UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:	)	AWA Docket No. 02-0005
	)	
TOM KAELIN, as an individual and doing business as KAELIN'S KENNEL, a sole proprietorship or unincorporated association; and PETS DIRECT, INC., a Nebraska corporation,	)	
	)	
Respondents.	)	Consent Decision and Order

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the allegations in the complaint as set forth herein as findings of fact and conclusions of law, waive oral hearing and further procedure, and consent and agree to the entry of this decision for the purpose of settling this proceeding. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Tom Kaelin is an individual whose mailing address is 3401 North Adams Street, Lexington, Nebraska 68850, and is or was a principal of Kaelin Kennel, a sole proprietorship or unincorporated association located at the same address. At all times mentioned herein, respondent Tom Kaelin was operating as a dealer as that term is defined in the Act, under license number 47-B-0092, issued under the name "TOM KAELIN DBA: KAELIN'S KENNEL."

2. Respondent Pets Direct, Inc., is a Nebraska corporation whose business mailing address is 3401 North Adams Street, Lexington, Nebraska 68850. The registered agent for service of process of respondent Pets Direct, Inc., is respondent Tom Kaelin, located at the same address. At all times mentioned herein, respondent Pets Direct, Inc., was operating as a dealer as that term is defined in the Act and, specifically, operated jointly with respondent Tom Kaelin, under the license originally assigned to respondent Tom Kaelin, number 47-B-0092.

3. On December 12, 13, and 18, 2000, and on January 9 and March 8, 2001, APHIS personnel conducted unannounced inspections of respondents' facilities, records and animals, for the purpose of determining respondents' compliance with the Act and the Regulations and Standards.

a. On December 12, 2000, respondents had 290 dogs at their facility (200 adults and 90 puppies);

b. On December 13, 2000, respondents had 290 dogs at their facility (200 adults and 90 puppies);

c. On December 18, 2000, respondents had 288 dogs at their facility (200 adults and 88 puppies);

d. On January 9, 2001, respondents had 406 dogs at their facility (284 adults and 122 puppies); and

e. On March 8, 2001 respondents had 445 dogs at their facility (289 adults and 156 puppies).

VETERINARY CARE AND ATTENDING VETERINARIAN,
IDENTIFICATION OF ANIMALS, AND RECORDS

4. In numerous instances on five separate dates, respondents failed to comply with the "Attending Veterinarian and Adequate Veterinary Care Regulations, as follows:

a. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including having a written program of veterinary care, thereby depriving no fewer than 290 animals of adequate veterinary care.

b. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 290 animals of adequate veterinary care.

c. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for: (i) one puppy (unknown breed) housed in the "Sundowner building, which APHIS inspectors found dead; (ii) two Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye, and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; (v) several dogs with matted hair and embedded fecal material in facial hair coat; (vi) several dogs with apparent flea or tick infestation; and (vii) several dogs with excessively long toenails.

d. December 12, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to use such methods to treat: (i) a puppy that APHIS inspectors found had died in an enclosure in the "Sundowner building, (ii) two

Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; (v) several dogs with matted hair and embedded fecal material; (vi) several dogs with apparent flea or tick infestation; and (vii) several dogs with excessively long toenails.

e. December 12, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically, respondents failed to observe or to report to their attending veterinarian: (i) a dying puppy in the "Sundowner building; (ii) two Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; and (v) several dogs with excessively long toenails.

f. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including having a written program of veterinary care, thereby depriving no fewer than 290 animals of adequate veterinary care.

g. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 290 animals of adequate veterinary care.

h. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material in facial hair coat; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats.

i. December 13, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to use such methods to treat: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats.

j. December 13, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically, respondents failed to observe or to report to their attending veterinarian: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats.

k. December 18, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 288 animals of adequate veterinary care.

l. December 18, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for a Labrador retriever dog housed in the south building in pen 2 that had a bloody facial wound and a boxer dog suffering from facial chaffing and loss of skin.

m. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to treat a boxer dog housed in the south building that exhibited facial chaffing and loss of skin, and a Labrador retriever dog housed in the south building in pen 2 for a facial wound, and failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding of fecal matter therein.

n. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically, respondents failed to report to their attending veterinarian that at least two animals exhibited animal health problems (a Labrador retriever dog housed in the south building in pen 2 with

a facial wound, and a boxer dog housed in the south building exhibiting facial chaffing and loss of skin).

o. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent and control disease and injuries and, specifically, respondent failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding of fecal matter therein.

p. December 18, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for a Yorkshire Terrier dog with an ulcerated lesion on its left cornea that appeared to be fully perforated.

q. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries, and specifically, failed to use such methods to treat a Yorkshire Terrier dog for an ulcerated lesion on its left cornea.

r. January 9, 2001. Respondents failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent and control disease and injuries, and specifically, respondent failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding of fecal matter therein.

s. March 8, 2001. Respondents failed to establish and maintain programs of adequate veterinary care that included the availability of appropriate personnel to comply with

the Regulations and meet the Standards and, specifically, respondents have one individual assist them one day a week and, on occasion, respondent Tom Kaelin's minor children, which evidences an insufficient number of adequately-trained employees to meet the animal care and husbandry requirements.

5. On five separate dates, respondents failed to comply with the "Identification of Animals Regulations, as follows:

a. December 12, 2000. Respondents failed to identify 290 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means.

b. December 13, 2000. Respondents failed to identify 290 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means.

c. December 18, 2000. Respondents failed to identify 288 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means.

d. January 9, 2001. Respondents failed to identify 406 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means.

e. March 8, 2001. Respondents failed to identify 445 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means.

6. On three occasions, respondents failed to comply with the Regulations governing "Records :

a. December 12, 2000. Respondents failed to make, keep, and maintain records that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession.

b. December 13, 2000. Respondents failed to make, keep, and maintain records

that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession.

c. December 18, 2000. Respondents failed to make, keep, and maintain records that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession.

HUMANE HANDLING, CARE AND TREATMENT OF DOGS

7. In numerous instances on five occasions, respondents failed to comply with the Facilities and Operating Standards for dogs, as follows:

a. **Section 3.1 Housing Facilities, generally**

i. December 12, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

ii. December 12, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

iii. December 12, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film

iv. December 12, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and,

specifically, respondents stored food supplies in containers that did not so protect them.

v. December 12, 2000. Respondents failed to equip the "Sundowner building with disposal and drainage systems, so that animal waste and water are rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick.

vi. December 12, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals.

vii. December 12, 2000. Respondents failed to design and construct housing facilities for animals so that they are structurally sound, and failed to keep them in good repair to protect the animals from injury and, specifically, several of the doors of buildings housing 200 animals are either missing or broken.

viii. December 13, 2000. Respondents failed to design and construct housing facilities for animals so that they are structurally sound, and failed to keep them in good repair to protect the animals from injury and, specifically, several of the doors of buildings housing 200 animals are either missing or broken.

ix. December 13, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained

fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

x. December 13, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags

xi. December 13, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film.

xii. December 13, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them.

xiii. December 13, 2000. Respondents failed to equip the "Sundowner building with disposal and drainage systems, so that animal waste and water are rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick.

xiv. December 13, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into

enclosures housing six animals.

xv. December 18, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals.

xvi. December 18, 2000. Respondents failed to design, construct and maintain housing facilities so that they are structurally sound and contain the animals. Specifically, respondents' enclosures were inadequate to contain four Labrador dogs that had escaped from respondents' enclosure.

xvii. December 18, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

xviii. December 18, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags

xix. December 18, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them.

xx. December 18, 2000. Respondents failed to equip the "Sundowner building with disposal and drainage systems, so that animal waste and water are

rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick.

xxi. December 18, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film.

xxii. January 9, 2001. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

xviii. January 9, 2001. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags.

xix. January 9, 2001. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them.

xx. January 9, 2001. Respondents failed to equip facility housing two Labrador dogs with disposal and drainage systems, so that animal waste and water are rapidly eliminated, and the animals stay dry. Specifically, water that accumulated in

at least 1/3 of the animals' housing facility, and was not removed, has frozen.

xxi. January 9, 2001. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals.

xxii. March 8, 2001. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, the grain bin had an excessive accumulation of trash and contained vermin fecal material.

xxiii. March 8, 2001. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies directly on the ground.

xxiv. March 8, 2001. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals.

b. **Section 3.2 Indoor housing facilities**

i. December 12, 2000. Respondents failed to provide sufficient heat for thirty-five dogs housed in the whelping building and, specifically, failed to provide dry bedding, solid resting boards or other methods of conserving body heat when the ambient temperature was below 50 degrees Fahrenheit.

ii. December 12, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and

to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme.

iii. December 13, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme.

iv. December 18, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme.

v. January 9, 2001. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme.

c. **Section 3.4 Outdoor housing facilities**

i. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a shelter structure for five medium-to-large dogs, which provided inadequate space.

ii. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room

to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized plastic barrel to serve as a shelter structure for five medium-to-large dogs, which provided inadequate space.

iii. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized plastic barrel to serve as a shelter structure for four small to medium-large dogs, which provided inadequate space.

iv. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a shelter for four large Collie dogs, which provided inadequate space.

v. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a shelter for four large Boxer dogs, which provided inadequate space.

vi. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that gave each of the animals room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents'

outdoor facilities for three Labrador Retriever dogs did not include any shelter in the housing facility.

vii. December 12, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with adequate protection and shelter from the cold and heat.

viii. December 12, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

ix. December 12, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak.

x. December 12, 2000. Respondents failed to provide thirty dogs housed in outdoor facilities with shelter structures that contain additional clean, dry bedding when the temperature is 35 degrees Fahrenheit or lower and, specifically, when the ambient temperature in the animals' outdoor housing facility was 8 degrees Fahrenheit, respondents failed to provide any such bedding to five animals having a single "Igloo outdoor shelter; and no additional such bedding for 30 other dogs housed outdoors.

xi. December 13, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with adequate protection and shelter from the cold and heat.

xii. December 13, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

xiii. December 13, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak.

xiv. December 18, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak.

xv. December 18, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

xvi. December 18, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak.

xvii. December 18, 2000. Respondents failed to provide dogs housed in outdoor facilities with shelter structures that contain additional clean, dry bedding when the temperature was 35 degrees Fahrenheit or lower and, specifically, when the ambient temperature in the animals' outdoor housing facility was 28 degrees

Fahrenheit and there was a strong north wind blowing, respondents failed to provide such bedding to dogs housed outdoors.

xviii. January 9, 2001. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

xix. January 9, 2001. Respondents failed to provide two Shetland Sheepdogs housed in outdoor facilities with shelter structures that have a floor.

xx. January 9, 2001. Respondents failed to provide three Shetland Sheepdogs and one American Eskimo dog housed in outdoor facilities with shelter structures that have a floor.

xxi. January 9, 2001. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents failed to provide adequate shelter for two Labrador Retriever dogs and one Siberian Husky-German Shepherd mix dog housed outside.

xxii. January 9, 2001. Respondents failed to provide all dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities contain plastic barrels without four sides, a floor, or a rain or windbreak.

xxiii. March 8, 2001. Respondents failed to provide fourteen dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow.

xxiv. March 8, 2001. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents failed to provide adequate shelter for three dogs housed in outdoor facilities in the second pen from the west end of the center outdoor facility runs, which contains only one "igloo dog house.

xxv. March 8, 2001. Respondents failed to provide all dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities contain plastic barrels without four sides, a floor, or a rain or windbreak.

d. **Section 3.6 Primary enclosures**

i. December 12, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet.

ii. December 12, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that could injury the animals' legs and feet.

iii. December 12, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was

constructed of wire that allowed the puppies' feet to pass through openings in the floor. iv. December 12, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton building was constructed of wire that allowed the puppies' feet to pass through openings in the floor.

v. December 12, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass.

vi. December 12, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs, and specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit.

vii. December 12, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building,

Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports.

viii. December 12, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions.

ix. December 12, 2000. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions.

x. December 13, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs, and specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit.

xi. December 13, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of

respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports.

xii. December 13, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions.

xiii. December 13, 2000. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions.

xiv. December 13, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet.

xv. December 13, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that

could injury the animals' legs and feet.

xvi. December 13, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was constructed of wire that allowed the puppies' feet to pass through openings in the floor. xvii. December 13, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton building was constructed of wire that allowed the puppies' feet to pass through openings in the floor.

xviii. December 13, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass.

xix. December 18, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands

(wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass.

xx. December 18, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet.

xxi. December 18, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that could injury the animals' legs and feet.

xxii. December 18, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was constructed of wire that allowed the puppies' feet to pass through openings in the floor. xxiii. December 18, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton building was constructed of wire that allowed the puppies' feet to pass through openings in the floor.

xxiv. December 18, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs

and, specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit.

xxv. December 18, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports.

xxvi. December 18, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions.

xxvii. December 18, 2000. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions.

xxviii. January 9, 2001. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and

weather conditions that may be uncomfortable or hazardous to dogs and, specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit.

xxix. January 9, 2001. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports.

xxx. January 9, 2001. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions. .

xxxi. January 9, 2001. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions.

xxxii. January 9, 2001. Respondents failed to construct primary enclosures

so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass.

xxxiii. March 8, 2001. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs and, specifically, several of the doors of enclosures housing dogs are missing.

xxxiv. March 8, 2001. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3) was variously sagging or in need of additional bracing or support.

xxxv. March 8, 2001. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, in enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3), there are sharp points of wire protruding into enclosures housing dogs.

xxxvi. March 8, 2001. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3) was variously broken, and not attached to the buildings or partitions.

HEALTH AND HUSBANDRY STANDARDS FOR DOGS

8. In numerous instances on five occasions, respondents failed to comply with the Animal Health and Husbandry Standards for dogs, as follows:

a. **Section 3.10 Watering**

i. December 12, 2000. Respondents failed to provide potable water to thirty-five dogs housed in the whelping building as often as necessary and, specifically, respondents' water receptacles in that facility had 1-inch to 2-inch layers of ice on them, thereby impeding the animals' ability to drink water.

ii. December 18, 2000. Respondents failed to provide potable water to twenty-five dogs housed outdoors as often as necessary and, specifically, all of respondents' water receptacles and the water therein had frozen solid, and APHIS inspectors observed dogs eating snow and licking ice in attempts to obtain liquid.

b. **Section 3.11 Cleaning, sanitization, housekeeping and pest control**

i. December 12, 2000. Respondents failed to remove excreta from primary enclosures daily and, specifically, there was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs.

ii. December 12, 2000. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them.

iii. December 12, 2000. Respondents failed to clean pans under primary enclosures with grill-type floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them.

iv. December 12, 2000. Respondents failed to clean the ground areas under raised runs with mesh floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the area below the outside portion of respondents' runs has frozen fecal matter up to 14 inches deep in some areas.

v. December 12, 2000. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning.

vi. December 12, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter.

vii. December 13, 2000. Respondents failed to remove excreta from primary enclosures daily and, specifically, there was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs.

viii. December 13, 2000. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them.

ix. December 13, 2000. Respondents failed to clean pans under primary enclosures with grill-type floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them.

x. December 13, 2000. Respondents failed to clean the ground areas under raised runs with mesh floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the area below the outside portion of respondents' runs has frozen fecal matter up to 14 inches deep in some areas.

xi. December 13, 2000. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning.

xii. December 13, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter.

xiii. December 18, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter.

xiv. December 18, 2000. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning.

xv. December 18, 2000. Respondents failed to remove excreta from primary enclosures daily and, specifically, there was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs.

xvi. December 18, 2000. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them.

xvii. December 18, 2000. Respondents failed to clean pans under primary

enclosures with grill-type floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them.

xviii. December 18, 2000. Respondents failed to clean the ground areas under raised runs with mesh floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the area below the outside portion of respondents' runs has frozen fecal matter up to 14 inches deep in some areas.

xix. January 9, 2001. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning.

xx. January 9, 2001. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter.

xxi. January 9, 2001. Respondents failed to remove excreta from primary enclosures daily and, specifically, there had accumulated such an extensive amount of fecal matter in the outside pens and in the "corn crib housing that the dogs housed in those enclosures had obvious difficulty avoiding contact with it.

xxii. January 9, 2001. Respondents failed to keep premises housing

animals clean so as to reduce breeding and living areas for pests and, specifically, respondents maintained a broken wire cage in the building housing three Boxer dogs, which cage contained an unusually extensive amount of cobwebs harboring pests.

xxiii. March 8, 2001. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter.

xxiv. March 8, 2001. Respondents failed to remove excreta from primary enclosures daily and, specifically, there had accumulated such an extensive amount of fecal matter in the South kennel building inside area that it covered between 50% and 75% of the space, and the dogs housed therein had obvious difficulty avoiding contact with it.

xxv. March 8, 2001. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, fecal matter had accumulated under and around pens in the Hilton building and the kennel 3 building, housing 189 dogs.

c. **Section 3.12 Employees**

i. December 12, 2000. Respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

ii. December 13, 2000. Respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and

Standards.

iii. December 18, 2000. Respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

iv. January 9, 2001. Respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

v. March 8, 2001. Respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

Conclusions of Law

1. In numerous instances on five separate dates, respondents failed to comply with the "Attending Veterinarian and Adequate Veterinary Care Regulations, in willful violation of section 2.40 of the Regulations (9 C.F.R. § 2.40), as follows:

a. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including having a written program of veterinary care, thereby depriving no fewer than 290 animals of adequate veterinary care. 9 C.F.R. § 2.40(a)(1).

b. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the

veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 290 animals of adequate veterinary care. 9 C.F.R. § 2.40(a)(1).

c. December 12, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for: (i) one puppy (unknown breed) housed in the "Sundowner building, which APHIS inspectors found dead; (ii) two Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye, and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; (v) several dogs with matted hair and embedded fecal material in facial hair coat; (vi) several dogs with apparent flea or tick infestation; and (vii) several dogs with excessively long toenails. 9 C.F.R. § 2.40(a)(1).

d. December 12, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to use such methods to treat: (i) a puppy that APHIS inspectors found had died in an enclosure in the "Sundowner building, (ii) two Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; (v) several dogs with matted hair and embedded fecal material; (vi) several dogs with apparent flea or tick infestation; and (vii) several dogs with excessively long toenails. 9 C.F.R. § 2.40(b)(2).

e. December 12, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically,

respondents failed to observe or to report to their attending veterinarian: (i) a dying puppy in the "Sundowner building; (ii) two Boxer dogs with inflamed skin; (iii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iv) one female adult Chihuahua dog that was bleeding; and (v) several dogs with excessively long toenails. 9 C.F.R. § 2.40(b)(3).

f. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including having a written program of veterinary care, thereby depriving no fewer than 290 animals of adequate veterinary care. 9 C.F.R. § 2.40(a)(1).

g. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 290 animals of adequate veterinary care. 9 C.F.R. § 2.40(a)(1).

h. December 13, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material in facial hair coat; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats. 9 C.F.R. § 2.40(a)(1).

i. December 13, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to use such methods to treat: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats. 9 C.F.R. § 2.40(b)(2).

j. December 13, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically, respondents failed to observe or to report to their attending veterinarian: (i) two Boxer dogs with inflamed skin; (ii) one terrier puppy with a closed eye and green fluid exuding therefrom; (iii) one female adult Chihuahua dog that was bleeding; (iv) three dogs with matted hair and embedded fecal material; (v) several dogs with apparent flea or tick infestation; and (vi) several dogs with matted hair coats. 9 C.F.R. § 2.40(b)(3).

k. December 18, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to employ an attending veterinarian under formal arrangements, including regularly scheduled visits by the veterinarian to respondents' premises, and had not had such a visit by a veterinarian to respondents' premises for more than two (2) years, thereby depriving no fewer than 288 animals of adequate veterinary care. 9 C.F.R. § 2.40(a)(1).

l. December 18, 2000. Respondents failed to have an attending veterinarian

provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for a Labrador retriever dog housed in the south building in pen 2 that had a bloody facial wound and a boxer dog suffering from facial chaffing and loss of skin. 9 C.F.R. § 2.40(a)(1).

m. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries and, specifically, failed to treat a boxer dog housed in the south building that exhibited facial chaffing and loss of skin, and a Labrador retriever dog housed in the south building in pen 2 for a facial wound, and failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding of fecal matter therein. 9 C.F.R. § 2.40(b)(2).

n. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include daily observation of the animals, and a mechanism of direct and frequent communication with respondents' attending veterinarian and, specifically, respondents failed to report to their attending veterinarian that at least two animals exhibited animal health problems (a Labrador retriever dog housed in the south building in pen 2 with a facial wound, and a boxer dog housed in the south building exhibiting facial chaffing and loss of skin). 9 C.F.R. § 2.40(b)(3).

o. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent and control disease and injuries and, specifically, respondent failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding

of fecal matter therein. 9 C.F.R. § 2.40(b)(2).

p. December 18, 2000. Respondents failed to have an attending veterinarian provide adequate veterinary care to their animals and, specifically, failed to obtain veterinary care and treatment for a Yorkshire Terrier dog with an ulcerated lesion on its left cornea that appeared to be fully perforated. 9 C.F.R. § 2.40(a)(1).

q. December 18, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, and treat diseases and injuries, and specifically, failed to use such methods to treat a Yorkshire Terrier dog for an ulcerated lesion on its left cornea. 9 C.F.R. § 2.40(b)(2).

r. January 9, 2001. Respondents failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent and control disease and injuries, and specifically, respondent failed to have an adequate program for cleaning and grooming animals so as to minimize matting, and the resultant embedding of fecal matter therein. 9 C.F.R. § 2.40(b)(2).

s. March 8, 2001. Respondents failed to establish and maintain programs of adequate veterinary care that included the availability of appropriate personnel to comply with the Regulations and meet the Standards and, specifically, respondents have one individual assist them one day a week and, on occasion, respondent Tom Kaelin's minor children, which evidences an insufficient number of adequately-trained employees to meet the animal care and husbandry requirements. 9 C.F.R. § 2.40(b)(1).

2. On five separate dates, respondents failed to comply with the "Identification of Animals Regulations, in willful violation of section 2.50 of the Regulations (9 C.F.R. § 2.50), as

follows:

a. December 12, 2000. Respondents failed to identify 290 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means. 9 C.F.R. § 2.50(b).

b. December 13, 2000. Respondents failed to identify 290 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means. 9 C.F.R. § 2.50(b)(1).

c. December 18, 2000. Respondents failed to identify 288 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means. 9 C.F.R. § 2.50(b)(1).

d. January 9, 2001. Respondents failed to identify 406 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means. 9 C.F.R. § 2.50(b)(1).

e. March 8, 2001. Respondents failed to identify 445 live dogs by use of an official tag, a distinctive and legible tattoo, or by any other means. 9 C.F.R. § 2.50(b)(1).

3. On three occasions, respondents failed to comply with the Regulations governing "Records, in willful violation of section 2.75(a) of the Regulations (9 C.F.R. § 2.75(a)):

a. December 12, 2000. Respondents failed to make, keep, and maintain records that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession. 9 C.F.R. § 2.75(a)(1).

b. December 13, 2000. Respondents failed to make, keep, and maintain records that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession. 9 C.F.R. § 2.75(a)(1).

c. December 18, 2000. Respondents failed to make, keep, and maintain records that fully and correctly disclose acquisition and disposition information as to each dog in respondents' possession. 9 C.F.R. § 2.75(a)(1).

4. In numerous instances on five occasions, respondents willfully violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Facilities and Operating Standards for dogs (9 C.F.R. §§ 3.1-3.6), as follows:

a. **Section 3.1 Housing Facilities, generally**

i. December 12, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

ii. December 12, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

iii. December 12, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film. 9 C.F.R. § 3.1(c)(3).

iv. December 12, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them. 9 C.F.R. § 3.1(e).

v. December 12, 2000. Respondents failed to equip the "Sundowner

building with disposal and drainage systems, so that animal waste and water are rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick. 9 C.F.R. § 3.1(f).

vi. December 12, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals. 9 C.F.R. § 3.1(a).

vii. December 12, 2000. Respondents failed to design and construct housing facilities for animals so that they are structurally sound, and failed to keep them in good repair to protect the animals from injury and, specifically, several of the doors of buildings housing 200 animals are either missing or broken. 9 C.F.R. § 3.1(a).

viii. December 13, 2000. Respondents failed to design and construct housing facilities for animals so that they are structurally sound, and failed to keep them in good repair to protect the animals from injury and, specifically, several of the doors of buildings housing 200 animals are either missing or broken. 9 C.F.R. § 3.1(a).

ix. December 13, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R.

§ 3.1(b).

x. December 13, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

xi. December 13, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film. 9 C.F.R. § 3.1(c)(3)

xii. December 13, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them. 9 C.F.R. § 3.1(e).

xiii. December 13, 2000. Respondents failed to equip the "Sundowner building with disposal and drainage systems, so that animal waste and water are rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick. 9 C.F.R. § 3.1(f).

xiv. December 13, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes

in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals. 9 C.F.R. § 3.1(a).

xv. December 18, 2000. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals. 9 C.F.R. § 3.1(a).

xvi. December 18, 2000. Respondents failed to design, construct and maintain housing facilities so that they are structurally sound and contain the animals. Specifically, respondents' enclosures were inadequate to contain four Labrador dogs that had escaped from respondents' enclosure. 9 C.F.R. § 3.1(a).

xvii. December 18, 2000. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

xviii. December 18, 2000. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

xix. December 18, 2000. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect them. 9 C.F.R. § 3.1(e)

xx. December 18, 2000. Respondents failed to equip the "Sundowner building with disposal and drainage systems, so that animal waste and water are rapidly eliminated, so that the animals stay dry. Specifically, (i) fluid animal waste from upper enclosures drains directly onto animals housed in lower enclosures; and (ii) liquid waste that was not removed from enclosure housing three dogs has frozen, and in at least one area is 3 inches thick. 9 C.F.R. § 3.1(f).

xxi. December 18, 2000. Respondents failed to clean hard surfaces (with which dogs come into contact) daily, and to sanitize same to prevent accumulation of excreta and reduce disease hazards and, specifically, the surfaces of enclosures housing 200 animals at respondents' facility were covered with a brown film. 9 C.F.R. § 3.1(c)(3).

xxii. January 9, 2001. Respondents failed to keep animal housing areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

xviii. January 9, 2001. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, areas contained fecal material, dog hair, spilled dog food, shredded paper, and empty bags. 9 C.F.R. § 3.1(b).

xix. January 9, 2001. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies in containers that did not so protect

them. 9 C.F.R. § 3.1(e)

xx. January 9, 2001. Respondents failed to equip facility housing two Labrador dogs with disposal and drainage systems, so that animal waste and water are rapidly eliminated, and the animals stay dry. Specifically, water that accumulated in at least 1/3 of the animals' housing facility, and was not removed, has frozen. C.F.R. § 3.1(f).

xxi. January 9, 2001. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals. C.F.R. § 3.1(a).

xxii. March 8, 2001. Respondents failed to keep food and bedding storage areas free of accumulations of trash, and waste material and, specifically, the grain bin had an excessive accumulation of trash and contained vermin fecal material. 9 C.F.R. § 3.1(b).

xxiii. March 8, 2001. Respondents failed to store supplies of food in a manner that protects them from spoilage, contamination and vermin infestation and, specifically, respondents stored food supplies directly on the ground. 9 C.F.R. § 3.1(e)

xxiv. March 8, 2001. Respondents failed to keep housing facilities for dogs in good repair to protect the animals from injury and, specifically, there are holes in the ceiling of the "Hilton building that would allow insulation to fall into enclosures housing six animals. 9 C.F.R. § 3.1(a).

b. **Section 3.2 Indoor housing facilities**

i. December 12, 2000. Respondents failed to provide sufficient heat for thirty-five dogs housed in the whelping building and, specifically, failed to provide dry bedding, solid resting boards or other methods of conserving body heat when the ambient temperature was below 50 degrees Fahrenheit. 9 C.F.R. § 3.2(a).

ii. December 12, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme. C.F.R. § 3.2(b).

iii. December 13, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme. C.F.R. § 3.2(b).

iv. December 18, 2000. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme. C.F.R. § 3.2(b).

v. January 9, 2001. Respondents' indoor housing facilities for dogs were not sufficiently ventilated to provide for the animals' health and well-being and to minimize odors and ammonia levels and, specifically, the odor of ammonia in the whelping building housing 35 dogs was extreme. C.F.R. § 3.2(b).

c. **Section 3.4 Outdoor housing facilities**

i. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a shelter structure for five medium-to-large dogs, which provided inadequate space. 9 C.F.R. § 3.4(b).

ii. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized plastic barrel to serve as a shelter structure for five medium-to-large dogs, which provided inadequate space. 9 C.F.R. § 3.4(b).

iii. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized plastic barrel to serve as a shelter structure for four small to medium-large dogs, which provided inadequate space. 9 C.F.R. § 3.4(b).

iv. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a

shelter for four large Collie dogs, which provided inadequate space. 9 C.F.R. § 3.4(b).

v. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities included a single medium-sized igloo to serve as a shelter for four large Boxer dogs, which provided inadequate space. 9 C.F.R. § 3.4(b).

vi. December 12, 2000. Respondents failed to provide animals housed in outdoor facilities with shelter structures that gave each of the animals room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents' outdoor facilities for three Labrador Retriever dogs did not include any shelter in the housing facility. 9 C.F.R. § 3.4(b).

vii. December 12, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with adequate protection and shelter from the cold and heat. 9 C.F.R. § 3.4(b)(1).

viii. December 12, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow. 9 C.F.R. § 3.4(b)(2).

ix. December 12, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak.

9 C.F.R. § 3.4(b)(3).

x. December 12, 2000. Respondents failed to provide thirty dogs housed in outdoor facilities with shelter structures that contain additional clean, dry bedding when the temperature is 35 degrees Fahrenheit or lower and, specifically, when the ambient temperature in the animals' outdoor housing facility was 8 degrees Fahrenheit, respondents failed to provide any such bedding to five animals having a single "Igloo outdoor shelter; and no additional such bedding for 30 other dogs housed outdoors. 9 C.F.R. § 3.4(b)(4).

xi. December 13, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with adequate protection and shelter from the cold and heat. 9 C.F.R. § 3.4(b)(1).

xii. December 13, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow. 9 C.F.R. § 3.4(b)(2).

xiii. December 13, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak. 9 C.F.R. § 3.4(b)(3).

xiv. December 18, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and

a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak. 9 C.F.R. § 3.4(b)(3).

xv. December 18, 2000. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow. 9 C.F.R. § 3.4(b)(2).

xvi. December 18, 2000. Respondents failed to provide nine dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities included two round plastic barrels without four sides, a floor, or a rain or windbreak. 9 C.F.R. § 3.4(b)(3).

xvii. December 18, 2000. Respondents failed to provide dogs housed in outdoor facilities with shelter structures that contain additional clean, dry bedding when the temperature was 35 degrees Fahrenheit or lower and, specifically, when the ambient temperature in the animals' outdoor housing facility was 28 degrees Fahrenheit and there was a strong north wind blowing, respondents failed to provide such bedding to dogs housed outdoors. 9 C.F.R. § 3.4(b)(4).

xviii. January 9, 2001. Respondents failed to provide twenty dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow. 9 C.F.R. § 3.4(b)(2).

xix. January 9, 2001. Respondents failed to provide two Shetland Sheepdogs housed in outdoor facilities with shelter structures that have a floor. 9 C.F.R. § 3.4(b)(3).

xx. January 9, 2001. Respondents failed to provide three Shetland Sheepdogs and one American Eskimo dog housed in outdoor facilities with shelter structures that have a floor. 9 C.F.R. § 3.4(b)(3).

xxi. January 9, 2001. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents failed to provide adequate shelter for two Labrador Retriever dogs and one Siberian Husky-German Shepherd mix dog housed outside. 9 C.F.R. § 3.4(b).

xxii. January 9, 2001. Respondents failed to provide all dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities contain plastic barrels without four sides, a floor, or a rain or windbreak. 9 C.F.R. § 3.4(b)(3).

xxiii. March 8, 2001. Respondents failed to provide fourteen dogs housed in five center outdoor runs with shelter structures that provide the animals with protection from the direct rays of the sun and the direct effect of wind, rain or snow. 9 C.F.R. § 3.4(b)(2).

xxiv. March 8, 2001. Respondents failed to provide animals housed in outdoor facilities with shelter structures that provide each of the animals with room

to sit, stand, turn about freely, and lie in a normal manner and, specifically, respondents failed to provide adequate shelter for three dogs housed in outdoor facilities in the second pen from the west end of the center outdoor facility runs, which contains only one "igloo dog house. 9 C.F.R. § 3.4(b).

xxv. March 8, 2001. Respondents failed to provide all dogs housed in outdoor facilities with shelter structures that have a roof, four sides and a floor, and a wind and rain break at the entrance and, specifically, respondents' outdoor facilities contain plastic barrels without four sides, a floor, or a rain or windbreak. 9 C.F.R. § 3.4(b)(3).

d. **Section 3.6 Primary enclosures**

i. December 12, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

ii. December 12, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

iii. December 12, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was constructed of wire that allowed the puppies' feet to pass through openings in the

floor. 9 C.F.R. § 3.6(a)(2)(x).

iv. December 12, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton building was constructed of wire that allowed the puppies' feet to pass through openings in the floor. 9 C.F.R. § 3.6(a)(2)(x).

v. December 12, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass. 9 C.F.R. § 3.6(a)(2)(xii).

vi. December 12, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs, and specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit. 9 C.F.R. § 3.6(a)(2)(vi).

vii. December 12, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of

respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports. 9 C.F.R. § 3.6(a)(2)(xii).

viii. December 12, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(2)(i).

ix. December 12, 2000. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(1).

x. December 13, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs, and specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit. 9 C.F.R. § 3.6(a)(2)(vi).

xi. December 13, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports. 9 C.F.R. § 3.6(a)(2)(xii). xii. December 13, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(2)(i).

xiii. December 13, 2000. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(1).

xiv. December 13, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

xv. December 13, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

xvi. December 13, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was constructed of wire that allowed the puppies' feet to pass through openings in the floor. 9 C.F.R. § 3.6(a)(2)(x).

xvii. December 13, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton building was constructed of wire that allowed the puppies' feet to pass through openings in the floor. 9 C.F.R. § 3.6(a)(2)(x).

xviii. December 13, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass. 9 C.F.R. § 3.6(a)(2)(xii).

xix. December 18, 2000. Respondents failed to construct primary

enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass. 9 C.F.R. § 3.6(a)(2)(xii).

xx. December 18, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents' enclosure housing two puppies was constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

xxi. December 18, 2000. Respondents failed to construct primary enclosures so that they protect dogs from injury and, specifically, respondents housed four puppies in the Hilton building in primary enclosures constructed of material that could injury the animals' legs and feet. 9 C.F.R. § 3.6(a)(2)(ii).

xxii. December 18, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing two puppies was constructed of wire that allowed the puppies' feet to pass through openings in the floor. 9 C.F.R. § 3.6(a)(2)(x).

xxiii. December 18, 2000. Respondents failed to construct primary enclosures so that they have floors that protect the dogs' feet and legs from injury and, specifically, the flooring in respondents' enclosure housing four puppies in the Hilton

building was constructed of wire that allowed the puppies' feet to pass through openings in the floor. 9 C.F.R. § 3.6(a)(2)(x).

xxiv. December 18, 2000. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs and, specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit. 9 C.F.R. § 3.6(a)(2)(vi).

xxv. December 18, 2000. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports. 9 C.F.R. § 3.6(a)(2)(xii).

xxvi. December 18, 2000. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(2)(i).

xxvii. December 18, 2000. Respondents failed to construct primary

enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(1).

xxviii. January 9, 2001. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs and, specifically, several of the doors of buildings housing 200 animals are either missing or broken, when the temperature was 8 degrees Fahrenheit. 9 C.F.R. § 3.6(a)(2)(vi).

xxix. January 9, 2001. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging or bending between the structural supports. 9 C.F.R. § 3.6(a)(2)(xii).

xxx. January 9, 2001. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(2)(i).

xxxi. January 9, 2001. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 200 dogs (the "little kennel building, Sundowner building, Hilton building, whelping building and kennel building 3) was variously sagging, broken, and not attached to the buildings and partitions. 9 C.F.R. § 3.6(a)(1).

xxxii. January 9, 2001. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in four of respondents' buildings housing a total of 40 dogs (the "little kennel building, Hilton building, whelping building and kennel building 3) was constructed of metal strands (wire) that were neither greater than 1/8-inch in diameter (9 gauge), nor coated with a material such as plastic or fiberglass. 9 C.F.R. § 3.6(a)(2)(xii).

xxxiii. March 8, 2001. Respondents failed to construct and maintain primary enclosures so that they provide shelter and protection from extreme temperatures and weather conditions that may be uncomfortable or hazardous to dogs and, specifically, several of the doors of enclosures housing dogs are missing. 9 C.F.R. § 3.6(a)(2)(vi).

xxxiv. March 8, 2001. Respondents failed to construct primary enclosures so that they met the minimum requirements of section 3.6(a)(2)(xii) of the Standards and, specifically, the suspended flooring in all of the enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3) was variously

sagging or in need of additional bracing or support. 9 C.F.R. § 3.6(a)(2)(xii).

xxxv. March 8, 2001. Respondents failed to construct primary enclosures so that they have no sharp points or edges that could injure dogs and, specifically, in enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3), there are sharp points of wire protruding into enclosures housing dogs. 9 C.F.R. § 3.6(a)(2)(i).

xxxvi. March 8, 2001. Respondents failed to construct primary enclosures so that they are structurally sound and, specifically, the suspended flooring in enclosures in five of respondents' buildings housing a total of 331 dogs (the "little kennel building, Sundowner building, Hilton building, South kennel building and kennel building 3) was variously broken, and not attached to the buildings or partitions. 9 C.F.R. § 3.6(a)(1).

5. In numerous instances on five occasions, respondents willfully violated section 2.100(b) of the Regulations (9 C.F.R. § 2.100(b)), by failing to comply with the Animal Health and Husbandry Standards for dogs (9 C.F.R. §§ 3.7-3.12), as follows:

a. **Section 3.10 Watering**

i. December 12, 2000. Respondents failed to provide potable water to thirty-five dogs housed in the whelping building as often as necessary and, specifically, respondents' water receptacles in that facility had 1-inch to 2-inch layers of ice on them, thereby impeding the animals' ability to drink water. 9 C.F.R. § 3.10.

ii. December 18, 2000. Respondents failed to provide potable water to

twenty-five dogs housed outdoors as often as necessary and, specifically, all of respondents' water receptacles and the water therein had frozen solid, and APHIS inspectors observed dogs eating snow and licking ice in attempts to obtain liquid. 9 C.F.R. § 3.10.

b. **Section 3.11 Cleaning, sanitization, housekeeping and pest control**

i. December 12, 2000. Respondents failed to remove excreta from primary enclosures daily and, specifically, there was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs. 9 C.F.R. § 3.11(a).

ii. December 12, 2000. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them. 9 C.F.R. § 3.11(a).

iii. December 12, 2000. Respondents failed to clean pans under primary enclosures with grill-type floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them. 9 C.F.R. § 3.11(a).

iv. December 12, 2000. Respondents failed to clean the ground areas under raised runs with mesh floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the area below the outside portion of

respondents' runs has frozen fecal matter up to 14 inches deep in some areas. 9 C.F.R. § 3.11(a).

v. December 12, 2000. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning. 9 C.F.R. § 3.11(b)(2).

vi. December 12, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter. 9 C.F.R. § 3.11(d).

vii. December 13, 2000. Respondents failed to remove excreta from primary enclosures daily and, specifically, there was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs. 9 C.F.R. § 3.11(a).

viii. December 13, 2000. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them. 9 C.F.R. § 3.11(a).

ix. December 13, 2000. Respondents failed to clean pans under primary enclosures with grill-type floors as often as necessary to prevent an excessive

accumulation of feces and, specifically, the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them. 9 C.F.R. § 3.11(a).

x. December 13, 2000. Respondents failed to clean the ground areas under raised runs with mesh floors as often as necessary to prevent an excessive accumulation of feces and, specifically, the area below the outside portion of respondents' runs has frozen fecal matter up to 14 inches deep in some areas. 9 C.F.R. § 3.11(a).

xi. December 13, 2000. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning. 9 C.F.R. § 3.11(b)(2).

xii. December 13, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter. 9 C.F.R. § 3.11(d).

xiii. December 18, 2000. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter. 9 C.F.R. § 3.11(d).

xiv. December 18, 2000. Respondents failed to clean and sanitize used

food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning. 9 C.F.R. § 3.11(b)(2).

xv. 9 C.F.R. § 3.11(a). On December 18, 2000, respondents failed to remove excreta from primary enclosures daily and/or as often as necessary to prevent an excessive accumulation of feces, to wit: There was an excessive accumulation of frozen fecal matter covering approximately one-half of the space in each of the enclosures housing 200 dogs; the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter in them; the fecal collection pans in enclosures housing 200 dogs have approximately 6 inches to 8 inches of accumulated fecal matter and dog hair in them; and the area below the outside portion of respondents' runs has frozen fecal matter up to 14 inches deep in some areas.

xix. January 9, 2001. Respondents failed to clean and sanitize used food and water receptacles at least once every two weeks using one of the methods described in section 3.11(b)(3) of the Standards and, specifically, respondents' food and water receptacles in four buildings housing 200 dogs had a visible brown, dirt-like coating on them, indicating lack of sanitization and cleaning. 9 C.F.R. § 3.11(b)(2).

xx. January 9, 2001. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin

fecal matter. 9 C.F.R. § 3.11(d).

xxi. January 9, 2001. Respondents failed to remove excreta from primary enclosures daily and, specifically, there had accumulated such an extensive amount of fecal matter in the outside pens and in the "corn crib housing that the dogs housed in those enclosures had obvious difficulty avoiding contact with it. 9 C.F.R. § 3.11(a).

xxii. January 9, 2001. Respondents failed to keep premises housing animals clean so as to reduce breeding and living areas for pests and, specifically, respondents maintained a broken wire cage in the building housing three Boxer dogs, which cage contained an unusually extensive amount of cobwebs harboring pests. 9 C.F.R. § 3.11(c).

xxiii. March 8, 2001. Respondents failed to establish and maintain an effective program for the control of pests and, specifically, all buildings housing dogs had visible signs of vermin infestation, including holes in floors and walls, and vermin fecal matter. 9 C.F.R. § 3.11(d).

xxiv. March 8, 2001. Respondents failed to remove excreta from primary enclosures daily and, specifically, there had accumulated such an extensive amount of fecal matter in the South kennel building inside area that it covered between 50% and 75% of the space, and the dogs housed therein had obvious difficulty avoiding contact with it. 9 C.F.R. § 3.11(a).

xxv. March 8, 2001. Respondents failed to remove excreta from under primary enclosures as often as necessary to prevent an excessive accumulation of

feces and, specifically, fecal matter had accumulated under and around pens in the Hilton building and the kennel 3 building, housing 189 dogs. 9 C.F.R. § 3.11(a).

c. On December 12, December 13, and December 18, 2000, and on January 9, and March 8, 2001, respondents failed to have enough employees to carry out the level of husbandry practices and care required by the Regulations and Standards. 9 C.F.R. § 3.12.

6. The parties have agreed to the entry of this decision, and therefore such decision will be entered.

Order

1. Respondents, their 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.

2. Respondents' animal welfare license (number 47-B-0092) is revoked effective June 30, 2004.

This order shall become effective on June 25, 2004. Copies of this decision shall be served upon the parties.

PETS DIRECT, INC., a Nebraska corporation
Respondent

By_____

Its _____

_____
Tom Kaelin dba Kaelin's Kennel
Respondent

_____
Colleen Carroll
Attorney for Complainant

be entered.

Order

1. Respondents, their 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.

2. Respondents' animal welfare license (number 47-B-0092) is revoked effective June 30, 2004.

This order shall become effective on June 25, 2004. Copies of this decision shall be served upon the parties.

PETS DIRECT, INC., a Nebraska corporation
Respondent

Tom Kaelin
Tom Kaelin dba Kaelin's Kennel
Respondent 6-25-04

By Tom Kaelin
Its President

Colleen Carroll
Colleen Carroll
Attorney for Complainant

Done at Washington, D.C.
this 19 day of July, 2004

Jill S. Clifton
Jill S. Clifton
Administrative Law Judge