

USDA
OALJ/OHC
2011 NOV 28 PM 2:43
RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 11-0421
)
Barbara Gullett,)
d/b/a Gullett Kennel,)
) Consent Decision
Respondent.) and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations issued pursuant to the Act (9 C.F.R. §§ 1.1- 4.11). 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 admits the jurisdictional allegations in paragraph I of the 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, 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

(a) Barbara Gullett, hereinafter referred to as respondent, is an individual doing business as Gullett Kennel, whose address is 364 Isabell Creek Road, Russellville, Arkansas 72802.

(b) The respondent, at all times material herein, was licensed and operating as a

dealer as defined in the Act and the regulations.

(c) When the respondent became licensed and annually thereafter, she received a copy of the Act and the regulations and standards issued thereunder and agreed in writing to comply with them.

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, and in particular, shall cease and desist from:

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

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

(c) Failing to establish and maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine; and

(d) Failing to handle animals in a manner that causes trauma, physical harm, and unnecessary comfort.

2. Respondent is assessed a civil penalty of \$23,000, \$5,000 of which shall be paid by a certified check or money order made payable to the Treasurer of the United States immediately following the effective date of this order. Additionally, on the first day of the month

immediately following the effective date of this order and on the first day of every month thereafter for 35 months, Respondent shall pay \$5,000 in 35 monthly installments of \$138.88 and one final monthly installment of \$139.20. The remaining assessed civil penalty of \$13,000 is hereby suspended provided that the respondent is not found, after notice and opportunity for a hearing, to have any "repeat" violations of the Act and the regulations and standards for a period of one year from the effective date of this order. For purposes of this order provision, a "repeat" violation is a violation of the Act or the regulations and standards which occurs during the aforementioned one-year period, and, which, after an opportunity to correct, remains a violation of the Act or the regulations and standards upon reinspection.

The provisions of this order shall become effective on the first day after service of this decision on the respondent.

Copies of this decision shall be served upon the parties.

[Redacted]

Barbara Gullett
d/b/a Gullett Kennel
Respondent

[Redacted]

Buren W. Kidd
Attorney for Complainant

Done at Washington, D.C.
this 28th day of November, 2011

[Redacted]

Administrative Law Judge