

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	<b>A.Q. Docket No. 09-0024</b>
Charles A. Carter d/b/a	)	
C.C. Horses Transport; and	)	
Jeremy Pollitt d/b/a	)	<b>Decision and Order as to</b>
Wildcat Trucking,	)	<b>only CHARLES A. CARTER</b>
	)	<b>d/b/a C.C. Horses Transport</b>
Respondents	)	<b>by Reason of Default</b>

Decision Summary

1. I decide that Charles A. Carter, doing business as C.C. Horses Transport, Respondent, an owner/shipper of horses (9 C.F.R. § 88.1), failed to comply with the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) and the Regulations promulgated thereunder (9 C.F.R. § 88.1 *et seq.*), when he commercially transported horses for slaughter in 2004, 2005, and 2006, to Cavel International in Dekalb, Illinois. I decide further that Respondent Charles A. Carter is responsible for errors and omissions of those who acted as agents on his behalf in the commercial transportation of horses for slaughter, such as truck drivers and trucking companies. I decide further that \$230,000.00 in civil penalties (9 C.F.R. § 88.6) for remedial purposes for Respondent Charles A. Carter's failures to comply, is reasonable, appropriate, justified, necessary, proportionate, and not excessive.

### Parties and Counsel

2. The Complainant is the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (frequently herein “APHIS” or “Complainant”). APHIS is represented by Thomas N. Bolick, Esq., Office of the General Counsel (Regulatory Division), United States Department of Agriculture, South Building Room 2319, 1400 Independence Ave. SW, Washington, D.C. 20250.

3. The Respondent, Charles A. Carter, doing business as C.C. Horses Transport (frequently herein “respondent Carter” or “Respondent”), (one of the two respondents<sup>1</sup>), has failed to appear.

### Procedural History

4. APHIS’ Motion for Adoption of Proposed Default Decision and Order, filed July 22, 2009, is before me. Respondent Carter was served with a copy of that Motion and a copy of the Proposed Default Decision and Order on August 26, 2009, and failed to respond.

5. Regarding service of the Complaint, which was filed on November 17, 2008, Respondent Carter was served on April 16, 2009, as follows. The Complaint was originally

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<sup>1</sup> Regarding the other respondent in this case, a default decision and order was issued on April 8, 2009 that assessed him, Jeremy Pollitt d/b/a Wildcat Trucking, civil penalties totaling \$7,200.00 (seven thousand two hundred dollars). The default decision and order was mailed to respondent Pollitt by certified mail, return receipt requested, on April 9, 2009, but was returned to the Hearing Clerk marked by the U.S. Postal Service as unclaimed. On May 6, 2009, the Hearing Clerk re-mailed the default decision and order to respondent Pollitt at the same address by regular mail. Respondent Pollitt did not appeal or otherwise respond to the default decision and order, which became final on or about June 10, 2009.

mailed to Respondent Carter at his last known mailing address, 4150 E. County Road 20, Loveland, Colorado 80537. Animal Health Technician (AHT) Joseph Thomas Astling, USDA APHIS Veterinary Services, subsequently notified counsel for APHIS that Respondent Carter had spoken with AHT Astling on the phone and had told him that he never received the Complaint mailed to him at 4150 E. County Road 20, Loveland, Colorado 80537, because he recently had moved and had not left a forwarding address.

6. After several failed attempts to contact Respondent Carter by phone in February 2009, AHT Astling notified counsel for APHIS on March 11, 2009, that he had spoken again with Respondent Carter on the phone and had told him that he needed to provide AHT Astling with a current mailing address. AHT Astling told counsel for APHIS that he told Respondent Carter that USDA APHIS would soon be sending him some documents at his new address and that he should respond to them as soon as he received them in order to avoid a default. AHT Astling told counsel for APHIS that Respondent Carter told him that his current mailing address is 22895 County Road 53, Kersey, Colorado 80644. Counsel for APHIS reported Respondent Carter's new mailing address to the Hearing Clerk that same day.

7. On March 12, 2009, the Hearing Clerk mailed the Complaint to Respondent Carter at 22895 County Road 53, Kersey, Colorado 80644 by certified mail, return receipt requested. Respondent Carter was informed in the Complaint and the letter accompanying the Complaint that an answer should be filed with the Hearing Clerk within 20 days after service of the complaint, and that failure to file an answer within 20 days after service of the Complaint constitutes an admission of the allegations in the Complaint and waiver of a

hearing. On April 16, 2009, the Complaint was returned to the Hearing Clerk marked by the U.S. Postal Service as unclaimed, and the Hearing Clerk re-mailed it to the same address by regular mail that same day. [What Respondent Carter was served with, included a copy of the Complaint, a copy of the Hearing Clerk's notice letter, and a copy of the Rules of Practice. *See* 7 C.F.R. §1.130 *et seq.*

8. Respondent Carter is deemed to have been served with the Complaint on April 16, 2009 (in accordance with 7 C.F.R. § 1.147(c)(1)), and his answer to the Complaint was due to be filed by May 6, 2009, within 20 days after service, according to 7 C.F.R. § 1.136(a). Respondent Carter never did file an answer to the Complaint, and he is in default, pursuant to 7 C.F.R. § 1.136(c). The Hearing Clerk mailed him a "no answer" letter on May 22, 2009.<sup>2</sup>

9. Failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. 7 C.F.R. §1.136(c). Failure to file an answer constitutes a waiver of hearing. 7 C.F.R. § 1.139. Accordingly, the material facts alleged in the Complaint, which are admitted by the Respondent's default, are adopted and set forth herein as Findings of Fact. This Decision and Order, therefore, is issued pursuant

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<sup>2</sup> While AHT Astling was trying to contact Respondent Carter to obtain his current mailing address, APHIS Investigative and Enforcement Services also tried to find a more current address for him and came up with 4054 E. County Road 20 E, Loveland, Colorado 80537-8834. On March 12, 2009, the Hearing Clerk mailed the Complaint to this address in addition to Respondent Carter's address in Kersey, Colorado. The Complaint mailed to Respondent Carter's second address in Loveland, Colorado, was returned to the Hearing Clerk marked by the U.S. Postal Service as unclaimed on April 15, 2009, and the Hearing Clerk re-mailed the Complaint to this address by regular mail that same day. Respondent Carter did not file an answer to this mailing of the Complaint, and the Hearing Clerk mailed him a "no answer" letter at the second address in Loveland, Colorado, on May 22, 2009.

to section 1.139 of the Rules of Practice. 7 C.F.R. § 1.139. [*See also* 7 C.F.R. § 380.1 *et seq.*]

#### Findings of Fact and Conclusions

10. Respondent Charles A. Carter, doing business as C.C. Horses Transport, mailing address 22895 County Road 53, Kersey, Colorado 80644,<sup>3</sup> was at all times material herein an owner/shipper of horses within the meaning of 9 C.F.R. § 88.1. Respondent Carter bought slaughter horses for Canadian horse dealers and, often hiring trucking companies, commercially transported the horses to slaughter.

11. The Secretary of Agriculture has jurisdiction over respondent Carter and the subject matter involved herein.

12. On or about September 30, 2004, respondent Carter shipped a load of 44 horses in commercial transportation for slaughter from Rushville, Nebraska, to Cavel International in Dekalb, Illinois (hereinafter, Cavel), and:

- (a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper did not sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3);
- (2) the owner/shipper's telephone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i); and (3) the boxes indicating the fitness of the horses to

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<sup>3</sup> On March 11, 2009, Respondent Carter told Animal Health Technician Joseph T. Astling, USDA APHIS Veterinary Services, that his mailing address is 22895 County Road 53, Kersey, Colorado 80644.

travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii).

(b) Respondent Carter and/or his driver unloaded the horses at Robert Wetzel Livestock in Ashton, Illinois, on or about October 1, 2004, and reloaded them on or about October 4, 2004, for commercial transportation to Cavel, but did not prepare a second owner-shipper certificate, VS Form 10-13, showing the date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

(c) One of the horses in the shipment, a black gelding with a white star on its forehead and bearing USDA back tag # USAW 1211, died during said transportation before the shipment reached Omaha, Nebraska, but respondent Carter and/or his driver did not contact the nearest APHIS office as soon as possible and allow an APHIS veterinarian to examine the dead horse, in violation of 9 C.F.R. § 88.4(b)(2).

13. On or about December 9, 2004, respondent Carter shipped 45 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

14. On or about December 16, 2004, respondent Carter shipped 41 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out

the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

15. On or about January 5, 2005, respondent Carter shipped 46 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (3) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); (4) the prefix for each horse's USDA back tag number was not recorded properly, in violation of 9 C.F.R. § 88.4(a)(3)(vi); and (5) the date and time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

16. On or about January 9, 2005, respondent Carter shipped a load of 46 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (3) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was

not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (4) the time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

17. On or about January 9, 2005, respondent Carter shipped a second load of 15 horses in commercial transportation for slaughter from an unknown location to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address and telephone number were not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (3) all of the boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii); and (4) the date on which the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

18. On or about March 2, 2005, respondent Carter shipped a load of 45 horses in commercial transportation for slaughter from Mandan, North Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) the date and time when the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

19. On or about March 3, 2005, respondent Carter shipped a load of 47 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the



following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

20. On or about March 12, 2005, respondent Carter shipped a load of 43 horses in commercial transportation for slaughter from St. Onge, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (2) the time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

21. On or about March 28, 2005, respondent Carter shipped a load of 45 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and:

(a) Respondent Carter and/or his driver unloaded the horses in Platte, South Dakota, at 2 a.m. on March 29, 2005, and reloaded them about 12 hours later for commercial transportation to Cavel, but did not prepare a second owner-shipper certificate, VS Form 10-13, showing that date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

(b) One of the horses in the shipment, bearing USDA back tag # USBZ 6891, went down about 300 miles outside of Platte, South Dakota, indicating that it was in obvious physical distress, yet respondent Carter and/or his driver did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

22. On or about March 30, 2005, respondent Carter shipped 33 horses in commercial transportation for slaughter from Minot, North Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: there was no signature on the statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

23. On or about March 30, 2005, respondent Carter shipped a second load of 52 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) the date and time when the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) Respondent Carter and/or his driver unloaded the horses in Harlan, Iowa, and reloaded them sometime later for commercial transportation to Cavel, but did not prepare a second owner-shipper certificate, VS Form 10-13, showing that date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

(c) Respondent Carter's driver stated that horses fought each other constantly during said transportation. Respondent Carter thus failed to completely segregate each aggressive horse on the conveyance so that no aggressive horse could come into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.3(a)(2).

(d) Respondent Carter's driver stated that horses fought each other constantly during said transportation. Respondent Carter thus failed to handle the horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

24. On or about April 1, 2005, respondent Carter shipped a load of 45 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) one horse in the shipment, bearing USDA back tag # USBZ 6873, was not listed on the form, in violation of 9 C.F.R. § 88.4(a)(3); (2) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); and (3) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

25. On or about April 4, 2005, respondent Carter shipped a load of 56 horses in commercial transportation for slaughter from Aberdeen, South Dakota, and Mobridge, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: there was no signature on the statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

(b) One of the horses in the shipment, an old mare bearing USDA back tag # USAW 1282, went down at least three times during said transportation, indicating that it was in obvious physical distress, yet respondent Carter did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

26. On or about April 28, 2005, respondent Carter shipped a load of 49 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: (1) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv), and (2) the date and time when the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) Respondent Carter and/or his driver unloaded the horses in Sioux Falls, South Dakota, and reloaded them about four hours later for commercial transportation to Cavel, but did not prepare a second owner-shipper

certificate, VS Form 10-13, showing that date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

(c) shipped the horses in a conveyance that had inadequate headroom for the horses. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(d) At least five horses in the shipment suffered head and facial injuries during said transportation because the conveyance used for the transportation had inadequate headroom for the horses. Respondent Carter thus failed to handle these horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

27. On or about May 3, 2005, respondent Carter shipped a load of 53 horses in commercial transportation for slaughter from St. Onge, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the form did not indicate the color, breed/type, and sex of one of the horses in the shipment, USDA back tag # USBZ 6937, physical characteristics that could be used to identify that horse, in violation of 9 C.F.R. § 88.4(a)(3)(v).

28. On or about May 4, 2005, respondent Carter shipped a load of 32 horses in commercial transportation for slaughter from an unknown location to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the

following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) the form did not indicate the breed/type of seven horses in the shipment, physical characteristics that could be used to identify those horses, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) the place where the horses were loaded onto the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

29. On or about May 10, 2005, respondent Carter shipped a load of 44 horses in commercial transportation for slaughter from St. Onge, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: the receiver's phone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii).

(b) One of the horses in the shipment, a palomino mare bearing USDA back tag # USBJ 7961, went down right after loading and several times during said transportation, indicating that it was in obvious physical distress, yet respondent Carter did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(c) One of the horses in the shipment, a palomino mare bearing USDA back tag # USBJ 7961, went down right after loading and several times during said transportation, and died while en route to the slaughter facility. Respondent Carter thus failed to handle this horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

30. On or about May 12, 2005, respondent Carter shipped a load of 53 horses in commercial transportation for slaughter from St. Onge, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper did not sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3); (2) the owner/shipper's address and telephone number were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i); and (3) the receiver's telephone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii).

31. On or about May 18, 2005, respondent Carter shipped a load of 47 horses in commercial transportation for slaughter from Glen Rock, Wyoming, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's telephone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) the date and time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

32. On or about May 23, 2005, respondent Carter shipped a load of 48 horses in commercial transportation for slaughter from Minot, North Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); (2) the form did not indicate the breed/type of 31 horses in the shipment, physical characteristics that could be used to identify those horses, in violation of

9 C.F.R. § 88.4(a)(3)(v); and (3) the date and time when the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

33. On or about May 24, 2005, respondent Carter shipped a load of 44 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

34. On or about June 2, 2005, respondent Carter shipped 49 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper's phone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i), and (2) the receiver's phone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii).

35. On or about June 2, 2005, respondent Carter shipped a second load of 52 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper's phone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(i), and (2) the receiver's phone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii).

36. On or about June 5, 2005, respondent Carter shipped a load of 51 horses in commercial transportation for slaughter from Mobridge, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the



following deficiencies: (1) the receiver's telephone number was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (2) the form did not indicate the sex of one horse in the shipment, USDA back tag # USBS 5657, a physical characteristic that could be used to identify that horse, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) there was no statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

37. On or about June 7, 2005, respondent Carter shipped 36 horses in commercial transportation for slaughter from Sisseton, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper did not sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3); (2) the form did not indicate the sex of one horse in the shipment, a physical characteristic that could be used to identify that horse, in violation of 9 C.F.R. § 88.4(a)(3)(v); (3) the prefixes of the USDA back tag numbers for 25 horses in the shipment were not recorded properly, in violation of 9 C.F.R. § 88.4(a)(3)(vi); and (4) there was no statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

38. On or about June 7, 2005, respondent Carter shipped a second load of 59 horses in commercial transportation for slaughter from Sisseton, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: there was no statement that the horses had been rested, watered, and

fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

39. On or about June 9, 2005, respondent Carter shipped a load of 45 horses in commercial transportation for slaughter from Sisseton, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the date and time when the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) Respondent Carter unloaded the horses in Manchester, Iowa, and reloaded them about six hours later for commercial transportation to Cavel, but did not prepare a second owner-shipper certificate, VS Form 10-13, showing that date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

40. On or about June 9, 2005, respondent Carter shipped a second load of 30 horses in commercial transportation for slaughter from Sisseton, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) the prefix of the horses' USDA back tags was not recorded properly for any of the horses in the shipment, in violation of 9 C.F.R. § 88.4(a)(3)(vi); and (3) the place where the horses were loaded onto the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

41. On or about June 10, 2005, respondent Carter shipped a load of 48 horses in commercial transportation for slaughter from an unknown location to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) the date, time, and place that the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

42. On or about June 14, 2005, respondent Carter shipped a load of 49 horses in commercial transportation for slaughter from Yankton, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper did not sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3); and (2) there was no statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

43. On or about June 21, 2005, respondent Carter shipped a load of 48 horses in commercial transportation for slaughter from Devil's Lake, North Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper did not sign the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3); and (2) there was no statement that the horses had been

rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

44. On or about June 22, 2005, respondent Carter shipped a load of 57 horses in commercial transportation for slaughter from an unknown location to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) the place where the horses were loaded onto the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix); and (3) there was no statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

45. On or about June 22, 2005, respondent Carter shipped a second load of 32 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the receiver's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii), and (2) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

(b) Respondent Carter's driver stated that there were too many horses in the middle compartment of the conveyance and that three of these horses fought off and on during said transportation. Respondent Carter thus failed to completely segregate each aggressive horse on the conveyance so that no

aggressive horse could come into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.3(a)(2).

(c) Respondent Carter's driver stated that there were too many horses in the middle compartment of the conveyance and that three of these horses fought off and on during said transportation. Additionally, one of these three horses, a mare bearing USDA back tag # USBZ 7283, died during said transportation. Respondent Carter thus failed to handle these horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

46. On or about June 27, 2005, respondent Carter shipped two loads of horses, one containing 49 horses and the other containing 50 horses, in commercial transportation for slaughter from Piedmont, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificates, VS Form 10-13. The forms had the following deficiencies: (1) respondent Carter's driver stated that he observed a cut on the cheek of a horse bearing USDA back tag # USBP 1621 before this horse was loaded onto the conveyance, but this pre-existing injury was not noted on the owner-shipper certificate, in violation of 9 C.F.R. § 88.4(a)(3)(viii); and (2) the place where the horses were loaded onto the conveyance was not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) One of the trailers in which the horses were transported had nuts and bolts protruding from the ceiling, which likely caused the fresh head injury suffered by a horse bearing USDA back tag # USBP 1613 during commercial transportation to slaughter. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(c) During said transportation, a horse bearing USDA back tag # USBP 1613 suffered a head injury, most likely by striking its head on nuts and bolts that protruded from the ceiling of the trailer. Respondent Carter thus failed to handle this horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

47. On or about June 28, 2005, respondent Carter shipped 42 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

(b) Four (4) of the horses were transported inside a removable/collapsible section of the conveyance, commonly known as the “dog house” or “jail

box,” that did not provide the horses with adequate headroom. Respondent Carter thus transported these four (4) horses to slaughter in a section of the conveyance that did not have sufficient interior height in its animal cargo space to allow each horse in that space to stand with its head extended to the fullest normal postural height, in violation of 9 C.F.R. § 88.3(a)(3).

(c) Four (4) of the horses were transported inside a removable/collapsible section of the conveyance, commonly known as the “dog house” or “jail box,” that did not provide the horses with adequate headroom. One of these four (4) horses, bearing USDA back tag # USCI 2393, became stuck in the “dog house” or “jail box” during the commercial transportation to slaughter and suffered cuts, scrapes, and bruises along its back and around its left eye. Respondent Carter thus failed to handle this horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

48. On or about July 24, 2005, respondent Carter shipped a load of 45 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and:

(a) the horses were shipped in a conveyance that had a couple of sharp-edged breaks in the trailer wall. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected

the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(b) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii), and (2) a gelding bearing USDA back tag # USCO 4063 was listed as a mare and two stallions bearing USDA backtag #s USCO 4051 and 4052 were listed as colts, in violation of 9 C.F.R. § 88.4(a)(3)(v).

(c) The shipment contained two stallions bearing USDA back tag #s USCO 4051 and 4052, but respondent Carter and/or his driver did not load the two stallions on the conveyance so that each stallion was completely segregated from the other horses to prevent them from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

(d) One of the horses in the shipment, a gelding bearing USDA back tag # USCO 4063, went down several times and broke its right hind leg during said transportation. This horse thus was in obvious physical distress, yet respondent Carter and/or his driver did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(e) One of the horses in the shipment, a gelding bearing USDA back tag # USCO 4063, went down several times and broke its right hind leg during said transportation. Respondent Carter and/or his driver thus failed to handle this



horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

49. On or about July 25, 2005, respondent Carter shipped a load of 50 horses in commercial transportation for slaughter from Billings, Montana, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii); (2) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (3) the date, time, and place that the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) Respondent Carter and/or his driver unloaded the horses in Dickinson, North Dakota that same day and reloaded them the next morning for commercial transportation to Cavel, but they did not prepare a second owner-shipper certificate, VS Form 10-13, showing that date, time, and location that the horses initially were offloaded, in violation of 9 C.F.R. § 88.4(b)(4).

(c) Respondent Carter's driver noticed that one of the horses in the shipment, bearing USDA back tag # USCI 2227, had a leg injury prior to being reloaded onto the conveyance in Dickinson, North Dakota. This horse was in obvious physical distress, yet respondent Carter did not obtain veterinary

assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(d) Respondent Carter's driver noticed that one of the horses in the shipment, bearing USDA back tag # USCI 2227, had a leg injury prior to being reloaded onto the conveyance in Dickinson, North Dakota, but he loaded it onto the conveyance with the other horses anyway. Respondent Carter thus failed to handle this horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

50. On or about July 27, 2005, respondent Carter shipped a load of 27 horses in commercial transportation for slaughter from Bristow, Oklahoma, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the receiver's address was not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ii).

51. On or about July 31, 2005, respondent Carter shipped 31 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii).

52. On or about August 18, 2005, respondent Carter shipped a load of 42 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and:

(a) The conveyance had an elliptical air hole/vent opening with sharp edges that was located about two feet above the top deck floor. During said transportation, one of the horses in the shipment, a gray gelding with USDA back tag # USCO 3467, caught its foot in this hole, fell down, and was trampled to death by the other horses. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(b) The conveyance had an elliptical air hole/vent opening with sharp edges that was located about two feet above the top deck floor. During said transportation, one of the horses in the shipment, a gray gelding with USDA back tag # USCO 3467, caught its foot in this hole, fell down, and was trampled to death by the other horses. Respondent Carter thus failed to handle this horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

53. On or about September 8, 2005, respondent Carter shipped a load of 40 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii); and (2) the form

did not indicate the breed/type of four horses, physical characteristics that could be used to identify those horses, in violation of 9 C.F.R. § 88.4(a)(3)(v).

54. On or about September 11, 2005, respondent Carter shipped 46 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii), and (2) the date on which the horses were loaded onto the conveyance were not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) The horses were shipped in a conveyance that had large holes with sharp edges in its sides. Respondent Carter and/or his driver thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(c) Two horses in the shipment, bearing USDA back tag #s USCI 2405 and USCI 5893, suffered severe facial and eye injuries during said transportation due to the physical condition of the conveyance. Respondent Carter and/or his driver thus failed to handle these horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

55. On or about September 15, 2005, respondent Carter shipped 42 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv).

56. On or about September 18, 2005, respondent Carter shipped 52 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the name of the auction/market where the horses were sold was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iii), and (2) the place when the horses were loaded onto the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

57. On or about September 20, 2005, respondent Carter shipped 35 horses in commercial transportation for slaughter from somewhere in Oklahoma to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper's address was not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the form did not indicate the breed/type of six horses, physical characteristics that could be used to identify those horses, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) the place where the horses were loaded onto the conveyance was not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

58. On or about September 21, 2005, respondent Carter shipped 44 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and:

(a) One of the horses in the shipment, bearing USDA back tag # USBP 1971, had a severe pre-existing head injury at the time that it was loaded onto the conveyance, yet respondent Carter failed to obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(b) One of the horses in the shipment, bearing USDA back tag # USBP 1971, had a severe pre-existing head injury at the time that it was loaded onto the conveyance, yet respondent Carter shipped it with the other horses.

Respondent Carter thus failed to handle the injured horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

59. On or about September 23, 2005, respondent Carter shipped 29 horses in commercial transportation for slaughter from somewhere in Oklahoma to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) there was no description of the conveyance used to transport the horses and the license plate number of the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(iv); and (2) the time and place the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

60. On or about September 26, 2005, respondent Carter shipped 49 horses in commercial transportation for slaughter from Mandan, North Dakota, to Cavel, and:

(a) One of the horses in the shipment, bearing USDA back tag # USBP 1404, had a broken right hind leg and a severe injury to its right front leg upon arrival. The owner-shipper certificate, VS Form 10-13, for this shipment indicated that this horse had at least one of these injuries at the time that it was loaded onto the conveyance for commercial transportation to slaughter. Therefore, this horse was in obvious physical distress, yet respondent Carter did not obtain veterinary assistance as soon as possible from an equine veterinarian, in violation of 9 C.F.R. § 88.4(b)(2).

(b) One of the horses in the shipment, bearing USDA back tag # USBP 1404, had a broken right hind leg and a severe injury to its right front leg upon arrival. The owner-shipper certificate, VS Form 10-13, for this shipment indicated that this horse had at least one of these injuries at the time that it was loaded onto the conveyance for commercial transportation to slaughter, yet respondent Carter shipped it with the other horses. Respondent Carter thus failed to handle the injured horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

61. On or about October 2, 2005, respondent Carter shipped 39 horses in commercial transportation for slaughter from Gordon, Nebraska, to Cavel, and:

(a) The horses were shipped in a conveyance that had a loose chain hanging from the roof of the conveyance. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was

designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(b) The horses were shipped in a conveyance that had a loose chain hanging from the roof of the conveyance. One of the horses in the shipment, bearing USDA back tag # USBP 1763, suffered a head injury consistent with being struck on the head by the chain during commercial transportation to slaughter. Respondent Carter thus failed to handle the injured horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

62. On or about October 6, 2005, respondent Carter shipped 31 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the numbers of the horses' USDA back tags did not match the back tag numbers listed on the VS 10-13, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

63. On or about October 9, 2005, respondent Carter shipped 33 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii).



64. On or about November 8, 2005, respondent Carter shipped 39 horses in commercial transportation for slaughter from Sisseton, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: (1) the form was not completed for each equine being shipped because 16 horses in the shipment were not listed on the form, in violation of 9 C.F.R. § 88.4(a)(3); (2) a stallion bearing USDA back tag # USBS 7958 was incorrectly listed as a gelding, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (3) the prefixes for each horse's USDA back tag number were not recorded, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

(b) The shipment included at least one (1) stallion bearing USDA back tag # USBS 7958, but respondent Carter did not load the horses on the conveyance so that the stallion was completely segregated from the other horses to prevent it from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

65. On or about November 16, 2005, respondent Carter shipped 45 horses in commercial transportation for slaughter from Piedmont, South Dakota, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the prefix and tag number of the horses' USDA back tags were not recorded properly for any of the horses in the shipment, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

66. On or about December 12, 2005, respondent Carter shipped 41 horses in commercial transportation for slaughter from Mandan, North Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the owner/shipper's address and telephone number were not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(i); (2) the receiver's address and telephone number were not properly completed, in violation of 9 C.F.R. § 88.4(a)(3)(ii); (3) all of the boxes indicating the fitness of the horses to travel at the time of loading were not checked off, in violation of 9 C.F.R. § 88.4(a)(3)(vii); and (4) there was no signature on the statement that the horses had been rested, watered, and fed for at least six consecutive hours prior being loaded for the commercial transportation, in violation of 9 C.F.R. § 88.4(a)(3)(x).

(b) Respondent Carter delivered the horses outside of Cavel's normal business hours and left the slaughter facility, and did not return to Cavel to meet the USDA representative upon his arrival, in violation of 9 C.F.R. § 88.5(b).

67. On or about December 13, 2005, respondent Carter shipped 42 horses in commercial transportation for slaughter from Presko, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the prefix of the horses' USDA back tags was not recorded properly for any of the horses in the shipment, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

(b) The owner-shipper certificate, VS Form 10-13, for this shipment indicated that the horses had been loaded on the conveyance at 5 p.m. on December 13, but they were not unloaded from the conveyance until 5 a.m. on December 15, indicating that they were on the trailer for 36 consecutive hours. Respondent Carter thus allowed the horses to be on the conveyance more than 28 consecutive hours without being offloaded and provided with food, water, and the opportunity to rest for at least six (6) consecutive hours, in violation of 9 C.F.R. § 88.4(b)(3).

(c) Respondent Carter delivered the horses outside of Cavel's normal business hours and left the slaughter facility, but did not return to Cavel to meet the USDA representative upon his arrival, in violation of 9 C.F.R. § 88.5(b).

68. On or about May 9, 2006, respondent Carter shipped 45 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel, and:

(a) The floor of the conveyance used to transport the horses was completely covered in thick manure such that it created a slick surface for the horses to stand on. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(b) One of the horses in the shipment, USDA back tag # 6157, had a severe cut above its left eye where it struck its head on a metal brace in the roof of

the conveyance, probably while slipping in the manure covering the floor of the conveyance. Respondent Carter thus failed to transport the injured horse and the other horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

69. On or about June 12, 2006, respondent Carter shipped 45 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel, and:

(a) While the horses were being unloaded at Cavel, a palomino mare bearing USDA back tag # USBG 4886 got its right front foot stuck in the gap between the gate and the floor of the conveyance. Respondent Carter's driver used an electric prod on the horse in an effort to make it get up, causing the horse to injure itself as it tried to pull itself free. Respondent Carter thus failed to transport the injured horse as expeditiously and carefully as possible in a manner that did not cause it unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

(b) While the horses were being unloaded at Cavel, a palomino mare bearing USDA back tag # USBG 4886 got its right front foot stuck in the gap between the gate and the floor of the conveyance. Respondent Carter's driver, Troy Ressler, used an electric prod on the horse in an effort to make it get up. The use of electric prods during the loading and off-loading of horses onto a conveyance is a violation of 9 C.F.R. § 88.4(c).

70. On or about June 13, 2006, respondent Carter shipped 46 horses in commercial transportation for slaughter from St. Onge, South Dakota, to Cavel. The top rear deck of the conveyance used to transport the horses was so overcrowded with horses that they did not have enough room to turn around and come off the conveyance at the slaughter plant. Respondent Carter's driver started poking the horses with a sorting stick in an effort to make them off-load, which caused a horse bearing USDA back tag # USCS 4974 to start kicking and injure its right hind leg. Respondent Carter thus failed to transport the injured horse and the other horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

71. On or about June 16, 2006, respondent Carter shipped 42 horses in commercial transportation for slaughter from Bristow, Oklahoma, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: (1) the shipment contained a stallion, USDA back tag # USCG 5059, that was incorrectly identified as a gelding, in violation of 9 C.F.R. § 88.4(a)(3)(v); and (2) the date and time when the horses were loaded onto the conveyance were not properly listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(b) The shipment contained one (1) stallion, USDA back tag # USCG 5059, but respondent Carter did not load the stallion on the conveyance so that it was completely segregated from the other horses to prevent it from coming

into contact with any other horse on the conveyance, in violation of 9 C.F.R.

§ 88.4(a)(4)(ii).

72. On or about June 29, 2006, respondent Carter shipped 45 horses in commercial transportation for slaughter from Bristow, Oklahoma, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: only five (5) of the 45 horses in this shipment were listed on the form, in violation of 9 C.F.R. § 88.4(a)(3).

73. On or about July 18, 2006, respondent Carter shipped 42 horses in commercial transportation for slaughter from Oklahoma to Cavel, and:

(a) The horses were shipped in a conveyance that had a metal brace with sharp edges in the roof of the conveyance. Respondent Carter thus failed to transport the horses to slaughter in a conveyance the animal cargo space of which was designed, constructed, and maintained in a manner that at all times protected the health and well-being of the horses being transported, in violation of 9 C.F.R. § 88.3(a)(1).

(b) One of the horses in the shipment, USDA back tag # USCV 1666, had a fresh cut on its head where it struck its head on a metal brace in the roof of the conveyance. Respondent Carter thus failed to transport the injured horse and the other horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

74. On or about September 27, 2006, respondent Carter shipped approximately 42 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel. During said transportation the conveyance overturned in the highway median, resulting in the deaths of 16 horses. Respondent Carter thus failed to transport the horses as expeditiously and carefully as possible in a manner that did not cause them unnecessary discomfort, stress, physical harm or trauma, in violation of 9 C.F.R. § 88.4(c).

75. On or about December 22, 2005, respondent Carter shipped 44 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel. The shipment contained one (1) stallion, USDA back tag # USCP 5123, but respondent Carter did not load the stallion on the conveyance so that it was completely segregated from the other horses to prevent it from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

76. On or about January 4, 2006, respondent Carter shipped 31 horses in commercial transportation for slaughter from Loveland, Colorado, to Cavel, and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the numbers of eight horses' USDA back tags were not recorded properly, in violation of 9 C.F.R. § 88.4(a)(3)(vi).

77. On or about January 25, 2006, respondent Carter shipped 37 horses in commercial transportation for slaughter from Mitchell, South Dakota, to Cavel, and:

(a) did not apply USDA back tags to 28 of the horses, in violation of 9 C.F.R. § 88.4(a)(2).

(b) did not properly fill out the required owner-shipper certificate,

VS Form 10-13. The form had the following deficiencies: (1) only nine (9) of the 37 horses in this shipment were listed on the form, in violation of 9 C.F.R. § 88.4(a)(3); and (2) the date on which the horses were loaded onto the conveyance was not listed, in violation of 9 C.F.R. § 88.4(a)(3)(ix).

(c) The shipment contained one (1) stallion, USDA back tag # USBS 9051, but respondent Carter did not load the stallion on the conveyance so that it was completely segregated from the other horses to prevent it from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

78. On or about January 29, 2006, respondent Carter shipped 46 horses in commercial transportation for slaughter from Mitchell, South Dakota, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the shipment contained a stallion, USDA back tag # USCU 3646, that was incorrectly identified as a gelding, in violation of 9 C.F.R. § 88.4(a)(3)(v).

(b) The shipment contained one (1) stallion, USDA back tag # USCU 3646, but respondent Carter did not load the stallion on the conveyance so that it was completely segregated from the other horses to prevent it from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

79. On or about February 20, 2006, respondent Carter shipped 44 horses in commercial transportation for slaughter from Hall, Montana, to Cavel, and:



(a) did not apply USDA back tags to any of the horses, in violation of 9 C.F.R. § 88.4(a)(2).

(b) did not prepare the required owner-shipper certificate, VS Form 10-13, in violation of 9 C.F.R. § 88.4(a)(3).

(c) Respondent Carter kept the horses on the conveyance for approximately 44 consecutive hours before offloading them. Respondent Carter thus failed to offload from the conveyance any horses that had been on the conveyance for 28 consecutive hours and to provide said horses with food, potable water, and the opportunity to rest for at least six (6) consecutive hours, in violation of 9 C.F.R. § 88.4(b)(3).

80. On or about March 9, 2006, respondent Carter shipped 49 horses in commercial transportation for slaughter from Mitchell, South Dakota, to Cavel and did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: the form did not provide information about the color, breed/type, and/or sex of six horses, physical characteristics that could be used to identify those horses, in violation of 9 C.F.R. § 88.4(a)(3)(v).

81. On or about March 22, 2006, respondent Carter shipped 42 horses in commercial transportation for slaughter from an unknown location to Cavel. The shipment contained two (2) stallions, one bearing USDA back tag #s USCS 5089 and the other having no USDA backtag but bearing Cavel tag # 2535, but respondent Carter did not load the two stallions on the conveyance so that they were completely segregated from each other and the other

horses to prevent them from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

82. On or about April 9, 2006, respondent Carter shipped 47 horses in commercial transportation for slaughter from Mt. View, Oklahoma, to Cavel. The shipment contained four (4) stallions, USDA back tag #s USCV 1853, USCV 1861, USCV 1892, and USCV 1893, but respondent Carter did not load the four stallions on the conveyance so that they were completely segregated from each other and the other horses to prevent them from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

83. On or about April 27, 2006, respondent Carter shipped 35 horses in commercial transportation for slaughter from Stroud, Oklahoma, to Cavel, and:

(a) did not properly fill out the required owner-shipper certificate, VS Form 10-13. The form had the following deficiencies: two stallions bearing USDA backtag #s USCG 6378 and USCG 6369 were listed as geldings, in violation of 9 C.F.R. § 88.4(a)(3)(v).

(b) The shipment contained three (3) stallions, two bearing USDA back tag #s USCG 6378 and USCG 6369 and the third bearing no back tag, but respondent Carter did not load the three stallions on the conveyance so that they were completely segregated from each other and the other horses to prevent them from coming into contact with any other horse on the conveyance, in violation of 9 C.F.R. § 88.4(a)(4)(ii).

84. During the commercial shipments of horses for slaughter detailed in paragraphs 12 through 83, Respondent Charles A. Carter d/b/a C.C. Horses Transport violated the Commercial Transportation of Equine for Slaughter Act (7 U.S.C. § 1901 note) and the Regulations promulgated thereunder (9 C.F.R. § 88 *et seq.*). Respondent Charles A. Carter is responsible for errors and omissions of those who acted as agents on his behalf in the commercial transportation of horses for slaughter, such as truck drivers and trucking companies. The maximum civil penalty per violation is \$5,000.00, and each equine transported in violation of the regulations will be considered a separate violation. Civil penalties totaling \$230,000.00 are warranted and appropriate, reasonable, justified, necessary, proportionate, and not excessive, for remedial purposes, for Respondent Charles A. Carter's violations, in accordance with 9 C.F.R. § 88.6 and based on APHIS's unopposed Motion filed July 22, 2009.

#### Order

85. Respondent Charles A. Carter d/b/a C.C. Horses Transport, an owner/shipper, is assessed civil penalties totaling **\$230,000.00** (two hundred thirty thousand dollars), which he shall pay by certified check(s), cashier's check(s), or money order(s), made payable to the order of "**Treasurer of the United States.**"

86. Respondent Carter shall reference **AQ 09-0024** on his certified check(s), cashier's check(s), or money order(s). Payments of the civil penalties shall be sent to, and received by, APHIS, at the following address:

United States Department of Agriculture  
APHIS, Accounts Receivable  
P.O. Box 3334  
Minneapolis, Minnesota 55403

within sixty (60) days from the effective date of this Order. The provisions of this Order shall be effective on the tenth day after this Decision and Order becomes final. *See* paragraph 87 to determine when this Decision and Order becomes final. Respondent Carter shall include with his payments any change in mailing address or other contact information.

Finality

87. This Decision and Order shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see attached Appendix A).

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

Done at Washington, D.C.  
this 23<sup>rd</sup> day of October 2009

/s/

Jill S. Clifton  
Administrative Law Judge

Hearing Clerk's Office  
U.S. Department of Agriculture  
South Bldg Room 1031  
1400 Independence Ave SW  
Washington DC 20250-9203  
202-720-4443  
Fax: 202-720-9776

## APPENDIX A

### 7 C.F.R.:

#### TITLE 7—AGRICULTURE

#### SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

#### PART 1—ADMINISTRATIVE REGULATIONS

....

#### SUBPART H—RULES OF PRACTICE GOVERNING FORMAL

#### ADJUDICATORY PROCEEDINGS INSTITUTED BY THE SECRETARY UNDER

#### VARIOUS STATUTES

...

#### § 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, if the decision is a written decision, or within 30 days after issuance of the Judge's decision, if the decision is an oral decision, a party who disagrees with the decision, any part of the decision, or any ruling by the Judge or who alleges any deprivation of rights, may appeal the decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.141(h)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the appeal petition and the arguments regarding each issue shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations, or authorities being relied upon in support of each argument. A brief may be filed in support of the appeal simultaneously with the appeal petition.

(b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

(c) *Transmittal of record.* Whenever an appeal of a Judge's decision is filed and a response thereto has been filed or time for filing a response has expired, the Hearing Clerk shall transmit to the Judicial Officer the record of the proceeding. Such record shall include: the pleadings; motions and requests filed and rulings thereon; the transcript or recording of the testimony taken at the hearing, together with the exhibits filed in connection therewith; any documents or papers filed in connection with a pre-hearing conference; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the proceeding; the Judge's decision; such exceptions, statements of objections and briefs in support thereof as may have been filed in the proceeding; and the

appeal petition, and such briefs in support thereof and responses thereto as may have been filed in the proceeding.

(d) *Oral argument.* A party bringing an appeal may request, within the prescribed time for filing such appeal, an opportunity for oral argument before the Judicial Officer. Within the time allowed for filing a response, appellee may file a request in writing for opportunity for such an oral argument. Failure to make such request in writing, within the prescribed time period, shall be deemed a waiver of oral argument. The Judicial Officer may grant, refuse, or limit any request for oral argument. Oral argument shall not be transcribed unless so ordered in advance by the Judicial Officer for good cause shown upon request of a party or upon the Judicial Officer's own motion.

(e) *Scope of argument.* Argument to be heard on appeal, whether oral or on brief, shall be limited to the issues raised in the appeal or in the response to the appeal, except that if the Judicial Officer determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

(f) *Notice of argument; postponement.* The Hearing Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed a reasonable amount of time in advance of the date fixed for argument.

(g) *Order of argument.* The appellant is entitled to open and conclude the argument.

(h) *Submission on briefs.* By agreement of the parties, an appeal may be submitted for decision on the briefs, but the Judicial Officer may direct that the appeal be argued orally.

(i) *Decision of the [J]udicial [O]fficer on appeal.* As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Judicial Officer, upon the basis of and after due consideration of the record and any matter of which official notice is taken, shall rule on the appeal. If the Judicial Officer decides that no change or modification of the Judge's decision is warranted, the Judicial Officer may adopt the Judge's decision as the final order in the proceeding, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. A final order issued by the Judicial Officer shall be filed with the Hearing Clerk. Such order may be regarded by the respondent as final for purposes of judicial review without filing a petition for rehearing, reargument, or reconsideration of the decision of the Judicial Officer.

[42 FR 743, Jan. 4, 1977, as amended at 60 FR 8456, Feb. 14, 1995; 68 FR 6341, Feb. 7, 2003]