

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) A.Q. Docket No. 05-0001  
)  
Suvit Asawapornsnit )  
d/b/a Vegasrace.com )  
)  
Respondent ) DECISION and ORDER

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the movement of birds in violation of a quarantine zone imposed due to an outbreak of Exotic Newcastle Disease (9 C.F.R. § 82.1 et seq.) (hereinafter referred to as the regulations), in accordance with the Rules of Practice in 7 C.F.R. §§ 1.130 et seq. and 9 C.F.R. §§ 99.1 et seq..

This proceeding was instituted under the Animal Health Protection Act (7 U.S.C. §§ 8301 et seq.)(Act), by an Amended complaint filed by the Administrator of the Animal and Plant Health Inspection Service (APHIS) on November 30, 2004, alleging that respondent Suvit Asawapornsnit d/b/a Vegasrace.com violated the Act and regulations promulgated under the Act (9 C.F.R. § 82.1 et seq.).

The complaint sought civil penalties as authorized by 7 U.S.C. § 8313. This complaint specifically alleged that on or about the period between January 25 and February 1, 2003, respondent shipped approximately fifty-eight (58) pigeons to approximately thirty-nine (39) different individuals throughout the United States, knowingly in violation of a quarantine then imposed on the Clark County/Las Vegas Nevada area by the Secretary of Agriculture, in response to an outbreak of Exotic Newcastle Disease (“END”).

The respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the failure to file an answer constitutes a waiver of hearing. (7 C.F.R. § 1.139). Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.139).

#### Findings of Fact

1. Suvit Asawapornsnit, herein referred to as the respondent, is an individual doing business as Vegasrace.com (an unincorporated business)
2. Respondent is a resident of the State of Nevada, whose business mailing address is 5411 S. Oakridge Avenue, Pahrump, NV 89048.
3. On or about the period between January 25 and February 1, 2003, the respondent transported approximately fifty-eight (58) pigeons from Nevada to approximately thirty-nine different addresses, in commerce and through the United States Postal Service, in violation of a quarantine then imposed by the Secretary of Agriculture (“Secretary”) in designated areas, including at all times relevant herein, the area of Clark County/Las Vegas, Nevada in response to an outbreak of Exotic Newcastle Disease (“END”), 9 C.F.R. § 82.3 (c). Respondent violated section 82.5(b) of the regulations (9 C.F.R. § 82.5(b)) by moving such pigeons out of an END quarantine area without complying with the requirements of 9 C.F.R. § 82.11. The respondent

transported the subject pigeons, with knowledge of said END quarantine, to the numbered parties listed below, between January 25, 2003 and February 1, 2003, as follows:

- 1) Dennis Turk 1 pigeon  
1916 Sandpebble Street  
Stockton, CA 95206
- 2) S. David Plummer 1 pigeon  
877 Signal  
Fruit Heights, UT 84037
- 3) Bill Jeffers 1 pigeon  
7315 W. Union Hills  
Glendale, AZ 85308
- 4) Wally Sabell 1 pigeon  
2451 Kipling Street, #314  
Lakewood, CO 80215
- 5) Eric Houchin 1 pigeon  
4132 E. Regina Avenue  
Mead, WA 99021
- 6) Neil Migliore 1 pigeon  
20 Winchester Drive  
Mottontown, NY 11545
- 7) Barry Yu 6 pigeons  
2112 Brenham Drive  
McKinney, TX 75070
- 8) Reese Bishop 5 pigeons  
1143 Georgean Street  
Hayward, CA 94541

- 9) Jim Brennan 3 pigeons  
15 Julia Court  
Tappan, NY 10983
- 10) Daryl Phelps 2 pigeons  
38002 Parkmont Commons  
Fremont, CA 94536
- 11) Gayle Renfroe 3 pigeons  
10913 Jackson Road  
Krum, TX 76249
- 12) Allen Hughe 1 pigeon  
1110 Harrison Street  
Bristol, PA 19007
- 13) Dave Dudle 4 pigeons  
714 W. Grant Avenue  
Pueblo, CO 81004
- 14) J.W. Page 1 pigeon  
8581 Locust Road  
Elverta, CA 95626
- 15) Jim Benne 1 pigeon  
16339 Connemara Lane  
Spring Hill, FL 34610
- 16) Ray Buyner 2 pigeons  
1010 Prater Way  
Sparks, NV 89431
- 17) Jack Blazier 1 pigeon  
1041 Tipperary Road  
Oregon, WI 53575

- 18) Ed Minneville 1 pigeon  
1721 Main Street  
Jeanerette, LA 70544
  
- 19) Fred Dickhaut 1 pigeon  
3733 Drybread Road  
Cottenwood, CA 96022
  
- 20) Chic and Judy Brooks 1 pigeon  
6772 S. Orange Avenue  
Fresno, CA 93725
  
- 21) Terry Kay 1 pigeon  
311 E. Pine Street  
Roselle, IL 60172
  
- 22) Sam Medeoros 1 pigeon  
1063 Daniel Drive  
Petaluma, CA 94954
  
- 23) Richard Callahan 2 pigeons  
Cole County Court House  
301 E. High Street  
Jefferson City, MO 65101
  
- 24) John Palumbo 1 pigeon  
313 N. Jerome Street  
Allentown, PA 18109
  
- 25) George So 2 pigeons  
178 Loneview Drive  
Daly City, CA 94015
  
- 26)

- Kevin Malley 1 pigeon  
8 Sunrise Drive  
Stony Point, NY 10980
- 27)
- John Belland 1 pigeon  
3196 Danville Boulevard  
Alamo, CA 94507
- 28)
- Bill Traw 1 pigeon  
16630 Crossandra Lane  
Spring Hill, FL 34610
- 29)
- Bill Hill 1 pigeon  
2930 E. 161<sup>st</sup> Street  
Bixby, OK 74008
- 30)
- Horst Thiel 1 pigeon  
1654 El Dorado Way  
Redding, CA 96002
- 31)
- Richard Colson 1 pigeon  
P.O. Box 13  
Turner, MT 59542
- 32)
- David Brotzler 1 pigeon  
4565 Wild Rice Drive, NE  
Wyoming, MN 55092
- 33)
- Joe Hanzich 1 pigeon  
18911 Angel Mountain Drive  
Leander, TX 78641
- 34)
- Ed Mills 1 pigeon  
1217 E. 340<sup>th</sup> Street  
Eastlake, OH 44095
- 35)

- 36) Barry Venn 1 pigeon  
1211 Garden Creek Road  
Casper, WY 82601
- 37) Ron Allen 1 pigeon  
P.O. Box 558  
Rutherford, CA 94573
- 38) Dr. John Razmierzak 1 pigeon  
568 Gand Avenue  
W. Trenton, NJ 08628
- 39) Bill Kempkie 1 pigeon  
6094 Feather Lane  
Sanford, FL 32771
- Robin Burdette 1 pigeon  
6509 Silver View Lane  
Fort Worth, TX 76135

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Act and the regulations issued under the Act (9 C.F.R. § 82.1 et seq). Therefore, the following Order is issued.

Order

Respondent is assessed a civil penalty of two hundred and fifty thousand dollars (\$250,000). This civil penalty shall be payable to the "Treasurer of the United States" by certified check or money order, and shall be forwarded within thirty (30) days from the effective date of this Order to:

United States Department of Agriculture  
APHIS Field Servicing Office  
Accounting Section  
P.O. Box 3334  
Minneapolis, Minnesota 55403

Respondents shall indicate on the certified check or money order that payment is in reference to A.Q. Docket No. 05-0001.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to 7 C.F.R. § 1.145 of the Rules of Practice.

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



Done at Washington, D.C.  
this 31<sup>st</sup> day of January 2005

PETER M. DAVENPORT  
Administrative Law Judge

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Hearing Clerk's Office  
U.S. Department of Agriculture  
1400 Independence Avenue, SW  
Room 1081, South Building  
Washington, D.C. 20250-9200  
202-720-9443  
Fax: 202-720-9776