

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

Docket No. 12-0586

In re: Cash Wiley, an individual doing
business as Wiley Exotics and
Sharkarosa Exotics; and Eric Johns
Drogosch, an individual,

Respondents

**Default Decision and Order
as to Eric Johns Drogosch**

Preliminary Statement

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by a Complaint filed on August 8, 2012, by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the Respondents violated the Act and the regulations promulgated thereunder. After unsuccessful attempts to serve Respondent by certified mail, personal service of the complaint and a copy of the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151) was effected on July 10, 2013.

As Drogosch failed to timely file an Answer, the following Findings of Fact, Conclusions of Law and Order will be entered pursuant to section 1.139 of the Rules of Practice.

Findings of Fact

1. Respondent Eric Johns Drogosch is an individual who previously resided in Sulphur, Oklahoma and now claims to be homeless, but was served in Fort Worth, Texas.

2. At all times mentioned in the Complaint, Drogosch was operating as a dealer, as that term is defined in the Act and the Regulations. Drogosch has a history of violations under the Act and previously held AWA license number 74-C-0536, which was revoked in 2004. *See, In re Eric John Drogosch, d/b/a Animal Adventures America*, 63 Agric. Dec. 623 (2004).

3. On or about August 13, 2007, through August 15, 2007, without having a license issued by the Secretary to do so, Drogosch offered for sale, sold, delivered for transportation, transported, bought, or negotiated the sale of seven animals (four Barbary sheep, two camels and one wildebeest) for use in exhibition.

4. From on or about August 13, 2007, through August 15, 2007, Drogosch failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and transported seven animals (four Barbary sheep, two camels and one wildebeest), each of which had one or more pre-existing veterinary medical problems, approximately 1,000 miles from Texas to Camp Verde, Arizona, without having had a veterinarian examine the animals or having obtained health certificates for the animals.

5. From on or about August 13, 2007, through August 15, 2007, Drogosch failed to provide adequate veterinary care to seven animals (four Barbary sheep, two camels and one wildebeest), each of which was in need of veterinary medical attention.

6. From on or about August 13, 2007 through August 15, 2007, Drogosch failed to feed animals wholesome, palatable food free from contamination, and of sufficient quantity and nutritive value to maintain animals in good health.

9. From on or about August 13, 2007, through August 15, 2007, Drogosch failed to ensure that seven animals in transit were visually observed at least once every four hours, to ensure that they were receiving sufficient air, that ambient temperatures were within prescribed limits, that

applicable Standards were met, and that the animals were not in obvious physical distress.

Conclusions of Law

1. The Secretary has jurisdiction in this matter.
2. Respondent Drogosch willfully violated section 2134 of the Act (7 U.S.C. § 2134) and sections 2.1(a), 2.131(b)(1), 2.40(b)(2), 2.100(a) of the Regulations (9 C.F.R. § 2.1(a), 2.131(b)(1), 2.40(b)(2), and 2.100(a)) and sections 3.129 and 3.140 of the Standards (9 C.F.R. § 3.129 and 3.140).
3. Respondent Drogosch, despite revocation of his license, continued to engage in regulated activity, in violation of the Act, the Regulations, and the cease and desist order entered against him.

Order

1. Respondent Eric John Drogosch, his 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.
2. Respondent Eric John Drogosch is assessed a civil penalty of \$25,000, which shall be paid by certified check or money order made payable to the Treasurer of the United States.
3. Respondent Eric John Drogosch is further assessed a civil penalty of \$41,240 for his knowing failures to obey the cease and desist order previously entered against him in *In re Eric John Drogosch, d/b/a Animal Adventures America*, 63 Agric. Dec. 623 (2004).
4. The provisions of this order shall become effective on the first day after this decision becomes final. This decision becomes final without further proceedings 35 days after service as provided in sections 1.142 and 1.145 of the Rules of Practice.

Copies of this decision shall be served upon the parties.

November 22, 2013

Peter M. Davenport

Peter M. Davenport
Chief Administrative Law Judge