

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

REC'D - USDA/OALJ/HCO
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In re:)
)
Deanna Brundage,) AWA Docket No. 22-J-0020
)
Respondent.)

DECISION AND ORDER WITHOUT HEARING BY REASON OF DEFAULT

Appearance:

John V. Rodriguez, Esq., with the Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, the Administrator of the Animal and Plant Health Inspection Service (“APHIS”)

Preliminary Statement

This is a proceeding under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131 *et seq.*) (“AWA”); the regulations promulgated thereunder (9 C.F.R. §§ 1.1 *et seq.*) (“Regulations”); and the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. §§ 1.130 through 1.151) (“Rules of Practice”).

The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture (“Complainant”), initiated this proceeding by filing a complaint against Deanna Brundage (“Respondent”) on January 5, 2022. The Complaint alleges that Respondent willfully violated the AWA and Regulations on multiple occasions by operating as a dealer, as that term is defined in the AWA and Regulations, and selling a dog or dogs without holding a valid license.¹ The Complaint requests “that such order or orders by issued as are

¹ Complaint at 2.

authorized by the Act (7 U.S.C. § 2149) and warranted under the circumstances.”²

Respondent was duly served with a copy of the Complaint and did not file an answer within the twenty-day period as prescribed by section 1.136 of the Rules of Practice (7 C.F.R. § 1.136).³

On February 15, 2022, Complainant filed a proposed default decision and order (“Proposed Decision”) and motion for adoption thereof (“Motion for Default”) pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139). Complainant now seeks an “order instructing Respondent to cease and desist from engaging in activities under the Animal Welfare Act that require a valid AWA license, and assessing Respondent a total of twelve thousand dollars (\$12,000) in civil penalties in accordance with the Rules of Practice[.]”⁴

Respondent has not filed any objections to Complainant’s Motion for Default or Proposed Decision.⁵

² *Id.* at 3.

³ United States Postal Service records reflect that the Complaint was sent to Respondent via certified mail and delivered on January 19, 2022. Respondent had twenty days from the date of service to file a response. 7 C.F.R. § 1.136(a). Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.147(h). In this case, Respondent’s answer was due on or before February 8, 2022. Respondent has not filed an answer.

⁴ Motion for Default at 4.

⁵ United States Postal Service records reflect that Complainant’s Motion for Default and Proposed Decision were sent to Respondent via certified mail and delivered on March 3, 2022. Respondent had twenty days from the date of service to file objections thereto. 7 C.F.R. § 1.139. Weekends and federal holidays shall be included in the count; however, if the due date falls on a Saturday, Sunday, or federal holiday, the last day for timely filing shall be the following work day. 7 C.F.R. § 1.17(h). In this case, Respondent’s objections were due on or before March 23, 2022. Respondent has not filed any objections.

Failure to file a timely answer or failure to deny or otherwise respond to allegations in the Complaint shall be deemed, for purposes of this proceeding, an admission of the allegations in the Complaint, unless the parties have agreed to a consent decision.⁶ Other than a consent decision, the Rules of Practice do not provide for exceptions to the regulatory consequences of an unfiled answer where, as in the present case, no meritorious objections have been filed.⁷

As Respondent failed to answer the Complaint, and upon Complainant's motion for the issuance of a decision without hearing, this Decision and Order is issued without further procedure or hearing pursuant to section 1.139 of the Rules of Practice (7 C.F.R. § 1.139).

Findings of Fact

1. Respondent Deanna Brundage is an individual doing business in the State of Missouri. Respondent's address was not provided in the Complaint to protect Respondent's personal privacy but was provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of the Complaint and future documents.
2. Respondent was an AWA-licensed breeder (License No. 43-A-4941) until July 2010, when APHIS and Respondent entered into a pre-complaint settlement agreement to resolve alleged violations of the AWA Regulations and Standards, including veterinary care and facility non-compliances. The settlement terms included revocation of Respondent's AWA license and permanent disqualification from holding an AWA license.
3. At all times material herein, Respondent did not hold an AWA license.

⁶ 7 C.F.R. § 1.136(c).

⁷ See *supra* note 5 and accompanying text.

4. In June 2020, in Missouri, Respondent operated as a dealer, as that term is defined in the AWA and Regulations, selling a dog or dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).
5. In August 2020, in Missouri, Respondent operated as a dealer, as that term is defined in the AWA and Regulations, selling a dog or dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).
6. In December 2020, in Missouri, Respondent operated as a dealer, as that term is defined in the AWA and Regulations, selling a dog or dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).
7. In February 2021, in Missouri, Respondent operated as a dealer, as that term is defined in the AWA and Regulations, selling a dog or dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).
8. In March 2021, in Missouri, Respondent operated as a dealer, as that term is defined in the AWA and Regulations, selling a dog or dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).

Conclusions

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent Deanna Brundage, on five separate occasions, operated as a dealer, as that term is defined in the AWA and Regulations, selling dogs, without holding a valid license, in willful violation of AWA section 2134 (7 U.S.C. § 2134) and section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)).
3. Respondent is permanently disqualified from holding an AWA license.

ORDER

1. Complainant's Motion for Default is GRANTED.
2. Respondent Deanna Brundage, her agents, and employees, directly or indirectly, in connection with operations subject to the Animal Welfare Act, shall cease and desist from engaging in activities under the Animal Welfare Act that require a valid AWA license.
3. Respondent is assessed a total of twelve-thousand dollars (\$12,000) in civil penalties. Respondent shall send a certified check or money order for twelve-thousand dollars (\$12,000), made payable to the U.S. Department of Agriculture, to USDA APHIS, P.O. Box 979043, St. Louis, Missouri 63197-9000 within thirty (30) days from the effective date of this Order. Respondent shall indicate on the certified check or money order that this payment is in reference to AWA Docket No. 22-J-0020.
4. This Order shall have the same effect as if entered after a full hearing.

This Decision and Order shall be final and effective without further proceedings thirty-five (35) days after service, unless an appeal to the Judicial Officer is filed with the Hearing Clerk

within thirty (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 and Order shall be served upon the parties and counsel by the Hearing Clerk.

Done at Washington, D.C.,
this 1st day of June 2022

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Date: 2022.06.01
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Channing D. Strother
Chief Administrative Law Judge

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