

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

In re:	)	
	)	<b>AWA Docket No. 08-0003</b>
James and Angie Godwin, d/b/a	)	
Cane Creek Kennels,	)	
	)	
Respondents	)	<b>Decision and Order</b> <b>By Reason of Default</b>

Preliminary Statement

This proceeding was instituted under the Animal Welfare Act, as amended (“AWA” or “Act”) (7 U.S.C. § 2131 *et seq.*), by a Complaint filed on October 4, 2007, by the Acting Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant” or “APHIS”), alleging that the Respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (“Regulations” and “Standards”) (9 C.F.R. § 1.1 *et seq.*).

Parties and Counsel

APHIS is represented by Robert A. Ertman, Esq., Office of the General Counsel (Marketing Division), United States Department of Agriculture, 1400 Independence Ave. S.W., Washington, D.C. 20250-1417.

James Godwin, Respondent, represents himself (appears *pro se*). Angie Godwin, Respondent, represents herself (appears *pro se*). Collectively, they are referred to as Respondents.

Procedural History

A copy of the Complaint and a copy of the Rules of Practice governing proceedings under the Act, 7 C.F.R. §§ 1.130-1.151, were served on the Respondents by certified mail, return receipt requested (article Number 7004 2510 0003 7022 9736). United States Postal

Service records show that the Complaint packet was delivered at 11:01 a.m. on October 9, 2007. However, a signed receipt card (“green card”) was not received by the Office of the Hearing Clerk. Accordingly, the local Postmaster was asked to obtain the addressee’s signature on a duplicate card; this was accomplished on November 15, 2007, used here as the date of service.

The Respondents failed to file an answer. The time for filing an answer expired on December 5, 2007. On December 12, 2007, the Office of the Hearing Clerk sent a “no answer” letter to the Respondents. The material facts alleged in the Complaint, which are admitted by the Respondents’ failure to file an answer, are adopted and set forth herein as Findings of Fact and Conclusions.

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 and Conclusions

1. James Godwin and Angie Godwin, Respondents, are individuals doing business as Cane Creek Kennels whose mailing address is HC 66, Box 465, Marble Hill, Missouri 63764. The Respondents at all times material hereto were licensed and operating as a dealer as defined in the Animal Welfare Act and the Regulations.

2. The Secretary has jurisdiction over the Respondents and the subject matter herein.

3. On March 4, 2003, the Respondents purchased four puppies and sold them on March 4 and March 5, 2003, without having held them for the required period, in willful violation of section 2.101(a)(2) of the Regulations (9 C.F.R. § 2.101(a)(2)).

4. On April 15, 2003, the Respondents purchased three puppies and sold them on the same date, without having held them for the required period, in willful violation of section 2.101(a)(2) of the Regulations (9 C.F.R. § 2.101(a)(2)).

5. On August 20, 2003, APHIS inspected the Respondents’ premises and records, and

the Respondents failed to make records of the acquisition of dogs available for inspection, in willful violation of section 2.126(a)(2) of the Regulations (9 C.F.R. § 2.126(a)(2)).

6. On August 20, 2003, APHIS inspected the Respondents' facility and found that a puppy was housed in an enclosure with un-coated, thin wire mesh flooring, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)) and section 3.6(a)(2)(xii) of the Standards (9 C.F.R. § 3.6(a)(2)(xii)).

7. On or about September 11, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (three Australian Terrier puppies), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

8. On or about September 16, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (15 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

9. On or about September 26, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (four dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

10. On or about September 30, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (20 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

11. On or about October 13, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (2 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. §

2.75(a)(1)).

12. On or about October 15, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (26 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

13. On October 23, 2003, APHIS inspected the Respondents' premises and records and found that the Respondents had failed to maintain required records relating to the acquisition of animals (50 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

14. On October 23, 2003, APHIS inspected the Respondents' premises and records, and the Respondents failed to make records of the acquisition of dogs (those dogs acquired since August 2003) available for inspection, in willful violation of section 2.126(a)(2) of the Regulations (9 C.F.R. § 2.126(a)(2)).

15. On or about October 27, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (11 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

16. On or about October 27, 2003, the Respondents transported in commerce two dogs which were not at least eight weeks of age, in willful violation of section 2.130 of the Regulations (9 C.F.R. § 2.130).

17. On or about October 28, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (16 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

18. On or about November 11, 2003, the Respondents failed to make and maintain

accurate records relating to the acquisition of animals (five dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

19. On or about November 11, 2003, the Respondents transported in commerce one dog which was not at least eight weeks of age, in willful violation of section 2.130 of the Regulations (9 C.F.R. § 2.130).

20. On or about November 16, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (5 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

21. On or about December 11, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (12 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

22. On or about December 13, 2003, the Respondents failed to make and maintain accurate records relating to the acquisition of an animal (1 dog), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

23. On or about February 14, 2004, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (8 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

24. On or February 23, 2004, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (6 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

25. On or about February 29, 2004, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (12 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

26. On or about February 29, 2004, the Respondents transported in commerce 12 dogs which were not at least eight weeks of age, in willful violation of section 2.130 of the Regulations (9 C.F.R. § 2.130).

27. On or about March 2, 2004, the Respondents failed to make and maintain accurate records relating to the acquisition of animals (4 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

28. On March 9, 2004, APHIS discovered that the Respondents had utilized an additional site as a holding facility for about 12 months without having notified APHIS of the site, in willful violation of section 2.8 of the Regulations (9 C.F.R. § 2.8).

29. On March 9, 2004, APHIS inspected the Respondents' facility and found that the Respondents had failed to provide veterinary care to dogs in need of care for extensive hair matting containing fecal waste and debris, in willful violation of section 2.40(b) of the Regulations (9 C.F.R. § 2.40(b)).

30. On March 9, 2004, APHIS inspected the Respondents' facility and found that the Respondents had failed to maintain complete and accurate records of the acquisition and disposition of animals (96 dogs), in willful violation of section 10 of the Act (21 U.S.C. § 2140) and section 2.75(a)(1) of the Regulations (9 C.F.R. § 2.75(a)(1)).

31. On March 9, 2004, APHIS inspected the Respondents' premises and records, and the Respondents failed to make records of the breeding dogs on the premises available for inspection, in willful violation of section 2.126(a)(2) of the Regulations (9 C.F.R. § 2.126(a)(2)).

32. On March 9, 2004, APHIS inspected the 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 specified standards:

A. Animal wastes were not regularly and frequently collected in a manner that minimizes contamination and disease risks (9 C.F.R. § 3.1(f)).

B. Shelter structures for dogs were not large enough to allow each animal in the shelter to sit, stand, and lie in a normal manner and to turn about freely (four structures for 19 dogs) (9 C.F.R. § 3.4(b)).

C. Shelters in the outdoor housing area did not contain bedding material although the ambient temperature was below fifty degrees Fahrenheit (9 C.F.R. § 3.4(b)(4)).

33. On October 9, 2004, the Respondents obtained 14 puppies from a person who was not licensed, knowing that the person was required to be licensed, in willful violation of section 2.132(d) of the Regulations (9 C.F.R. § 2.132(d)).

34. On June 20, 2005 APHIS inspected the Respondents' transport vehicle and found the following willful violations of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)) and the specified Standards:

A. Primary enclosures used to transport live dogs were not large enough to ensure that each animal contained in the primary enclosure has enough space to turn about normally while standing, to stand and sit erect, and to lie in a natural position (five enclosures holding ten dogs) (9 C.F.R. § 3.13(e)).

B. One primary enclosure in the transport vehicle contained five puppies (9 C.F.R. § 3.13(g)).

35. On June 20, 2005, the Respondents purchased seven puppies and sold them on June 21, 2005, without having held them for the required period, in willful violation of section 2.101(a)(2) of the Regulations (9 C.F.R. § 2.101(a)(2)).

36. On June 21, 2005, APHIS inspected the Respondents' premises and records, and the Respondents failed to make records of the acquisition and disposition of dogs available for inspection, in willful violation of section 2.126(a)(2) of the Regulations (9 C.F.R. § 2.126(a)(2)).

37. On June 21, 2005, APHIS inspected the Respondents' facility and found that animal wastes were not regularly and frequently collected in a manner that minimizes contamination and disease risks, in willful violation of section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)) and section 3.1(f) of the Standards (9 C.F.R. § 3.1(f)).

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

#### Order

1. James Godwin and Angie Godwin, Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Animal Welfare Act and the Regulations and Standards issued thereunder, and in particular, shall cease and desist from:

(a) obtaining dogs from persons who are required to be licensed but do not hold a current, valid license under the Act;

(b) failing to hold animals for the required period before disposition;

(c) failing to make and maintain complete and accurate records, as required, and to make these records available for inspection;

(d) transporting in commerce dogs which are not at least eight weeks of age;

(e) failing to give notice of any additional site where dogs are held, as required;

(f) failing to maintain an adequate program of veterinary care and to provide veterinary care to dogs when needed;



- (g) failing to maintain housing facilities for dogs as required;
- (h) failing to regularly and frequently collect and remove animal waste in a manner that minimizes contamination and disease risks;
- (i) failing to provide adequate shelter for dogs, as required; and
- (j) failing to provide adequate space for dogs in transport enclosures, as required.

2. James Godwin and Angie Godwin, Respondents, are jointly and severally assessed a civil penalty of **\$10,000**, which they shall pay by certified check(s) or cashier's check(s) or money order(s), made payable to the order of **Treasurer of the United States**, and forwarded within sixty (60) days from the effective date of this Order **by a commercial delivery service, such as FedEx or UPS**, to

United States Department of Agriculture  
Office of the General Counsel, Marketing Division  
Attn: Robert A. Ertman, Esq.  
Room 2343 South Building, Mail Stop 1417  
1400 Independence Avenue SW  
Washington, D.C. 20250-1417.

Respondents shall include **AWA Docket No. 08-0003** on the certified check(s) or cashier's check(s) or money order(s).

3. The Respondents' license under the Animal Welfare Act is **suspended** for a period of 30 days and continuing thereafter until the civil penalty and any interest and late payment charges have been paid and a supplemental order has been issued terminating the suspension.

This Order shall be effective on the first day after this Decision and Order becomes final. [See next paragraph regarding when the Decision and Order becomes final.]

#### Finality

This Decision and Order shall be final without further proceedings 35 days after service unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see attached

Appendix A).

Copies of this Decision and Order shall be served by the Hearing Clerk upon each of the parties.

Done at Washington, D.C.  
this 12<sup>th</sup> day of May 2008

Jill S. Clifton  
Administrative Law Judge

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