

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 04-0022
)
MICHAEL PITTMAN, an individual, aka)
"SLICK" PITTMAN, WAYNE PITTMAN)
and ROGER TRENT PITTMAN,)
)
Respondent.) DECISION AND ORDER AS TO
MICHAEL PITTMAN

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), 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.

On August 24, 2004, the Hearing Clerk served respondent Michael Pittman with copies of the complaint and the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151), by certified mail, return receipt requested. The respondent was informed in the accompanying 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 within the time prescribed in the Rules of Practice, and the material facts alleged in the complaint, which are all admitted by the respondent's failure to file an answer, are adopted and set forth herein as Findings of Fact. This decision and order is issued pursuant to section 1.139 of the Rules of Practice.

FINDINGS OF FACT

1. Respondent Michael Pittman (also known as "Slick" Pittman, Wayne Pittman, and Roger Trent Pittman) is an individual whose addresses are 510 Sassafras Trail, Ravenden Springs, Arkansas 72460, and 101 Pierce Road, Ravenden, Arkansas 72459. At all times mentioned herein,

said respondent was operating as a dealer as that term is defined in the Act, without holding an Animal Welfare Act license.

2. Respondent operates a moderately-sized business, wherein he obtains dogs (including random-source dogs) for sale to other dealers. The violations alleged in this complaint include serious instances of noncompliance with the licensing regulations. Respondent has not shown good faith, in that he has ignored the licensing regulations. Respondent does not have a history of previous violations. Respondent's violations alleged herein strike at the very heart of the Animal Welfare Act: the regulation of dealers and the protection of pet owners.

3. Between approximately May 2002 and March 2003, respondent operated as a dealer, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, as follows:

a. May 8, 2001. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of eight dogs, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer, as that term is defined in the Act and the Regulations. Mr. Baird resold one of the eight dogs, a male black Labrador retriever (No. 34362) to East Tennessee State University, Johnson City, Tennessee, for use in research. On or about May 25, 2001, researchers at East Tennessee State University determined that the dog was likely someone's pet (as it had received an expensive medical procedure), and notified the U.S. Department of Agriculture.

b. January 15, 2003. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of nine dogs, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer.

c. January 31, 2003. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of four dogs, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer.

d. March 1, 2003. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of one dog, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer.

CONCLUSIONS OF LAW

1. Between approximately May 2002 and March 2003, respondent operated as a dealer, as that term is defined in the Regulations, without having obtained a license from the Secretary to do so, in willful violation of section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)), as follows:

a. May 8, 2001. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of eight dogs, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer, as that term is defined in the Act and the Regulations. Mr. Baird resold one of the eight dogs, a male black Labrador retriever (No. 34362) to East Tennessee State University, Johnson City, Tennessee, for use in research. On or about May 25, 2001, researchers at East Tennessee State University determined that the dog was likely someone's pet (as it had received an expensive medical procedure), and notified the U.S. Department of Agriculture.

b. January 15, 2003. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of nine dogs, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer.

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d. March 1, 2003. Respondent, while unlicensed, delivered for transportation, transported, sold, and negotiated the sale of one dog, for use in research, teaching, testing, or experimentation, to Chester C. Baird, also known as C.C. Baird, a licensed dealer.

ORDER

1. Respondent, 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 Michael Pittman is assessed a civil penalty of \$6,050, to be paid by certified check or money order made payable to the Treasurer of the United States within 60 days of the entry of this order.

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.

**Done at Washington, D.C.
this 11th day of March, 2005**

Peter M. Davenport
Administrative Law Judge