

# RICHARD L. ANDERSON

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May 19, 2011

Investigative & Enforcement Services  
USDA, APHIS, IES  
4700 River Road, Unit 85  
Riverdale, MD 20737

Express Mail

Attn: Roxanne Folk

Re: John Dollarhite, d/b/a Dollarvalue Rabbitry  
Case No. M009099-AC (Request for Hearing)  
1537 Osburn Lane  
Nixa, MO 65714

Dear Ms. Folk:

I am writing in behalf of John Dollarhite, who formerly did business as Dollarvalue Rabbitry, in or near Nixa, Missouri, to respond to the letter he received from Sarah L. Conant, Chief, Animal Health & Welfare Enforcement Branch, IES, enclosing a proposed "Settlement Agreement" requesting he tender a penalty of \$ 90,643 by May 23, 2011.

My client rejects that proposal. I note that a descriptive pamphlet enclosed with your letter states, under "Who We Are", that IES investigates cases received by referral from APHIS' program clients and cooperators, and that IES "now conducts more than 6,000 cases and collects approximately \$ 2 million in civil penalties annually." That averages a penalty of \$ 333.33 per case, and yet you contend it would be appropriate my client tender a penalty of \$ 90,643.00.

With regard to this case, it is my understanding that Mr. Dollarhite has never been accused of having abused or neglected any animals, but as I understand it, only that he sold rabbits and guinea pigs that he raised in a manner that required him to have a license which he did not have. This business is located near the geographical center of America, it is a rural community, and apart from tourism, is largely an agrarian community. John

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Dollarhite first acquired a few rabbits as a teaching opportunity for his 13 year old son, he wanted his son to learn responsibility, to develop a work ethic, to grasp the value of a dollar and that hard work would pay off for him in his adult life. What began as selling a few rabbits for the dinner table, became selling bunnies at Easter or for other occasions, as pets. What started as a hobby to earn some spending money for a child, did expand, as for example, selling to Silver Dollar City and PetLand. That had been far from the imagination of John Dollarhite when he began his son with a few rabbits. John Dollarhite had never heard of 9 CFR 2.1.

As he now understands it, when he began selling rabbits to someone who intended to resell those rabbits, it made what had been a perfectly lawful business unlawful, since he did not first apply for and receive a license that he did not know was required. When this rabbit business began his son would have been ineligible to apply for a license, because he was not yet 18. Specifically, the formal charge now made is that he sold “619 regulated animals” [rabbits and guinea pigs] between April 3, 2008 and December 21, 2009, without a valid license. The description of the offense states that he did so “after being formally notified on several occasions” by APHIS officials of the licensing requirement.

My client met with an investigator in January, 2010. The inspector summarized it as follows, that Mr. Dollarhite could sell any number of rabbits to persons who came to his home to purchase those rabbits for meat on their dinner table, but he could not sell any rabbits to anyone who was buying them to resell them as pets, without first having a license. Mr. Dollarhite then asked the investigator whether, if Mr. Dollarhite ceased immediately to raise and sell rabbits and guinea pigs, and just got “totally out of the business”, that would suffice to settle the investigation. The investigator responded it would “look good for him”, but that the investigator was not asking or directing him either to become certified, or to cease sales or production. My client shortly afterward voluntarily chose to cease operations, disposed of his stock, his cages, his equipment, and never sold another guinea pig or rabbit to anyone.

To my client’s understanding, the first “formal notification” he received that he violated the law by not having a required license, was the present letter/notice of April 19, 2011. If there was any formal notice which preceded that notice, I would like you to provide me a copy of that notice, in order that I might discuss it with him. [I am aware there were *informal* conversations in which he expressed a belief he had not violated the law, whereas a representative of APHIS or IES expressed a contrary opinion, but he was told

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the matter was still under investigation and he would be informed when the investigation was completed.]

Many months passed, and then he received your certified mail letter dated April 19, 2011. He had long since ceased all sales of rabbits and had no plans to re-engage in marketing rabbits in the future. The terms of the proposed Settlement Agreement are unacceptable to Mr. Dollarhite and he will not be forwarding payment of the requested \$90,643.00. If your office would choose to modify the Settlement Proposal to remove the penalty provision, and instead recite simply that he shall cease and desist from engaging in any sales of regulated animals in violation of 9 C.F.R. Sec. 2.1(a)(1), that would be an agreement he could voluntarily enter. Since that has not been an option offered:

He does request a hearing.

I cannot imagine that the actions of Mr. Dollarhite would merit a fine or penalty that would be 272 times larger than what the "average" fine (\$ 333) collected by the USDA, IES, APHIS would be, under the circumstances of this case, and would certainly hope that a reasonable hearing examiner would agree.

Sincerely yours,

(original signed)

Richard L. Anderson

RLA/ja

cc: John Dollarhite  
Sarah L. Conant, Chief, IES