

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

2016 NOV 17 PM 4: 22

RECEIVED

In re:)	AWA Docket No. 16-0145
)	
DONALD SCHRAGE, an individual doing)	
business as RABBIT RIDGE KENNEL,)	DECISION AND ORDER
Respondent.)	BY REASON OF DEFAULT

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 *et seq.*)(Act or AWA), by a complaint filed by APHIS on August 9, 2016, alleging that respondent violated the Act and the regulations promulgated under the Act. Respondent was duly served with the Complaint pursuant to section 1.147 (c) of the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted By The Secretary (7 C.F.R. § 1.130 *et seq.*) (Rules of Practice), and did not file a timely answer to the Complaint within twenty days after the service of the Complaint as prescribed by Section 1.136 of the Rules of Practice (7 C.F.R. §1.136). Consequently, the material facts alleged in the complaint are admitted by respondent's failure to file a timely answer, and are adopted and set forth herein as Findings of Fact and Conclusions of Law. This decision and order is issued pursuant to section 1.139 of the Rules of Practice.

FINDINGS OF FACT

1. Donald Schrage is an individual doing business as Rabbit Ridge Kennel, and whose mailing address is Rural Ridge 3, Box 234, Edina, Missouri 63537. At all times mentioned in the complaint, Mr. Schrage was a dealer as that term is defined in the Act and the Regulations and held AWA license number 43-A-1957 (breeder).

2. In 2014 respondent reported to APHIS receipt of \$49,970 from the sale of 259

animals, and in 2015 respondent reported to APHIS receipt of \$16,775 from the sale of 61 animals. This complaint alleges multiple instances of failures to provide minimally-adequate veterinary care. Respondent was a respondent in *In re Donald Schrage and Mary Ruth Schrage, dba Rabbit Ridge Kennels*, AWA Docket No. 95-61 (Consent Decision and Order, July 8, 1996).¹ On February 5, 2001, APHIS issued an official warning letter to respondent for failing to meet the minimum standards for dogs promulgated under the Act (9 C.F.R. § 3.1-3.19)(Standards). Respondent is currently a respondent in *In re Donald Schrage, dba Rabbit Ridge Kennel*, AWA Docket No. 15-0081.

3. On or about January 25, 2016, respondent failed to provide APHIS with access for inspection and/or to have a responsible adult available to accompany APHIS officials during inspection, in willful violation of the Act and the Regulations.

4. On or about the following dates, respondent failed to provide adequate veterinary care to animals, and failed to establish and maintain programs of adequate veterinary care that included appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and/or daily observation of animals, in willful violation of the Regulations.

¹ In addition to a cease-and-desist order, the consent decision assessed the Schrage respondents \$12,000, of which \$10,000 was suspended as long as they were in compliance with the AWA and the Regulations:

- A2. Respondents are assessed a civil penalty of \$12,000.
 - a. Respondents shall pay \$1,000 by certified check or money order made payable to the Treasurer of the United States within 90 days of service of this Order.
 - b. The respondents shall spend \$1,000 of the civil penalty on the improvement of Rabbit Ridge Kennels' animal facilities. Such improvement is to be made within six months of the effective date of this consent decision.
 - c. Payment of remaining \$10,000 of the civil penalty is hereby suspended as long as respondents comply with the Animal Welfare Act and the regulations promulgated thereunder.

In re Schrage, AWA Docket No. 95-61.

- a. February 9, 2015. An adult male Bichon Frise (#081779872) had overgrown rear dew claws that curled around and had grown into the pads underneath the nails on each foot, with swollen or thickened tissue on both rear feet, and serious dental problems, evidenced by the condition of his gum tissue and the discolored material covering the surfaces of his teeth, and although respondent's veterinarian had recommended treatment, respondent failed to treat the dog.
- b. February 9, 2015. A female Schnauzer (#087) had flaky skin, patches of hair loss along her back, and thinning hair over her right rear leg, hip, and abdomen.
- c. February 9, 2015. A female Schnauzer (#121), had flaky skin and patches of hair loss along her back and extending over the hips.
- d. February 9, 2015. An adult female chocolate Poodle (#0A02201570) was non-weight-bearing on her left rear leg and had not been seen by a veterinarian for this condition.
- e. November 10, 2015. A female Lhasa Apso (#0754) had a partially closed eye with yellow discharge and dried material.
- f. March 23, 2016. Respondent failed to follow the veterinarian's written Program of Veterinary Care for his ectoparasite control program.
- g. March 23, 2016. A male merle Cocker Spaniel (000016701496) had a mass on his left ear flap near the ear canal and the inside of the ear canal was not clear, his left eye had thick green discharge that had accumulated at the bottom of the eye and brown-green crusty material present in and near the corner of the eye and he had not been seen by a veterinarian for this condition.

h. June 2, 2016. A female Cocker Spaniel (141) had a large amount of discharge from her right ear, her inner ear flap was reddened and moist with abundant thick creamy yellowish-white discharge near the ear canal that was also on the surrounding fur, and she had not been seen by a veterinarian for this condition.

i. June 2, 2016. A white and golden male Lhasa Apso (0A02201909) had a laceration-like lesion on his neck, with exposed red tissue underneath and a thick creamy whitish discharge around the lesion, his fur was blackened and significantly matted, and he had not been seen by a veterinarian for this condition.

j. June 2, 2016. Respondent was using a bottle of injectable medication (Agri-Cillin) specifically labeled for use on Bovine animals on a Lhasa Apso dog (0A02201909).

5. On or about June 23, 2015, respondent failed to make, keep and maintain accurate and complete records of 12 dogs at the facility and of the disposition of 44 dogs, in willful violation of the Regulations.

6. On or about the following dates, respondent failed to meet the specifications for the humane care and treatment of dogs (9 C.F.R. Part 3)(Standards):

a. February 9, 2015. There was a pile of fecal material and discarded bedding adjacent to four of the outdoor enclosures housing ten dogs.

b. February 9, 2015. Respondent housed two adult Golden Retrievers in enclosures that did not permit the dogs to raise their heads comfortably.

c. February 9, 2015. Respondent's self-feeders for eight dogs were contaminated with rodent feces.

d. February 9, 2015. Food receptacles on the north side of the sheltered

facility, for forty-six dogs, were not protected from the rain and snow.

e. February 9, 2015. Respondent failed to establish and maintain an effective pest control program, as evidenced by rodent droppings visible in self-feeders, and the presence of rodent burrows adjacent to self-feeders and inside and outside animal enclosures.

f. February 25, 2015. Respondent's self-feeders for sixteen dogs were contaminated with rodent feces.

g. November 10, 2015. Enclosures housing nine dogs had broken wires with sharp points protruding into the enclosures.

h. March 23, 2016. In the indoor whelping facility, PVC support pipes and the expanded metal flooring had an accumulation of hair, dirt, and grime built up and there were three plastic whelping boxes that were chewed to create pitted areas.

i. June 2, 2016. The wooden floor of an enclosure housing five puppies was not impervious to moisture and was soaked with water.

CONCLUSIONS OF LAW

1. On or about January 25, 2016, respondent willfully violated the Act and the Regulations, 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126(b) by failing to provide APHIS with access for inspection and/or to have a responsible adult available to accompany APHIS officials during inspection.

2. On or about the following dates, respondent willfully violated the Regulations, 9 C.F.R. §§ 2.40(a), 2.40(b)(1), 2.40(b)(2), 2.40(b)(3), by failing to provide adequate veterinary medical care to animals and by failing to establish and maintain adequate programs of veterinary care that include the availability of appropriate personnel and services, the use of appropriate

methods to prevent, control, diagnose, and treat diseases and injuries, and daily observation of all animals:

- a. February 9, 2015. A Bichon Frise (#081779872).
- b. February 9, 2015. A Schnauzer (#087).
- c. February 9, 2015. A Schnauzer (#121).
- d. November 10, 2015. A Lhasa Apso (#0754).
- e. March 23, 2016. Respondent failed to follow the veterinarian's written

Program of Veterinary Care for his ectoparasite control program.

- f. March 23, 2016. A merle Cocker Spaniel (#000016701496).
- g. June 2, 2016. A Cocker Spaniel (#141).
- h. June 2, 2016. Lhasa Apso (#0A02201909).
- i. June 2, 2016. Respondent was using a bottle of injectable medication (Agri-Cillin) specifically labeled for use on Bovine animals on a Lhasa Apso dog (#0A02201909).

3. On or about June 23, 2015, respondent willfully violated the Regulations, 9 C.F.R. §§ 2.75(a)(1), by failing to make, keep, and maintain records as required.

4. On or about the following dates, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)), by failing to comply with the minimum standards for dogs:

- a. February 9, 2015. There was a pile of fecal material and discarded bedding adjacent to four of the outdoor enclosures housing ten dogs. 9 C.F.R. § 3.1(f).
- b. February 9, 2015. Respondent housed two adult Golden Retrievers in enclosures that did not permit the dogs to raise their heads comfortably. 9 C.F.R. § 3.6(c)(1)(iii).
- c. February 9, 2015. Respondent's self-feeders for eight dogs were

contaminated with rodent feces. 9 C.F.R. § 3.9(b).

d. February 9, 2015. Food receptacles on the north side of the sheltered facility, for forty-six dogs, were not protected from the rain and snow. 9 C.F.R. § 3.9(b).

e. February 9, 2015. Respondent failed to establish and maintain an effective pest control program, as evidenced by rodent droppings visible in self-feeders, and the presence of rodent burrows adjacent to self-feeders and inside and outside animal enclosures. 9 C.F.R. § 3.11(d).

f. February 25, 2015. Respondent's self-feeders for sixteen dogs were contaminated with rodent feces. 9 C.F.R. § 3.9(b).

g. November 10, 2015. Enclosures housing nine dogs had broken wires with sharp points protruding into the enclosures. 9 C.F.R. § 3.6(a)(2)(i).

h. March 23, 2016. In the indoor whelping facility, PVC support pipes and the expanded metal flooring had an accumulation of hair, dirt, and grime built up and there were three plastic whelping boxes that were chewed to create pitted areas. 9 C.F.R. § 3.1(c)(3).

i. June 2, 2016. The wooden floor of an enclosure housing five puppies was not impervious to moisture and was soaked with water. 9 C.F.R. § 3.3(e)(1)(iii).

ORDER

1. Respondent, its 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.

2. Respondent's license 43-A-1957 is revoked on the first day after this decision becomes final.

3. Respondent is assessed a civil penalty of \$14,850, which shall be paid by certified check or money order made payable to the Treasurer of the United States, and sent to the following address:

USDA APHIS GENERAL
P.O. Box 979043
USDA APHIS GENERAL
St. Louis, MO 63197-9000

This Order shall take effect on the day that this Decision becomes final. Pursuant to the Rules of Practice governing procedures under the Act, this Decision will become final without further proceedings 35 days after service hereof unless appealed to the Judicial Officer by a party to the proceeding within 30 days after service as provided in sections 1.139 and 1.145 of the Rules of Practice (7 C.F.R. §§ 1.139 and 1.145).

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

So ORDERED this 17th day of November, 2016, in Washington, D.C.


Bobbie J. McCartney
Chief Administrative Law Judge