

**In re: RANDY AND LINDA DAUGHERTY, d/b/a LIN-SHE-RAN.
AWA Docket No. 01-0032.
Decision Without Hearing By Reason Of Default.
Filed February 28, 2002.**

AWA – Default – Failure to answer.

Frank Martin, Jr., for Complainant.
Respondents, Pro se.

Decision and Order issued by Dorothea A. Baker, Administrative Law Judge.

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 Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards 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 personally served upon the respondents. 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, which are admitted by respondents’ failure to file an Answer pursuant to the Rules of Practice, are adopted and set forth herein as Findings of Fact.

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

Randy and Linda Daugherty hereinafter referred to as respondents, a doing business as Lin-She-Ran, 2100- Lawrence 1040#1, Pierce City, Missouri 65723. The respondents are, and at all times material hereto were operating as a dealer as defined in the Act and the regulations.

On October 21, 2000, the respondents willfully violated section 2.40 of the regulations (9 C.F.R. § 2.40), by failing to provide veterinary care to animals in need of care.

On October 21, 2000, the respondents willfully violated the standards specified below:

The housing facilities for the dogs did not protect the animals from injury, contain the animals securely or restrict other animals from entering (9 C.F.R. §§3.1(a), 3.6(a) (ii, iii, iv);

Respondents did not provide for the regular and frequent collection, removal

and disposal of animal wastes. Dead animals were not kept free from animal areas (9 C.F.R. §3.1 (f));

The dogs were not provided with easy and convenient access to food and water (9 C.F.R. §3.6(a) (viii));

The dogs were not fed at least once each day (9 C.F.R. §3.9(a)); Food receptacles were not provided for the majority of the dogs, and those that were provided were not clean and sanitized (9 C.F.R. §3.9(b));

The dogs were not provided with water. Water receptacles were not provided for the majority of dogs and those that were provided were not clean and sanitized (9 C.F.R. §3.10); and

There were not enough employees to carry out the level of husbandry practices and care required (9 C.F.R. §3.12).

Conclusion

The Secretary has jurisdiction in this matter.

By reason of the facts set forth in the Findings of Fact above, the respondents have violated the Act, as well as the regulations and standards promulgated under the Act.

The following Order is authorized by the Act and warranted under the circumstances.

Order

Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder, and in particular, shall cease and desist from;

Failing to provide proper veterinary care;

Failing to maintain housing facilities for animals so that they are structurally sound and in good repair in order to protect the animals from injury, contain them securely, and restrict other animals from entering;

Failing to provide for the regular and frequent collection, removal, and disposal of animal and food wastes and dead animals, in a manner that minimizes contamination and disease risks;

Failing to provide animals with food of sufficient quantity and nutritive value to meet their normal daily requirements;

Failing to keep food and water receptacles clean and sanitized;

Failing to provide animals with adequate potable water; and

Failing to utilize a sufficient number of trained employees to maintain the prescribed level of husbandry practices.

The respondents are assessed a civil penalty of \$8,800, which shall be paid by a certified check or money order made payable to the Treasurer of United States.

The respondents' license is revoked and the respondents are permanently disqualified from becoming licensed under the Act and regulations.

The provisions of this Order shall become effective on the first day after service of this decision on the respondents.

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.

[This Decision and Order became final April 17, 2002.-Editor]
