

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 03-0032
)	
Steven L. Fox, d/b/a)	
S&F Pet Supply Wholesale,)	Consent Decision
)	and Order
Respondent)	

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), 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 and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). 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 respondent admits the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Steven L. Fox, hereinafter referred to as the respondent, is an individual doing business as S&P Pet Supply Wholesale, with a mailing address of P. O. Box 211, Geneva, Illinois 60134.

3. The respondent, at all times material hereto, was licensed and operating as a dealer as defined in the Act and the regulations.

Conclusions

The respondent having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

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 issued thereunder, and in particular, shall cease and desist from:

(a) Failing to maintain primary enclosures for animals in a clean and sanitary condition;

(b) Failing to maintain housing facilities for animals so that surfaces may be readily cleaned and sanitized or be replaced when necessary;

(c) Failing to provide animals with adequate potable water;

(d) Failing to establish and maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine;

(e) Failing to utilize a sufficient number of trained employees to maintain the prescribed level of husbandry practices;

(f) Failing to construct and maintain housing facilities for animals so that they are structurally sound and in good repair in order to protect the animals from injury, contain them securely, and restrict other animals from entering;

(g) Failing to store supplies of food so as to adequately protect them against contamination;

(h) Failing to provide washing facilities for animal caretakers;

(i) Failing to provide for the regular and frequent disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks;

(j) Failing to construct and maintain indoor and sheltered housing facilities for animals so that they are adequately ventilated;

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(k) Failing to construct and maintain housing facilities for animals so that sufficient lighting is provided;

(l) Failing to provide sufficient space for animals in primary enclosures;

(m) Failing to keep food and water receptacles clean and sanitized; and

(n) Failing to establish and maintain an effective program for the control of pests.

2. Respondent's activities as a dealer under the Animal Welfare Act are restricted to actions as a broker between buyers and sellers. In this context, the Respondent may take physical possession of animals for the purpose of transporting them to the owner or for delivery for transportation to the owner. The Respondent may not otherwise maintain animals subject to regulation under the Act, except for a prairie dog currently in his possession. These restrictions shall apply for three years from the effective date of this Order.

3. Respondent is assessed a civil penalty of \$2,000.00, which shall be paid by a certified check or money order made payable to the Treasurer of United States.

4. Respondent is assessed a further civil penalty of \$10,000.00, which is suspended upon the condition that he is not found, after notice and opportunity for hearing, to have violated the Animal Welfare Act, the regulations and standards issued


 thereunder, or this Order during the three years following the ~~effective date of this Order~~ ^{ISSUES OF THIS ORDER}. Jurisdiction is retained for this purpose.

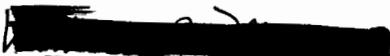
The provisions of this order shall become effective thirty days after issuance.

Copies of this decision shall be served upon the parties.


 Steven L. Fox
 d/b/a S&F Pet Supply Wholesale
 Respondent


 Robert Ertman
 Attorney for Complainant

Done at Washington, D.C.
 this 6th day of August, 2004


 Administrative Law Judge