

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Janice Eminger, an individual
d/b/a C&J's Happy Tails,

Respondent.

AWA Docket No. 23-J-0029

COMPLAINT

REC'D - USDA/OALJ/HCO
2023 FEB 16 8:30 AM

There is reason to believe that the Respondent named herein has violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (AWA or Act), and the regulations issued thereunder (9 C.F.R. § 1.1 et seq.) (Regulations). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Janice Eminger is an individual d/b/a C&J's Happy Tails, an unincorporated association, in the State of Missouri. The Respondent's address will not be provided in the Complaint to protect the Respondent's personal privacy but will be provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of this Complaint and future documents.
2. At all times material herein, Respondent operated as a dealer as that term is defined in the Act and the Regulations without a valid license.¹
3. Respondent's AWA license (43-A-3745) was voluntarily terminated on or about December 3, 2009.

¹ See 9 C.F.R. § 1.1 ("Dealer means any person who, in commerce, for compensation or profit, delivers for transportation, or transports, except as a carrier, buys, or sells, or negotiates the purchase or sale of: Any dog or other animal... for research, teaching, testing, experimentation, exhibition, or use as a pet.").

ALLEGED VIOLATIONS

4. Between approximately March 4, 2019 and May 10, 2021, Respondent operated as a dealer as that term is defined in the Act and the Regulations, without having obtained a license from the Secretary to do so, in violation of Section 2134 of the Act (7 U.S.C. § 2134) and Section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)) on or about the following dates:
- a. March 4, 2019. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - b. May 24, 2019. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - c. November 11, 2019. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - d. March 4, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - e. March 25, 2020. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
 - f. April 6, 2020. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
 - g. April 17, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - h. April 20, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
 - i. April 27, 2020. Respondent delivered for transportation, sold, or negotiated the

sale of one puppy, for use as a pet, in commerce without being licensed.

- j. May 3, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- k. May 18, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- l. May 25, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- m. June 8, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- n. June 15, 2020. Respondent delivered for transportation, sold, or negotiated the sale of six puppies, for use as pets, in commerce without being licensed.
- o. June 16, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- p. July 13, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- q. July 27, 2020. Respondent delivered for transportation, sold, or negotiated the sale of four puppies, for use as pets, in commerce without being licensed.
- r. August 3, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- s. August 6, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- t. August 10, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.

- u. August 17, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- v. August 24, 2020. Respondent delivered for transportation, sold, or negotiated the sale of three puppies, for use as pets, in commerce without being licensed.
- w. August 31, 2020. Respondent delivered for transportation, sold, or negotiated the sale of three puppies, for use as pets, in commerce without being licensed.
- x. September 8, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- y. September 14, 2020. Respondent delivered for transportation, sold, or negotiated the sale of five puppies, for use as pets, in commerce without being licensed.
- z. October 22, 2020. Respondent delivered for transportation, sold, or negotiated the sale of three puppies, for use as pets, in commerce without being licensed.
- aa. October 26, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- bb. November 16, 2020. Respondent delivered for transportation, sold, or negotiated the sale of four puppies, for use as pets, in commerce without being licensed.
- cc. December 3, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- dd. December 7, 2020. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- ee. December 14, 2020. Respondent delivered for transportation, sold, or negotiated the sale of three puppies, for use as pets, in commerce without being licensed.
- ff. December 19, 2020. Respondent delivered for transportation, sold, or negotiated

- the sale of one puppy, for use as a pet, in commerce without being licensed.
- gg. December 20, 2020. Respondent delivered for transportation, sold, or negotiated the sale of five puppies, for use as pets, in commerce without being licensed.
- hh. January 18, 2021. Respondent delivered for transportation, sold, or negotiated the sale of four puppies, for use as pets, in commerce without being licensed.
- ii. January 24, 2021. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- jj. February 1, 2021. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
- kk. February 8, 2021. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
- ll. March 19, 2021. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
- mm. March 24, 2021. Respondent delivered for transportation, sold, or negotiated the sale of one puppy in commerce without being licensed.
- nn. March 25, 2021. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
- oo. March 26, 2021. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.
- pp. March 29, 2021. Respondent delivered for transportation, sold, or negotiated the sale of five puppies, for use as pets, in commerce without being licensed.
- qq. April 5, 2021. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.

- rr. April 19, 2021. Respondent delivered for transportation, sold, or negotiated the sale of two puppies, for use as pets, in commerce without being licensed.
- ss. May 10, 2021. Respondent delivered for transportation, sold, or negotiated the sale of one puppy, for use as a pet, in commerce without being licensed.

ALLEGATIONS REGARDING THE SIZE OF RESPONDENT'S BUSINESS,
GRAVITY OF THE ALLEGED VIOLATIONS, RESPONDENT'S GOOD FAITH
AND RESPONDENT'S HISTORY


- 5. At all times material herein, Respondent operated as a dealer (as that term is defined in the Act and the Regulations) by delivering for transport, selling, and negotiating for sale puppies, for use as pets, in commerce. On November 4, 2013, Respondent represented to APHIS that she estimated to sell forty (40) animals and purchase ten (10) more animals in the next business year between December 2013 and December 2014.
- 6. Having previously held a Class A "Breeder" AWA license from approximately December 3, 2002 to December 3, 2009, Respondent had knowledge of the licenses required to engage in the regulated activity. Respondent voluntarily surrendered her USDA Class A "Breeder" license on or about December 3, 2009 when she failed to reapply.
- 7. By a letter dated January 11, 2012, APHIS issued Respondent an Official Warning for operating as a dealer without being licensed in violation of Section 2134 of the Act (7 U.S.C. § 2134) and Section 2.1(a)(1) of the Regulations (9 C.F.R. § 2.1(a)(1)). Specifically, the letter stated that USDA had evidence that Respondent violated the Act and Regulations on or about December 12, 18, and 23, 2009, mere days after Respondent voluntarily surrendered her AWA license.
- 8. Respondent applied for another AWA license on November 4, 2013 but did not complete

the application or pre-license inspection process. On or about January 6, 2014, Respondent represented to APHIS that she would downsize her operation to only three female breeding dogs after choosing not to complete the licensing process. However, Respondent delivered for transport, sold, or negotiated the sale of at least 86 puppies of at least five different breeds between March 2019 and May 2021 in commerce for use as pets.

9. Despite previously having an AWA license, voluntarily surrendering her AWA license, and foregoing her 2013 AWA license application, Respondent continued to violate the AWA and its implemented regulations by conducting regulated activity without being licensed. On or about July 27, 2021, Respondent told APHIS investigators she knew she needed a license to operate her business.

WHEREFORE, it is hereby ordered that for the purpose of determining whether Respondent has in fact violated the Act and the Regulations issued under the Act, this Complaint shall be served upon Respondent. Respondent shall file an answer with the Hearing Clerk, Room 1031-South Building, United States Department of Agriculture, 1400 Independence Avenue, SW 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 a timely answer shall constitute an admission of all the material allegations of this complaint. APHIS requests that this matter proceed in conformity with the Rules of Practice governing proceedings under the Act, and that such order or orders be issued as are authorized by the Act (7 U.S.C. § 2149) and warranted under the circumstances.

Done at Washington DC
this 15th day of Feb. 2023


Kevin Shea
Administrator
Animal and Plant Health Inspection Service

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