

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 03-0030
)	
KIRBY VANBURCH, an individual)	
doing business as Illusion Management,)	
Inc.; TERRELL J. DIAMOND, an)	
individual; ILLUSION MANAGEMENT,)	
INC., an inactive Texas domestic)	
business corporation doing)	
business as KIRBY VANBURCH)	CONSENT DECISION AND
THEATER,)	ORDER AS TO ILLUSION
)	MANAGEMENT, INC., AND
Respondents,)	TERRELL J. DIAMOND

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), by an amended complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.) (the "Regulations" and "Standards"). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The respondents admit certain allegations in the amended complaint, as set forth below as findings of fact and conclusions of law, and admit that the Secretary has jurisdiction in this matter, waive oral hearing and further procedure, and consent and agree to the entry of this decision for the purpose of settling this proceeding.

FINDINGS OF FACT

1. Respondent Terrell J. Diamond, is an individual whose mailing address is 8754 Avator, Fair Oaks, Texas 78015, and at all times mentioned herein was operating as an exhibitor,

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~~_____~~

as that term is defined in the Act and the Regulations. Between May 12, 1999, and March 22, 2002, said respondent was the majority shareholder and president of respondent Illusion Management, Inc., and directed, managed and controlled its business activities.

2. Between May 12, 1999, and March 22, 2002, respondent Illusion Management, Inc., was a Texas domestic business corporation whose mailing address is P.O. Box 40517, San Antonio, Texas 78229, and whose agent for service of process was Terrell J. Diamond, 8754 Avator, Fair Oaks, Texas 78015. At all times mentioned herein respondent Illusion Management, Inc., was operating as an exhibitor, as that term is defined in the Act and the Regulations.

Between November 7, 2000, and November 7, 2001, said respondent was licensed and operating under Animal Welfare Act license number 43-C-0197, issued to "Illusion Management, Inc., DBA: Kirby VanBurch Theater."

Between April 1, 2002, and April 3, 2003, said respondent was licensed and operating under Animal Welfare Act license number 74-C-0548, issued to "Illusion Management, Inc."

3. On or about January 23, 2002, through on or about March 31, 2002, respondents Terrell J. Diamond and Illusion Management, Inc., operated as exhibitors without being licensed.

CONCLUSIONS OF LAW

1. On or about January 23, 2002, through on or about March 31, 2002, respondents Terrell J. Diamond and Illusion Management, Inc., willfully violated the licensing regulations by operating as exhibitors as defined in the Act (7 U.S.C. § 2152) and the Regulations (9 C.F.R. § 1.1) without being licensed, 9 C.F.R. § 2.1(a)(1).

ORDER

1. Respondents, their 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 issued thereunder.

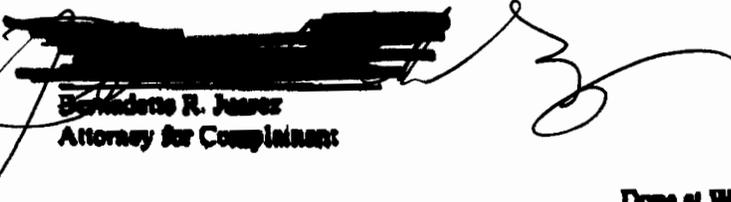
2. Animal Welfare Act license numbers 43-C-0197, issued to "Illusion Management, Inc., DBA: Kirby VanBurch Theater" and 74-C-0548, issued to "Illusion Management, Inc." are hereby revoked, effective upon the issuance of this decision and order.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.

ILLUSION MANAGEMENT, INC.


Terrell J. Diamond
Respondent

By 
Its Attorney


Benedette R. Jaxer
Attorney for Complainant

Done at Washington, D.C.
this 2nd day of July, 2004


Marc R. Hillson
Administrative Law Judge