

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 06-0008
)
Donald L. Wood and)
Show Me Family Pets, LLC,)
)
Respondents)

DECISION AND ORDER UPON ADMISSION
OF FACTS BY REASON OF DEFAULT
Preliminary Statement

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 ("APHIS"), United States Department of Agriculture, alleging that the Respondent willfully violated the Act and the regulations issued thereunder (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 by an APHIS employee upon Respondent Donald L. Wood and Show Me Family Pets, LLC on April 10, 2006. 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.

The Respondent failed to file an answer to the complaint within the time prescribed in Section 1.136(a) of the Rules of Practice (7 C.F.R. § 1.136(a)). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) which provides that the failure to file an answer within the time provided in section 1.136(a) of the Rules of Practice (7 C.F.R. § 1.136(a)) and the failure to deny or otherwise respond to an allegation of the complaint shall be deemed, for purposes of the proceeding, an admission of the allegations in the complaint. Further, pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139), the failure to file an answer constitutes a waiver of hearing. Accordingly, the material allegations in the complaint are adopted as findings of fact and conclusions of law. This Decision and Order is issued pursuant to Section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact and Conclusions of Law

I

A. Donald L. Wood, hereinafter referred to as Respondent, is an individual whose mailing address is 111-A Box 12 North Center Street, Hartsburg, Missouri 65030.

B. Show Me Family Pets, LLC, hereinafter referred to as Respondent, is a limited liability corporation whose mailing address is 603 North Henry Clay Blvd., PO Box 252, Ashland,

Missouri 65010. At all times material herein Show Me Family Pets was owned, operated and controlled by Donald Wood.

C. The Respondents, at all times material hereto, were operating as a dealer as defined in the Act and the regulations.

D. The Respondents were licensed pursuant to the Act until February 9, 2002.

II

A. From March 5, 2002, to approximately June 24, 2002 the Respondents operated as a dealer as defined in the Act and the regulations, without being licensed, in willful violation of section 4 of the Act (7 U.S.C. § 2131) and subsection 2.1 of the regulations (9 C.F.R. § 2.1).

Respondents offered for sale and sold, in commerce, at least 239 animals for resale for use as pets. Each sale constitutes a separate violation of the Act and regulations.

B. On or about August 16, 2001, the respondents failed to notify APHIS within ten days of both a change in the operation of the business and the addition of a new site as required by section 2.8 of the regulations (9 C.F.R. § 2.8).

III

A. On or about March 22, 2001, APHIS inspected Respondents' premises and found that the Respondents' 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 and failed to provide veterinary care to animals in need of care, in willful violation of sections 2.40 and 3.17 (c) of the regulations (9 C.F.R. §§ 2.40 and 3.17 (c)) because at least nine puppies were transported which were ill or injured.

B. On or about March 22, 2001, APHIS inspected Respondents' facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. At least three puppies were transported without health certificates (9 C.F.R. §2.78(a));

2. Dogs were placed in enclosures that were not clean and sanitized (9 C.F.R. §3.11(b));

3. The primary enclosures used to transport dogs were not cleaned and sanitized (9 C.F.R. § 3.14(b)); and

4. The interior of the animal cargo area of the truck was not kept clean (9 C.F.R. § 3.15 (a)).

IV

A. On or about April 11, 2001, the Respondents' 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 and failed to provide veterinary care to animals in need of care while being transported, in willful violation of sections 2.40 and 3.17(c) of the regulations (9 C.F.R. §§ 2.40 and 3.17(c)) since puppies that were ill or injured were transported by the Respondents.

B. On or about April 11, 2001, the Respondents willfully violated section 2.100(a) of the regulation 9 C.F.R. § 2.100(a)) and the standards by transporting three puppies without health certificates (9 C.F.R. §2.78(a)).

V

On the dates specified below, the Respondents willfully violated section 2.100(a) of the regulation 9 C.F.R. § 2.100(a)) and the standards as listed below:

A. On or about March 8, 2001, the Respondents transported a puppy that was ill (9 C.F.R. § 3.17 (c)).

B. From March 21, 2001 to March 22, 2001, the Respondents transported at least six puppies that were ill (9 C.F.R. § 3.17 (c)).

C. On or about April 11, 2001 the Respondents transported a puppy that was ill (9 C.F.R. § 3.17 (c)).

D. On or about April 18, 2001, the Respondents transported at least one puppy that was ill (9 C.F.R. § 3.17 (c)).

Conclusions

1. The Secretary has jurisdiction in this matter.

2. By reason of the facts set forth in the "Findings of Fact" above, the Respondents have willfully violated the Act and regulations promulgated under the Act.

3. The following Order is authorized by the Act and warranted under the circumstances.

Order

1. The 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 :

(a) Engaging in any activity for which a license is required under the Act and regulations;

(b) Transporting animals without health certificates;

(c) Failing to place animals in clean enclosures;

(d) Failing to maintain the cargo space of the conveyance used to transport animals in a manner that protects the health and well-being of animals; and

(e) Failing to provide veterinary care to animals.

2. The Respondents are jointly and severally assessed a civil penalty of \$18,875, which shall be paid by a certified check or money order made payable to the Treasurer of United States. The notation "AWA Dkt. No. 06-0008" shall appear on the certified check or money order. The check shall be sent to Sharlene Deskins, USDA OGC Marketing Division, Mail Stop 1417, 1400 Independence Ave. S.W., Washington, D.C. 20250-1417.

The provisions of this Order shall become effective on the first day after service of this decision on the Respondents.

Pursuant to the Rules of Practice, this decision becomes 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.

this 24th day of April, 2007

Marc R. Hillson _____
Administrative Law Judge