

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Hopeful Valley Ranch,	)	
a limited liability corporation,	)	
Betty Evans, Kathy Murphy,	)	AWA Docket No. 07-0113
Kerry Hurley, Bert D. Murphy,	)	
Nicki Evans, Dori Smidt,	)	
and Kayla Hurley,	)	
	)	
Respondents	)	Consent Decision and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (hereafter "Act" or "AWA"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The Respondents admit the jurisdictional allegations in paragraph I of the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding and for such purpose only, to the entry of this decision.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Hopeful Valley Ranch, LLC., is a Nebraska corporation with a mailing address of HCl, Box 4, Mullen, Nebraska 69152. At all times material herein, all of the respondents except for Betty Evans and Kayla Hurley (now known as Kayla Archibald) were members as defined in Neb. Rev. Stat § 21-2604 et seq. of Hopeful Valley Ranch, LLC (hereafter "Hopeful Valley") and as such, were responsible for the direction, management and control of respondent Hopeful Valley.

2. Respondent Betty Evans who is also known as Betty Kraye and Betty Murphy is an individual with a business mailing address of HCl, Box 4, Mullen, Nebraska 69152. Respondent Evans is the registered agent of Hopeful Valley as that term is defined in Neb. Rev. Stat § 21-2609. The registered office for Hopeful Valley is HCl, Box 4, Mullen, Nebraska 69152. At all times material herein, respondent Betty Evans was responsible for the day-to-day operations and management of respondent Hopeful Valley.

3. Respondent Kathy Murphy is an individual with a business mailing address of Rural Route 1, Box 110, Franklin, Nebraska, 68939. At all times material herein, respondent Kathy Murphy was a member and manager of Hopeful Valley, and as such, was responsible for the direction, management and control of respondent Hopeful Valley Ranch, LLC.

4. Respondent Kerry Hurley is an individual with a mailing address of 43621 HWY 42, Bridgewater, South Dakota 57319. At all times material herein, respondent Kerry Hurley was a member and manager of Hopeful Valley and as such, was responsible for the direction, management and control of Hopeful Valley.

5. Respondent Bert D. Murphy is an individual with a mailing address of 22307 Latana Drive, Magnolia, Texas 77355. At all times material herein, respondent Bert D. Murphy was a member and manager of Hopeful Valley and as such, was responsible for the direction, management and control of respondent Hopeful Valley.

6. Respondent Nicki K. Evans is an individual with a mailing address of HCl, Box 4, Mullen, Nebraska 69152. At all times material herein, respondent Nicki K. Evans was a member and manager of respondent Hopeful Valley and as such, was responsible for the direction, management and control of respondent Hopeful Valley.

7. Respondent Dori Smidt is an individual with a business mailing address of HCl, Box 4, Mullen, Nebraska 69152. At all times material herein, respondent Dori Smidt was a member and manager of Hopeful Valley and as such, was responsible for the direction, management and control of respondent Hopeful Valley Ranch, LLC.

8. Respondent Kayla J. Hurley (n/k/a Kayla Archibald) is an

individual with a mailing address of 5518 South 155<sup>th</sup> Street, Omaha, Nebraska 68137. At all times material herein, Respondent Kayla Hurley was an unlicensed dealer and acting in concert with Respondents Hopeful Valley and Betty Evans to sell animals without having obtained a license for dealing as required by the Animal Welfare Act

9. At all times material herein, the respondents were operating as a dealer as defined in the Act and the regulations.

#### Conclusions

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

#### Order

1. Respondents<sup>1</sup>, 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 and standards issued thereunder, and in particular, shall cease and desist from:

(a) Failing to establish and maintain a program of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failing to provide veterinary

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<sup>1</sup> This order is only applicable to the Respondents who sign this consent decision. It does not apply to other entities or individuals unless they are an agent, employee, successor business or an assignee of the Respondents.

care to animals in need of care;

(b) Failing to construct and maintain housing facilities for animals so that they are structurally sound and in good repair in order to protect the animals from injury;

(c) Failing to construct and maintain housing facilities for animals so that sufficient heat, shade and space is provided;

(d) Failing to keep water receptacles clean and sanitized;

(e) Failing to maintain primary enclosures for animals in a clean and sanitary condition;

(j) Failing to keep the premises clean and in good repair; and

(k) Failing to have a license prior to engaging in any activities requiring a license under the Act.

2. The Respondents are jointly and severally assessed a civil penalty of \$30,000 of which all except \$1,000 is suspended provided that the Respondents comply with the following conditions a) the Respondents comply the Act and the regulations issued pursuant to the Act b) the Respondents comply with the terms in this consent decision and c) the Respondents are not an employee or otherwise involved in any business that needs to be licensed under the Act.

Any animals that are owned by the Respondents as of the date

of the consent decision and order except for dogs that are the personal pets of the Respondents must be sold on or before January 1, 2009. Any sales that occur after January 1, 2009 must be in accordance with the AWA and the regulations issued pursuant to the AWA which states the following activities do not constitute dealing :

A retail pet store, as defined in this section, unless such store sells any animal to a research facility, an exhibitor, or a dealer (wholesale); any retail outlet where dogs are sold for hunting, breeding, or security purposes; or any person who does not sell or negotiate the purchases or sale of any wild or exotic animal, dog, or cat and who derives no more than \$500 gross income from the sale of animals other than wild or exotic animals, dogs, or cats during any calendar year. 9 C.F.R. § 1.1.

The Respondents shall pay the civil penalty by a certified check or money order made payable to the Treasurer of United States and the check or money order shall include the notation "AWA Dkt. No. 06-0022". The failure to pay the civil penalty violates the terms of this consent decision.

3. The Respondents are permanently disqualified from obtaining a license under the AWA. The Respondents shall not engage in any activity which requires a license under the AWA.

4. This consent decision may be executed in one or more separate counterparts with the same force and effect as if a single document had been executed by all signatories. Executed signature pages transmitted by a facsimile or email shall be sufficient to indicate acceptance of the terms and conditions of

the consent decision.

The provisions of this order shall become effective on the 30th day after service of this decision on the respondents.

Copies of this decision shall be served upon the parties.

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Betty Evans  
Respondent

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Wayne Griffin  
Attorney for Betty Evans

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Dori Smidt  
Member and Manager  
for Hopeful Valley Ranch, LLC

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Dori Smidt

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Kathy Murphy

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Kerry Hurley

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Bert D. Murphy

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Nicki Evans

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Kayla Hurley  
(n/k/a Kayla Archibald)

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Stanton N. Beeder  
Attorney for all Respondents  
except Betty Evans

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Sharlene Deskins  
Attorney for Complainant

Done at Washington, D.C.  
this 27 day of JAN, 2009

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Jill Clifton  
Administrative Law Judge

my signature  
appears on  
each of 6  
signature  
pages JSC



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Betty Evans  
Respondent

Wayne Griffin  
Attorney for Betty Evans

Dori Smidt  
Member and Manager  
for Hopeful Valley Ranch, LLC

Dori Smidt

[Redacted]  
Kathy Murphy

Kerry Hurley

Bert D. Murphy

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TOTAL P.09

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