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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0429

In re: Gloria Wippler,

Respondent

and

Docket No. 12-0430

In re: Scott Wippler,

Respondent

Default Decision and Order

Preliminary Statement

This proceeding was instituted under the Animal Welfare Act ("Act"), as amended (7 U.S.C. § 2131 et seq.), by an complaint filed by the Administrator, Animal and Plant Health Inspection Service ("APHIS"), United States Department of Agriculture, alleging that Respondents willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 1.1 et seq.). A copy of the Complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served by certified mail on Respondent Gloria Wippler on May 22, 2012 and on Scott Wippler on May 23, 2012. No Answer to the Complaint was filed by either Respondent within the 20 days as required by Section 1.136 of the Rules of Practice (7 C.F.R. § 1.136). On July 16, 2012, the Hearing Clerk sent a letter to the Respondents notifying them that a timely answer had not been received. On July 20, 2012, the Court issued an Order

to Show Cause why a default decision and order should not be entered against the Respondents.

As Respondents failed to file an answer to the complaint within the time prescribed in Section 1.136(a) of the Rules of Practice (7 C.F.R. § 1.136(a)), the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Gloria Wippler is an individual residing in Emerado, North Dakota.
2. Respondent Scott Wippler is an individual residing in Emerado, North Dakota.
3. Both Respondents, at all times material hereto, operated as an exhibitor as defined in the Act and the regulations issued pursuant to the Act.
4. During the period between June 22, 2008 and continuing to May 10, 2012, neither Gloria Wippler nor Scott Wippler were licensed under the Animal Welfare Act.
5. Gloria Wippler previously held an Animal Welfare Act license. While Gloria Wippler was licensed, she received copies of the Act and regulations and the standards issued thereunder and agreed in writing to comply with them.
6. Gloria Wippler signed a Consent Decision in 1997 to resolve violations of the Animal Welfare Act, 56 Agric. Dec. 830 (1997). pursuant to the consent decision, Gloria Wippler surrendered her license and was prohibited from obtaining a license for one year.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondents Gloria Wippler and Scott Wippler willfully violated section 4 of the Act (7 U.S.C. § 2134) and section 2.1 of the regulations (9 C.F.R. § 2.1).

Order

1. The Respondents, their agents and employees, successors and assignees, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations issued thereunder, and in particular, shall cease and desist from exhibiting animals without a license.
2. The Respondents are jointly and severally assessed a civil penalty of \$46,000.00, which shall be paid by a certified check or money order made payable to the Treasurer of United States. The notation "Docket Nos. 12-0429 and 12-0430" shall appear on the certified check or money order. The check shall be sent to Sharlene Deskins, USDA OGC Marketing Division, Mail Stop 1417, 1400 Independence Ave. S.W., Washington, D.C. 20250-1417.
3. The provisions of this Order shall become effective on the first day after service of this decision on the Respondents.
4. Pursuant to the Rules of Practice, this decision becomes final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this decision shall be served upon the parties.

September 24, 2012

[REDACTED]
Peter M. Davenport/
Chief Administrative Law Judge