughter, including seven (7) stallions that were not properly segregated from each other and every other horse in the shipment.

(c) On or about August 15, 2004, 41 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no

USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

9. (a) On or about September 12, 2004, 46 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

(b) On or about September 12, 2004, 46 horses were shipped in commercial transportation for slaughter, and one of the horses in the shipment had a large cut in its back, yet it was shipped with the other horses, thereby causing it unnecessary discomfort, stress, physical harm or trauma.

(c) On or about September 12, 2004, 46 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

10. On or about November 28, 2004, 39 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

11. (a) On or about July 6, 2005, a horse that had tested positive for Equine Infectious Anemia was shipped in interstate commerce without the required Permit for Movement of Restricted Animals, VS Form I-27.

(b) On or about July 6, 2005, 34 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

12. On or about September 25, 2004, 34 horses were shipped in commercial transportation for slaughter without a properly completed owner-shipper certificate, VS Form 10-13.

13. (a) On or about September 11, 2005, 46 horses were shipped in commercial transportation for slaughter, and one of the horses in the shipment had a severe, pre-existing cut on its left front leg such that it was unable to bear weight on all four limbs, yet it was shipped with the other horses, thereby causing it unnecessary discomfort, stress, physical harm or trauma.

(b) On or about September 11, 2005, 46 horses were shipped in commercial transportation for slaughter and delivered to the slaughter facility outside normal business hours, when no USDA representative was present, but no one remained at or returned to the slaughter facility to meet the USDA representative upon his arrival there.

#### Conclusions


Respondents have admitted the jurisdictional facts and have agreed to the following Order in disposition of this proceeding; therefore, this Consent Decision will be issued.

#### Order

Respondents Randy G. Smith and Jeff Smith d/b/a Smith Horse Company are assessed a civil penalty of ten thousand dollars (\$10,000.00) in settlement of all violations of the AHPA, the Commercial Transportation of Equine for Slaughter Act, and their accompanying regulations in 9 C.F.R. §§ 75 *et seq.* and 88 *et seq.* that the Acting Administrator, APHIS, alleges that respondents have committed up to and including the effective date of this order. Respondents shall send a certified check or money order for ten thousand dollars (\$10,000.00), payable to the Treasurer of the United States, to United States Department of Agriculture, APHIS, P.O. Box 979043, St. Louis, Missouri 63197-9000, within thirty (30) days from the effective date of this Order. The certified check or money order should include the docket number of this proceeding.

This Order shall become effective when served on the respondents.

  
RANDY G. SMITH  
d/b/a SMITH HORSE COMPANY  
Respondent

  
JEFF SMITH  
d/b/a SMITH HORSE COMPANY  
Respondent

[REDACTED]

GREGORY D. BELL, ESQ.  
FORKER, SUTER & ROSE, LLC  
Attorney for Respondents

[REDACTED]

THOMAS N. BOLICK  
Attorney for Complainant

Issued this 14th day of August, 2009  
at Washington, D.C.

[REDACTED]  
Administrative Law Judge