

2011 SEP 14 PM 12:11

RECEIVED

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

KATHY JO BAUCK (a/k/a "Kathy Cole" a/k/a "K.J. Cole"), ALLAN R. BAUCK (a/k/a "A.R. Back" a/k/a "A.R. Bauk"), CORINNE A. PETERS, JANET JESUIT and PEGGY WEISE, individuals, doing business as PUPPY'S ON WHEELS, also known as "PUPPIES ON WHEELS" and "PICK OF THE LITTER", also doing business as: "PINE LAKE ENTERPRISES", "KJ's PETS" "NEW YORK KENNEL CLUB", and "NEW YORK KENNEL CLUB, INC." and PINE LAKE ENTERPRISES, INC., a Minnesota domestic corporation,

Respondents.

AWA No. 11-0088

**CONSENT DECISION AS TO
RESPONDENTS:
KATHY JO BAUCK,
ALLAN R. BAUCK, and
PINE LAKE ENTERPRISES,
INC.**

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) (the "Act" or "AWA"), by a complaint, subsequently amended, filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture ("APHIS"), alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. §§ 1.1-3.142) (the "regulations" or "AWA regulations"). 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).

Respondents Kathy Jo Bauck, Allan R. Bauck and Pine Lake Enterprises, Inc., admit the jurisdictional allegations in the complaint and specifically admit that the Secretary has

jurisdiction in this matter, and, except as specifically admitted in respondents' answers to the complaint and amended complaint, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding, to the entry of this decision.

Complainant agrees to the entry of this decision.

FINDINGS OF FACT

1. Respondent Kathy Jo Bauck is an individual whose mailing address is 51402 410th Street, New York Mills, Minnesota 56567.
2. Respondent Kathy Jo Bauck does or has done business using different names, including: "Kathy Cole" and "K. J. Cole".
3. Respondent Allan R. Bauck is an individual whose mailing address is 51402 410th Street, New York Mills, Minnesota 56567.
4. Respondent Pine Lake Enterprises, Inc. ("PLE"), is a Minnesota domestic corporation whose mailing address is 51402 410th Street, New York Mills, Minnesota 56567.
5. Pine Lake Enterprises, Inc., is a successor entity of Pick of the Litter, Inc., Puppies on Wheels, Inc., and Puppy's on Wheels, Inc., all entities under which respondents Kathy Jo Bauck, Allan R. Bauck, Corinne A. Peters and/or Janet Jesuit have done business.
6. Respondents Kathy Jo Bauck and Allan R. Bauck currently serve as officers of respondent PLE, and at all material times mentioned in the complaint and amended complaint, respondents Kathy Jo Bauck and Allan R. Bauck owned and operated PLE, and served as its president and/or responsible corporate officers.
7. Respondents Kathy Jo Bauck and Allan R. Bauck collectively and/or individually, do or have done business as: "Puppy's on Wheels" (a/k/a "Puppies on Wheels");

“Pick of the Litter”; “Pine Lake Enterprises”; “Pine Lake Kennels”; New York Kennel Club”;
“New York Kennel Club, Inc.”; “KJ’s Pets” and “KJ’s Pups”.

8. Respondents Kathy Jo Bauck, Alan R. Bauck, and PLE (collectively, “respondents”) were, at all material times mentioned in the complaint and amended complaint, operating as a dealer, as defined in the Act and the Regulations.

9. On December 2, 2009, the Department’s Judicial Officer issued a decision and order terminating Animal Welfare Act License 41-B-0159, issued to “KATHY BAUCK”, and disqualifying Kathy Jo Bauck for two years from becoming licensed under the Animal Welfare Act or otherwise obtaining, holding, or using an Animal Welfare Act license, directly or indirectly through any corporate or other device or person. See In re Kathy Jo Bauck, AWA No. D-09-0139, 2009 WL 4838286, 2010 WL 2650916.

CONCLUSION

Respondents having admitted the jurisdictional and above facts and the parties having agreed to the entry of this decision, such decision will be entered

ORDER

1. Animal Welfare Act license number 41-B-0159, issued to “KATHY BAUCK and terminated in August 2010, is hereby revoked and respondents Kathy Jo Bauck, Allan R. Bauck and Pine Lake Enterprises, Inc., are hereby permanently disqualified from obtaining, directly or through any corporate or other device or person, an AWA license or registration.

2. Respondents Kathy Jo Bauck, Allan R. Bauck and Pine Lake Enterprises, Inc., their agents and employees, successors and assigns, directly or indirectly or through any corporate or other device or person, shall cease and desist from violating the Act and the

regulations issued thereunder, and in particular, shall cease and desist from engaging in any activity for which an AWA license or registration is required, except as provided below.

3. Respondents Kathy Jo Bauck, Allan R. Bauck and Pine Lake Enterprises, Inc., are, jointly and severally, assessed a civil penalty in the amount of \$100,000, of which \$95,000 shall be held in abeyance, provided respondents: (a) comply with the provisions in paragraphs 4, 5 (¶¶ 4, 5) below; and (b) do not engage in any activity regulated under the Act and/or Regulations, except as provided in paragraph 4. The remaining \$5,000 shall be paid within 25 days of service of this Order by certified check or money order made payable to the Treasurer of the United States and sent to:

United States Department of Agriculture
Office of the General Counsel
Marketing Division, Room 2343-South
1400 Independence Avenue, SW.
Washington, DC 20250-1417

Respondents shall state on the certified check or money order that the payment is in reference to AWA Docket No. 11-0088. In the event respondents fail, within 25 days of service of this Order, to pay the remaining \$5,000.00, as described above, an administrative law judge shall issue an order finding respondents to be in violation of this consent decision and directing respondents to pay that portion of the civil penalty in this paragraph 3 (¶ 3) held in abeyance, in addition to any unpaid portion of the \$5,000.00 civil penalty. Respondents agree to a prospective waiver of any right to notice and opportunity for a hearing pursuant to section 2149 of the Act (7 U.S.C. § 2149) as to any such failure to comply with this paragraph.

4. To effectuate the provisions of this Order, and to facilitate the care and disposition of animals at respondents' facility, the parties agree that respondents shall sell and/or donate the animals under their custody or control as provided in this paragraph, and only as so

provided, and APHIS agrees to provide to respondents an exemption from section 2134 of the Act (7 U.S.C. § 2134) to allow such sale or donation as specified herein:

- a. On or before September 9, 2011, respondents shall sell or donate those animals currently under their custody or control or on any of their premises, excepting those animals excluded pursuant to paragraph 5 (¶ 5) below, in single one-time total disbursement sale and, immediately thereafter, notify APHIS of such sale or donation. Respondents agree that any such animals that are not sold or donated in such single one-time transaction on or before September 9, 2011, and not excluded pursuant to paragraph 5 (¶ 5) will be donated by respondents on or before September 12, 2011, to an animal rescue group approved by APHIS or other animal facility approved by APHIS.
- b. If respondents fail to sell or donate their animals as specified above, respondents shall be deemed to be in violation of this paragraph and shall, as provided in this Order, be assessed the entire civil penalty in the amount of \$100,000, with no portion thereof held in abeyance.
- c. Nothing herein shall be construed as a modification or derogation of the revocation of respondents' Animal Welfare Act license, as provided in paragraph 1 (¶ 1) above, or be construed as allowing respondents to acquire any new animals for the purpose of engaging in those activities for which an Animal Welfare Act license or registration is required. The provisions contained in this paragraph are solely to allow for the proper care and disposition of animals at respondents' facility and to effectuate the provisions of this Order.

5. The parties agree that, should respondents intend to retain and/or procure any animals, as defined in the Act and regulations, under their control, ownership and/or custody, including custody in connection with transportation for commerce, or any animals on any of their premises or property, respondents collectively shall be permitted to retain no more than six dogs total, regardless of breed/s, of which no more than 3 can be intact female. As used herein, control includes any or all of respondents' facilities, premises and/or or properties, regardless of location, and any other facilities, premises and/or or properties at which respondents are

employed, regardless of compensation, provided such facilities, premises and/or or properties are engaged in commerce.

6. On or before September 21, 2011, the parties, individually or jointly, shall file a notice with the hearing clerk stating that, as of the date of such notice, the provisions of this order, and in particular, the provisions in paragraph 4 (¶ 4) above, have been complied with. In the event respondents fail to comply with the provisions in paragraph 4 (¶ 4) above, an administrative law judge shall issue an order finding respondents to be in violation of paragraph 4 (¶ 4) and directing respondents to pay that portion of the civil penalty in paragraph 3 (¶ 3) above held in abeyance, in addition to any unpaid portion of the \$5,000 civil penalty. Respondents agree to a prospective waiver of any right to notice and opportunity for a hearing pursuant to section 2149 of the Act (7 U.S.C. § 2149) as to any such failure to comply with paragraph 4.

7. The Secretary of Agriculture retains jurisdiction of this matter to enforce the terms of this consent decision, and, in particular to ensure compliance with paragraphs 3, 4 and 5 (¶¶ 3, 4, 5) above.

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

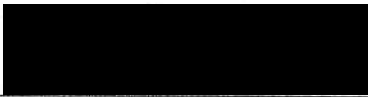
9. Copies of this decision shall be served upon the parties.


Kathy Jo Bauck,
RESPONDENT


Allan R. Bauck,
RESPONDENT



for Pine Lake Enterprises, Inc.,
RESPONDENT


Zenas Baer
Zenas Baer Law Office,
ATTORNEY FOR RESPONDENTS


Babak A. Rastgoufard
Office of the General Counsel
United States Department of Agriculture
ATTORNEY FOR COMPLAINANT

Done at Washington, D.C.

this 14th ^{September} day of ~~August~~, 2011


Janice K. Bullard
Administrative Law Judge