

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 04-0024
)
Jewel Bond, d/b/a Bonds Kennel,)
) **Order Denying**
Respondent) **Petition to Reconsider**

PROCEDURAL HISTORY

Kevin Shea, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter Complainant], instituted this disciplinary administrative proceeding by filing a Complaint on August 19, 2004. Complainant instituted the proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) [hereinafter the Animal Welfare Act]; the regulations and standards issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-3.142) [hereinafter the Regulations and Standards]; 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].

Complainant alleges that, on May 13, 2003, July 16, 2003, and August 25, 2003, Jewel Bond, d/b/a Bonds Kennel [hereinafter Respondent], violated the Regulations and

Standards (Compl. ¶¶ II-IV). On September 15, 2004, Respondent filed an answer denying the material allegations of the Complaint.

On May 24 and 25, 2005, Administrative Law Judge Victor W. Palmer [hereinafter the ALJ] conducted a hearing in Springfield, Missouri. Brian T. Hill represented Complainant. Respondent represented herself with the assistance of Larry Bond, Seneca, Missouri. On January 9, 2006, after Complainant and Respondent filed post-hearing briefs, the ALJ issued a Decision and Order [hereinafter Initial Decision]: (1) concluding Respondent violated the Animal Welfare Act and the Regulations and Standards; (2) ordering Respondent to cease and desist from violating the Animal Welfare Act and the Regulations and Standards; (3) assessing Respondent a \$10,000 civil penalty; and (4) suspending Respondent's Animal Welfare Act license for 1 year (Initial Decision at 13, 16-17).

On February 16, 2006, Respondent filed an appeal to, and requested oral argument before, the Judicial Officer. On March 16, 2006, Complainant filed a response to Respondent's appeal petition. On April 6, 2006, the Hearing Clerk transmitted the record to the Judicial Officer for consideration and decision. On May 19, 2006, I issued a Decision and Order affirming the ALJ's Initial Decision, with minor exceptions, and denying Respondent's request for oral argument.¹

¹*In re Jewel Bond*, __ Agric. Dec. ____ (May 19, 2006).

On June 2, 2006, Respondent filed a “Petition For Reconsideration Of The Judicial Officer’s Decision” [hereinafter Petition to Reconsider]. On June 29, 2006, after the time for Complainant’s response expired, the Hearing Clerk transmitted the record to the Judicial Officer for a ruling on Respondent’s Petition to Reconsider.

Complainant’s exhibits are designated by “CX.” References to the transcript are designated by “Tr.”

CONCLUSIONS BY THE JUDICIAL OFFICER ON RECONSIDERATION

Respondent raises seven issues in her Petition to Reconsider. First, Respondent contends, in light of the extensive repairs she made to her facility between the May 13, 2003, and August 25, 2003, United States Department of Agriculture inspections, David Brigance, a United States Department of Agriculture inspector, “was a little harsh” when he cited Respondent for violating sections 3.4(c) and 3.6(a)(2)(i) of the Regulations and Standards (9 C.F.R. §§ 3.4(c), .6(a)(2)(i)) on August 25, 2003 (CX 67) (Respondent’s Pet. to Reconsider at 1-2).

Respondent neither denies she violated sections 3.4(c) and 3.6(a)(2)(i) of the Regulations and Standards (9 C.F.R. §§ 3.4(c), .6(a)(2)(i)) on August 25, 2003, nor contends I erroneously concluded that she violated sections 3.4(c) and 3.6(a)(2)(i) of the Regulations and Standards (9 C.F.R. §§ 3.4(c), .6(a)(2)(i)) on August 25, 2003.

Therefore, I find the issue of whether Mr. Brigance “was a little harsh,” irrelevant.

Second, Respondent asserts that, after she entered into a consent decision with the United States Department of Agriculture in June 2002, she spent over \$45,000 to improve her kennel. Respondent contends her expenditure of \$45,000 to improve her kennel establishes that she did not have a total disregard for the Regulations and Standards, but, instead, had a strong desire to comply with the Regulations and Standards. (Respondent's Pet. to Reconsider at 2.)

Even if I were to find Respondent expended \$45,000 to improve her kennel, I would not reduce the sanction imposed in *In re Jewel Bond*, ___ Agric. Dec. ___ (May 19, 2006). Each violation found in the course of the three inspections conducted in 2003 was willful. An act is considered "willful" under the Administrative Procedure Act (5 U.S.C. § 558(c)) if the violator (1) intentionally does an act which is prohibited, irrespective of evil motive or reliance on erroneous advice, or (2) acts with careless disregard of statutory requirements.² Respondent's chronic failure to comply with the Animal Welfare Act and the Regulations and Standards throughout the year that followed her signing the consent decision, constitutes obvious and careless disregard of the statutory and regulatory requirements, and Respondent's violations are clearly willful.³

²*In re James E. Stephens*, 58 Agric. Dec. 149, 180 (1999); *In re Arab Stock Yard, Inc.*, 37 Agric. Dec. 293, 306 (1978), *aff'd mem.*, 582 F.2d 39 (5th Cir. 1978).

³*See In re James E. Stephens*, 58 Agric. Dec. 149, 180 (1999) (stating the respondents' chronic failure to comply with the Animal Welfare Act and the Regulations and Standards over a period of almost 4 months presents an obvious and careless disregard of statutory and regulatory requirements; when a Animal Welfare Act licensee

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Respondent's testimony and actions demonstrate a lack of good faith compliance with the Animal Welfare Act and the Regulations and Standards that apply to her as a licensed dog dealer. Respondent has refused to heed specific Animal and Plant Health Inspection Service instructions. Respondent became so incensed when told by an Animal and Plant Health Inspection Service investigator that a building in her facility still did not meet applicable standards, she removed approximately 10 dogs it housed and put them outside on a cold winter night when the temperature was only 20 degrees Fahrenheit (Tr. 274-78). Respondent's obstinacy, her temper that can blind her to the needs and welfare of her dogs, and the gravity of her violations which ignored basic needs of the dogs and puppies that she sells in interstate commerce, combine to require the imposition of a substantial sanction to achieve compliance with, and deter future violations of, the Animal Welfare Act and the Regulations and Standards.

I have accepted the recommendations of Animal and Plant Health Inspection Service officials which I have concluded fully accord with the Animal Welfare Act's sanction and civil penalty provisions. If each Regulation and Standard that I find to have been violated is treated as a single violation, Respondent committed 11 violations. Arguably, there were multiple violations of several of the Regulations and Standards. Therefore, the \$10,000 civil penalty that I assess is far less than may be imposed by

³(...continued)
disregards statutory and regulatory requirements over such a period of time, the licensee's violations are clearly willful.)

applying the \$2,750 per violation amount authorized by the Animal Welfare Act and the Federal Civil Penalties Inflation Adjustment Act of 1990 against, at a minimum, 11 violations.⁴ A 1-year suspension of Respondent's Animal Welfare Act license is also presently indicated in that the prior, lesser 30-day suspension of Respondent's Animal Welfare Act license was not an effective deterrent. The recommended inclusion of cease and desist provisions is also appropriate.

Third, Respondent contends she corrected the violations found during the May 13, 2003, inspection of her kennel (Respondent's Pet. to Reconsider at 2).

Each Animal Welfare Act licensee must always be in compliance in all respects with the Animal Welfare Act and the Regulations and Standards. While Respondent's corrections of the violations of the Animal Welfare Act found on May 13, 2003, are commendable and can be taken into account when determining the sanction to be imposed, Respondent's corrections of her violations do not eliminate the fact that the violations occurred.⁵ Therefore, even if I were to find that, subsequent to Respondent's

⁴See 7 U.S.C. § 2149(b); 28 U.S.C. § 2461 (note); 7 C.F.R. § 3.91(a), (b)(2)(v).

⁵*In re Eric John Drogosch*, 63 Agric. Dec. 623, 643 (2004); *In re Reginald Dwight Parr*, 59 Agric. Dec. 601, 644 (2000), *aff'd per curiam*, 273 F.3d 1095 (5th Cir. 2001) (Table); *In re Susan DeFrancesco*, 59 Agric. Dec. 97, 112 n.12 (2000); *In re Michael A. Huchital*, 58 Agric. Dec. 763, 805 n.6 (1999); *In re James E. Stephens*, 58 Agric. Dec. 149, 184-85 (1999); *In re Marilyn Shepherd*, 57 Agric. Dec. 242, 274 (1998); *In re John D. Davenport*, 57 Agric. Dec. 189, 219 (1998), *appeal dismissed*, No. 98-60463 (5th Cir. Sept. 25, 1998); *In re Samuel Zimmerman*, 56 Agric. Dec. 1419, 1456 n.8 (1997), *aff'd*, 173 F.3d 422 (3d Cir. 1998) (Table), printed in 57 Agric. Dec. 869 (1998); *In re David M. Zimmerman*, 56 Agric. Dec. 433, 466 (1997), *aff'd*, 156 F.3d 1227 (3d Cir.

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May 13, 2003, violations of the Regulations and Standards, Respondent corrected the violations, I would not grant Respondent's Petition to Reconsider.

Fourth, Respondent contends she is not able to pay a \$10,000 civil penalty and a 1-year suspension of her Animal Welfare Act license would make payment of any civil penalty difficult (Respondent's Pet. to Reconsider at 2-3).

Section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) sets forth factors that must be considered when determining the amount of the civil penalty to be assessed against a respondent for violations of the Animal Welfare Act and the Regulations, and a respondent's ability to pay the civil penalty is not one of those factors. Therefore, Respondent's inability to pay the \$10,000 civil penalty is not a basis for reducing the \$10,000 civil penalty.⁶

⁵(...continued)

1998) (Table), printed in 57 Agric. Dec. 46 (1998); *In re Volpe Vito, Inc.*, 56 Agric. Dec. 269, 272-73 (1997) (Order Denying Pet. for Recons.); *In re John Walker*, 56 Agric. Dec. 350, 367 (1997); *In re Mary Meyers*, 56 Agric. Dec. 322, 348 (1997); *In re Volpe Vito, Inc.*, 56 Agric. Dec. 166, 254 (1997), *aff'd*, 172 F.3d 51, 1999 WL 16562 (6th Cir. 1999) (not to be cited as precedent under 6th Circuit Rule 206) (Table), printed in 58 Agric. Dec. 85 (1999); *In re Big Bear Farm, Inc.*, 55 Agric. Dec. 107, 142 (1996); *In re Pet Paradise, Inc.*, 51 Agric. Dec. 1047, 1070 (1992), *aff'd*, 61 F.3d 907, 1995 WL 309637 (7th Cir. 1995) (not to be cited per 7th Circuit Rule 53(b)(2)).

⁶The Judicial Officer did give consideration to ability to pay when determining the amount of the civil penalty to assess under the Animal Welfare Act in *In re Gus White, III*, 49 Agric. Dec. 123, 152 (1990). The Judicial Officer subsequently held that consideration of ability to pay in *In re Gus White, III*, was inadvertent error and that ability to pay would not be considered in determining the amount of civil penalties assessed under the Animal Welfare Act in the future. *See In re Mary Jean Williams* (Decision as to Mary Jean Williams), ___ Agric. Dec. ___, slip op. at 28-29 (Sept. 14,

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⁶(...continued)

2005) (stating section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) sets forth factors that must be considered when determining the amount of the civil penalty to be assessed against a respondent for violations of the Animal Welfare Act and the Regulations and a respondent's ability to pay the civil penalty is not one of those factors); *In re Mary Jean Williams* (Order Denying Pet. to Reconsider as to Deborah Ann Milette), ___ Agric. Dec. ___, slip op. at 9 (Sept. 9, 2005) (stating section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) sets forth factors that must be considered when determining the amount of the civil penalty to be assessed against a respondent for violations of the Animal Welfare Act and the Regulations and a respondent's ability to pay the civil penalty is not one of those factors); *In re J. Wayne Shaffer*, 60 Agric. Dec. 444, 475-76 (2001) (stating section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) sets forth factors that must be considered when determining the amount of the civil penalty to be assessed against a respondent for violations of the Animal Welfare Act and the Regulations and a respondent's ability to pay the civil penalty is not one of those factors); *In re Nancy M. Kutz* (Decision and Order as to Nancy M. Kutz), 58 Agric. Dec. 744, 757 (1999) (stating section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) sets forth factors that must be considered when determining the amount of the civil penalty to be assessed against a respondent for violations of the Animal Welfare Act, the Regulations, and the Standards, and a respondent's ability to pay the civil penalty is not one of those factors); *In re James E. Stephens*, 58 Agric. Dec. 149, 199 (1999) (stating the respondents' financial state is not relevant to the amount of the civil penalty assessed against the respondents for violations of the Animal Welfare Act, the Regulations, and the Standards); *In re Judie Hansen*, 57 Agric. Dec. 1072, 1143 (1998) (stating a respondent's ability to pay a civil penalty is not considered in determining the amount of the civil penalty to be assessed), *appeal dismissed*, 221 F.3d 1342 (Table), 2000 WL 1010575 (8th Cir. 2000) (per curiam); *In re David M. Zimmerman*, 57 Agric. Dec. 1038, 1050 n.1 (1998) (stating the Judicial Officer has pointed out that when determining the amount of a civil penalty to be assessed under the Animal Welfare Act, consideration need not be given to a respondent's ability to pay the civil penalty); *In re James J. Everhart*, 56 Agric. Dec. 1401, 1416 (1997) (stating a respondent's inability to pay the civil penalty is not a consideration in determining civil penalties assessed under the Animal Welfare Act); *In re Mr. & Mrs. Stan Kopunec*, 52 Agric. Dec. 1016, 1023 (1993) (stating the ability to pay a civil penalty is not a relevant consideration in Animal Welfare Act cases); *In re Micheal McCall*, 52 Agric. Dec. 986, 1008 (1993) (stating the ability or inability to pay is not a criterion in Animal Welfare Act cases); *In re Pet Paradise, Inc.*, 51 Agric. Dec. 1047, 1071 (1992) (stating the Judicial Officer once gave consideration to the ability of

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Fifth, Respondent states I erroneously found that she averaged about \$4,000 per month in sales of dogs and puppies (Respondent's Pet. to Reconsider at 2).

Complainant introduced evidence that, during the period September 4, 2002, through July 23, 2003, Respondent sold 222 puppies in interstate commerce to Okie Pets, PO Box 21, Ketchum, Oklahoma 74349, for \$39,690, averaging about \$4,000 per month in sales to this one outlet alone (CX 1; CX 4). Respondent fails to cite any evidence introduced to rebut Complainant's evidence concerning Respondent's average monthly sales to Okie Pets. Therefore, I reject Respondent's contention that my finding regarding her average monthly sales to Okie Pets, is error.

Sixth, Respondent asserts her facility was not inspected during the period from October 23, 2001, to May 13, 2003, and then the facility was inspected two times over the next 3½ months (Respondent's Pet. to Reconsider at 3).

Respondent does not explain the relevance of the frequency of the United States Department of Agriculture's inspection of her facilities, animals, and records. I infer Respondent objects to the frequency of the United States Department of Agriculture's

⁶(...continued)

respondents to pay a civil penalty, but that the Judicial Officer has removed the ability to pay as a criterion, since the Animal Welfare Act does not require it), *aff'd*, 61 F.3d 907, 1995 WL 309637 (7th Cir. 1995) (not to be cited per 7th Circuit Rule 53(b)(2)); *In re Jerome A. Johnson*, 51 Agric. Dec. 209, 216 (1992) (stating the holding in *In re Gus White, III*, 49 Agric. Dec. 123 (1990), as to consideration of ability to pay, was an inadvertent error; ability to pay is not a factor specified in the Animal Welfare Act and it will not be considered in determining future civil penalties under the Animal Welfare Act).

inspection of her facilities, animals, and records. The Animal Welfare Act authorizes the Secretary of Agriculture to make inspections in order to determine whether any dealer or exhibitor has violated the Animal Welfare Act or the Regulations and Standards and specifically provides that, in order to accomplish this purpose, the Secretary of Agriculture shall, at all reasonable times, have access to the places of business and the facilities, animals, and records of any dealer or exhibitor.⁷ Therefore, I reject Respondent's objection to the frequency of the United States Department of Agriculture's inspection of her facilities, animals, and records.

Seventh, Respondent renews her request for oral argument on the ground that the issues are complex. Respondent asserts the issues are complex because the testimony of the United States Department of Agriculture officials regarding her violations is not credible. (Respondent's Pet. to Reconsider at 3.)

The ALJ found that the United States Department of Agriculture officials who testified regarding Respondent's violations of the Regulations and Standards were credible, as follows:

⁷7 U.S.C. § 2146(a).

Testimony establishing [Respondent's] violations was given by an APHIS Animal Care Inspector and a Veterinarian [sic] Medical Officer. Both were extremely credible witnesses who produced photographic evidence corroborating their observations.

Initial Decision at 14. The Judicial Officer's consistent practice is to give great weight to credibility determinations of administrative law judges, since they have the opportunity to see and hear witnesses testify.⁸ I find nothing in the record before me on which to base a reversal of the ALJ's credibility determinations. Therefore, I reject Respondent's basis for her contention that the issues are complex. Moreover, Respondent's renewed request

⁸*In re G & T Terminal Packaging Co.*, __ Agric. Dec. __, slip op. at 16 (Sept. 8, 2005), *appeal docketed*, No. 05-5634 (2d Cir. Oct. 18, 2005); *In re Southern Minnesota Beet Sugar Cooperative*, __ Agric. Dec. __, slip op. at 33-37 (May 9, 2005); *In re Excel Corp.*, 62 Agric. Dec. 196, 244-46 (2003), *enforced as modified*, 397 F.3d 1285 (10th Cir. 2005); *In re Robert B. McCloy, Jr.*, 61 Agric. Dec. 173, 210 (2002), *aff'd*, 351 F.3d 447 (10th Cir. 2003), *cert. denied*, 543 U.S. 810 (2004); *In re Wallace Brandon* (Decision as to Jerry W. Graves and Kathy Graves), 60 Agric. Dec. 527, 561-62 (2001), *appeal dismissed sub nom. Graves v. United States Dep't of Agric.*, No. 01-3956 (6th Cir. Nov. 28, 2001); *In re Sunland Packing House Co.*, 58 Agric. Dec. 543, 602 (1999); *In re David M. Zimmerman*, 57 Agric. Dec. 1038, 1055-56 (1998); *In re Jerry Goetz*, 56 Agric. Dec. 1470, 1510 (1997), *aff'd*, 99 F. Supp.2d 1308 (D. Kan. 2000), *aff'd*, 12 F. App'x 718 (10th Cir.), *cert. denied*, 534 U.S. 1040 (2001); *In re Saulsbury Enterprises*, 56 Agric. Dec. 82, 89 (1997) (Order Denying Pet. for Recons.); *In re Andershock's Fruitland, Inc.*, 55 Agric. Dec. 1204, 1229 (1996), *aff'd*, 151 F.3d 735 (7th Cir. 1998); *In re Floyd Stanley White*, 47 Agric. Dec. 229, 279 (1988), *aff'd per curiam*, 865 F.2d 262, 1988 WL 133292 (6th Cir. 1988); *In re King Meat Packing Co.*, 40 Agric. Dec. 552, 553 (1981); *In re Mr. & Mrs. Richard L. Thornton*, 38 Agric. Dec. 1425, 1426 (1979) (Remand Order); *In re Steve Beech*, 37 Agric. Dec. 869, 871-72 (1978); *In re Unionville Sales Co.*, 38 Agric. Dec. 1207, 1208-09 (1979) (Remand Order); *In re National Beef Packing Co.*, 36 Agric. Dec. 1722, 1736 (1977), *aff'd*, 605 F.2d 1167 (10th Cir. 1979); *In re Edward Whaley*, 35 Agric. Dec. 1519, 1521 (1976); *In re Dr. Joe Davis*, 35 Agric. Dec. 538, 539 (1976); *In re American Commodity Brokers, Inc.*, 32 Agric. Dec. 1765, 1772 (1973); *In re Cardwell Dishmon*, 31 Agric. Dec. 1002, 1004 (1972); *In re Sy B. Gaiber & Co.*, 31 Agric. Dec. 474, 497-98 (1972); *In re Louis Romoff*, 31 Agric. Dec. 158, 172 (1972).

for oral argument comes far too late to be considered. Section 1.145(d) of the Rules of Practice provides that a party bringing an appeal may request, within the time for filing an appeal, an opportunity for oral argument before the Judicial Officer, as follows:

§ 1.145 Appeal to Judicial Officer.

....

(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.

7 C.F.R. § 1.145(d). The Hearing Clerk served Respondent with the Initial Decision on January 17, 2006.⁹ Section 1.145(a) of the Rules of Practice (7 C.F.R. § 1.145(a)) provides that a party has 30 days, after receiving service of an administrative law judge's written decision, within which to appeal the decision to the Judicial Officer. Thus, Respondent's time for requesting oral argument before the Judicial Officer expired February 16, 2006. Respondent's renewed request for oral argument, filed June 2, 2006, is late-filed and must be denied.

⁹United States Postal Service Domestic Return Receipt for Article Number 7003 1010 0003 0642 1172.

For the foregoing reasons and the reasons set forth in *In re Jewel Bond*, ___ Agric. Dec. ___ (May 19, 2006), Respondent's Petition to Reconsider is denied.

Section 1.146(b) of the Rules of Practice (7 C.F.R. § 1.146(b)) provides that the decision of the Judicial Officer shall automatically be stayed pending the determination to grant or deny a timely-filed petition to reconsider. Respondent's Petition to Reconsider was timely filed and automatically stayed *In re Jewel Bond*, ___ Agric. Dec. ___ (May 19, 2006). Therefore, since Respondent's Petition to Reconsider is denied, I hereby lift the automatic stay, and the Order in *In re Jewel Bond*, ___ Agric. Dec. ___ (May 19, 2006), is reinstated; except that the effective date of the Order is the date indicated in the Order in this Order Denying Petition to Reconsider.

For the foregoing reasons, the following Order should be issued.

ORDER

1. Jewel Bond, her agents and employees, successors and assigns, directly or indirectly through any corporate or other device, shall cease and desist from violating the Animal Welfare Act and the Regulations and Standards and, in particular, shall cease and desist from:

- (a) Failing to keep housing facilities for dogs in good repair;
- (b) Failing to maintain surfaces in outdoor housing facilities so that they can be readily cleaned and sanitized;

- (c) Failing to provide primary enclosures that have floors that are constructed in a manner that protects the dogs' feet and legs from injury;
- (d) Failing to clean primary enclosures;
- (e) Failing to maintain an effective program of pest control;
- (f) Failing to maintain interior surfaces of housing facilities and surfaces that come in contact with dogs free of excessive rust that prevents cleaning and sanitization;
- (g) Failing to have a properly working drainage system in housing facilities; and
- (h) Failing to maintain primary enclosures so that they have no sharp points or edges that can injure dogs.

Paragraph 1 of this Order shall become effective on the day after service of this Order on Respondent.

2. Respondent is assessed a \$10,000 civil penalty. The civil penalty shall be paid by certified check or money order made payable to the Treasurer of the United States and sent to:

Brian T. Hill
United States Department of Agriculture
Office of the General Counsel
Marketing Division
1400 Independence Avenue, SW
Room 2343-South Building
Washington, DC 20250-1417

Payment of the civil penalty shall be sent to, and received by, Brian T. Hill within 60 days after service of this Order on Respondent. Respondent shall state on the certified check or money order that payment is in reference to AWA Docket No. 04-0024.

3. Respondent's Animal Welfare Act license is suspended for a period of 1 year and continuing thereafter until Respondent demonstrates to the Animal and Plant Health Inspection Service that she is in full compliance with the Animal Welfare Act, the Regulations and Standards, and this Order, including payment of the civil penalty imposed in this Order. When Respondent demonstrates to the Animal and Plant Health Inspection Service that she has satisfied this condition, a supplemental order shall be issued in this proceeding upon the motion of the Animal and Plant Inspection Service, terminating the suspension of Respondent's Animal Welfare Act license.

Paragraph 3 of this Order shall become effective 60 days after service of this Order on Respondent.

RIGHT TO JUDICIAL REVIEW

Respondent has the right to seek judicial review of the Order issued in this Order Denying Petition to Reconsider in the appropriate United States Court of Appeals in accordance with 28 U.S.C. §§ 2341, 2343-2350. Such court has exclusive jurisdiction to enjoin, to set aside, to suspend (in whole or in part), or to determine the validity of the Order issued in this Order Denying Petition to Reconsider. Respondent must seek judicial review within 60 days after entry of the Order issued in this Order Denying

Petition to Reconsider.¹⁰ The date of entry of the Order issued in this Order Denying
Petition to Reconsider is July 6, 2006.

Done at Washington, DC

July 6, 2006

William G. Jenson
Judicial Officer

¹⁰7 U.S.C. § 2149(c).