

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. D-09-0139
)
Kathy Jo Bauck, an individual,)
d/b/a Puppy's on Wheels, a/k/a)
"Puppies on Wheels" and)
"Pick of the Litter,")
)
Respondent) **Stay Order**

I issued *In re Kathy Jo Bauck*, ___ Agric. Dec. ___ (Dec. 2, 2009), in which I terminated Ms. Bauck's Animal Welfare Act license and disqualified Ms. Bauck from becoming licensed under the Animal Welfare Act for 2 years. On January 21, 2010, Ms. Bauck filed a "Motion for Stay Pending Appeal Pursuant to 5 U.S.C. § 705" [hereinafter Motion for Stay], and a "Memorandum in Support of Motion for Stay Pending Appeal." Ms. Bauck also incorporated by reference a "Memorandum in Support of Motion to Stay Agency Decision Pending Appeal" which she has filed with the United States Court of Appeals for the Eighth Circuit.

On February 5, 2010, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture [hereinafter the Administrator], filed "Complainant's Opposition to Respondent's Motion for Stay." On February 16, 2010, the

Hearing Clerk transmitted the record to the Office of the Judicial Officer for a ruling on Ms. Bauck's Motion for Stay.

Ms. Bauck's motion for a stay, pending before the United States Court of Appeals for the Eighth Circuit, would normally deprive me of jurisdiction to rule on the Motion for Stay pending before me; however, the Administrator asserts the Eighth Circuit has directed the United States Department of Agriculture to advise the court when I have ruled on Ms. Bauck's Motion for Stay (Complainant's Opposition to Respondent's Motion for Stay at 4). After a careful review of Ms. Bauck's filings in support of her Motion for Stay and the Administrator's filing in opposition to Ms. Bauck's Motion for Stay, I grant Ms. Bauck's Motion for Stay in accordance with 5 U.S.C. § 705.

For the foregoing reasons, the following Order is issued.

ORDER

The Order in *In re Kathy Jo Bauck*, ___ Agric. Dec. ___ (Dec. 2, 2009), is stayed pending the outcome of proceedings for judicial review. This Stay Order shall remain effective until lifted by the Judicial Officer or vacated by a court of competent jurisdiction.

Done at Washington, DC

February 16, 2010

William G. Jenson
Judicial Officer