UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	HPA Docket No. 15-0150
	)	
Terry Wayne Sims,	)	
	)	**Order Denying Petition**
Respondent	)	**for Reconsideration**

PROCEDURAL HISTORY

On May 10, 2016, Terry Wayne Sims filed a Petition for Reconsideration requesting that I

reconsider *Sims*, HPA Docket No. 15-0150, 2016 WL 2892945 (U.S.D.A. Apr. 29, 2016). On

May 26, 2016, Kevin Shea, Administrator, Animal and Plant Health Inspection Service, United

States Department of Agriculture, filed a response to Mr. Sims' Petition for Reconsideration,[1] and

on May 27, 2016, the Hearing Clerk transmitted the record to the Office of the Judicial Officer for

consideration of, and a ruling on, Mr. Sims' Petition for Reconsideration.

DISCUSSION

The rules of practice applicable to this proceeding[2] provide that a party to a proceeding

may file a petition for reconsideration of the decision of the Judicial Officer, as follows:

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[1]Reply to Respondent's Petition for Reconsideration.

[2]The rules of practice applicable to this proceeding are the Rules of Practice Governing Formal
Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R.
§§ 1.130-.151) [Rules of Practice].

§ 1.146 Petitions for reopening hearing; for rehearing or reargument of proceeding; or for reconsideration of the decision of the Judicial Officer.

(a) *Petition requisite*. . . .

. . . .

(3) *Petition to rehear or reargue proceeding, or to reconsider the decision of the Judicial Officer.* A petition to rehear or reargue the proceeding or to reconsider the decision of the Judicial Officer shall be filed within 10 days after the date of service of such decision upon the party filing the petition. Every petition must state specifically the matters claimed to have been erroneously decided and alleged errors must be briefly stated.

7 C.F.R. § 1.146(a)(3). The purpose of a petition for reconsideration is to seek correction of manifest errors of law or fact. Petitions for reconsideration are not to be used as vehicles merely for registering disagreement with the Judicial Officer's decisions. A petition for reconsideration is only granted, absent highly unusual circumstances, if the Judicial Officer has committed error or if there is an intervening change in the controlling law.

Mr. Sims requests that I modify the Order in *Sims*, HPA Docket No. 15-0150, 2016 WL 2892945 (U.S.D.A. Apr. 29, 2016), by eliminating the provision requiring Mr. Sims to pay a $2,200 civil penalty, as follows:

> You alleged that on August 24, 2012, I entered a horse named "The Spooky Spook" in the 74th National Walking Horse Celebration. Three years later, July 29, 2015, you sent Certified Mail stating I had entered a horse that was sore.
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> I have not shown nor trained horses since that date. I have had no further infractions. Please remove the $2,200 civil penalty you assessed. I will no longer train or show horses. Thank you for your consideration.

Pet. for Recons. Mr. Sims does not assert an error of law, an error of fact, an intervening change in controlling law, or unusual circumstances as the basis for his request. Therefore, I reject Mr. Sims' request that I modify the Order in *Sims*, HPA Docket No. 15-0150, 2016 WL 2892945 (U.S.D.A. Apr. 29, 2016).

Pursuant to the Rules of Practice, the decision of the Judicial Officer is automatically stayed pending the determination to grant or deny a timely-filed petition for reconsideration.[3] Mr. Sims' Petition for Reconsideration was timely filed and automatically stayed *Sims*, HPA Docket No. 15-0150, 2016 WL 2892945 (U.S.D.A. Apr. 29, 2016). Therefore, since Mr. Sims' Petition for Reconsideration is denied, I hereby lift the automatic stay, and the Order in *Sims*, HPA Docket No. 15-0150, 2016 WL 2892945 (U.S.D.A. Apr. 29, 2016), is reinstated.

For the foregoing reasons, the following Order is issued.

ORDER

Mr. Sims' Petition for Reconsideration, filed May 10, 2016, is denied.

Done at Washington, DC

June 2, 2016

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William G. Jenson
Judicial Officer

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[3] 7 C.F.R. § 1.146(b).