

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

AWA Docket No. 05-0011

In re: CARL COBBLE,

Respondent

**DEFAULT DECISION AND ORDER**

This proceeding was instituted under the Animal Welfare Act ("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 and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.).

Copies of the complaint and the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served via certified mail by the Hearing Clerk on Respondent Carl Cobble, on February 23, 2005. The respondent was informed in the letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. Respondent has failed to file an answer within the time prescribed in the Rules of Practice, and the material facts alleged in the complaint, which are admitted as set forth herein by respondents' failure to file an answer, are adopted and set forth herein as Findings of Fact and Conclusions of Law.

This decision and order, therefore, is issued pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

## **FINDINGS OF FACT**

1. The Respondent Carl Cobble is an individual whose address is HC 67, Box 62A, Summersville, MO 65571.

2. The Respondent, at all times material hereto, was not licensed to operate as a dealer as defined in the Act, but carried on activities which required such a license.

3. On or about December 4, 1998, and continuing through at least June 22, 2000, Respondent operated as a dealer as defined in the Act and the regulations, without being licensed, in violation of section 2.1(a)(1) of the regulations (9 C.F.R. § 2.1(a)(1)). Respondent sold, in commerce, forty-six animals for resale for use as pets. The sale of each animal constitutes a separate violation.

4. On August 11, 1999, APHIS conducted a pre-licensing inspection of the Respondent's facility, and found the following violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

a. Housing facilities for animals were not kept neat and free of all materials other than those needed for proper husbandry practices (9 C.F.R. § 3.1(b));

b. Supplies of food were not kept in covered containers (9 C.F.R. § 3.1(e));

c. The floors and walls of indoor housing facilities and any other surfaces in contact with the animals were not impervious to moisture (9 C.F.R. § 3.2(d));

d. Building surfaces in contact with animals in outdoor housing facilities were not impervious to moisture (9 C.F.R. § 3.4(c));

e. An exercise program for the animals was not filled out and approved by an attending veterinarian (9 C.F.R. § 3.8);

f. Excreta and food waste were not removed from primary enclosures daily (9 C.F.R. § 3.11(a)); and

g. The buildings and surrounding grounds were not kept clean and in good repair to protect the animals from injury (9 C.F.R. § 3.11(c)).

5. On October 14, 1999, APHIS conducted a second pre-licensing inspection of the respondent's facility and found the following violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

a. An outdoor facility for dogs was not large enough to allow each animal to sit, stand, and lie in a normal manner and to turn about freely (9 C.F.R. § 3.4(b));

b. An exercise program for the animals was not filled out and approved by an attending veterinarian (9 C.F.R. § 3.8); and

c. Food and water receptacles were not cleaned and sanitized daily (9 C.F.R. § 3.11(b)).

6. On October 18, 1999, APHIS conducted a pre-licensing inspection of Respondent's premises and found that respondent had failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

7. On October 18, 1999, APHIS conducted a pre-licensing inspection of the respondent's facility and found building surfaces in contact with animals in outdoor housing facilities were not impervious to moisture (9 C.F.R. § 3.4(c)).

## **CONCLUSIONS OF LAW**

1. The Secretary has jurisdiction in this matter.
2. For the reasons set forth in the Findings of Fact, the Respondent is found to have willfully violated the Act, the Regulations and the Standards. The non-compliant items found during pre-licensing inspection are willful violations of the regulations and standards due to the fact that the Respondent was already conducting business for which a license was required prior to actually obtaining a license, during the time period of the inspections.

### **ORDER**

1. Respondent, its agents and employees, successors and assigns, directly or through any corporate or other device, shall **CEASE** and **DESIST** from violating the Act, the regulations and the standards issued thereunder.
2. The Respondent is assessed a civil penalty of \$5,775.00, which shall be paid by a certified check or money order made payable to the Treasurer of United States, and sent to the attorney for the Complainant.
3. The provisions of this Decision and Order shall become final without further proceedings 35 days after service as provided in section 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. §§ 1.142 and 1.145.

Copies of this decision shall be served upon the parties.

Done at Washington, D.C.  
February 1, 2007

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**PETER M. DAVENPORT**  
Administrative Law Judge