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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:) AWA Docket No. 16-0003
)
ARBUCKLE ADVENTURES, LLC, an)
Oklahoma limited liability company,)
)
Respondent.) COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131, *et seq.*)(Act or AWA), and the regulations issued pursuant thereto (9 C.F.R. Parts 1 and 2)(Regulations). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Arbuckle Adventures, LLC (Arbuckle), is an Oklahoma limited liability company whose registered agent is Craig Abla, 118 West Muskogee, Sulphur, Oklahoma 73086. At all times mentioned herein, Arbuckle was an exhibitor, as that term is defined in the Act and the Regulations and held AWA license 73-C-0190. Respondent Arbuckle exhibits domestic, wild and exotic animals to the public at a walk-through zoo (Arbuckle Adventures) and at an adjacent drive-through zoo (Arbuckle Wilderness).

ALLEGATIONS REGARDING SIZE OF BUSINESS, GRAVITY OF VIOLATIONS,
GOOD FAITH AND COMPLIANCE HISTORY

2. In 2013, respondent Arbuckle represented to APHIS that it held 480 animals, and in 2014, represented to APHIS that it held 474 animals. The violations alleged in this complaint are serious, and involve, *inter alia*, failures to handle animals carefully and to provide minimally-adequate veterinary care to them. Despite repeated citations, respondent has

continued to operate at a fixed site that has not been inspected. On March 21, 2013, APHIS issued an Official Warning to Arbuckle for noncompliance with the licensing Regulations. Respondent nevertheless continues to violate the Regulations.

ALLEGED VIOLATIONS

3. Between approximately April 18, 2013, through July 28, 2015, respondent willfully violated the Regulations, 9 C.F.R. § 2.1, by engaging in regulated activity at a fixed site, Arbuckle Wilderness (Site 002) that had not been inspected and determined to be in compliance with the Regulations, as required.

4. On or about May 1, 2014, respondent willfully violated the Regulations, 9 C.F.R. § 2.40(a)(1), by failing to employ an attending veterinarian under formal arrangements, including regularly scheduled visits to the premises, and specifically respondent's attending veterinarian had not visited respondent's premises for nearly three years.

5. On or about the following dates, respondent willfully violated the Regulations, 9 C.F.R. §§ 2.40(a), 2.40(b)(1), 2.40(b)(2), 2.40(b)(3), by failing to provide adequate veterinary medical care to animals and by failing to establish and maintain adequate programs of veterinary care that include the availability of appropriate personnel and services, the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and daily observation of all animals and a mechanism of direct and frequent communication with the attending veterinarian:

a. April 18, 2013. APHIS inspectors discovered a recumbent raccoon next to hay bales beside the barn gate, and observed that the raccoon was extremely ill or dying.

b. May 1, 2014. A thin Jacob sheep with a rough hair coat had excessively long horns, to the extent that one of the horns extended into the sheep's mouth and the other interfered with the sheep's ability to graze, and the sheep had not been seen by a

veterinarian for these conditions.

c. May 1, 2014. A fawn-colored llama was observed to be non-weight-bearing on its rear left limb and had not been seen by a veterinarian for this condition.

c. August 14, 2014. An oryx (#79) was observed to have an abnormal gait and excessively long hooves on its rear legs, and in June 2015, respondent's veterinarian had recommended trimming the hooves, but respondent failed to follow this recommendation.

d. August 14, 2014. Respondent failed to implement its attending veterinarian's recommendations for follow-up care and diagnostic testing for a thin female oryx with visible ribs, pelvis, and shoulder bones.

e. February 9, 2015. A thin and lethargic male rhinoceros (Tank) was observed to have suffered a serious loss of muscle mass, and had not been seen by a veterinarian for this condition.

f. February 9, 2015. An extremely thin juvenile male llama was observed to be non-responsive and barely conscious, and had not been seen by a veterinarian. The APHIS inspectors advised respondent's personnel to obtain veterinary care immediately, but the llama expired before the veterinarian arrived, and never received care.

g. February 9, 2015. Multiple juvenile animals were observed to be thin, and respondent had neither observed their poor body condition nor had these animals seen by a veterinarian.

h. July 28, 2015. Respondent had no system, schedule or plan for deworming animals.

i. May 23, 2015. A pregnant female oryx was found dead without having been observed by respondent's personnel to be pregnant, and without having obtained any veterinary care, notwithstanding the fact that the oryx was thin, with poor body condition, had been ingesting large quantities of grass, had diarrhea, and had multiple parasites.

6. On May, 1, 2014, October 23, 2014, February 9, 2015, and May 7, 2015, respondent willfully violated the Regulations, 9 C.F.R. §§ 2.75(b), 2.126(a)(2), by failing to make, keep, and maintain records as required, and by failing to make records available to APHIS.

7. On or about the following dates, respondent willfully violated the Regulations, 9 C.F.R. § 2.131(c)(1), by failing to handle animals so there was minimal risk of harm to the animal and to the public with sufficient distance and/or barriers between the animals and the public:

a. April 18, 2013. Respondent permitted the public to have direct contact with a baby camel.

b. May 1, 2014. Respondent's barrier between the public and a camel was insufficient to prevent direct contact between the public and the camel.

c. May 1, 2014. Respondent's barrier gate to the enclosure housing lemurs was open, permitting the public to gain access to the lemurs.

d. May 1, 2014. Respondent's barrier gate to the enclosure housing Jacob sheep was open, permitting the public to gain access to the sheep.

e. May 1, 2014. Respondent's enclosure housing a rhinoceros had an area without a barrier gate separating the public from the enclosure.

f. August 14, 2014. Respondent's enclosure housing Jacob's sheep lacked a public barrier.

g. August 14, 2014. Sheep, llama, and a goat were not contained and were able to be in direct contact with the public.

h. July 28, 2015. There was no lock on the gate to the rhinoceros enclosure, giving the public the ability to access the rhinoceros.

8. On or about May 1, 2014, June 24, 2014, August 14, 2014, October 23, 2014, February 9, 2015, May 7, 2015, and July 28, 2015, respondent willfully violated the Regulations, 9 C.F.R. § 2.131(d)(2), by failing to have a responsible, knowledgeable and readily identifiable employee or attendant present during periods of public contact.

9. On or about April 4, 2013, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the specifications for the humane care and treatment of animals (9 C.F.R. Part 3)(Standards), and specifically, respondent failed to enclose its facilities by an adequate perimeter fence, allowing three oryx to escape. 9 C.F.R. § 3.127(d).

10. On or about April 18, 2013, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. Respondent housed a rabbit in the same enclosure as a prairie dog.
9 C.F.R. § 3.58(a).

b. Respondent failed to make its plan for environmental enhancement for three lemurs available to APHIS. 9 C.F.R. § 3.81.

c. Respondent failed to maintain an enclosure housing a rabbit and a prairie dog in good repair so that animals were contained and protected from injury, 9 C.F.R. §§ 3.50(a), 3.125(a).

d. Respondent failed to provide adequate shelter from inclement weather for a baby camel. 9 C.F.R. § 3.127(b).

e. Respondent failed to keep areas accessible to animals clean and free from accumulations of trash and debris. 9 C.F.R. § 3.131(c).

f. Respondent failed to contain two oryx as required. 9 C.F.R. § 3.125(a).

g. Respondent failed to employ a sufficient number of trained employees.
9 C.F.R. § 3.132.

11. On or about November 13, 2013, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. There was inadequate lighting in the enclosure housing lemurs. 9 C.F.R. § 3.76(c).

b. Respondent's fence near the front cattle guard was in disrepair. 9 C.F.R. § 3.125(a).

c. The shelter in respondent's "Serengeti" area was in disrepair. 9 C.F.R. § 3.125(a).

d. There were gaps in the fencing of respondent's tiger enclosure. 9 C.F.R. § 3.125(a).

e. There were open bags of feed and spilled food inside the food storage shed. 9 C.F.R. § 3.125(c).

f. Respondent failed to provide accessible, potable water to a tiger, and to keep the tiger's water receptacles clean, as required. 9 C.F.R. § 3.130.

12. On or about May 1, 2014, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

- a. Respondent failed to make its plan for environmental enhancement for three lemurs available to APHIS. 9 C.F.R. § 3.81.
 - b. Respondent failed to maintain outdoor housing facilities in good repair so that animals were contained and protected from injury, 9 C.F.R. § 3.125(a), as follows:
 - i. Respondent's enclosure for oryx was not constructed and maintained so as to contain the oryx.
 - ii. A shelter in the "Serengeti" area had exposed nails and sharp metal edges of sheet metal that were accessible to animals.
 - iii. The fence of the enclosure housing tigers was in disrepair, with gaps and areas where the fence was sagging and lacked structural strength.
 - iv. Respondent's fence near the front cattle guard was in disrepair.
 - v. There was a roll of field wire in an area accessible to animals.
 - vi. There were loose boards with exposed nails near the former feed building that were accessible to animals.
 - c. There were open bags of feed and spilled food inside the food storage shed. 9 C.F.R. § 3.125(c).
 - d. Respondent failed to provide two cavies with adequate shelter. 9 C.F.R. § 3.127(b).
 - e. Respondent failed to enclose its facilities by an adequate perimeter fence, and APHIS officials observed an oryx outside of the perimeter fence. 9 C.F.R. § 3.127(d).
 - f. Respondent failed to employ a sufficient number of trained employees. 9 C.F.R. § 3.132.
13. On or about May 13, 2014, respondent willfully violated section 2.100(a) of the

Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. Respondent housed three lemurs in an enclosure (a wire dog crate) that did not enable the primates to remain dry and clean. 9 C.F.R. § 3.80(a)(2)(v).

b. Respondent housed three lemurs in an enclosure that lacked adequate lighting. 9 C.F.R. § 3.76(c).

14. On or about August 14, 2014, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. An enclosure housing sheep, goats, and a llama had dangling wires obstructing all three entrances to the shelter where the animals' food and water receptacles were located. 9 C.F.R. § 3.125(a).

b. Respondent housed sheep, goats, and a llama in enclosures that failed to contain them. 9 C.F.R. § 3.125(a).

c. Respondent housed two cavies in an enclosure that was in disrepair and had fencing with sharp points that were accessible to the animals. 9 C.F.R. §§ 3.125(a), 3.125(b).

d. Respondent's water receptacle in the goat, llama, and sheep enclosure contained green-colored water, live larvae and insects, and particulate matter. 9 C.F.R. § 3.130.

e. Respondent's water receptacle in the kangaroo enclosure contained green-colored water, dead insects, rusted material, and particulate matter. 9 C.F.R. § 3.130.

f. Respondent failed to keep the premises free from an overgrowth of weeds and foliage. 9 C.F.R. § 3.131(c).

g. Respondent's water receptacle in the hyena enclosure contained green-

colored water and particulate matter. 9 C.F.R. § 3.130.

h. Respondent failed to establish and maintain an effective pest control program. 9 C.F.R. § 3.131(d).

i. Respondent's shelter in the "Serengeti" area was in disrepair, and there were pieces of wood on the ground with exposed nails that were accessible to the animals. 9 C.F.R. § 3.125(a).

j. Respondent failed to employ a sufficient number of trained employees. 9 C.F.R. § 3.132.

15. On or about October 23, 2014, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. Respondent outdoor housing facilities were in disrepair, 9 C.F.R. § 3.125(a), as follows:

i. The fencing was in disrepair, with broken posts, holes that were accessible to animals, and sections of broken fencing.

ii. There were holes in the fence of the rhinoceros enclosure, and elsewhere in the "Serengeti" area.

iii. Multiple animal shelters in the "Serengeti" area were in disrepair, with missing plywood, boards with sharp points, walls that are not structurally sound, and pulled up metal with sharp edges.

iv. The enclosure for Jacob's sheep had areas of fencing with exposed sharp points of rebar, nails and wire.

v. There were multiple rolls of fencing on the ground near the medical barn.

b. Respondent's enclosure for lemurs was in disrepair, with sharp wire points accessible to the animals. 9 C.F.R. § 3.80(a)(2)(i).

c. There was standing water in the rhinoceros enclosure. 9 C.F.R. § 3.127(c).

d. Respondent's water receptacle in the hyena enclosure contained green-colored water on the sides and bottom. 9 C.F.R. § 3.130.

e. Respondent failed to offer a tiger nutritious food in sufficient quantities. 9 C.F.R. § 3.129(a).

f. There was construction debris and metal straps by the medical barn, old horse shoes in the zebra enclosure, and loose wires throughout the facility. 9 C.F.R. § 3.131(c).

g. Respondent failed to establish and maintain an effective pest control program. 9 C.F.R. § 3.131(d).

h. Respondent failed to employ a sufficient number of trained employees. 9 C.F.R. § 3.132.

16. On or about February 9, 2015, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. Respondent's housing facilities were in disrepair, 9 C.F.R. § 3.125(a), as follows:

i. The enclosure for Jacob's sheep had areas of fencing with exposed sharp points of rebar, nails and wire, and there was exposed unconnected electrical wire inside the enclosure.

ii. The zebra enclosure was in disrepair, with a broken t-post in front

of the animal's shelter.

ii. There was broken and loose wire around the barrier fence of the rhinoceros enclosure.

iii. Multiple animal shelters in the "Serengeti" area had missing plywood, boards with sharp points, and structurally-unsound walls.

iv. There were holes in the fence of the rhinoceros enclosure, and elsewhere in the "Serengeti" area.

v. There were multiple rolls of fencing on the ground near the medical barn.

b. Respondent failed to enclose its facilities by an adequate perimeter fence, and APHIS officials observed no fewer than five deer outside the perimeter. 9 C.F.R. § 3.127(d).

c. Respondent failed to offer multiple animals (including llamas, donkeys, oryx, and buffalo) nutritious food in sufficient quantities. 9 C.F.R. § 3.129(a).

d. Respondent's water receptacles for multiple animals were not kept clean and sanitized as required. 9 C.F.R. § 3.130.

e. Respondent failed to remove animal waste from the rhinoceros enclosure as required. 9 C.F.R. § 3.131(a).

f. Respondent failed to employ a sufficient number of trained employees. 9 C.F.R. § 3.132.

g. Respondent failed to provide enrichment to lemurs, and failed to make its plan for environmental enhancement for lemurs available to APHIS. 9 C.F.R. § 3.81.

17. On or about May 7, 2015, respondent willfully violated section 2.100(a) of the

Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

- a. Respondent's housing facilities were in disrepair, 9 C.F.R. § 3.125(a), as follows:
 - i. The roof of the shelter for the rhinoceros was disconnected from the structure.
 - ii. The fence in the giraffe enclosure was not structurally sound, was leaning and had a disconnected post.
 - iii. There was a hole and a gap in the fence of the tiger enclosure.
 - iv. There was a rusted bar in the enclosure housing a red kangaroo.
- b. Respondent failed to enclose its giraffe enclosure by an adequate perimeter fence. 9 C.F.R. § 3.127(d).
- c. There were open bags of feed and spilled food inside the food storage shed. 9 C.F.R. §§ 3.82, 3.125(c).
- d. Respondent failed to provide accessible, potable water to animals throughout the facility, and specifically to the Jacob's sheep, and to keep water receptacles clean, as required. 9 C.F.R. § 3.130.
- e. Respondent failed to establish and maintain an effective pest control program. 9 C.F.R. § 3.131(d).
- f. Respondent failed to employ a sufficient number of trained employees. 9 C.F.R. § 3.132.
- g. Respondent failed to provide adequate shelter to a juvenile red kangaroo. 9 C.F.R. § 3.127(b).
- h. Respondent failed to remove animal waste from the kangaroo enclosure as

required. 9 C.F.R. § 3.131(a).

i. Respondent failed to provide enrichment to lemurs, and failed to make its plan for environmental enhancement for lemurs available to APHIS. 9 C.F.R. § 3.81.

18. On or about July 28, 2015, respondent willfully violated section 2.100(a) of the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. Respondent's housing facilities were in disrepair, 9 C.F.R. § 3.125(a), as follows:

i. The roof of the shelter for the rhinoceros was disconnected from the structure.

ii. There was a loose wire protruding into the rhinoceros enclosure near the water receptacle, posing a risk of harm to the rhinoceros when it attempted to access water.

iii. There was an open drain inside the tiger enclosure.

iv. Respondent's border fence was leaning and not structurally sound.

v. There was a hole in the fence of the enclosure housing Jacob's sheep, and the shelter structure had loose wires and sharp points accessible to the animals.

vi. There was an open drain inside the kangaroo enclosure.

b. Respondent failed to enclose its giraffe enclosure by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

c. Respondent's water receptacle for a hyena was placed in a location that required the hyena to stand in mud to access water. 9 C.F.R. § 3.130.

d. Respondent's water receptacle for Jacob's sheep contained opaque liquid.

9 C.F.R. § 3.130.

e. There were two tanks inside the rhinoceros enclosure that contained dark standing water and debris. 9 C.F.R. § 3.130.

f. Respondent failed to provide animals housed in the “Serengeti” area with nutritious food in sufficient quantities. 9 C.F.R. § 3.129(a).

g. Respondent failed to provide Jacob’s sheep with any food. 9 C.F.R. § 3.129(a).

h. Respondent failed to establish and maintain an effective pest control program. 9 C.F.R. § 3.131(d).

i. Respondent failed to store supplies of food in a manner that protected them from contamination. 9 C.F.R. §§ 3.82, 3.125(c).

j. Respondent failed to employ a sufficient number of trained employees.
9 C.F.R. § 3.132.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the Regulations, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-162.13). Failure to file an answer shall constitute an admission of all the material allegations of this complaint. APHIS

requests that this matter proceed in accordance with the Rules of Practice governing proceedings under the Act, and that such order or orders be issued as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 5th day of OCT 2015



Administrator
Animal and Plant Health Inspection Service