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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. 12-0623
Rhonda Louise Gear,)
Respondent) Complaint

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Rhonda Louise Gear, hereafter referred to as the respondent, is an individual whose address is 423 McKinley Street, Galt, Missouri 64641.

B. The respondent, at all times material hereto, was operating as a dealer as defined in the Act and the regulations.

C. The respondent's license number is 43-B-3613. The respondent has received a copy of the regulations and the

standards issued pursuant to the Act and agreed in writing to comply with them.

II

A. On June 29, 2011, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The surfaces of housing facilities that come into contact with dogs were not free of jagged edges and sharp points that might injure the animals (9 C.F.R. § 3.1(c)(1)(ii));

2. Hard surfaces which the dogs come in contact with were not spot-cleaned daily and sanitized in accordance with § 3.11(b) of the regulations and standards to prevent accumulation of excreta and reduce disease hazards (9 C.F.R. § 3.1(c)(3)); and

3. An effective program for the control of insects, external parasites, and birds and mammals that are pests, was not established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas (9 C.F.R. § 3.11(d)).

III

A. On March 2, 2011, APHIS inspected respondent's premises and found that the respondent had failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On March 2, 2011, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for dogs were not structurally sound and maintained in good repair so as to protect the animals from injury, contain the animals securely, and restrict other animals from entering (9 C.F.R. § 3.1(a));

2. The surfaces of housing facilities that come into contact with dogs were not free of jagged edges and sharp points that might injure the animals (9 C.F.R. § 3.1(c)(1)(ii));

3. Food receptacles for dogs were not kept clean and sanitized (9 C.F.R. § 3.9(b)); and

4. An effective program for the control of insects, external parasites, and birds and mammals that are pests, was not established and maintained so as to promote the health and well-

being of the animals and reduce contamination by pests in animal areas(9 C.F.R § 3.11(d)).

IV

A. On January 5, 2011, APHIS inspected respondent's premises and found that the respondent had failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations(9 C.F.R. § 2.40(b)(2)).

B. On January 5, 2011, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Supplies of food and bedding were not stored in a manner that protects them from spoilage, contamination, and vermin infestation(9 C.F.R. § 3.1(e)); and

2. Primary enclosures were not structurally sound because the suspended floor of a primary enclosure was not strong enough to prevent the floor from sagging or bending(9 C.F.R. § 3.6(a)(2)(xii)).

V

A. On September 8, 2010, APHIS inspected respondent's premises and found that the respondent had failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations(9 C.F.R. § 2.40(b)(2)).

B. On September 8, 2010, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations(9 C.F.R. § 2.100(a)) and the standards specified below:

1. Hard surfaces which the dogs come in contact with were not spot-cleaned daily and sanitized in accordance with § 3.11(b) of this subpart to prevent accumulation of excreta and reduce disease hazards(9 C.F.R. § 3.1(c)(3));

2. Dogs were not provided with adequate shelter from the elements because the shelter was not large enough to allow each animal to sit, stand, and lie in a normal manner and to turn about freely(9 C.F.R. § 3.3(d));

3. Primary enclosures were not structurally sound because the suspended floor of a primary enclosure was not strong enough

to prevent the floor from sagging or bending(9 C.F.R. § 3.6(a)(2)(xii));

4. Primary enclosures were not kept in good repair to protect the dogs from injury(9 C.F.R. § 3.6(a)(2)(ii));

5. The premises including buildings and surrounding grounds, were not kept in good repair, and clean and free of trash, junk, waste, and discarded matter, and weeds, grasses and bushes were not controlled, in order to protect the animals from injury, and facilitate the required husbandry practices(9 C.F.R § 3.11(c)).

6. An effective program for the control of pests was not established and maintained so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas(9 C.F.R § 3.11(d)); and

7. Provisions were not made for the regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks(9 C.F.R. § 3.1(f)).

VI

A. On May 17, 2010 APHIS inspected respondent's premises and records and found that the respondent failed to individually

identify dogs, in willful violation of section 11 of the Act (7 U.S.C. § 2141) and section 2.50 of the regulations (9 C.F.R. § 2.50).

B. On May 17, 2010, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Provisions were not made for the regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks (9 C.F.R. § 3.1(f));

2. The enclosed or sheltered parts of sheltered housing facilities for dogs were not sufficiently ventilated to provide for the health and well-being of the animals and to minimize odors, drafts, ammonia levels, and moisture condensation since at least one facility had a strong and prominent fecal odor (9 C.F.R. § 3.3(b));

3. Food receptacles for dogs were not kept clean and sanitized (9 C.F.R. § 3.9(b));

4. Dogs were not provided with potable water and watering receptacles for dogs were not kept clean and sanitized(9 C.F.R. § 3.10); and

5. Excreta and food waste were not removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors(9 C.F.R. § 3.11(a)).

VII

A. On or about January 20, 2010, APHIS inspected respondent's premises and found that the respondent had failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On or about January 20, 2010 APHIS inspected respondent's premises and records and found that the respondent failed to individually identify dogs, in willful violation of section 11 of the Act (7 U.S.C. § 2141) and section 2.50 of the regulations (9 C.F.R. § 2.50).

C. On or about January 20, 2010, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for dogs were not structurally sound and maintained in good repair so as to protect the animals from injury, contain the animals securely, and restrict other animals from entering(9 C.F.R. § 3.1(a));

2. Housing facilities and areas used for storing animal food or bedding were not free of any accumulation of trash, waste material, junk, weeds, and other discarded materials(9 C.F.R. § 3.1(b));

3. Provisions were not made for the regular and frequent collection, removal, and disposal of animal and food wastes, bedding, debris, garbage, water, other fluids and wastes, and dead animals, in a manner that minimizes contamination and disease risks(9 C.F.R. § 3.1(f));

4. Indoor housing facilities for dogs were not sufficiently ventilated to provide for their health and well-being, and to minimize odors, drafts, ammonia levels, and moisture condensation (9 C.F.R. § 3.2(b));

5. Food receptacles for dogs were not kept clean and sanitized(9 C.F.R. § 3.9(b));

6. Dogs were not provided with potable water and watering receptacles for dogs were not kept clean and sanitized(9 C.F.R. § 3.10);

7. Excreta and food waste were not removed from primary enclosures daily, and from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and food waste, to prevent soiling of the dogs or cats contained in the primary enclosures, and to reduce disease hazards, insects, pests and odors(9 C.F.R. § 3.11(a)); and

8. Hard surfaces of primary enclosures and food and water receptacles must be sanitized using the methods provided for in the regulations(9 C.F.R. § 3.11(b)(3)).

VIII

On November 10, 2009, APHIS inspected the respondent's facility and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Primary enclosures were not constructed and maintained because the primary enclosures contained sharp points and edges that could injure dogs (9 C.F.R. § 3.6(a)(2)(i));

2. Primary enclosures for dogs were not sanitized at least once every 2 weeks and more often if necessary to prevent accumulation of dirt, debris, food waste, excreta, and other disease hazards(9 C.F.R. § 3.11(b)(2));

3. Dogs were not provided with potable water and watering receptacles for dogs were not kept clean and sanitized(9 C.F.R. § 3.10)); and

4. Hard surfaces of primary enclosures and food and water receptacles must be sanitized using the methods provided for in the regulations(9 C.F.R. § 3.11(b)(3)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

(a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Permanently revoking the respondent's license, suspending the respondent's license or disqualifying the respondent from applying for a license under the Act.

Done at Washington, D.C.
this 15th day of August, 2012

Acting _____
Animal and Plant Health
Inspection Service

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