

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: )  
 )  
Joshua Stoltzfus, an individual, ) AWA Docket No. 22-J-0007  
 )  
Respondent. )

REC'D - USDA/OALJ/HCO  
2022 APR 6 8:30 AM

**DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT**

Appearance:

*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”)*

**Preliminary Statement**

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 through 1.151) (“Rules of Practice”).

The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Joshua Stoltzfus (“Respondent”) on November 5, 2021. Complainant alleged that Respondent willfully violated the AWA and Regulations and requested “that such order or orders be issued as are authorized by the Act (7 U.S.C. § 2149) and warranted under the circumstances, including revocation of AWA license 23-A-0710, and civil penalties as warranted under the circumstances.”<sup>1</sup>

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<sup>1</sup> Complaint at 4.

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty-day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).<sup>2</sup>

On February 15, 2022, Complainant filed a proposed default decision and order (“Proposed Decision”) and motion for adoption thereof (“Motion for Default”) pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Complainant now seeks an “order revoking Respondent’s license and assessing Respondent a total of forty thousand dollars (\$40,000) civil penalties.”<sup>3</sup>

Respondent failed to respond to the Show Cause Order and has not filed any objections to Complainant’s Motion for Default or Proposed Decision.<sup>4</sup>

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the

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<sup>2</sup> United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail and delivered on March 5, 2022. In accordance with the Rules of Practice, the Hearing Clerk re-mailed the Complaint to Respondent via ordinary mail on January 21, 2022. 7 C.F.R. § 1.147(c); *see* 7 C.F.R. § 1.132. Respondent had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s answer was due on or before February 10, 2022. Respondent has not filed an answer.

<sup>3</sup> Motion for Default at 4.

<sup>4</sup> United States Postal Service records reflect that Complainant’s Motion for Default and Proposed Decision were sent to Respondent via certified mail and delivered on March 5, 2022. Respondent had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s objections were due on or before March 25, 2022. Respondent has not filed any objections.

Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision.<sup>5</sup> Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an unfiled answer where, as in the present case, no meritorious objections have been filed.<sup>6</sup>

As Respondent failed to answer the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

#### **Findings of Fact**

1. Respondent Joshua Stoltzfus is an individual whose business address is 2871 Jacksonville Road, Bellefonte, Pennsylvania 16823. At all times material herein, Respondent was a breeder as that term is defined in the AWA and Regulations and held AWA license 23-A-0710 as an "individual." Respondent operated a rabbit and guinea pig breeding facility at the Bellefonte, Pennsylvania address.
2. On or about April 14, 2021, Respondent voluntarily terminated AWA license 23-A-0710.
3. On or about March 26, 2020, Respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate services and adequate guidance to personnel involved in the care and use of animals regarding euthanasia, in willful violation of the Regulations (9 C.F.R. § 2.40(b)(4)), and specifically, Respondent represented to an APHIS inspector that he had "euthanized" guinea pigs by blunt-force trauma.

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<sup>5</sup> 7 C.F.R. § 1.136(c).

<sup>6</sup> See *supra* note 4 and accompanying text.

4. On or about March 26, 2020, Respondent willfully violated the Regulations as specified below:
  - a. Respondent failed to make, keep, and maintain records or forms that fully and correctly disclose the disposition of guinea pigs, and specifically, Respondent's disposition records did not include the addresses of the persons to whom guinea pigs were sold or given. 9 C.F.R. § 2.75(b)(1)(iv).
  - b. Respondent failed to make, keep, and maintain records or forms that fully and correctly disclose the number of animals held, owned, and acquired, including any offspring born of any animal while in his possession or under his control. Specifically, Respondent maintained records that included only adult animals and not weanling, or newborn animals. 9 C.F.R. § 2.75(b)(1).
  - c. Respondent failed to make, keep, and maintain records or forms that fully and correctly disclose the number of animals transported, sold, euthanized, or otherwise disposed of. Specifically, Respondent failed to maintain records that fully and correctly disclose the number of animal deaths. 9 C.F.R. § 2.75(b)(1).
5. On or about March 26, 2020, Respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards as follows:
  - a. Respondent failed to keep primary enclosures of rabbits reasonably free of excreta, hair, and discarded food. 9 C.F.R. § 3.56(a)(1).
  - b. Respondent failed to keep premises clean and in good repair in order to protect animals from injury and to facilitate the prescribed husbandry practices set forth for

rabbits in the Regulations. Specifically, Respondent maintained the premises such that there was an accumulation of dirt, grime, and debris on the wall behind the food-storage bins and three rabbit enclosures. 9 C.F.R. § 3.56(c).

### **Conclusions**

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent Joshua Stoltzfus violated sections 2.4(b)(4), 2.75(b)(1)(iv), 2.75(b)(1), 2.100(a), 3.56(a)(1), and 3.56(c) of the Regulations (9 C.F.R. §§ 2.40(b)(4), 2.75(b)(1)(iv), 2.75(b)(1), 2.100(a), 3.56(a)(1), 3.56(c)).
3. Respondent is permanently disqualified from obtaining an AWA license.<sup>7</sup>

### **ORDER**

1. Complainant's Motion for Default is GRANTED.
2. AWA license number 23-A-0710 is hereby revoked.
3. Respondent Joshua Stoltzfus is assessed a total of forty-thousand dollars (\$40,000) in civil penalties. Respondent shall send a certified check or money order for forty-thousand dollars (\$40,000), made payable to the U.S. Department of Agriculture, to USDA APHIS, P.O. Box 979043, St. Louis, Missouri 63197-9000 within thirty (30) days from the effective date of

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<sup>7</sup> See *infra* Order ¶ 2; 9 C.F.R. § 2.11(a)(3) (“A license will not be issued to any applicant who . . . [h]as had a license revoked[.]”); *Splish Splash II, LLC*, 78 Agric. Dec. 46, 54 (U.S.D.A. 2019) (“Revocation of licensure is a permanent remedy that affords no opportunity for reinstatement.”); see also *Kollman v. Vilsack*, No. 8:14-cv-123-T-23TGW, 2015 WL 1538149, at \*3 (M.D. Fla. Apr. 7, 2015) (upholding the Department’s interpretation of “revoke” “to mean not only a permanent revocation but a prohibition against applying for another license”).

this Order. Respondent shall indicate on the certified check or money order that this payment is in reference to AWA Docket No. 22-J-0007.

4. This Order shall have the same effect as if entered after a full hearing.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service, unless an appeal to the Judicial Officer is filed with the Hearing Clerk within thirty (30) days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

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

Done at Washington, D.C.

this 5th day of April 2022

**CHANNING** Digitally signed by  
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Date: 2022.04.05  
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Channing D. Strother  
Chief Administrative Law Judge

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