

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. D-10-0014  
)  
Pine Lake Enterprises, Inc., )  
)  
Petitioner ) **Decision and Order**

**PROCEDURAL HISTORY**

Pine Lake Enterprises, Inc., initiated the instant proceeding on October 16, 2009, by filing a “Demand for Fitness Hearing” regarding the September 28, 2009, denial of Pine Lake Enterprises, Inc.’s Animal Welfare Act license application by Dr. Elizabeth Goldentyer, Director, Eastern Region, United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Care [hereinafter the Director]. On November 6, 2009, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], filed “Respondent’s Response to Request for Hearing” stating summary judgment would be the appropriate means of resolving the instant proceeding.

On December 17, 2009, Administrative Law Judge Jill S. Clifton [hereinafter ALJ Clifton] conducted a teleconference with the parties and scheduled an oral hearing to commence on March 31, 2010, in Fargo, North Dakota. ALJ Clifton also directed that

any motion for summary judgment by the Administrator should be filed on or before January 11, 2010, and that Pine Lake Enterprises, Inc., should file a response to the motion for summary judgment by February 1, 2010. (ALJ Clifton's Dec. 18, 2009, Hearing Notice and Deadlines.) On January 11, 2010, and January 15, 2010, respectively, the Administrator filed "APHIS's Motion for Summary Judgment" and "Notice of Supplement to APHIS's Motion for Summary Judgment" [hereinafter Motion for Summary Judgment]. On February 1, 2010, Pine Lake Enterprises, Inc., filed "Pine Lake Enterprises, Inc.'s Memorandum in Response to APHIS's Motion for Summary Judgment."

On February 2, 2010, Acting Chief Administrative Law Judge Peter M. Davenport [hereinafter the Chief ALJ] reassigned the instant proceeding to himself. On February 4, 2010, the Chief ALJ issued a Decision and Order in which he found no issue of material fact in dispute, granted the Administrator's Motion for Summary Judgment, and affirmed the Director's denial of Pine Lake Enterprises, Inc.'s application for an Animal Welfare Act license.

On March 4, 2010, Pine Lake Enterprises, Inc., appealed the Chief ALJ's Decision and Order to the Judicial Officer. On March 24, 2010, the Administrator filed "APHIS's Opposition to Petitioner's Appeal Petition." On March 29, 2010, the Hearing Clerk transmitted the record to the Judicial Officer for consideration and decision. Based upon a careful review of the record, I affirm the Chief ALJ's Decision and Order.

## DECISION

### Discussion

The Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) [hereinafter the Animal Welfare Act], provides that dealers and exhibitors must obtain an Animal Welfare Act license from the Secretary of Agriculture, as follows:

#### **§ 2134. Valid license for dealers and exhibitors required**

No dealer or exhibitor shall sell or offer to sell or transport or offer for transportation, in commerce, to any research facility or for exhibition or for use as a pet any animal, or buy, sell, offer to buy or sell, transport or offer for transportation, in commerce, to or from another dealer or exhibitor under this chapter any animals, unless and until such dealer or exhibitor shall have obtained a license from the Secretary and such license shall not have been suspended or revoked.

7 U.S.C. § 2134. The Secretary of Agriculture issues Animal Welfare Act licenses to dealers and exhibitors upon application therefor in such form and manner as the Secretary may prescribe (7 U.S.C. § 2133). The Secretary of Agriculture's power to require and to issue licenses under the Animal Welfare Act includes the power to deny applications for Animal Welfare Act licenses.<sup>1</sup> The regulations and standards issued under the Animal Welfare Act (9 C.F.R. §§ 1.1-3.142) [hereinafter the Regulations] set forth the bases for denial of Animal Welfare Act license applications, including:

---

<sup>1</sup>*In re Amarillo Wildlife Refuge, Inc.*, \_\_\_ Agric. Dec. \_\_\_, slip op. at 6 (Jan. 6, 2009); *In re Loreon Vigne*, \_\_\_ Agric. Dec. \_\_\_, slip op. at 3-4 (Nov. 18, 2008); *In re Mary Bradshaw*, 50 Agric. Dec. 499, 507 (1991).

**§ 2.11 Denial of initial license application.**

(a) A license will not be issued to any applicant who:

.....

(6) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.

.....

(d) No license will be issued under circumstances that the Administrator determines would circumvent any order suspending, revoking, terminating, or denying a license under the Act.

9 C.F.R. § 2.11(a)(6), (d).

The Director concluded: (1) the September 8, 2009, application for an Animal Welfare Act license submitted by Allan Bauck on behalf of Pine Lake Enterprises, Inc., was an attempt to circumvent the impending termination of Kathy Jo Bauck's Animal Welfare Act license and 2-year disqualification of Kathy Jo Bauck from becoming licensed under the Animal Welfare Act (9 C.F.R. § 2.11(d));<sup>2</sup> and (2) Pine Lake Enterprises, Inc., was unfit to be licensed under the Animal Welfare Act and issuance of an Animal Welfare Act license to Pine Lake Enterprises, Inc., would be contrary to the

---

<sup>2</sup>On December 2, 2009, I terminated Kathy Jo Bauck's Animal Welfare Act license and disqualified Kathy Jo Bauck for a period of 2 years from becoming licensed under the Animal Welfare Act. *In re Kathy Jo Bauck*, \_\_ Agric. Dec. \_\_ (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010). I stayed the December 2, 2009, order pending the outcome of proceedings for judicial review. *In re Kathy Jo Bauck* (Stay Order), \_\_ Agric. Dec. \_\_ (Feb. 16, 2010).

purposes of the Animal Welfare Act (9 C.F.R. § 2.11(a)(6)). The Director based her conclusions on, among other things, the timing of Pine Lake Enterprises, Inc.'s Animal Welfare Act license application; Pine Lake Enterprises, Inc.'s relationship to Kathy Jo Bauck and entities under which Kathy Jo Bauck has done business; the information contained in Pine Lake Enterprises, Inc.'s Animal Welfare Act license application; the ownership interests at the address set forth in Pine Lake Enterprises, Inc.'s Animal Welfare Act license application, which is the same address as that of Kathy Jo Bauck's business; and Pine Lake Enterprises, Inc.'s inability to transact business in the State of Minnesota. (SJM Ex. 1B.<sup>3</sup>) Since the institution of the instant proceeding, additional reasons upon which denial of Pine Lake Enterprises, Inc.'s Animal Welfare Act license application might be based have come to light and are addressed in the Administrator's Motion for Summary Judgment.

The exhibits submitted by the Administrator in support of the Motion for Summary Judgment document the relationship between Pine Lake Enterprises, Inc., and Pick of the Litter, Inc., Puppies on Wheels, Inc., and Puppy's on Wheels, Inc., all of which are entities under which Kathy Jo Bauck has done business. Pine Lake Enterprises, Inc., is located at the same address as Pick of the Litter, Inc., Puppies on Wheels, Inc., and Puppy's on Wheels, Inc. Although Animal Welfare Act license number 41-B-0159 was

---

<sup>3</sup>References to the exhibits attached to the Administrator's Motion for Summary Judgment are cited as "SJM Ex. \_\_."

issued to Kathy Jo Bauck, filings with the State of Minnesota Secretary of State from 1994 indicate that both Kathy Jo Bauck and her husband, Allan Bauck, intended to conduct or had conducted business under the assumed name of Pick of the Litter, Inc. (SJM Ex. 2). Allan Bauck and Kathy Jo Bauck incorporated Pick of the Litter, Inc., on March 4, 2003, with Allan Bauck and Kathy Jo Bauck both as directors (SJM Ex. 3-SJM Ex. 4). Pick of the Litter, Inc., amended its articles of incorporation to change its name to Puppies on Wheels, Inc., on August 22, 2008, and 5 days later filed an additional amendment to change the name to Puppy's on Wheels, Inc. (SJM Ex. 5-SJM Ex. 6). On October 9, 2009, 1 month after Allan Bauck submitted the Animal Welfare Act license application on behalf of Pine Lake Enterprises, Inc.,<sup>4</sup> a further amendment to the articles of incorporation was filed with the State of Minnesota Secretary of State changing the name of Puppy's on Wheels, Inc., to Pine Lake Enterprises, Inc. (SJM Ex. 1A, SJM Ex. 7).

Even were Pine Lake Enterprises, Inc., not a successor entity to entities under which Kathy Jo Bauck has done business, the record also reflects that Allan Bauck may have sold dogs for resale as pets or for breeding purposes without first having obtained the required Animal Welfare Act license, in violation 7 U.S.C. § 2134 and 9 C.F.R. § 2.1(a)(1) (SJM Ex. 8). Allan Bauck could take the position that the dog sales were

---

<sup>4</sup>This delay provided the basis on which the Director concluded Pine Lake Enterprises, Inc., “does not appear to be authorized to transact business in Minnesota.” (SJM Ex. 1B at 2.)

made under Kathy Jo Bauck's Animal Welfare Act license; however, such a position would be an implicit acknowledgment that Allan Bauck was operating as an agent or employee of Kathy Jo Bauck.

### **Pine Lake Enterprises, Inc.'s Appeal Petition**

Pine Lake Enterprises, Inc., raises eight issues in its "Petition for Judicial Review of Summary Judgment Decision and Order Dated February 4, 2010" [hereinafter Appeal Petition]. First, Pine Lake Enterprises, Inc., asserts it has been denied its right to an oral hearing in accordance with 9 C.F.R. § 2.11(b) (Appeal Pet. at 1, 6).

The Regulations do not provide a *right* to an oral hearing, as Pine Lake Enterprises, Inc., asserts; instead, the Regulations provide that an applicant, whose license application has been denied, may *request* a hearing, as follows:

#### **§ 2.11 Denial of initial application.**

.....

(b) An applicant whose license application has been denied may request a hearing in accordance with the applicable rules of practice for the purpose of showing why the application for license should not be denied. The license denial shall remain in effect until the final legal decision has been rendered. Should the license denial be upheld, the applicant may again apply for a license 1 year from the date of the final order denying the application, unless the order provides otherwise.

9 C.F.R. § 2.11(b). Therefore, I reject Pine Lake Enterprises, Inc.'s assertion that it has been denied a *right* to an oral hearing in accordance with 9 C.F.R. § 2.11(b). Moreover, I have repeatedly held motions for summary judgment appropriate in cases involving

termination and denial of Animal Welfare Act licenses.<sup>5</sup> Oral hearings are unnecessary and futile when, as in the instant proceeding, there is no factual dispute of substance.<sup>6</sup>

Second, Pine Lake Enterprises, Inc., contends the Chief ALJ erroneously characterized Kathy Jo Bauck's conviction, in *State of Minnesota v. Bauck*, 56-CR-08-1131, of practicing veterinary medicine without a veterinary license as a conviction for violating a state law pertaining to animal cruelty (Appeal Pet. at 3).

Pine Lake Enterprises, Inc., does not cite to the portion of the Chief ALJ's Decision and Order in which the Chief ALJ characterizes Kathy Jo Bauck's conviction in *State of Minnesota v. Bauck*, 56-CR-08-1131, as a conviction for violating a state law pertaining to animal cruelty, and I cannot locate any such characterization by the Chief ALJ. Therefore, I find Pine Lake Enterprises, Inc.'s contention without merit.

Third, Pine Lake Enterprises, Inc., asserts it is not a successor entity of Puppy's on Wheels, Inc., Puppies on Wheels, Inc., and Pick of the Litter, Inc. (Appeal Pet. at 3-5).

Records certified by the State of Minnesota Secretary of State establish Pine Lake Enterprises, Inc., is a successor entity of Puppies on Wheels, Inc., Puppy's on Wheels, Inc., and Pick of the Litter, Inc. (SJM Ex. 2, SJM Ex. 6-SJM Ex. 7). Filings with the

---

<sup>5</sup>See *In re Animals of Montana, Inc.*, \_\_ Agric. Dec. \_\_ (Mar. 10, 2009); *In re Amarillo Wildlife Refuge, Inc.*, \_\_ Agric. Dec. \_\_ (Jan. 6, 2009); *In re Loreon Vigne*, \_\_ Agric. Dec. \_\_ (Nov. 18, 2008); *In re Mark Levinson*, 65 Agric. Dec. 1026, 1028 (2006).

<sup>6</sup>See *In re Animals of Montana*, \_\_ Agric. Dec. \_\_, slip op. at 15 (Mar. 10, 2009) citing *Veg-Mix, Inc. v. U.S. Dep't of Agric.*, 832 F. 2d 601, 607 (D.C. Cir. 1987).



State of Minnesota Secretary of State from 1994 indicate that both Kathy Jo Bauck and Allan Bauck intended to conduct or had conducted business under the assumed name of Pick of the Litter, Inc. (SJM Ex. 2). Allan Bauck and Kathy Jo Bauck incorporated Pick of the Litter, Inc., on March 4, 2003, with Allan Bauck and Kathy Jo Bauck both as directors (SJM Ex. 3-SJM Ex. 4). Pick of the Litter, Inc., amended its articles of incorporation to change its name to Puppies on Wheels, Inc., on August 22, 2008, and 5 days later filed an additional amendment to change the name to Puppy's on Wheels, Inc. (SJM Ex. 5-SJM Ex. 6). On October 9, 2009, a further amendment to the articles of incorporation was filed with the State of Minnesota Secretary of State changing the name of Puppy's on Wheels, Inc., to Pine Lake Enterprises, Inc. (SJM Ex. 1A, SJM Ex. 7). Therefore, I find no genuine issue of fact regarding Pine Lake Enterprises, Inc.'s relationship to Puppy's on Wheels, Inc., Puppies on Wheels, Inc., and Pick of the Litter, Inc., and I conclude the Chief ALJ's finding that Pine Lake Enterprises, Inc., is a successor entity of Puppy's on Wheels, Inc., Puppies on Wheels, Inc., and Pick of the Litter, Inc., is not error.

Fourth, Pine Lake Enterprises, Inc., asserts Kathy Jo Bauck should not have been convicted of animal torture and animal cruelty in *State of Minnesota v. Bauck*, 56-CR-08-2271 (Appeal Pet. at 3-4, 7).

Pine Lake Enterprises, Inc., cannot relitigate Kathy Jo Bauck's past criminal convictions in this Animal Welfare Act license application proceeding.<sup>7</sup> If Pine Lake Enterprises, Inc., wishes to contest Kathy Jo Bauck's conviction in *State of Minnesota v. Bauck*, 56-CR-08-2271, Pine Lake Enterprises, Inc., must turn to the courts of the State of Minnesota.

Fifth, Pine Lake Enterprises, Inc., asserts, while Kathy Jo Bauck was convicted of four counts of animal cruelty and animal torture in *State of Minnesota v. Bauck*, 56-CR-08-2271, three of these four counts were vacated (Appeal Pet. at 4).

I agree with Pine Lake Enterprises, Inc.'s assertion; however, I find no error on the part of the Chief ALJ, who states three of the four counts in *State of Minnesota v. Bauck*, 56-CR-08-2271, were vacated, as follows:

On or about May 1, 2009, [Kathy Jo Bauck] was sentenced in [*State of Minnesota v. Bauck*,] 56-CR-08-2271[,] to be confined in the county jail for a period of 90 days (with 70 days suspended for a period of one year with specified conditions), to pay a fine of \$1,000 (of which \$500 was suspended), to be placed on formal supervised probation, to complete 80 hours of community service, and to allow inspections of her property as long as she was continuing to work with animals. On the same date, three of the four counts were vacated, leaving only Count 5 which involved torture of a Mastiff between the dates of May 14 and 24, 2008.

Chief ALJ's Decision and Order at 6 ¶ 2.

---

<sup>7</sup>See *In re Kathy Jo Bauck*, \_\_\_ Agric. Dec. \_\_\_, slip op. at 12 (Dec. 2, 2009) (rejecting the respondent's attempt to relitigate a prior criminal conviction in an Animal Welfare Act license termination and disqualification proceeding), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010); *In re Amarillo Wildlife Refuge, Inc.*, \_\_\_ Agric. Dec. \_\_\_, slip op. at 15 (Jan. 6, 2009) (rejecting Amarillo Wildlife's attempt to relitigate a prior criminal conviction in an Animal Welfare Act license termination proceeding).

Sixth, Pine Lake Enterprises, Inc., contends there is no evidentiary support for the Chief ALJ's finding that Pine Lake Enterprises, Inc., is not authorized to transact business in the State of Minnesota (Appeal Pet. at 5).

I agree with Pine Lake Enterprises, Inc.'s contention that there is no evidentiary support for a finding that Pine Lake Enterprises, Inc., is not currently authorized to transact business in the State of Minnesota. However, I find no error on the part of the Chief ALJ, who states, at the time Pine Lake Enterprises, Inc., applied for an Animal Welfare Act license (September 8, 2009), Pine Lake Enterprises, Inc., was not authorized to transact business in the State of Minnesota (Chief ALJ's Decision and Order at 6 ¶ 3). The Chief ALJ bases this finding on Puppy on Wheels, Inc.'s failure to amend its articles of incorporation to change its name to Pine Lake Enterprises, Inc., until October 9, 2009, 1 month after Allan Bauck applied for an Animal Welfare Act license on behalf of Pine Lake Enterprises, Inc. (Chief ALJ's Decision and Order at 3). (See SJM Ex. 1A, SJM Ex. 7.)

Seventh, Pine Lake Enterprises, Inc., contends the record does not support the Chief ALJ's finding that Allan Bauck worked as an officer, agent, employee, or co-owner of a business operated by Kathy Jo Bauck (Appeal Pet. at 5).

The record establishes that Kathy Jo Bauck has done business as Pick of the Litter Inc., and that Allan Bauck was an incorporator and director of Pick of the Litter, Inc.; Allan Bauck was authorized to conduct business and a responsible official for Pick of the

Litter, Inc.; and Allan Bauck was the vice president of Pick of the Litter, Inc. (SJM Ex. 1C, SJM Ex. 1E, SJM Ex. 2-SJM Ex. 3). Therefore, I reject Pine Lake Enterprises, Inc.'s contention that the Chief ALJ's finding that Allan Bauck worked as an officer, agent, employee, or co-owner of a business operated by Kathy Jo Bauck, is error.

Eighth, Pine Lake Enterprises, Inc., contends Allan Bauck did not sell dogs without an Animal Welfare Act license, as required by the Animal Welfare Act and the Regulations (Appeal Pet. at 5, 7).

As an initial matter, the Chief ALJ did not find that Allan Bauck sold dogs without an Animal Welfare Act license, in violation of the Animal Welfare Act and the Regulations. Instead, the Chief ALJ found that Allan Bauck either sold dogs on behalf of Kathy Jo Bauck or sold dogs, in violation of the Animal Welfare Act, as follows:

5. Allan Bauck either sold numerous dogs for resale use as pets or breeding purposes on behalf of Kathy Bauck or engaged in the unlicensed sale of the animals without being properly licensed under the AWA as a dealer.

Chief ALJ's Decision and Order at 6 ¶ 5.

Minnesota Certificates of Veterinary Inspection issued by the Minnesota Board of Animal Health establish that Allan Bauck sold hundreds of dogs to various retail pet stores during the period August 17, 2009, through November 2, 2009, a period during which Allan Bauck did not have an Animal Welfare Act license (SJM Ex. 8, SJM Ex. 10). Therefore, I conclude the Chief ALJ's alternative finding that Allan Bauck sold dogs without being properly licensed under the Animal Welfare Act, is not error.

### Findings of Fact

1. Pine Lake Enterprises, Inc., is a Minnesota corporation with a mailing address in New York Mills, Minnesota.
2. On or about September 8, 2009, Allan Bauck, on behalf of Pine Lake Enterprises, Inc., submitted an application for an Animal Welfare Act license to the Animal and Plant Health Inspection Service.
3. Pine Lake Enterprises, Inc., is a successor entity of Pick of the Litter, Inc., Puppies on Wheels, Inc., and Puppy's on Wheels, Inc., all entities under which Kathy Jo Bauck has done business.
4. Pine Lake Enterprises, Inc., has the same address as Pick of the Litter, Inc., Puppies on Wheels, Inc., and Puppy's on Wheels, Inc.
5. On June 22, 2009, the Administrator instituted a disciplinary proceeding under the Animal Welfare Act and the Regulations against Kathy Jo Bauck (AWA Docket No. D-09-0139), based upon Kathy Jo Bauck: (a) having been found guilty, pursuant to her *Alford* plea, by the Otter Tail County District Court, Criminal Division, Seventh Judicial District of the State of Minnesota, of one misdemeanor count of practicing veterinary medicine without a license in *State of Minnesota v. Bauck*, 56-CR-08-1131; and (b) having been found guilty by a jury verdict in the Otter Tail County District Court, Criminal Division, Seventh Judicial District of the State of Minnesota, of four misdemeanor counts pertaining to animal cruelty and animal torture in

*State of Minnesota v. Bauck*, 56-CR-08-2271. *In re Kathy Jo Bauck*, \_\_ Agric. Dec. \_\_\_\_, slip op. at 16-17 (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010).

6. On or about May 1, 2009, Kathy Jo Bauck was sentenced in *State of Minnesota v. Bauck*, 56-CR-08-2271, to be confined in the county jail for a period of 90 days (with 70 days suspended for a period of 1 year with specified conditions), to pay a fine of \$1,000 (of which \$500 was suspended), to be placed on formal supervised probation, to complete 80 hours of community service, and to allow inspections of her property as long as she was continuing to work with animals. On May 1, 2009, three of the four counts for which Kathy Jo Bauck was found guilty in *State of Minnesota v. Bauck*, 56-CR-08-2271, were vacated, leaving only Count 5, which involved Kathy Jo Bauck's torture of a Mastiff on or between the dates of May 14, 2008, and May 24, 2008. *In re Kathy Jo Bauck*, \_\_ Agric. Dec. \_\_\_\_, slip op. at 17 (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010).

7. On or about September 8, 2009, at the time Pine Lake Enterprises, Inc., submitted its Animal Welfare Act license application to the Animal and Plant Health Inspection Service, Pine Lake Enterprises, Inc., was not authorized to transact business in the State of Minnesota in the name of "Pine Lake Enterprises, Inc."

8. Allan Bauck is the spouse of Kathy Jo Bauck and worked as an officer, agent, employee, or co-owner of a business operated by Kathy Jo Bauck.

9. During the period August 17, 2009, through November 2, 2009, Allan Bauck: (a) sold numerous dogs for resale as pets or for breeding purposes without first having obtained the required Animal Welfare Act license; or (b) sold numerous dogs for resale as pets or for breeding purposes under Kathy Jo Bauck's Animal Welfare Act license as an agent or employee of Kathy Jo Bauck.

10. On September 28, 2009, the Director denied the September 8, 2009, application for an Animal Welfare Act license submitted by Allan Bauck on behalf of Pine Lake Enterprises, Inc.

### **Conclusions of Law**

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Issuance of an Animal Welfare Act license to Pine Lake Enterprises, Inc., a successor entity of entities operated by Kathy Jo Bauck, who has been found unfit to be licensed under the Animal Welfare Act, would be contrary to the purposes of the Animal Welfare Act (9 C.F.R. § 2.11(a)(6)). *See In re Kathy Jo Bauck*, \_\_\_ Agric. Dec. \_\_\_ (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010).
3. Issuance of an Animal Welfare Act license to Pine Lake Enterprises, Inc., would circumvent an order terminating Animal Welfare Act license number 41-B-0159 and disqualifying Kathy Jo Bauck from becoming licensed under the Animal Welfare Act for a period of 2 years (9 C.F.R. § 2.11(d)). *See In re Kathy Jo Bauck*, \_\_\_ Agric. Dec. \_\_\_, slip op. at 18 (Dec. 2, 2009), *appeal dismissed*, No. 10-1138 (8th Cir. Feb. 24, 2010).

4. Denial of an Animal Welfare Act license application submitted by an applicant who has engaged in the unlicensed sale of dogs for resale as pets or breeding purposes, in violation of the Animal Welfare Act and the Regulations, would be appropriate (9 C.F.R. § 2.11(a)(6)).

### **ORDER**

I affirm Dr. Elizabeth Goldentyer's September 28, 2009, denial of Pine Lake Enterprises, Inc.'s application for an Animal Welfare Act license. This Order shall become effective on Pine Lake Enterprises, Inc., immediately upon service of this Order on Pine Lake Enterprises, Inc.

Done at Washington, DC

April 8, 2010

---

William G. Jenson  
Judicial Officer