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UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

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In re: ) AWA Docket No. 06-0007  
 )  
Louis John Souza )  
and Betty Souza, )  
 )  
Respondents )

DECISION AND ORDER UPON ADMISSION  
OF FACTS BY REASON OF DEFAULT

Preliminary Statement

This proceeding was instituted under the Animal Welfare Act ("Act"), as amended (7 U.S.C. § 2131 et seq.), by a Complaint filed by the Administrator, Animal and Plant Health Inspection Service ("APHIS"), United States Department of Agriculture, alleging that the Respondents willfully violated the Act and the regulations issued thereunder (9 C.F.R. § 1.1 et seq.).

Copies of the Complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served upon the Respondents by certified mail on January 18, 25, 2006. Respondents were informed in the letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation.

Respondents failed to file an answer addressing the allegations contained in the complaint within the time prescribed in the Rules of Practice. Therefore, the material facts alleged in the complaint, are admitted as set forth herein by the Respondents' failure to file an Answer pursuant to the Rules of Practice, and are adopted as set forth herein as Findings of Fact and Conclusions of Law.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

Findings of Fact and Conclusions of Law

I

A. Louis John Souza and Betty Souza, hereinafter referred to as Respondents, are individuals whose address is 172 Cave Creek Road, Phillipsburg, Missouri 65722.

B. Respondent Louis John Souza is also known as Lew. Louis John Souza and Betty Souza own and operate Sycamore Lane Kennel.

C. The Respondents, at all times material herein, were operating as a dealer as defined in the Act and the regulations without having a license issued pursuant to the Act.

D. In In re Louis John Souza, AWA Dkt. No. 99-0037, 59 Agric. Dec. 276, 281 (1999), Respondent Louis John Souza was disqualified from applying for a license until the civil penalty of \$21,000 assessed in the decision was paid in full. Respondent Louis John Souza has not paid the civil penalty assessed in In re Louis John Souza, AWA Dkt. No. 99-0037 so the period of disqualification has continued.

E. A default judgment was entered against Respondent Louis Souza for failing to pay the \$21,000 civil penalty on November 14, 2001 by the United States District Court for the Western District of Missouri. United States of America v. Louis Souza, Case No. 01-3360-CV-S-4-ECF (D. Missouri, Nov. 14, 2001). Attachment 1.

II

Since at least March 12, 2000 and continuing to the present, the Respondents operated as dealers as defined in the Act and regulations without being licensed, in willful violation of section 4 of the Act (7 U.S.C. § 2134) and section 2.1 of the regulations (9 C.F.R. § 2.1). The Respondents sold or offered for sale, in commerce, at least 404 dogs for resale as pets. The sale or offer for sale of each animal constitutes a separate violation of the Act and the regulations issued pursuant to the Act.

Order

1. The provisions of this Order shall be effective on the first day after this Decision and Order becomes final (see page 4).

2. Respondents Louis John Souza and Betty Souza, and their agents, are permanently disqualified from applying for, obtaining, receiving, holding, and using any license under the Animal Welfare Act, personally or through any corporate or other device.

3. Respondents Louis John Souza and Betty Souza, and their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Animal Welfare Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from engaging in any activity for which a license is required under the Act and regulations without being licensed as required.

4. Respondents Louis John Souza and Betty Souza are jointly and severally assessed a **civil penalty of \$50,000**, which they shall pay within 60 days after this decision becomes final, as follows.

The civil penalty shall be paid by certified check(s), cashier's check(s), or money order(s), made payable to the order of "**Treasurer of the United States**". Respondents shall reference **AWA Docket No. 06-0007** on their certified check(s), cashier's check(s), or money order(s).

Payments of the civil penalty shall be sent by a commercial delivery service, such as FedEx or UPS, to, and received by, Sharlene Deskins, at the following address:

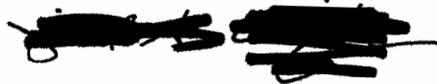
United States Department of Agriculture  
Office of the General Counsel, Marketing Division  
Attn.: Sharlene Deskins, Esq.  
Room 2343 South Building, Stop 1417  
1400 Independence Avenue SW  
Washington, D.C. 20250-1417.

Finality

This Decision and Order shall have the same force and effect as if entered after a full hearing and shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see attached Appendix A).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.  
this 20<sup>th</sup> day of July 2006

A redacted signature consisting of two blacked-out scribbles.

Jill S. Clifton  
Administrative Law Judge

Hearing Clerk's Office  
U.S. Department of Agriculture  
South Bldg Room 1031  
1400 Independence Avenue, SW  
Washington, DC 20250-9203  
202-720-4443  
Fax: 202-720-9776

## APPENDIX A

## 7 C.F.R.:

## TITLE 7—AGRICULTURE

## SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

## PART 1—ADMINISTRATIVE REGULATIONS

.....  
SUBPART H—RULES OF PRACTICE GOVERNING FORMALADJUDICATORY PROCEEDINGS INSTITUTED BY THE SECRETARY UNDER  
.....  
VARIOUS STATUTES...  
§ 1.145 Appeal to Judicial Officer.

(a) *Filing of petition.* Within 30 days after receiving service of the Judge's decision, if the decision is a written decision, or within 30 days after issuance of the Judge's decision, if the decision is an oral decision, a party who disagrees with the decision, any part of the decision, or any ruling by the Judge or who alleges any deprivation of rights, may appeal the decision to the Judicial Officer by filing an appeal petition with the Hearing Clerk. As provided in § 1.141(h)(2), objections regarding evidence or a limitation regarding examination or cross-examination or other ruling made before the Judge may be relied upon in an appeal. Each issue set forth in the appeal petition and the arguments regarding each issue shall be separately numbered; shall be plainly and concisely stated; and shall contain detailed citations to the record, statutes, regulations, or authorities being relied upon in support of each argument. A brief may be filed in support of the appeal simultaneously with the appeal petition.

(b) *Response to appeal petition.* Within 20 days after the service of a copy of an appeal petition and any brief in support thereof, filed by a party to the proceeding, any other party may file with the Hearing Clerk a response in support of or in opposition to the appeal and in such response any relevant issue, not presented in the appeal petition, may be raised.

(c) *Transmittal of record.* Whenever an appeal of a Judge's decision is filed and a response thereto has been filed or time for filing a response has expired, the Hearing Clerk shall transmit to the Judicial Officer the record of the proceeding. Such record shall include: the pleadings; motions and requests filed and rulings thereon; the transcript or recording of the testimony taken at the hearing, together with the exhibits filed in connection therewith; any documents or papers filed in connection with a pre-hearing conference; such proposed findings of fact, conclusions, and orders, and briefs in support thereof, as may have been filed in connection with the proceeding; the Judge's decision; such exceptions, statements of objections and briefs in support thereof as may have been filed in the proceeding; and the appeal petition,

and such briefs in support thereof and responses thereto as may have been filed in the proceeding.

(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.

(e) *Scope of argument.* Argument to be heard on appeal, whether oral or on brief, shall be limited to the issues raised in the appeal or in the response to the appeal, except that if the Judicial Officer determines that additional issues should be argued, the parties shall be given reasonable notice of such determination, so as to permit preparation of adequate arguments on all issues to be argued.

(f) *Notice of argument; postponement.* The Hearing Clerk shall advise all parties of the time and place at which oral argument will be heard. A request for postponement of the argument must be made by motion filed a reasonable amount of time in advance of the date fixed for argument.

(g) *Order of argument.* The appellant is entitled to open and conclude the argument.

(h) *Submission on briefs.* By agreement of the parties, an appeal may be submitted for decision on the briefs, but the Judicial Officer may direct that the appeal be argued orally.

(i) *Decision of the [J]udicial [O]fficer on appeal.* As soon as practicable after the receipt of the record from the Hearing Clerk, or, in case oral argument was had, as soon as practicable thereafter, the Judicial Officer, upon the basis of and after due consideration of the record and any matter of which official notice is taken, shall rule on the appeal. If the Judicial Officer decides that no change or modification of the Judge's decision is warranted, the Judicial Officer may adopt the Judge's decision as the final order in the proceeding, preserving any right of the party bringing the appeal to seek judicial review of such decision in the proper forum. A final order issued by the Judicial Officer shall be filed with the Hearing Clerk. Such order may be regarded by the respondent as final for purposes of judicial review without filing a petition for rehearing, reargument, or reconsideration of the decision of the Judicial Officer.

[42 FR 743, Jan. 4, 1977, as amended at 60 FR 8456, Feb. 14, 1995; 68 FR 6341, Feb. 7, 2003]

7 C.F.R. § 1.145

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI**

**UNITED STATES OF AMERICA, )**

**Plaintiff, )**

**v. )**

**LOUIS SOUZA, )**

**Defendant. )**

**Case No. 01-3360-CV-S-4-ECF**

**DEFAULT JUDGMENT**

Upon plaintiff's motion for an entry of a default judgment against Louis Souza and in favor of plaintiff, an Order was entered by this Court directing the defendant to explain in writing why plaintiff's motion for default judgment should not be granted. Defendant has failed to respond in writing as ordered.

Therefore, it is

ORDERED that a default judgment is hereby entered against defendant and in favor of plaintiff in the principal sum of \$21,000.00, plus accrued interest of \$3,086.13 to October 29, 2001, with interest at the rate of 9% per annum on the principal sum after October 29, 2001, to the date of judgment, and administrative/collection costs in the amount of \$1,301.42; with interest accruing on the total amount at the statutory rate, as provided by 28 U.S.C. § 1961(b) from the date of this judgment, together with plaintiff's costs in the amount of \$170.00, as allowed pursuant to 28 U.S.C. §§ 1914(a), 1920, 1923 and 2412(a)(2).

SO ORDERED this 14<sup>th</sup> day of November, 2001

/s/ Gary A. Fenner  
GARY A. FENNER, JUDGE  
United States District Court

Attachment 1

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

JUDGMENT IN A CIVIL CASE

UNITED STATES OF AMERICA, )  
 )  
 Plaintiff, ) Case No. 01-3360-CV-S-4-ECF  
 v. )  
 )  
 LOUIS SOUZA, )  
 )  
 Defendant. )

     **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

  X   **Decision by Court.** This action came before the Court. The issues have been determined and a decision has been rendered.

**IT IS ORDERED AND ADJUDGED** that

a default judgment is hereby entered against defendant and in favor of plaintiff in the principal sum of \$21,000.00, plus accrued interest of \$3,086.13 to October 29, 2001, with interest at the rate of 9% per annum on the principal sum after October 29, 2001, to the date of judgment, and administrative/collection costs in the amount of \$1,301.42; with interest accruing on the total amount at the statutory rate, as provided by 28 U.S.C. § 1961(b) from the date of this judgment, together with plaintiff's costs in the amount of \$170.00, as allowed pursuant to 28 U.S.C. §§ 1914(a), 1920, 1923 and 2412(a)(2).

November 14, 2001  
Date

Patricia L. Brune  
Clerk

/s/ Tracy L. Diefenbach  
(by) Deputy Clerk

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

**MINUTE SHEET**

**UNITED STATES OF AMERICA**

**Date: May 9, 2002**

**vs.**

**Case No. 01-3360-CV-S-4**

**LOUIS SOUZA**

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**Honorable James C. England, presiding at Springfield, Missouri**

**Nature of Hearing: Judgement Debtor Exam**

**Time Commenced: 9:49 a.m.**

**Time Terminated: 9:50 a.m.**

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**APPEARANCES**

**Plaintiff: Earl Brown, AUSA**

**Defendant: N/A**

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**Proceedings: Parties appear as indicated above. Dft failed to appear despite service by certified mail receipt signed by Josh Souza on March 1, 2002.**

**ERO/COURTROOM DEPUTY:  
Christy Polodna**

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	No. 01-3360-CV-S-4
	)	
LOUIS SOUZA,	)	
	)	
Defendant.	)	

**ORDER**

After being referred to the undersigned, this matter was called for a Judgment Debtor Examination on May 9, 2002. The examination is now complete, and no further action is appropriate at this time.

/s/ James C. England  
**JAMES C. ENGLAND,**  
**UNITED STATES MAGISTRATE JUDGE**

Date: May 10, 2002