

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 11-0241

In re: Gerondrick S. Cole, a/k/a Rocky Cole,
d/b/a Kolbrite Farms,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Horse Protection Act ("Act"), as amended (15 U.S.C. §§ 1821-1831), by a Complaint filed by the Kevin Shea, the Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that Respondent 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 sent by the Hearing Clerk by certified mail on May 19, 2011, to respondent, but were returned to the Hearing Clerk by the postal service marked as "unclaimed" on June 27, 2011. In accordance with section 1.147(c)(1) of the Rules of Practice (7 C.F.R. § 1.147(c)(1)), the Complaint was then sent to the respondent by regular mail on June 28, 2011. Pursuant to section 1.136 of the Rules of Practice (7 C.F.R. § 1.136), Respondent was informed in the 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 the following Findings of Fact, Conclusions of Law and Order will be entered..

Findings of Fact

1. Respondent Gerondrick S. Cole, also known as Rocky Cole, is an individual doing business as Kolbrite Farms whose mailing address is in Canton, Mississippi.
2. At all times mentioned herein Respondent was the owner of the horse known as “Pusher’s Final Lucille.”
3. On April 9, 2009, Respondent entered for the purpose of showing or exhibiting the horse known as “Pusher’s Final Lucille” as entry number 132 in class number 14, at the 79th Annual Mississippi Charity Horse Show in Jackson, Mississippi.
4. On April 9, 2009, “Pusher’s Final Lucille” was found by competent authority at the 79th Annual Mississippi Charity Horse Show in Jackson, Mississippi to be sore.
5. On April 9, 2009, “Pusher’s Final Lucille” was found by competent authority to have a prohibited substance above the horse’s hoof.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. The above Findings of Fact 4 and 5 constitute violations of the Act and Regulations for which the following Order is warranted.

Order

1. Respondent is disqualified for one year 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. "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 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.

2. Respondent is assessed a civil penalty of \$2,200.

3. The provisions of this order shall become effective on the first day after this decision becomes final. Pursuant to the Rules of Practice, this decision becomes final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this decision shall be served upon the parties by the Hearing Clerk.

September 30, 2011

PETER M. DAVENPORT
Chief Administrative Law Judge