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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:

TROY A. HYDE, an individual, and,
ANIMALS OF MONTANA, INC., a
Montana corporation,

Respondents.

AWA No. 10-0380

CONSENT DECISION

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) (the "Act" or "AWA"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture ("APHIS"), alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. §§ 1.1-3.142) (the "regulations" or "AWA regulations"). 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).

Respondents Troy A. Hyde and Animals of Montana, Inc., admit the jurisdictional allegations in the complaint and specifically admit that the Secretary has jurisdiction in this matter, and, except as specifically admitted in respondents' answer to the complaint, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding, to the entry of this decision.

Complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Respondent Troy A. Hyde (“Hyde”) is an individual whose mailing address is 170 Nixon Peak Road, Bozeman, Montana 59715.
2. Respondent Animals of Montana, Inc. (“AOM”), is a Montana corporation whose mailing addresses are 170 Nixon Peak Road, Bozeman, Montana 59715, and 14752 Brackett Creek Road, Bozeman, Montana 59715.
3. Respondent Hyde currently serves as an officer of respondent AOM, and at all material times mentioned in the complaint Hyde owned and operated AOM, and was its president and responsible corporate officer.
4. Respondents Troy A. Hyde and Animals of Montana, Inc. (collectively, “respondents”), at all material times mentioned in the complaint, were operating as an exhibitor, as defined in the Act and the Regulations.
5. On March 10, 2009, the Department’s Judicial Officer issued a decision and order terminating AWA license 81-C-0023, held by AOM, based in part on Hyde’s violations of the Lacey Act and Endangered Species Act, and disqualifying AOM for two years from becoming licensed under the Animal Welfare Act or otherwise obtaining, holding, or using an Animal Welfare Act license, directly or indirectly through any corporate or other device or person. See In re Animals of Montana, Inc., AWA No. D-05-0005, 2009 WL 624354 [hereinafter “AOM I”].
6. The decision and order in AOM I became effective on June 29, 2009 and thus, based on decision and order in AOM I, the first day respondents may submit an application for an AWA license is June 29, 2011.

7. On October 12, 2010, respondents pled guilty to violating section 9(c)(1) of the Endangered Species Act of 1973 (16 U.S.C. § 1538(c)(1)) and sections 23.13(a), (d) of regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) (50 C.F.R. § 23.13(a),(d)), and, specifically, to attempting to export two live wolves without a CITES permit. See United States Fish and Wildlife Service v. Animals of Montana, Inc., 1:10-MJ-1453-GGB (N.D. Ga.).

CONCLUSION

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

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 issued thereunder, and in particular, shall cease and desist from violating section 2.131(b) of the AWA regulations (9 C.F.R. § 2.131(b)).

2. Respondents Troy A. Hyde and Animals of Montana, Inc., are, jointly and severally, assessed a civil penalty in the amount of \$15,000, which shall be paid as follows: (1) either (a) within 180 days of service of this Order by certified check or money order; or (b) in equal monthly installments beginning within 45 days of service of this Order and ending no later than June 29, 2012; and (2) be made payable to the Treasurer of the United States and sent to:

United States Department of Agriculture
Office of the General Counsel
Marketing Division, Room 2343-South
1400 Independence Avenue, SW.
Washington, DC 20250-1417

Respondents shall state on the certified check or money order that the payment is in reference to AWA Docket No. 10-0380.

3. In the event respondents fail to comply with any provision of this order, and, in particular fail to comply with the payment schedule specified in paragraph 2 (§ 2) above, an administrative law judge shall issue an order: (a) finding respondents to be in violation of this consent decision; (b) permanently disqualifying respondents from obtaining, holding or otherwise using an Animal Welfare Act license, directly or indirectly through any corporate or other device or person; (c) if at such time an Animal Welfare Act license is held, either directly or indirectly, by respondents, revoking such license; and (d) imposing any other terms and conditions as just and warranted under the circumstances. In the event respondents elect the monthly payment schedule described in paragraph 2 (§ 2) above, respondents must timely submit payments each and every month, or be considered in violation of this consent decision, but may, at any time prior to the final payment, elect to pay the entire balance, so long as any such lump-sum payment is submitted on or before when the next monthly payment would otherwise be due.

4. In light of the foregoing findings of fact, and for the purpose of settling this proceeding, as well as respondents' eligibility for obtaining, holding, or using an AWA license, the parties agree that, provided respondents comply with the terms of this consent decision, and with all other applicable laws and regulations, the period of disqualification contained in AOM I should remain as specified therein and that the first day respondents may submit an application for an AWA license shall remain June 29, 2011.

5. The Secretary of Agriculture retains jurisdiction of this matter to enforce the terms of this consent decision, and, in particular to ensure compliance with paragraphs 2 and 3 (§§ 2, 3) above.

6. The provisions of this order shall become effective on the first day after service of this decision on the respondents.

7. Copies of this decision shall be served upon the parties.

[REDACTED]

Troy A. Hyde
RESPONDENT

[REDACTED]

Troy A. Hyde, President
for Animals of Montana, Inc.
RESPONDENT

[REDACTED]

Michael L. Humiston
ATTORNEY FOR RESPONDENTS

[REDACTED]

Babak A. Rastgoufard
Office of the General Counsel
United States Department of Agriculture
ATTORNEY FOR COMPLAINANT

Done at Washington, D.C.

this 26 day of October, 2010

[REDACTED]

Jill S. Clifton
Administrative Law Judge