

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

In re:	)	AWA Docket No. 05-0030
	)	
Randall Jones,	)	
	)	
Respondent	)	

**Decision and Order**

This is a disciplinary proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159; “the Act”), that was instituted by a complaint filed on August 5, 2005, by the Administrator of the Animal and Plant Health Inspection Service (“APHIS”), United States Department of Agriculture (“USDA”). The complaint alleged that Randall Jones, Respondent, violated the Act and the regulations issued under it (9 C.F.R. § 1.1 et seq.; “Regulations”), by selling dogs after the revocation of his dealer’s license required under the Act for anyone selling animals in commerce. I held a transcribed hearing in Memphis, Tennessee on September 19, 2006. Complainant was represented by Frank Martin, Jr., Esquire, Office of the General Counsel, USDA, and Randall Jones appeared pro se.

Upon consideration of the testimony given at the hearing and the exhibits that were received, I have concluded that Mr. Jones violated the Act and the regulations by selling puppies when he no longer held a valid dealer’s license, and that the appropriate sanction is the entry of a cease and desist order to not sell animals without a requisite license in the future. APHIS has also requested that I assess a \$23,000 civil penalty

against Mr. Jones. For the reasons discussed in this decision, I have decided that the requested civil penalty is unwarranted.

### **Findings of Fact**

1. Randall Jones, 565 County Road 131, Black Rock, Arkansas 72444, had his dealer's license that is required by the Act for anyone selling dogs in commerce, revoked by an order of the Judicial Officer issued on October 1, 2003 (AWA Docket No. 03-0013; CX-1).

2. From April 30, 2004 through September 27, 2004, while unlicensed as a dealer, Randall Jones sold 23 puppies in order to close out his business and liquidate his kennel (CX-2; CX-3; CX-4; CX-5; CX-6; Transcript at 9-10, 12-13, 14-17, 22-24).

3. There is no evidence that after the revocation of his dealer's license, Mr. Jones purchased, bred or in anyway acquired additional dogs that he then sold in continuation of his business.

4. APHIS allows a one-time exemption from the requirement for a dealer's license to persons who need to sell all of their dogs so as to liquidate their kennels and leave the business. If Mr. Jones had requested such an exemption it probably would have been taken under advisement by APHIS (Transcript at 50). However, he did not know of the availability of this exemption and, for that reason, did not request it (Transcript at 62).

### **Conclusions**

1. Randall Jones violated the Act and the Regulations (9 C.F.R. § 2.1(a)(1)) when he sold 23 puppies in commerce from April 30, 2004 through September 27, 2004, after his dealer's license had been revoked.

2. The appropriate sanction under the circumstances of this case is the issuance of an order requiring Randall Jones to cease and desist from engaging in any activity for which a license is required under the Act without being licensed. It is not appropriate to additionally impose civil penalties upon Mr. Jones.

### **Discussion**

Randall Jones is a fiercely, individualistic American who has served his country with pride, but at a cost. In his own words:

I joined the Army in 1976 when I was 17. I earned the rank of E-4 in sixteen months. Earned the "Expert Infantry Badge". Graduated from the Primary Noncommissioned Officers School.... I was going to join the Ranger Battalion. Then I had a severe head injury which took the eye sight in my right eye. The orders to go to the Ranger Battalion were canceled. This was at the age of nineteen. The doctor said "Randall do you want me to retire you?" I said no.

It was a major mistake. I got no compensation for the injury.

When I got out of the Army I got a job at Lockheed Aerospace in Burbank California. I got a secret clearance and worked (on)...the U-2 Spyplane, the SR-71 Blackbird and the F-117 Stealth Fighter....(Transcript at 52-53 confirming the letter with exhibits he filed as his Answer).

When he later moved to Arkansas, he went into business for himself by starting a kennel. He held a dealer's license with a woman who kept her dogs at another site. Problems with conditions at her site led to a disciplinary action being filed and the entry of a default decision and order against them both that they unsuccessfully appealed. Their dealer's license was revoked and both were permanently disqualified from being licensed under the Act by the Judicial Officer's order of October 1, 2003 (CX-1).

Wanda McQuary, Mr. Jones' partner on the revoked dealer's license, was elderly and has since died (Transcript at 56). After the dealer's license was revoked, Mr. Jones sold his dogs and at the time of the hearing was still looking for work.

I'm looking for work. I was trying to get on boat jobs that, you know, you need good eyesight for that. And I've been out of the workforce for nine or ten years and it's hard to get back into it. People don't want to hire you. I usually do mechanic work (Transcript at 58).

When asked if he denied he had sold 23 dogs, he was candid:

No sir. Like I said, I needed to feed dogs. I wish I knew about that one-time extension. I would have sold out (Transcript at 61-62).

He first learned that APHIS allows a one-time exemption from being a licensed dealer to persons who are selling their dogs to liquidate a kennel, from testimony given by an APHIS official at the hearing.

The APHIS official acknowledged that in recommending the assessment of a \$23,000 civil penalty against Mr. Jones, no mitigating factors were considered, and that a one-time exemption to sell all of his dogs to get out of the business would have been taken under advisement, if Mr. Jones had contacted APHIS.

The fact that Mr. Jones did not ask for the one-time exemption is understandable. Its availability is not published anywhere and no one told Mr. Jones about it. He is not the type person who would think to ask. To subject him to a civil penalty when other more sophisticated, questioning persons who lose their licenses are not, would be unconscionable.

For these reasons an Order is being entered that will require Mr. Jones to cease and desist from selling animals in the future when unlicensed, but shall not impose a civil penalty upon him for doing what APHIS probably would have allowed if he had known to ask.

## ORDER

Randall Jones, his agents and employees, successors and assigns, directly or through any corporate or other device, shall not violate the Act (7 U.S.C. § 2131 et seq.) and the Regulations issued under the Act (9 C.F.R. § 1.1 et seq.), and in particular, shall not engage in any activity for which a license is required under the Act and Regulations without being licensed.

As provided in the Rules of Practice at 7 C.F.R. 1.142(c)(4), this decision and order shall be come final and effective, without further proceedings, 35 days after the date of its service upon the respondent, Randall Jones, unless either complainant or respondent, within 30 days after service of this decision and order upon the respondent, appeals the decision to the Judicial Officer pursuant to 7 C.F.R. 1.145(a).

Copies of this decision and order shall be served upon the parties.

Done at Washington, D.C.  
this 19<sup>th</sup> day of January, 2007

Victor W. Palmer  
Victor W. Palmer  
Administrative Law Judge