

UNITED STATES DEPARTMENT OF AGRICULTURE SEP -6 PM 5: 14

BEFORE THE SECRETARY OF AGRICULTURE RECEIVED

In re:	)	AWA Docket No. 03-0010
	)	
Erica Nicole deHaan, formerly	)	
known as Erica Nicole Mashburn,	)	
formerly known as Erica Nicole	)	
Avery, an individual, doing business	)	
as Living Legend Kennel; and James	)	
Mashburn, an individual,	)	CONSENT DECISION AND
	)	ORDER AS TO ERICA
Respondents.	)	NICOLE DEHAAN

This proceeding was instituted under the Animal Welfare 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 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 respondent Erica Nicole deHaan admits the jurisdictional allegations in the amended complaint and specifically admits that the Secretary has jurisdiction in this matter, neither admits nor denies the remaining allegations, waives oral hearing and further procedure, and consents and agrees to the entry of this decision for the purpose of settling this proceeding.

The complainant agrees to the entry of this decision.

Findings of Fact

1. Erica Nicole deHaan, formerly known as Erica Nicole Mashburn and Erica Nicole Avery, doing business as Living Legend Kennel, is an individual whose mailing address is Rt #3, Box 209-A, Ava, Missouri 65608.

2. At all times material hereto, the respondent was licensed and operating as a dealer as defined in the Act and the regulations. Respondent's license expired on September 20, 2001, because it was not renewed.

#### Conclusions

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

#### Order

1. Respondent, her 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.

2. Respondent Erica Nicole deHaan is assessed a civil penalty of \$5,000, of which \$4,500 shall be held in abeyance in accordance with the provisions set forth in paragraph 4 of this order. The remaining \$500 shall be paid by a certified check or money order made payable to the Treasurer of United States and remitted to:

Bernadette R. Juarez  
U.S. Department of Agriculture  
Office of the General Counsel  
Marketing Division  
1400 Independence Avenue, SW  
Room 2343-South Building, Mail Stop 1417  
Washington, D.C. 20250-1417

Respondent's payment of the civil penalty shall be forwarded to, and received by, Ms. Juarez on or before August 31, 2005. Respondent shall indicate on the certified check or money order that payment is in reference to AWA Docket No. 03-0010.

3. Respondent's Animal Welfare Act license number 43-A-3033, is suspended for

five years, effective from the date this order is issued, and continuing thereafter until Respondent has demonstrated to Animal and Plant Health Inspection Service ("APHIS") that she is in compliance with the Act, the regulations and standards issued thereunder.

4. The respondent agrees that, if during the five-year suspension period imposed pursuant to paragraph 3 of this order, respondent engages in any activity which requires an Animal Welfare Act license pursuant to the Animal Welfare Act (7 U.S.C. § 2131 et seq.) and regulations issued thereunder (9 C.F.R. § 1.1 et seq.), either on or off of the premises located at Rt #3, Box 209-A, Ava, Missouri 65608, respondent shall be assessed and shall pay the \$4,500 civil penalty held in abeyance in paragraph 2 of this order. Such penalty shall not be deemed to be an agreement of liquidated damages for such future violation(s), but shall be in addition to any penalty found to be warranted after notice and opportunity for hearing for such future violation.

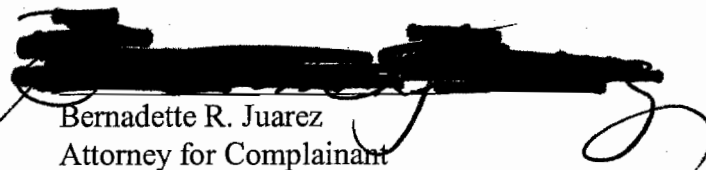
The provisions of this order shall become final and effective on the date this order is issued.

Copies of this decision shall be served upon the parties.

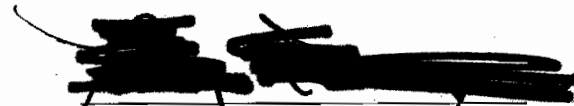
  
Erica Nicole deHaan

Respondent

BARBARA RIDENOUR  
Douglas County  
My Commission Expires  
November 30, 2007

  
Bernadette R. Juarez  
Attorney for Complainant

Done at Washington, D.C.  
this 6<sup>th</sup> day of Sept, 2005

  
Peter M. Davenport  
Administrative Law Judge