

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. D-09-0069
)
Lion's Gate Center, LLC,)
)
Petitioner) **Remand Order**

Chief Administrative Law Judge Peter M. Davenport [hereinafter the Chief ALJ] issued *In re Lion's Gate Center, LLC*, __ Agric. Dec. __, (Jan. 6, 2010), concluding the denial of Lion's Gate Center, LLC's application for an Animal Welfare Act license was in accordance with law, as Lion's Gate Center, LLC's application sought approval of a joint venture with Prairie Wind Animal Refuge, a corporate entity, whose Animal Welfare Act license had previously been revoked by the Secretary of Agriculture.

Lion's Gate Center, LLC, appealed the Chief ALJ's Decision and Order, and the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], filed a response to the appeal petition. Subsequently, I issued an Order for Briefs and Documents to assist me with one issue I found troubling: "namely, the identity of the person or persons whose Animal Welfare Act license was revoked effective August 27, 2003, pursuant to *In re Michael Jurich* (Consent Decision), 60 Agric. Dec. 722 (2001), as implemented by the settlement

agreement in *Jurich v. U.S. Dep't of Agric.*, No. 1:03-cv-00793-EWN-OES (D. Colo. Sept. 10, 2003).” I was hopeful that “[w]ith the assistance of Lion’s Gate Center, LLC, . . . and the Administrator I [would] be able to resolve this issue without resort to remand.” While Lion’s Gate Center, LLC, filed a response to the Order for Briefs and Documents, the Administrator did not. Instead, the Administrator filed a Motion to Rescind Order for Briefs and Documents requesting remand of the proceeding to the Chief ALJ or, in the alternative, issuance of a decision.

While I was hopeful that I could avoid remand, I now conclude, based upon the limited record before me, that the most expeditious manner by which to conduct this proceeding is to vacate the Chief ALJ’s January 6, 2010, Decision and Order and to remand the instant proceeding to the Chief ALJ.

ORDER

1. The Administrator’s July 12, 2010, Motion to Rescind Order for Briefs and Documents is granted.
2. The Chief ALJ’s Decision and Order, filed January 6, 2010, is vacated.
3. The instant matter is remanded to the Chief ALJ for further proceedings in accordance with the rules of practice applicable to this proceeding¹ to determine the identity of the person or persons whose Animal Welfare Act license was revoked,

¹The rules of practice applicable to the instant proceeding are the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130-.151).

effective August 27, 2003, pursuant to *In re Michael Jurich* (Consent Decision), 60 Agric. Dec. 722 (2001), as implemented by the settlement agreement in *Jurich v. U.S. Dep't of Agric.*, No. 1:03-cv-00793-EWN-OES (D. Colo. Sept. 10, 2003), and for any other purpose the Chief ALJ determines necessary for the proper disposition of the instant proceeding.

Done at Washington, DC

August 30, 2010

William G. Jenson
Judicial Officer