

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 07-0077
)
)
Amarillo Wildlife Refuge, Inc.,)
a Texas non-profit corporation,)
)
Respondent) **Decision and Order**

PROCEDURAL HISTORY

Kevin Shea, the Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], instituted this proceeding on March 6, 2007, by filing an “Order to Show Cause as to Why Animal Welfare License 74-C-0486 Should Not Be Terminated” [hereinafter Order to Show Cause]. The Administrator instituted the proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) [hereinafter the Animal Welfare Act]; the regulations issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-2.133) [hereinafter the Regulations]; and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151) [hereinafter the Rules of Practice].

The Administrator alleges: (1) at all times material to the instant proceeding, Amarillo Wildlife Refuge, Inc. [hereinafter Amarillo Wildlife], operated as an “exhibitor” and a “dealer” as those terms are defined in the Animal Welfare Act and the Regulations; (2) at all times material to the instant proceeding, Amarillo Wildlife held Animal Welfare Act license 74-C-0486; (3) at all times material to the instant proceeding, Carmel Azzopardi (also known as Charles Azzopardi) was the president, director, and agent of Amarillo Wildlife and managed, controlled, and directed Amarillo Wildlife’s business activities; (4) on July 21, 2006, a United States Magistrate Judge convicted Carmel Azzopardi of selling and transporting in interstate commerce an endangered species of wildlife, on or about July 19, 2005, in violation of the Endangered Species Act (Order to Show Cause ¶¶ 1-2, 9). The Administrator seeks an order terminating Amarillo Wildlife’s Animal Welfare Act license and disqualifying Amarillo Wildlife from obtaining an Animal Welfare Act license for 2 years (Order to Show Cause at 5).

On March 30, 2007, Carmel Azzopardi, on behalf of Amarillo Wildlife, requested an oral hearing. On April 2, 2007, Mr. Azzopardi, on behalf of Amarillo Wildlife, responded to the allegations in the Order to Show Cause: (1) admitting that Amarillo Wildlife holds Animal Welfare Act license 74-C-0486; (2) admitting that from 1995 through 2005 he was president, director, and agent of Amarillo Wildlife; (3) admitting that on July 21, 2006, he pled guilty to, and was convicted by a United States Magistrate Judge of, selling and transporting in interstate commerce an endangered species of

wildlife, in violation of the Endangered Species Act; and (4) asserting mitigating circumstances that warrant denial of the Administrator's request for an order terminating Amarillo Wildlife's Animal Welfare Act license and disqualification of Amarillo Wildlife from obtaining an Animal Welfare Act license for 2 years.

On April 24, 2007, the Administrator filed "Complainant's Response to Respondent's Letter and Request for a Hearing," in which the Administrator argued that Amarillo Wildlife's request for a hearing should be denied because the license termination sought by the Administrator is based on Mr. Azzopardi's criminal conviction and there is no issue of material fact upon which to hold a hearing. Attached to Complainant's Response to Respondent's Letter and Request for a Hearing are: (1) a copy of the plea agreement executed by Mr. Azzopardi and the United States in which Mr. Azzopardi pled guilty to the Endangered Species Act, (2) a factual resume signed by Mr. Azzopardi and his attorney setting forth the facts relevant to Mr. Azzopardi's violations of the Endangered Species Act, and (3) a judgment by United States Magistrate Judge Clinton E. Averitte finding Mr. Azzopardi guilty of violating the Endangered Species Act. The Deputy Clerk of the United States District Court for the Northern District of Texas certified that each of these documents is a "true copy of an instrument on file." In addition, the Administrator attached certified copies of Amarillo Wildlife's corporate documents obtained from the Texas Office of the Secretary of State, as well as Animal and Plant Health Inspection Service violation warnings and inspection reports.

On May 8, 2007, Administrative Law Judge Peter M. Davenport issued an order in which he denied Amarillo Wildlife's request for hearing and "granted leave to amend or supplement the pleadings to conform to the rules for the institution of proceedings, to provide documentation of compliance with 5 U.S.C. § 558 or in lieu thereof, authority for dispensing with the same, and any appropriate dispositive motion in this matter." (May 8, 2007, Order at 2.) On May 30, 2007, the Administrator responded explaining that a notice to show cause complies with the requirements of the Rules of Practice for initiating a proceeding (7 C.F.R. § 1.133(b)(1)) and arguing that the notice and opportunity to cure requirement of 5 U.S.C. § 558 is inapplicable because Mr. Azzopardi's violations of the Endangered Species Act were willful. Finally, the Administrator requested issuance of an order "allowing the case to proceed as filed."

On July 31, 2007, Administrative Law Judge Victor W. Palmer [hereinafter the ALJ] issued an Order in which he found that the Administrator's May 30, 2007, response lacked clarity. The ALJ suggested that the Administrator file a dispositive motion clarifying his position.

It is uncertain whether APHIS desires that part of Judge Davenport's order denying [Mr. Azzopardi's] request for a hearing to be set aside in abandonment of the position it took in its response to Mr. Azzopardi's letter that a hearing is not needed. If APHIS is seeking instead to rely upon its position that an order should be entered to terminate the license without a hearing, it has still not filed an appropriate dispositive motion.

Order at 3.

The ALJ then noted that “[s]uch a motion would be akin to a motion for summary judgment.” (Order at 3.) In response to the ALJ’s July 31, 2007, Order, the Administrator filed, on January 15, 2008, a motion for summary judgment with a Declaration by Robert M. Gibbens, DVM, Animal and Plant Health Inspection Service, Animal Care, Regional Director – Western Region, explaining why Mr. Azzopardi’s criminal conviction for violating the Endangered Species Act constitutes an appropriate cause for terminating the Animal Welfare Act license held by Amarillo Wildlife and disqualifying Amarillo Wildlife from obtaining a new Animal Welfare Act license for 2 years. Amarillo Wildlife requested and was granted an extension of time until March 18, 2008, to respond to the Administrator’s motion for summary judgment, and on March 21, 2008, Amarillo Wildlife filed its response.

On March 24, 2008, the ALJ issued a Decision and Order [hereinafter Initial Decision] in which, based on Mr. Azzopardi’s criminal conviction, the ALJ terminated Amarillo Wildlife’s Animal Welfare Act license and disqualified Amarillo Wildlife and its directors, officers, agents, and any legal entity in which they have a substantial interest from obtaining an Animal Welfare Act license for a 2-year period.

On April 24, 2008, Amarillo Wildlife appealed the ALJ’s Initial Decision to the Judicial Officer, and on May 14, 2008, the Administrator filed a response to Amarillo Wildlife’s appeal petition. On May 16, 2008, the Hearing Clerk transmitted the record to the Judicial Officer for consideration and decision. Based upon a careful consideration of

the record, I affirm the ALJ's Initial Decision granting the Administrator's motion for summary judgment, terminating Amarillo Wildlife's Animal Welfare Act license, and disqualifying Amarillo Wildlife and its directors, officers, and agents from obtaining an Animal Welfare Act license for 2 years.

DECISION

Discussion

The Animal Welfare Act provides that the Secretary of Agriculture shall issue licenses to dealers and exhibitors upon application for a license in such form and manner as the Secretary of Agriculture may prescribe (7 U.S.C. § 2133). The power to require and issue licenses under the Animal Welfare Act includes the power to deny a license, to suspend or revoke a license, to disqualify a person from becoming licensed, and to withdraw a license.¹ The Regulations specify certain bases for denying an initial application for an Animal Welfare Act license (9 C.F.R. § 2.11) and further provide that an Animal Welfare Act license, which has been issued, may be terminated for any reason that an initial license application may be denied (9 C.F.R. § 2.12). The Regulations provide that an initial application for an Animal Welfare Act license will be denied if the applicant is unfit to be licensed and the Administrator determines that the issuance of the Animal Welfare Act license would be contrary to the purposes of the Animal Welfare Act, as follows:

¹*In re Loreon Vigne*, __ Agric. Dec. __, slip op. at 3-4 (Nov. 18, 2008); *In re Mary Bradshaw*, 50 Agric. Dec. 499, 507 (1991).

§ 2.11 Denial of initial license application.

(a) A license will not be issued to any applicant who:

....

(6) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.

9 C.F.R. § 2.11(a)(6).

The purposes of the Animal Welfare Act are set forth in a congressional statement of policy, as follows:

§ 2131. Congressional statement of policy

The Congress finds that animals and activities which are regulated under this chapter are either in interstate or foreign commerce or substantially affect such commerce or the free flow thereof, and that regulation of animals and activities as provided in this chapter is necessary to prevent and eliminate burdens upon such commerce and to effectively regulate such commerce, in order—

(1) to insure that animals intended for use in research facilities or for exhibition purposes or for use as pets are provided humane care and treatment;

(2) to assure the humane treatment of animals during transportation in commerce; and

(3) to protect owners of animals from the theft of their animals by preventing the sale or use of animals which have been stolen.

The Congress further finds that it is essential to regulate, as provided in this chapter, the transportation, purchase, sale, housing, care, handling, and treatment of animals by carriers or by persons or organizations engaged in using them for research or experimental purposes or for exhibition purposes or holding them for sale as pets or for any such purpose or use.

7 U.S.C. § 2131.

The Administrator has determined that allowing Amarillo Wildlife to hold an Animal Welfare Act license is contrary to the purposes of the Animal Welfare Act (Order to Show Cause ¶ 12; Complainant's Mot. for Summary Judgment, Memorandum of Points and Authorities at 8-10). The record supports the conclusions that: (1) Amarillo Wildlife is unfit to retain its Animal Welfare Act license, and (2) the Administrator's determination that allowing Amarillo Wildlife to hold an Animal Welfare Act license is contrary to the purposes of the Animal Welfare Act, is reasonable.

Findings of Fact

1. Amarillo Wildlife is a Texas non-profit corporation (Answer at 1 ¶ 1).
2. Amarillo Wildlife is located at 4401 Reding Road, Amarillo, Texas 79108 (Answer at 1 ¶ 1).
3. Carmel Azzopardi, also known as Charles Azzopardi, resides at 4401 Reding Road, Amarillo, Texas 79108 (Answer at 1).
4. During the period 1995 through 2005, Carmel Azzopardi was the president, director, and agent of Amarillo Wildlife (Answer at 1 ¶ 3).
5. During the period 1995 through 2005, Carmel Azzopardi managed, controlled, and directed Amarillo Wildlife's business activities (Answer at 1 ¶ 3).
6. During the period 1995 through 2005, Carmel Azzopardi submitted annual renewal applications for Animal Welfare Act license 74-C-0486 on behalf of Amarillo

Wildlife, and, at all times material to the instant proceeding, Amarillo Wildlife held Animal Welfare Act license 74-C-0486 (Answer at 1 ¶¶ 2, 4).

7. On or about January 18, 2006, Carmel Azzopardi was indicted in the United States District Court for the Northern District of Texas for knowingly and willfully offering for sale, selling, and transporting in interstate commerce an endangered species, in violation of the Endangered Species Act (Answer at 2 ¶ 6; Plea Agreement at 1 and Factual Resume filed in *United States v. Azzopardi*, Case Number 2:06-CR-4(1) (N.D. Tex. July 21, 2006)).

8. In addition to the violations described in Finding of Fact number 6, on or about January 18, 2006, Carmel Azzopardi was indicted in the United States District Court for the Northern District of Texas for three felonies associated with improper paperwork (Answer at 2 ¶ 6)

9. On or about March 28, 2006, Carmel Azzopardi entered into a plea agreement with the Assistant United States Attorney with respect to *United States v. Azzopardi*. In the plea agreement, Mr. Azzopardi pled guilty to violating the Endangered Species Act. The plea agreement was filed with the United States District Court for the Northern District of Texas on or about March 29, 2006. (Answer at 2 ¶ 7; Plea Agreement at 1 and Factual Resume filed in *United States v. Azzopardi*, Case Number 2:06-CR-4(1) (N.D. Tex. July 21, 2006).)

10. On or about March 28, 2006, Carmel Azzopardi executed a factual resume in which he admitted that he knowingly and willfully offered for sale, sold, and transported in interstate commerce in the course of commercial activity an endangered species of wildlife, in violation of the Endangered Species Act. Carmel Azzopardi set forth the specific facts of his violations as follows and stated that the facts are true and correct:

On or about July 19, 2005, in the Amarillo Division of the Northern District of Texas, and elsewhere, Carmel Azzopardi, also known as Charlie Azzopardi, defendant, did knowingly and willfully offer for sale and sell in interstate commerce, and transport in interstate commerce from Amarillo, Texas, to Clinton, Oklahoma, in the course of commercial activity, two clouded leopards, an endangered species of wildlife. In violation of 16 U.S.C. §§ 1538(E)(F) and 1540(b)(1) and 50 C.F.R. 17.21(e)(f)(1).

On March 29, 2006, Mr. Azzopardi filed the factual resume with the United States District Court for the Northern District of Texas. (Answer at 2 ¶ 7; Factual Resume filed in *United States v. Azzopardi*, Case Number 2:06-CR-4(1) (N.D. Tex. July 21, 2006).)

11. On or about July 16, 2006, United States Magistrate Judge Clinton E. Averitte adjudicated Carmel Azzopardi guilty of the sale and transport in interstate commerce of an endangered species of wildlife, in violation of the Endangered Species Act (Answer at 2 ¶ 9; Judgment in a Criminal Case filed in *United States v. Azzopardi*, Case Number 2:06-CR-4(1) (N.D. Tex. July 21, 2006)).

12. At all times material to this proceeding, Carmel Azzopardi was the president, director, and agent of Amarillo Wildlife (Complainant's Response to

Respondent's Letter and Request for a Hearing Attach. B; Complainant's Motion for Summary Judgment Decl. of Robert M. Gibbens ¶¶ 11-14; Amarillo Wildlife's Appeal Pet. at 2 ¶ (2); Complainant's Response to Respondent's Appeal Pet. Attachs. F, G, I, J).

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Based on the Findings of Fact, I conclude the Administrator's determination that Amarillo Wildlife's retention of an Animal Welfare Act license is contrary to the purposes of the Animal Welfare Act, is reasonable.
3. Based on the Findings of Fact, I conclude Amarillo Wildlife is unfit to be licensed under the Animal Welfare Act, within the meaning of 9 C.F.R. § 2.11(a)(6).

Amarillo Wildlife's Appeal Petition

Amarillo Wildlife raises seven issues in its appeal petition. First, Amarillo Wildlife argues the ALJ erroneously failed to consider Amarillo Wildlife's response to the Administrator's motion for summary judgment (Appeal Pet. at 2).

The Hearing Clerk served Amarillo Wildlife with the Administrator's motion for summary judgment on January 23, 2008;² therefore, Amarillo Wildlife's response was due no later than February 12, 2008.³ Amarillo Wildlife requested an extension of time within which to file a response to the Administrator's motion for summary judgment, and

²Domestic Return Receipt for article number 7004 2510 0003 7023 2200.

³See 7 C.F.R. § 1.143(d) (providing that a party may file a response to a motion within 20 days after service).

the ALJ granted Amarillo Wildlife's request by extending the time for filing a response to March 18, 2008.⁴ Amarillo Wildlife filed its response to the Administrator's motion for summary judgment with the Hearing Clerk on March 21, 2008, but argues that its response is timely because Amarillo Wildlife mailed its response on March 17, 2008.

Amarillo Wildlife's argument that the mailbox rule applies to proceedings under the Rules of Practice has been consistently rejected by the Judicial Officer.⁵ The Rules of Practice provide that a document is deemed to be filed when it reaches the Hearing Clerk, as follows:

§ 1.147 Filing; service; extensions of time; and computations of time.

....

(g) *Effective date of filing.* Any document or paper required or authorized under the rules in this part to be filed shall be deemed to be filed at the time when it reaches the Hearing Clerk[.]

7 C.F.R. § 1.147(g). The Hearing Clerk's time and date stamp establishes that the Hearing Clerk received Amarillo Wildlife's response to the Administrator's motion for summary judgment on March 21, 2008. Therefore, I find Amarillo Wildlife filed its response to the Administrator's motion for summary judgment 3 days late and the ALJ's

⁴ALJ's February 19, 2008, Extension of Time to Respond.

⁵*In re Bodie S. Knapp*, 64 Agric. Dec. 253, 302 (2005) (indicating the mailbox rule does not apply in proceedings under the Rules of Practice); *In re William J. Reinhart*, 59 Agric. Dec. 721, 742 (2000) (rejecting the respondent's contention that the Secretary of Agriculture must adopt the mailbox rule to determine the effective date of filing in proceedings conducted under the Rules of Practice), *aff'd per curiam*, 39 F. App'x 954 (6th Cir. 2002), *cert. denied*, 538 U.S. 979 (2003).

failure to consider Amarillo Wildlife's response to the Administrator's motion for summary judgment, is not error.

Second, Amarillo Wildlife asserts Carmel Azzopardi resigned from Amarillo Wildlife prior to April 23, 2007 (Appeal Pet. at 2).

The Administrator instituted the instant proceeding based upon Mr. Azzopardi's relationship with Amarillo Wildlife on the date Mr. Azzopardi was convicted of violating the Endangered Species Act, July 21, 2006 (Compl. ¶¶ 11-12). Moreover, the basis for the ALJ's termination of Amarillo Wildlife's Animal Welfare Act license and disqualification of Amarillo Wildlife from obtaining an Animal Welfare Act license is Mr. Azzopardi's relationship with Amarillo Wildlife when Mr. Azzopardi "was convicted, on July 21, 2006, by a U.S. Magistrate Judge of the misdemeanor of Selling and Transporting in Interstate Commerce an Endangered Species of Wildlife." (ALJ's Initial Decision at 3.) Therefore, I find Amarillo Wildlife's assertion regarding Mr. Azzopardi's resignation on or about April 23, 2007, is not relevant to the instant proceeding.

Third, Amarillo Wildlife asserts that it is "closed" and a new corporation, Texas Wildlife Center, Inc., has been formed. Amarillo Wildlife asserts it no longer holds an Animal Welfare Act license and Animal Welfare Act license 74-C-0486 is held by Texas Wildlife Center, Inc. (Appeal Pet. at 2.)

The Administrator's response to Amarillo Wildlife's appeal petition contains a number of attachments which belie Amarillo Wildlife's assertion that it is closed and Texas Wildlife Center, Inc., is a new corporation (Complainant's Response to Respondent's Appeal Pet. at 4-6, Attachs. B-F). Instead, I find, as Amarillo Wildlife states in its April 16, 2007, letter to the United States Department of Agriculture: Amarillo Wildlife "simply changed the name[]" to Texas Wildlife Center, Inc. (Complainant's Response to Respondent's Appeal Pet. at 4-6, Attach. D.)

Fourth, Amarillo Wildlife concedes that the Secretary of Agriculture has the right to terminate Amarillo Wildlife's Animal Welfare Act license pursuant to 9 C.F.R. §§ 2.11(a)(6), .12, based on Mr. Azzopardi's July 21, 2006, conviction of violating the Endangered Species Act; however, Amarillo Wildlife argues the ALJ's disqualification of Amarillo Wildlife's directors, officers, and agents, other than Mr. Azzopardi, is unfair and not in accordance with the Animal Welfare Act (Appeal Pet. at 2-3.)

I agree with Amarillo Wildlife that, under 9 C.F.R. §§ 2.11(a)(6), .12, I may terminate Amarillo Wildlife's Animal Welfare Act license, based upon Mr. Azzopardi's having been found to have violated the Endangered Species Act, and that I may disqualify Mr. Azzopardi from obtaining an Animal Welfare Act license; however, I disagree with Amarillo Wildlife's contention that no sanction may be imposed on its directors, officers, and agents, other than Mr. Azzopardi. The Regulations provide that no license shall be issued under circumstances that circumvent an order terminating an Animal Welfare Act

license.⁶ Granting Amarillo Wildlife's request to limit the disqualification order to Amarillo Wildlife and Mr. Azzopardi would enable Amarillo Wildlife to circumvent the disqualification order through its other directors, officers, and agents. Therefore, I decline to modify the ALJ's disqualification order as requested by Amarillo Wildlife.

Fifth, Amarillo Wildlife asserts Dr. Robert M. Gibbens' declaration attached to the Administrator's motion for summary judgement is "completely out of context." Amarillo Wildlife suggests Dr. Gibbens' declaration overstated the effect of Mr. Azzopardi's violations of the Endangered Species Act and states there was no evidence either presented at Mr. Azzopardi's trial or presented by Dr. Gibbens in his declaration that the animals which Mr. Azzopardi sold and transported, in violation of the Endangered Species Act, were in fact endangered species. (Appeal Pet. at 3-4.)

Mr. Azzopardi did not litigate the charges against him under the Endangered Species Act. Instead, Mr. Azzopardi pled guilty to the charges, admitted to the underlying facts, and was convicted of violating the Endangered Species Act by a United States Magistrate Judge (Plea Agreement, Factual Resume, and Judgment in a Criminal Case filed in *United States v. Azzopardi*, Case Number 2:06-CR-4(1) (N.D. Tex. July 21, 2006)). I reject Amarillo Wildlife's attempt to relitigate Mr. Azzopardi's criminal conviction in this forum.

⁶9 C.F.R. § 2.11(d).

Sixth, Amarillo Wildlife argues the ALJ erroneously relied on Dr. Gibbens' sanction recommendation (Appeal Pet. at 4).

The ALJ described his reliance on Dr. Gibbens' sanction recommendation, as follows:

In keeping with the policy often expressed by the Judicial Officer that when adjudicating sanction cases, we should ascertain policies relevant to their disposition from the Department's administrative officials and defer to them when appropriate, the following order is being entered in accordance with Dr. Gibbens' declaration.

Initial Decision at 4. The United States Department of Agriculture's current sanction policy is set forth in *In re S.S. Farms Linn County, Inc.* (Decision as to James Joseph Hickey and Shannon Hansen), 50 Agric. Dec. 476, 497 (1991), *aff'd*, 991 F.2d 803, 1993 WL 128889 (9th Cir. 1993) (not to be cited as precedent under 9th Circuit Rule 36-3):

[T]he sanction in each case will be determined by examining the nature of the violations in relation to the remedial purposes of the regulatory statute involved, along with all relevant circumstances, always giving appropriate weight to the recommendations of the administrative officials charged with the responsibility for achieving the congressional purpose.

The recommendations of administrative officials charged with the responsibility for achieving the congressional purpose of the regulatory statute are highly relevant to any sanction to be imposed and are entitled to great weight in view of the experience gained by administrative officials during their day-to-day supervision of the regulated industry. However, the recommendations of administrative officials as to the sanction are not controlling, and, in appropriate circumstances, the sanction imposed may be

considerably less, or different, than that recommended by administrative officials.⁷ The ALJ made clear that he was not bound by Dr. Gibbens' sanction recommendation, but that he found Dr. Gibbens' sanction recommendation to be appropriate. Therefore, I reject Amarillo Wildlife's argument that the ALJ erroneously relied on Dr. Gibbens' sanction recommendation. Moreover, I have examined the purported mitigating circumstances raised by Amarillo Wildlife (Answer ¶¶ (A)-(D)) and find no basis to modify the sanction imposed by the ALJ.

Seventh, Amarillo Wildlife contends Mr. Azzopardi's 6 months of house arrest, 3 years of probation, and payment of over \$50,000 in fines and attorney's fees in connection with his violations of the Endangered Species Act should be taken into account when determining the sanction imposed on Amarillo Wildlife (Appeal Pet. at 3).

I reject Amarillo Wildlife's contention that the penalty imposed on Mr. Azzopardi for his violations of the Endangered Species Act and the attorney's fees that Mr. Azzopardi paid in connection with *United States v. Azzopardi* are relevant to the sanction to be imposed on Amarillo Wildlife under the Animal Welfare Act. The penalty imposed on, and the payments made by, Mr. Azzopardi in connection with *United States v. Azzopardi* do not address the remedial purposes of the Animal Welfare Act.

⁷*In re Alliance Airlines*, 64 Agric. Dec. 1595, 1608 (2005); *In re Mary Jean Williams* (Decision as to Deborah Ann Milette), 64 Agric. Dec. 364, 390 (2005); *In re Geo. A. Heimos Produce Co.*, 62 Agric. Dec. 763, 787 (2003), *appeal dismissed*, No. 03-4008 (8th Cir. Aug. 31, 2004); *In re Excel Corp.*, 62 Agric. Dec. 196, 234 (2003), *enforced as modified*, 397 F.3d 1285 (10th Cir. 2005); *In re Steven Bourk* (Decision as to Steven Bourk and Carmella Bourk), 61 Agric. Dec. 25, 49 (2002).

Amarillo Wildlife's Motions Regarding Sanction

Amarillo Wildlife moves that: (1) Carmel Azzopardi be disqualified from obtaining an Animal Welfare Act license for 2 years; (2) no sanction be imposed on Amarillo Wildlife because it is no longer in existence; and (3) Texas Wildlife Center, Inc., continue to hold Animal Welfare Act license 74-C-0486 (Appeal Pet. at 4).

For the reasons articulated in this Decision and Order, *supra*, Amarillo Wildlife's motions that no sanction be imposed on Amarillo Wildlife and that Texas Wildlife Center, Inc., continue to hold Animal Welfare Act license 74-C-0486 are denied.

For the foregoing reasons, the following Order is issued.

ORDER

1. Amarillo Wildlife's Animal Welfare Act license 74-C-0486 is terminated.
2. Amarillo Wildlife is disqualified for 2 years from becoming licensed under the Animal Welfare Act or otherwise obtaining, holding, or using an Animal Welfare Act license, directly or indirectly through any corporate or other device or person.
3. Amarillo Wildlife's directors, officers, and agents and any legal entity in which they may have a substantial interest are disqualified for 2 years from becoming licensed under the Animal Welfare Act or otherwise obtaining, holding, or using an Animal Welfare Act license.

This Order shall become effective on the 60th day after service of this Order on
Amarillo Wildlife.

Done at Washington, DC

January 6, 2009

William G. Jenson
Judicial Officer