

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:

ELBNA MIKIRTICHEVA,  
an individual, and

ANDREY MIKIRTICHEV,  
an individual,

Respondents.

AWA Docket No. 23-J-0089

AWA Docket No. 23-J-0090

CONSENT DECISION  
AND ORDER

REC'D - USDA/OAL/HCO  
2023 DEC 28 12:43 PM

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) ("Act" or "AWA"), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service ("Complainant"), alleging that the Respondents Elena Mikirticheva and Andrey Mikirtichev ("Respondents") violated the Act, and the regulations (9 C.F.R. §§ 1.1-2.153) ("Regulations") and standards (9 C.F.R. §§ 3.1-3.168) ("Standards") promulgated thereunder. Complainant and Respondents have agreed that this proceeding should be terminated by the entry of this Consent Decision and Order ("Consent Decision"), and have thereby agreed to the following stipulations:

Respondents admit the findings of fact, as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter. Respondents neither admit nor deny the remaining allegations in the complaint; waive oral hearing and all further procedure; waive all rights to seek judicial review or otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this decision under the Administrative Procedure Act and the Constitution of the United States; waive any action against the United States Department of Agriculture ("USDA") under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504), for fees and other expenses incurred by Respondents in connection with

this proceeding; and waive any action against any USDA employee in his or her individual capacity.

The parties consent and agree to the entry of this Consent Decision for the purpose of settling this proceeding. This Consent Decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

#### FINDINGS OF FACT

1. Respondent Elena Mikirticheva ("Respondent Mikirticheva") is an individual who resides and conducts business in the Commonwealth of Virginia. Respondent Mikirticheva's business address is 3000 Bensley Road, North Chesterfield, Virginia 23237.

2. Respondent Andrey Mikirtichev ("Respondent Mikirtichev") is an individual who resides and conducts business in the Commonwealth of Virginia. Respondent Mikirtichev's business address is 3000 Bensley Road, North Chesterfield, Virginia 23237.

3. At all times material herein, Respondent Mikirticheva was a "dealer," as that term is defined in the Act and the Regulations and held AWA Class B "Dealer" License No. 52-B-0175.

4. At all times material herein, Respondent Mikirtichev was a "dealer," as that term is defined in the Act and the Regulations and held AWA Class B "Dealer" License No. 52-B-0175.

#### CONCLUSIONS OF LAW

Respondents having admitted the findings of fact as set forth herein and the parties having agreed to the entry of this Consent Decision, such Consent Decision shall be entered.

#### ORDER

1. Respondents, either individually or through their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist

from continuing any such violations of the Act, and the Regulations and Standards, alleged in the complaint and/or any and all inspection reports through the effective date of this Consent Decision.

2. AWA Class B "Dealer" License No. 52-B-0175 is hereby revoked. Respondents shall not apply for any other AWA license hereafter. Respondents shall permanently refrain from engaging in any activity requiring an AWA license.

3. Respondents are jointly and severally assessed a civil penalty in the amount of three hundred twelve thousand dollars (\$312,000.00) which is to be satisfied as follows:

a. Twenty-five thousand dollars (\$25,000.00) of the civil penalty assessment shall be paid outright. Respondents shall make such payment on a monthly basis, by the last business day of each such month, and at a minimum of five hundred dollars (\$500.00) per month, up to and until the full twenty-five thousand dollars (\$25,000.00) is received. Respondents shall have a maximum of six (6) months from the effective date of this Consent Decision to begin making payment.

Monthly payments as outlined herein shall thus begin, at the latest, immediately following this six (6)-month timeframe (i.e., if the effective date of this Consent Decision falls in the month of December 2023, six months therefrom would be June 2024, and the first monthly payment pursuant to this payment plan is to begin no later than July 2024, by the last business day of said month). For any payment towards this assessment that is one thousand dollars (\$1,000.00) or greater, Respondents shall send a certified check or money order, made payable to the "Treasurer of the United States," to USDA APHIS GENERAL, P.O. Box 979043, St. Louis, MO 63197-9000. Respondents shall indicate on the certified check or money order that payment is in reference to AWA Docket Nos.

23-J-0089 and 23-J-0090. For any payment towards this assessment that is less than one thousand dollars (\$1,000.00), Respondents shall send payment according to one of the payment procedures provided in the attached Appendix A to this Order.

- b. Two hundred eighty-seven thousand dollars (\$287,000.00) of the civil penalty assessment shall be held in abeyance. The abeyance period shall begin on the effective date of this Consent Decision and continue through the entirety of Respondents' payment plan contemplated in paragraph 3a of this order (i.e., for a total period of fifty-six (56) months). The two hundred eighty-seven thousand dollars (\$287,000.00) shall be held in abeyance provided that Respondents comply with the terms of this order. If, upon petition to an Administrative Law Judge by Complainant, the Administrative Law Judge determines by written record that Respondents failed to comply with any of the terms of this order during the abeyance period, any amount still unpaid of the twenty-five thousand dollars (\$25,000.00) from paragraph 3a of this order, plus the full two hundred eighty-seven thousand dollars (\$287,000.00) held in abeyance, shall become due and payable within such time ordered by the Administrative Law Judge. Under such circumstances, Respondents shall send payment via a certified check or money order, made payable to the "Treasurer of the United States," to USDA APHIS GENERAL, P.O. Box 979043, St. Louis, MO 63197-9000. The certified check or money order shall include the docket numbers of this proceeding. If Respondents fully comply with the terms of this order during the abeyance period, the full abeyance amount (\$287,000.00) assessed against Respondents shall terminate at the end of the abeyance period, without further procedure.

4. This Consent Decision resolves all violations of the Act, the Regulations, and/or the Standards that Complainant has alleged or might allege Respondents have committed, up to and including the effective date hereof.

The Secretary specifically retains jurisdiction of this matter to enforce the terms of this order. The terms of this order shall become effective on the day upon which this Consent Decision is entered by the Court.

Copies of this Consent Decision shall be served on the parties.

BY: \_\_\_\_\_  
Sofia Nadri  
Attorney for Complainant

BY: \_\_\_\_\_  
Andrey Mikirtichev  
Respondent

BY: \_\_\_\_\_  
Elena Mikirticheva  
Respondent

BY: \_\_\_\_\_  
Patrick Henry  
Attorney for Respondents

Done at Washington, D.C.  
this 28 day of December, 2023

\_\_\_\_\_  
Administrative Law Judge