



MO09056-AC

United States
Department of
Agriculture

Office of
Administrative
Law Judges

Hearing Clerk

Room 1031
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax

CERTIFIED RECEIPT REQUESTED

April 27, 2012

Brenda Walter
28062 Love Trail
Greencastle, Missouri 63544

Dear Ms. Walter:

Subject: Brenda Walter, Respondent
Docket No. 12-0392

Enclosed is a copy of the Complaint, filed under the Animal Welfare Act. Also enclosed is a copy of the Rules of Practice which govern the conduct of these proceedings.

The rules specify that you may represent yourself or obtain legal counsel. **You have 20 days from receipt of this letter to file with the Hearing Clerk an original and three copies of your written and signed Answer to the Complaint.** Your Answer must set forth any defense you wish to claim, and must admit or deny each allegation as set forth in the Complaint. In addition, your Answer may include a request for an oral hearing. Failure to file an Answer or filing an Answer which does not deny the material allegations of the Complaint shall constitute an admission of those allegations and waive your right to an oral hearing. If a hearing is required, it will be heard and decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

It is your responsibility to notify this office of any change in address or telephone numbers. Failure to do so may result in a judgment being entered against you without your knowledge. Your answer, as well as any pleadings or requests regarding this proceeding should be submitted in original and three to the Hearing Clerk, OALJ, Room 1031, South Building, United States Department of Agriculture, Washington, D.C. 20250-9200.

Any questions regarding the potential settlement of this case should be directed to the attorney whose name and telephone number appear on the last page of the enclosed complaint.

Sincerely,


L. Eugene Whitfield
Hearing Clerk

Enclosures: 2

cc: Brian Hill, OGC
Jo Brown, APHIS

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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) Docket No. 12-0392
)
 Brenda Walter,)
)
 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. Brenda Walter, hereinafter referred to as the respondent, is an individual with a business mailing address at 28062 Love Trail, Greencastle, Missouri 63544.

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

II

A. On February 24, 2010, APHIS inspected respondent's premises and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On February 24, 2010, APHIS inspected respondent's facility and records 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 were not designed and constructed so that they are structurally sound and were not kept in good repair so as to protect the animals from injuries, contain the animals securely, and restrict other animals from entering (9 C.F.R. § 3.1(a));

(2) Respondent failed to ensure that the interior surface of the housing facilities were free of excessive rust that prevents the required cleaning and sanitization of the surface (9 C.F.R. § 3.1(c)(1)(i));

(3) Respondent failed to ensure that interior surfaces were free from jagged edges and sharp points that could injure the animals (9 C.F.R. § 3.1(c)(1)(ii));

(4) Respondent failed to maintain all surfaces in the housing facilities on a regular basis (9 C.F.R. § 3.1(c)(2));

(5) Respondent failed to daily clean and sanitize hard surfaces with which the animals come into contact (9 C.F.R. § 3.1(c)(3)); and

(6) Respondent failed to ensure that outdoor facilities protected the animals from the direct rays of the sun and the direct effects of wind, rain and snow (9 C.F.R. § 3.4(b)(2)).

III

A. On March 22, 2010, APHIS inspected respondent's premises and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

IV

A. On May 26, 2010, APHIS inspected respondent's premises and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On May 26, 2010, APHIS inspected respondent's facility and records 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 were not designed and constructed so that they are structurally sound and were not kept in good repair so as to protect the animals from injuries, contain the animals securely, and restrict other animals from entering (9 C.F.R. § 3.1(a));

(2) Respondent failed to ensure that the interior surface of the housing facilities were free of excessive rust that prevents the required cleaning and sanitization of the surface (9 C.F.R. § 3.1(c)(1)(i));

(3) Respondent failed to ensure that interior surfaces were free from jagged edges and sharp points that could injure the animals (9 C.F.R. § 3.1(c)(1)(ii)); and

(4) Respondent failed to maintain all surfaces in the housing facilities on a regular basis (9 C.F.R. § 3.1(c)(2)).

V

A. On October 6, 2010, APHIS inspected respondent's premises and found that the respondent had failed to use appropriate methods to prevent, control, diagnose and treat diseases and injuries, in willful violation of section 2.40(b)(2) of the regulations (9 C.F.R. § 2.40(b)(2)).

B. On October 6, 2010, APHIS inspected respondent's premises and found that the respondent had failed to establish and maintain adequate pre-procedural and post-procedural care in accordance with established veterinary medical and nursing procedures, in willful violation of section 2.40(b)(5) of the regulations (9 C.F.R. § 2.40(b)(5)).

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) Suspending the respondent's license under the
Act.

Done at Washington, D.C.
this 11th day of April, 2012

Acting

Administrator
Animal and Plant Health
Inspection Service

BRIAN HILL
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
Washington, D.C. 20250-1400
Telephone (202) 720-9237