

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	HPA Docket No. 13-0242
)	
Nicholaus Plafcan, ¹)	
)	
Respondent)	Remand Order

On November 7, 2013, Chief Administrative Law Judge Peter M. Davenport [hereinafter the Chief ALJ] filed a Default Decision and Order: (1) concluding Mr. Plafcan violated 15 U.S.C. § 1824(2)(A)-(B); (2) assessing Mr. Plafcan a \$2,200 civil penalty; and (3) disqualifying Mr. Plafcan for a period of 1 year from showing, exhibiting, or entering any horse and from judging, managing, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction.²

The Hearing Clerk served Mr. Plafcan with the Chief ALJ’s Default Decision and Order on February 10, 2014,³ and on February 19, 2014, Mr. Plafcan filed a Petition to Reconsider the Chief ALJ’s Default Decision and Order. On March 4, 2014, the Acting

¹It appears that Mr. Plafcan spells his first name “Nicholas” (Affidavit of Nicholas Plafcan, dated February 19, 2014); however, as no motion to amend the caption of the case has been filed, I have retained the caption as it appears in the Complaint.

²Chief ALJ’s Default Decision and Order at the second and third unnumbered pages.

³Domestic Return Receipt for article number 7012 1010 0002 0093 7203.

Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], filed Complainant's Opposition to Petition to Reconsider. On March 4, 2014, Mr. Plafcan filed Appeal to Judicial Officer, and on March 11, 2014, the Administrator filed Complainant's Opposition Response to Appeal Petition. On March 14, 2014, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for consideration and decision.

Based upon my review of the record, I find the Hearing Clerk did not transmit Mr. Plafcan's Petition to Reconsider the Chief ALJ's Default Decision and Order to the Chief ALJ for his consideration. Therefore, I remand this proceeding to the Chief ALJ to provide him an opportunity to consider and rule on Mr. Plafcan's February 19, 2014, Petition to Reconsider.

My consideration of Mr. Plafcan's timely filed March 4, 2014, Appeal to Judicial Officer is held in abeyance pending the Chief ALJ's consideration of and ruling on Mr. Plafcan's Petition to Reconsider the Chief ALJ's Default Decision and Order.

Done at Washington, DC

April 18, 2014

William G. Jenson
Judicial Officer