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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:)
James Franklin Daniel,)
Respondent) AWA Docket No. 02-0001
)
) CONSENT DECISION
) AND ORDER

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 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 admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees, 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

- (a) James Franklin Daniel, hereinafter referred to as respondent, is an individual whose address is 620 East Apache Ct., Burleson, Texas 76028.
- (b) The respondent, at all times material herein, was not licensed under 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, respondent shall cease and desist from engaging in any activity for which a license is required under the Act and regulations without being licensed as required.

2. The respondent is assessed a civil penalty of \$13,000.00, of which \$11,000.00 shall be held in abeyance for 2 years. The remaining \$2,000.00 shall be paid by certified check or money order, payable to the Treasurer of the United States, on or before January 20, 2006. The parties agree that failure to make this payment by January 20, 2006 will result in the entire \$13,000.00 sum immediately becoming due and payable. However, if the respondent makes this payment in a timely fashion and, after notice and opportunity for hearing, is not found to have violated the Act or the regulations and standards issued thereunder during the 2 year period, the \$11,000.00 sum being held in abeyance ceases to become due.

3. The respondent is permanently disqualified from ever obtaining or holding a license under the Act and regulations.

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

Copies of this decision shall be served upon the parties.


JAMES FRANKLIN DANIEL
Respondent


BRIAN T. HILL
Attorney for Complainant

Done at Washington, D.C.

this 16th day of December, 2005


Administrative Law Judge