

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)
)
Daniel Gingerich, an individual,) AWA Docket No. 21-J-0066
)
Respondent.)

REC'D - USDA/OALJ/HCO
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**ORDER GRANTING COMPLAINANT’S MOTION TO
ABROGATE CIVIL PENALTY ISSUED IN CONSENT DECISION**

Appearances:

Ciarra Toomey, Esq. and Danielle Park, 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”)

Michael G. Byrne, Esq., of Winston & Byrne, PC, Mason City, Iowa, for the Respondent, Daniel Gingerich

This is a proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131 *et seq.*) (“AWA”); the regulations promulgated thereunder (9 C.F.R. §§ 1.1 *et seq.*) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 *et seq.*). The matter initiated with a complaint filed on September 24, 2021 by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant”), against Daniel Gingerich (“Respondent”). The Complaint alleged that Respondent willfully violated the AWA and Regulations¹ and requested both revocation of Respondent’s AWA license and civil penalties.²

On October 29, 2021, I entered a consent decision and order (“Consent Decision”) in

¹ See Complaint at 1, 3-66 ¶¶ 6-49.

² See *id.* at 66-67.

accordance with section 1.139 of the Rules of Practice (7 C.F.R. § 1.138). Under the terms of the Consent Decision, Respondent agreed to permanently relinquish any interest he had in the dogs listed in “Attachment A” of a federal consent decree filed in *United States v. Gingerich*, Case No. 4:21-cv-00283 (S.D. Iowa Oct. 29, 2021) (“Federal Consent”).³ The Consent Decision also revoked Respondent’s AWA license and assessed Respondent a civil penalty of \$500,000.⁴

However, paragraph 5 of the Consent Decision specified:

The civil penalty shall be held in abeyance until November 30, 2021. After that, the civil penalty shall be paid by certified check or money order . . . unless, before November 30, 2021, the Animal and Plant Health Inspection Service (APHIS) files a statement attesting to its receipt that Respondent has surrendered all of the dogs listed in the Federal Consent. Upon APHIS filing such a statement, the civil penalty shall be abrogated.

Consent Decision at 3 ¶ 5.

On November 16, 2021, Complainant filed a Motion to Abrogate Civil Penalty Issued in Consent Decision. In support thereof, Complainant states: “The [Animal Rescue League of Iowa] has now taken physical possession of all of the dogs in Attachment A and their offspring. Therefore, consistent with paragraph 5 of the consent [decision], Complainant now moves to abrogate the civil penalty in this action.”

Good cause having been shown, the following Order shall be entered.

ORDER

1. Complainant’s Motion to Abrogate Civil Penalty Issued in Consent Decision is GRANTED.
2. The five-hundred thousand dollar (\$500,000) civil penalty assessed against Respondent Daniel Gingerich in the October 29, 2021 Consent Decision and Order is hereby

³ Consent Decision at 3 ¶ 3.

⁴ *Id.* at 2 ¶ 2, 3 ¶ 4.

ABROGATED.

3. All other terms and conditions of the October 29, 2021 Consent Decision and Order remain undisturbed and in full effect from the effective date of that decision and order.

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

Done at Washington, D.C.,

this 16th day of November 2021

**CHANNING
STROTHER**

Digitally signed by CHANNING
STROTHER
Date: 2021.11.16 16:05:53 -05'00'

Channing D. Strother
Chief Administrative Law Judge

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