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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 08-0079
)
Melvin A. Yoder, Delmar R.)
Yoder and David L. Yoder,)
d/b/a MDD Kennels,)
)
Respondents) Consent Decision
) and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(hereafter "AWA" or "Act"), 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 Melvin A. Yoder is an individual formerly doing business as MDD Kennels with a business mailing address of 2605 560th Street, Kalona, Iowa 52247.

2. Respondent Delmar R. Yoder is an individual doing business as KDD Kennels with a business mailing address of 2607 560th Street, Kalona, Iowa 52247.

3. Respondent David L. Yoder is an individual formerly doing business as MDD Kennels with a business mailing address of 2605 560th Street, Kalona, Iowa 52247.

4. At all times material herein, the Respondents were licensed and operating as a dealer as defined in the Act and the regulations, and respondents Delmar and David Yoder were responsible for the activities of the partnership known as MDD Kennels.

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, 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 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;

(b) Failing to construct and maintain housing facilities for animals so that surfaces may be readily cleaned and sanitized or be replaced when necessary;

(c) Keeping animals in outdoor housing facilities which are not acclimated to the prevalent temperatures or which cannot tolerate the prevalent temperatures without stress or discomfort;

(d) Failing to provide sufficient space for animals in primary enclosures;

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

(f) Failing to establish and maintain an effective program for the control of pests;

(g) Failing to individually identify animals, as required; and

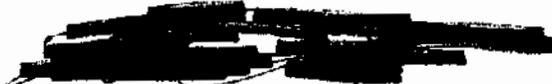
(h) Failing to maintain records of the acquisition, disposition, description, and identification of animals, as required.

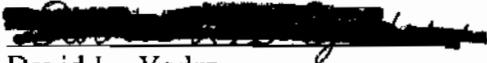
2. The Respondents are jointly and severally assessed a civil penalty of \$25,000 of which all except \$10,000 is suspended provided that the Respondents comply with the following conditions a) the Respondents comply with the Act and the regulations issued pursuant to the Act for eighteen months from the effective date of this order and b) the Respondents comply with the terms in this consent decision. 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. 08-0079". The failure to pay the civil penalty violates the terms of this 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.


Melvin A. Yoder
Respondent


Delmar R. Yoder
Respondent


David L. Yoder
Respondent


Sharlene Deskins
Attorney for Complainant

Done at Washington, D.C.
this 7th day of May, 2009


Marc R. Hillson
Administrative Law Judge