

**UNITED STATES DEPARTMENT OF AGRICULTURE**  
**BEFORE THE SECRETARY OF AGRICULTURE**

AWA Docket No. 08-0096

In re: VANA M. STARK,

Respondent

**DEFAULT DECISION AND ORDER**

This proceeding was instituted under the Animal Welfare Act (the “Act”), as amended (7 U.S.C. § 2131 *et seq.*), by a complaint filed by the Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the Respondents willfully violated the Act and the regulations and standards (the “Regulations”) issued thereunder. (9 C.F.R. § 1.1 *et seq.*)

The Hearing Clerk sent a copy of the Complaint and the Rules of Practice governing proceedings under the Act, (7 C.F.R. § 1.130 *et seq.*) to the Respondent by certified mail, return receipt requested, on September 18, 2008. On September 19, 2008, the mailing was signed for at the address which the Respondent had provided.<sup>1</sup> The Respondent was informed in the accompanying letter of service that an Answer to the

---

<sup>1</sup> The Hearing Clerk had previously sent a copy of the Complaint and the Rules of Practice to the Respondent by certified mail on April 4, 2008. The mailing was returned as “unclaimed” and pursuant to the Rules, the Hearing Clerk re-mailed the complaint and the accompanying materials by ordinary mail to the same address. The Respondent failed to file an Answer within the prescribed time and a Motion for entry of judgment by default was filed. The Respondent responded to the Motion by letter, in which she stated that she had not received the Complaint as she was in jail at the time. Upon receiving her response, counsel for the Complainant withdrew his Motion and asked that she be re-served with a copy of the Complaint and the Rules of Practice.

Complaint should be filed pursuant to the Rules of Practice and that a failure to answer any allegation in the Complaint would constitute an admission of that allegation. The Respondent failed to file an Answer within the time prescribed in the Rules of Practice; thus the material facts alleged in the Complaint, which are admitted by Respondents' default, are adopted and set forth herein as Findings of Fact. This Decision and Order is issued pursuant to section 1.139 of the Rule of Practice, 7 C.F.R. § 1.139.

### **FINDINGS OF FACT**

1. Respondent Vana M. Stark is an individual whose mailing address is Post Office Box 183, South Haven, Kansas 67140.

2. The Respondent, at all times material herein, was operating as a dealer as defined in the Act and the regulations.

3. On or about March 16, 2006, May 4, 2006 and May 18, 2006, Respondent sold a total of 12 puppies for resale as pets while not licensed as a dealer under the Act.

4. The Respondent made a false written statement to the purchaser stating that she was exempt from the licensing requirement as not having more than three breeding females.

### **CONCLUSIONS OF LAW**

1. The Secretary has jurisdiction in this matter.
2. The sale of each dog constitutes a willful violation of Section 4 of the Act (7 U.S.C. § 2134) and Section 2.1 of the regulations (9 C.F.R. § 2.1).

### **ORDER**

1. The Respondent, her agents and employees, successors and assigns, directly

or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.

2. The Respondent is assessed a civil penalty of \$1,125.00. which shall be paid by certified check or money order made payable to the Treasurer of the United States.

Payment should be sent to:

Robert A. Ertman, Esquire  
Office of the General Counsel  
United States Department of Agriculture  
Room 2014, South Building  
Washington, D.C. 20250

3. The provisions of this Order shall become effective on the first day after this Decision becomes final. Pursuant to the Rules of practice, this Decision becomes final without further proceedings 35 days after service as provided in Sections 1.142 and 1.145 of the Rules of Practice, 7 C.F.R. § 1. 142 and 1.145.

Copies of this Order will be served upon the parties by the Hearing Clerk.

Done at Washington, D.C.  
February 9, 2009

---

**PETER M. DAVENPORT**  
Administrative Law Judge

Copies to: Robert A. Ertman, Esquire  
Vana M. Stark

Hearing Clerk's Office  
U.S. Department of Agriculture  
1400 Independence Avenue SW  
Room 1031, South Building  
Washington, D.C. 20250-9203  
202-720-4443  
Fax:202-720-9776



