

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) HPA Docket No. 02-0002
)
Darrall S. McCulloch,)
Phillip Trimble, and)
Silverstone Training, L.L.C.,)
) **Order Lifting Stay as to**
Respondents) **Phillip Trimble**

On March 27, 2003, I issued a Decision and Order as to Phillip Trimble:

(1) concluding that Phillip Trimble [hereinafter Respondent] violated the Horse Protection Act of 1970, as amended (15 U.S.C. §§ 1821-1831); (2) assessing Respondent a \$2,200 civil penalty; and (3) disqualifying Respondent for a period of 1 year from showing, exhibiting, or entering any horse and from managing, judging, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction.¹

On April 18, 2003, Respondent filed a petition for review of the March 27, 2003, Decision and Order as to Phillip Trimble in the United States Court of Appeals for the Sixth Circuit. On April 22, 2003, Respondent filed a “Motion for Stay of Order” requesting a stay of the Order in the March 27, 2003, Decision and Order as to Phillip

¹*In re Darrall S. McCulloch* (Decision as to Phillip Trimble), 62 Agric. Dec. 83 (2003).

Trimble, pending judicial review. The Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], did not object to Respondent's Motion for Stay of Order, and I granted Respondent's Motion for Stay of Order.²

The United States Court of Appeals for the Sixth Circuit denied Respondent's petition for review,³ and on February 19, 2004, Complainant filed a "Motion to Lift Stay." On February 25, 2004, Respondent filed a "Response to Motion to Lift Stay" agreeing that the Stay Order as to Phillip Trimble should be lifted and requesting that I disqualify Respondent effective January 14, 2004, 35 days after the entry of the Order in *Trimble v. United States Dep't of Agric.*, denying Respondent's petition for review. On March 1, 2004, Complainant filed "Opposition to the Respondent's 'Response to Motion to Lift Stay'" opposing Respondent's request that his 1 year disqualification begin on January 14, 2004. On March 1, 2004, the Hearing Clerk transmitted the record of the proceeding to the Judicial Officer for a ruling on Complainant's Motion to Lift Stay and for a ruling on Respondent's request that his 1 year disqualification begin on January 14, 2004.

Based upon the agreement of the parties, the Stay Order as to Phillip Trimble is lifted. However, I decline to disqualify Respondent beginning 35 days after the entry of the Order in *Trimble v. United States Dep't of Agric.*, as Respondent requests. A stay order

²*In re Darrall S. McCulloch* (Stay Order as to Phillip Trimble), 62 Agric. Dec. 103 (2003).

³*Trimble v. United States Dep't of Agric.*, No. 03-3568, 2003 WL 23095662 (6th Cir. Dec. 10, 2003).

issued by the Judicial Officer pending the outcome of judicial review is not automatically lifted upon the conclusion of judicial review. Instead, action must be taken to lift a stay order.⁴ Moreover, the Stay Order as to Phillip Trimble specifically states “[t]his Stay Order as to Phillip Trimble shall remain effective until the Judicial Officer lifts it or a court of competent jurisdiction vacates it.”⁵

For the foregoing reasons, the Order in *In re Darrall S. McCulloch* (Decision as to Phillip Trimble), 62 Agric. Dec. 83 (2003), is effective, as follows:

ORDER

1. Respondent is assessed a civil penalty of \$2,200. The civil penalty shall be paid by certified check or money order, made payable to the “Treasurer of the United States” and sent to:

⁴*In re Cecil Jordan*, 56 Agric. Dec. 758, 760 (1997) (Order on Recons. of Order Lifting Stay Order); *In re Jackie McConnell*, 55 Agric. Dec. 336, 339 (1996) (Order Modifying Order Lifting Stay Order).

⁵*In re Darrall S. McCulloch* (Stay Order as to Phillip Trimble), 62 Agric. Dec. 103, 104 (2003).

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1400 Independence Avenue, SW
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Washington, DC 20250-1417

Respondent's payment of the civil penalty shall be forwarded to, and received by, Ms. Deskins within 60 days after service of this Order on Respondent. Respondent shall indicate on the certified check or money order that payment is in reference to HPA Docket No. 02-0002.

2. Respondent is disqualified for 1 year from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, corporation, partnership, or other device, and from judging, managing, or otherwise participating in any horse show, horse exhibition, horse sale, or horse auction. "Participating" means engaging in any activity beyond that of a spectator, and includes, without limitation: (1) transporting, or arranging for the transportation of, horses to or from equine events; (2) personally giving instructions to exhibitors; (3) being present in the warm-up or inspection areas or in any area where spectators are not allowed; and (4) financing the participation of others in equine events. This disqualification shall continue until the civil penalty assessed in paragraph 1 of this Order and any costs associated with collecting the civil penalty are paid in full.

The disqualification of Respondent shall become effective on the 60th day after service of this Order on Respondent.

Done at Washington, DC

March 2, 2004

William G. Jenson
Judicial Officer