

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/OHC
2020 MAR 3 PM4:07

In re:)
)
Linda L. Hager, an individual; and) AWA Docket No. 16-0049
Edward E. Ruyle, an individual,) AWA Docket No. 16-0050
)
Respondents.)

ORDER GRANTING COMPLAINANT'S REQUEST TO CLOSE CASES

Appearances:

Charles L. Kendall, Esq., with the Office of the General Counsel, United States Department of Agriculture, Washington DC, for the Complainant, the Administrator of the Animal and Plant Health Inspection Service ("APHIS"); and

Pro se Respondents: Linda L. Hager and Edward E. Ruyle.

On July 23, 2019, I issued a *sua sponte* Order directing Complainant to file a case status report with any suggestions for appropriate further proceedings in these matters. The Order first addressed the status of a complaint (Docket Nos. 17-0226 and 17-0227) ("2017 Dockets") that was filed after the above-captioned matters (Docket Nos. 16-0049 and 16-0050) ("2016 Dockets") but was more advanced procedurally. As stated in the *sua sponte* Order, it was agreed by the parties and approved by the undersigned that the 2016 Dockets would not be set for hearing or consolidated with the 2017 Dockets until a motion for decision was resolved in the 2017 Dockets.

Complainant filed a Motion for Decision Without Hearing by Reason of Admissions in the 2017 Dockets, which Respondents opposed. On August 17, 2018, I entered a Decision and Order in the 2017 Dockets, which assessed a civil penalty of \$25,600; imposed license revocation; and issued a cease and desist order. Respondents appealed to the Judicial Officer, who, on February 22, 2019, issued a decision ("JO Decision") denying Respondents' petition for

appeal and affirming the 2017 Dockets Decision and Order.

Respondents had sixty days to appeal the JO Decision to a Circuit Court of Appeals; however, it was subsequently discovered that the JO Decision had been mailed to Respondents via ordinary mail. Pursuant to the Rules of Practice, a final decision, such as the JO Decision, must be served via certified or registered mail.¹ On July 26, 2019, the Hearing Clerk sent the JO Decision to Respondents via certified mail. The JO Decision was returned unclaimed, and the Hearing Clerk re-mailed the JO Decision to Respondents via ordinary mail on September 3, 2019.²

Respondents had sixty days – until November 4, 2019 – to file an appeal with a Circuit Court of Appeals. Complainants aver that a search of PACER³ shows no such appeal, and therefore, the JO Decision in Docket Nos. 17-0226 and 17-0227 is final and effective.

Currently pending before the undersigned is Motion for Summary Adjudication of Issues that was filed by Complainant in the 2016 Dockets. However, on February 28, 2020, in light of the aforementioned activity in the 2017 Dockets, Complainant filed case status update stating:

Since the license is already revoked, and the civil penalty assessed, in the later cases against Respondents, Complainant no longer seeks additional sanctions against Respondents. Therefore, Complainant retracts the sanction request made in it [sic] Motion for Summary Adjudication filed on February 8, 2017 and respectfully requests that the Chief ALJ close the 2016 cases (16-0049 and 16-0050).

Complainant's Case Status Update and Request to Close at 3.

¹ 7 C.F.R. § 1.147(c)(1).

² *See* 7 C.F.R. § 1.147(c)(1).

³ “PACER” stands for Public Access to Court Electronic Records, “an electronic public access service that allows users to obtain case and docket information line from federal appellate, district, and bankruptcy courts, and the PACER Case Locator.” PACER, PACER.gov.

Accordingly, the following Order shall be entered.

ORDER

1. Complainant's Request to Close the above-captioned cases, AWA Docket Nos. 16-0049 and 16-0050, is GRANTED.
2. The instant matter is hereby DISMISSED, without prejudice.

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

Done at Washington, DC,
this 3rd day of March 2020



Channing D. Strother
Chief Administrative Law Judge

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