

**In re: THOMAS W. RASPOPTSIS d/b/a PETS-N-US.
AWA Docket No. 02-0027.
Decision and Order.
Filed November 18, 2002.**

AWA – Default – Failure to obtain license.

Sharlene A. Deskins, for Complainant.
Respondent, Pro se.
Decision and Order issued by James W. Hunt, Administrative Law Judge.

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, United States Department of Agriculture, alleging that the respondent 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 respondent by certified mail on January 12, 2002. Respondent was 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.

The Respondent 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 Respondent's failure to file an answer pursuant to the Rules of Practice, 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. Respondent Thomas W. Raspopstsis is an individual whose address is 25001 W. 8 Mile Road, Redford MI 48240. The Respondent operates under the business name of Pets-N-U.S.

B. At all material times the respondent operated as a dealer and exhibitor as defined in the Act and the regulations.

C. While the respondent was licensed he annually received copies of the Act

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and the regulations and standards issued thereunder and agreed in writing to comply with them.

D. The Respondent was licensed until 1998 when he failed to renew his license. The Respondent was disqualified for a nine month period starting on October 1, 1999 from applying for or obtaining a license. The disqualification has continued since the Respondent failed to pay a civil penalty assessed against him for previous violations of the Act. *See 58 Agric. Dec.* 908, 911 (1999).

II

E. Since at least April 7th, 2000, the respondent has operated as a dealer and as an exhibitor as defined in the Act and the regulations, without having obtained a license, 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).

III

F. Since at least April 7th, 2000, the Respondent has operated as a dealer and as an exhibitor as defined in the Act and the regulations, without having obtained a license, 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 Respondent's violated the Act and regulations by :

1. exhibiting marmosets without having obtained a license.
2. offering animals for sale over the internet without having obtained a license.
3. offering animals for sale at his store in Redford, Michigan.

Conclusions

1. The Secretary has jurisdiction in this matter.
2. By reason of the facts set forth in the Findings of Fact above, the respondent has violated the Act and regulations promulgated under the Act.
3. The following Order is authorized by the Act and warranted under the circumstances.

Order

1. Respondent, his agents and employees, successors and assigns, directly, indirectly 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:

(A) Engaging in any activity for which a license is required under the Act and regulations without being licensed as required including but not limited to exhibiting, selling and offering animals for sale without having a license.

2. The respondent is assessed a civil penalty of \$11,000, which shall be paid by a certified check or money order made payable to the Treasurer of United States. The check shall be sent to Sharlene Deskins, STOP 1417, 1400 Independence Ave., S.W., Washington, D.C. 20250-1417.

3. The respondent is disqualified for one year from applying for or becoming licensed under the Act and regulations. The disqualification from applying for a licensed or becoming licensed will continue until the respondent has paid the civil penalty assessed against him in this case and in all previous cases filed under the Animal Welfare Act including but not limited to AWA Dkt. No. 99-0005 and all court costs associated with trying to collect the civil penalties assessed against him.

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

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 on December 28, 2002.-Editor]
