

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

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In re:) AWA Dockets 15-0060 and 15-0061
)
THE MOBILE ZOO, an Alabama)
corporation; and JOHN HIGHTOWER, an)
individual,)
)
Respondents.) AMENDED COMPLAINT

There is reason to believe that the respondents named herein have 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. § 1.1 et seq.) (the Regulations). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS), issues this amended complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. The Mobile Zoo (TMZ) is an Alabama corporation (No. 552-449) whose registered agent is respondent John Hightower, 15161 Ward Road West, Wilmer, Alabama 36587. At all times mentioned herein, TMZ was operating as an exhibitor, as that term is used in the Act and the Regulations, in conjunction with respondent John Hightower. Respondent TMZ has held AWA license 64-C-0178 since June 13, 2005.

2. John Hightower is an individual whose mailing address is 15161 Ward Road West, Wilmer, Alabama 36587. At all times mentioned herein, respondent was the President of respondent TMZ and was acting for or operating as an exhibitor, as that term is used in the Act and the Regulations.

3. At all times mentioned herein, respondents operated a business at 15161 Ward Road West, Wilmer, Alabama 36587, exhibiting domestic, wild and exotic animals to the public. Respondent TMZ reported to APHIS that it held 72 animals in March 2010, 73 animals in May

2011, 76 animals in June 2012, 91 animals in June 2013, 44 animals in June 2014, and 46 animals in June 2015. The gravity of the violations herein is great. The amended complaint alleges repeated failures to handle animals carefully and to provide them with veterinary care and husbandry in accordance with the applicable Regulations. Within the last five years, APHIS issued three Letters of Warning to respondent TMZ for violations of the AWA Regulations, specifically on September 27, 2010 (AL 10026), November 8, 2010 (AL 11002), and July 18, 2012 (AL 12009). Respondents have not shown good faith. Despite repeated notices and warnings, they have failed to comply with the Act and the Regulations, and there is evidence that respondent Hightower has threatened to shoot animals rather than to provide them with veterinary care, and has made veiled threats to USDA personnel.

4. APHIS conducted inspections of respondents' facilities, records and animals on June 14, 2011; May 31, June 28, and November 28, 2012; January 10, May 1, July 24, August 28, and December 17, 2013; June 4, July 15, and September 30, 2014; and January 13, May 20, and June 25, 2015. APHIS documented noncompliance with the Regulations on each of these occasions.

ALLEGED VIOLATIONS

5. On November 28, 2012, respondents willfully violated the Act and the Regulations, 7 U.S.C. § 2146(a), 9 C.F.R. § 2.126, by failing to permit APHIS inspectors to conduct an inspection of their records, and/or failing to have a responsible person available to provide APHIS inspectors with access to the facility's records.

6. On or about May 20, 2015, respondents willfully violated the Regulations (9 C.F.R. § 2.40(a)(2)) by failing to ensure that their attending veterinarian had appropriate authority to

ensure the provision of adequate veterinary care, and specifically, respondents failed to follow or to implement the recommendations of their attending veterinarian with respect to the diet to be fed to a lion and four tigers.

7. On or about the following dates, respondents 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 care to animals, and/or failing to establish and maintain programs of veterinary care that included the availability and use of appropriate methods to prevent and treat disease and injury, regular communication with respondent's attending veterinarian and daily observation of animals:

- a. November 28, 2012. Respondents failed to obtain adequate veterinary care for a red deer buck with a puncture wound on its left hind quarter.
- b. July 24, 2013. Respondents failed to observe and obtain adequate veterinary care for a bear that had diarrhea (loose stool).
- c. July 24, 2013. Respondents failed to obtain follow-up veterinary care for a black leopard with hair loss, swelling and exudate around its eyes.
- d. July 24, 2013. Respondents failed to administer prescribed worming medicine to felids and canids.
- e. June 4, 2014. Respondents failed to have an attending veterinarian evaluate a bear that was observed to be panting and salivating excessively.
- f. July 15, 2014. Respondents failed to have an attending veterinarian examine and provide veterinary care to a tiger (Misha) with a visibly-bloody cut on her left cheek.
- g. May 20, 2015. Respondents failed to have an attending veterinarian

examine and provide veterinary care to a tiger (Misha) who had been noticed with visible weight loss on February 1, 2015, and had not been seen by a veterinarian or received veterinary care since then, and was observed during inspection to be visibly emaciated. Misha was also observed during inspection to have numerous insect bites on her ears, and had not been seen by a veterinarian or received medical treatment.

h. May 20, 2015. Respondents failed to have an attending veterinarian examine and provide veterinary care to four bears, notwithstanding the presence of vomit and diarrhea in the bears' enclosure.

8. On or about July 24, 2013, respondents willfully violated the Regulations (9 C.F.R. § 2.75(b)(1)) by failing to make, keep, and maintain complete and accurate records of animals, specifically with respect to a cavy and two leopards.

9. On or about June 4, 2014, respondents willfully violated the Regulations governing the handling of animals, by failing to handle a male chimpanzee (Joe) as carefully as possible in a manner that does not cause trauma, stress, physical harm, or unnecessary discomfort, and by failing to handle Joe during exhibition so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between Joe and the public, and under conditions consistent with Joe's well-being, and specifically, respondents instructed their customers to feed Joe by throwing food into Joe's enclosure and permitted their customers to throw the food directly at Joe, causing an aggressive response from Joe, who would throw the food, and other material in the enclosure, back at the public. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1), 2.131(d)(1).

10. On or about January 13, 2015, respondents willfully violated the Regulations governing the handling of animals, by failing to handle a tigers as carefully as possible in a manner

that does not cause trauma, stress, physical harm, or unnecessary discomfort, and by failing to handle the tigers during exhibition so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the tigers and the public, and under conditions consistent with the tigers' well-being, and specifically, respondents permitted their customers to feed the tigers. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1), 2.131(d)(1).

11. On or about July 24, 2013, and June 4, 2014, respondents willfully violated the Regulations by failing to take appropriate measures to alleviate the impact of climatic conditions on the health or well-being of bears, and specifically, (1) on July 24, 2013, while the temperature was above 90 degrees Fahrenheit, respondents housed three black bears in an enclosure that contained a single horse water trough that could barely accommodate one bear, and the trough only contained a few inches of water; and (2) on June 4, 2014, respondents housed bears in an enclosure containing a den with an uninsulated metal roof, and at the time of inspection (11:00 a.m.), the temperature of the den floor measured 79° Fahrenheit, and the temperature of the den ceiling measured 150° Fahrenheit. 9 C.F.R. § 2.131(e).

12. On or about November 28, 2012, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum standards promulgated under the Act, 9 C.F.R. Part 3 (Standards), as follows:

a. Respondents housed a chimpanzee in an enclosure with a support bar that was bent outwardly from the bottom of the resting platform, and could cause injury to the chimpanzee. 9 C.F.R. § 3.75(a).

b. Respondents housed macaques in an enclosure with climbing structures that were in disrepair, and specifically, the structures were rotting and unstable and could cause

injury to the macaques. 9 C.F.R. § 3.75(a).

c. Respondents housed a macaque (Marcel) in an enclosure that contained a broken blue hexagon with jagged edges and loose pieces that presented a hazard to the macaque. 9 C.F.R. § 3.75(a).

d. Respondents housed a Himalayan bear in an enclosure in which the bottom of the guillotine door was rusted and in disrepair, with jagged edges that could injure the bear. 9 C.F.R. § 3.125(a).

e. Respondents housed two tigers (Misha and Sultan) in an enclosure with unsecured feeding doors that could be avenues for escape. 9 C.F.R. § 3.125(a).

f. Respondents housed deer in an enclosure that was in disrepair, and did not contain the animals, and an APHIS inspector observed that the deer were between the perimeter fence and the primary fence. 9 C.F.R. § 3.125(a).

g. Respondents housed a fawn in an enclosure that lacked sufficient lighting to permit routine inspection. 9 C.F.R. § 3.126(c).

h. Respondents housed tigers in an enclosure that was not surrounded by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

i. Respondents housed red deer in an enclosure that was not surrounded by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

j. Respondents' storage room was cluttered with trash and supplies and could provide harborage for pests. 9 C.F.R. § 3.131(c).

k. Respondents housed two red deer bucks in the same enclosure, and an APHIS inspector observed the two animals fighting and that the smaller animal had

sustained a puncture wound. 9 C.F.R. § 3.133.

1. Respondents failed to employ an adequate number of trained employees. 9 C.F.R. §§ 3.85, 3.132.

13. On or about January 10, 2013, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents continued to house macaques in an enclosure with climbing structures that were in disrepair, and specifically, the structures were rotting and unstable and could cause injury to the macaques. 9 C.F.R. § 3.75(a).

b. Respondents continued to house a nonhuman primate (Marcel) in an enclosure that contained a broken blue hexagon with jagged edges and loose pieces that presented a hazard to the nonhuman primate. 9 C.F.R. § 3.75(a).

c. Respondents continued to house nonhuman primates (Chico and Marcel) in enclosures that contained broken blue hexagons with jagged edges and loose pieces that presented a hazard to the animals. 9 C.F.R. § 3.75(a).

d. Respondents continued to house deer in an enclosure that was in disrepair, and did not contain the animals, and an APHIS inspector observed that the deer were between the perimeter fence and the primary fence. 9 C.F.R. § 3.125(a).

e. Respondents continued to house a fawn in an enclosure that lacked sufficient lighting to permit routine inspection. 9 C.F.R. § 3.126(c).

f. Respondents continued to house tigers in an enclosure that was not surrounded by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

g. Respondents continued to house red deer in an enclosure that was not

surrounded by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

h. Respondents continued to maintain trash and clutter in respondents' storage room, and an APHIS inspector observed roaches on the floors and shelves. 9 C.F.R. § 3.131(c).

14. On or about May 1, 2013, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, and specifically, respondents continued to house a nonhuman primate (Marcel) in an enclosure that contained a broken blue hexagon toy that had jagged edges and loose pieces which could harm the nonhuman primate. 9 C.F.R. § 3.75(a).

15. On or about July 24, 2013, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents continued to house a chimpanzee (Joe) in an enclosure with a cracked wooden climbing structure that could cause him injury. 9 C.F.R. § 3.75(a).

b. Respondents continued to house nonhuman primates (Elmo and Chico) in an enclosure with climbing structures that were in disrepair, with exposed nails that presented a hazard to the nonhuman primates. 9 C.F.R. § 3.75(a).

c. Respondents housed nonhuman primates (rhesus macaques, grey-cheeked mangabey, and Japanese macaque) in enclosures that were not constructed and maintained in a manner that permitted them to be sanitized as required. 9 C.F.R. § 3.80(a)(2)(ix).

d. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of non-human primates, and respondents failed to provide adequate, or meaningful, enrichment to the chimpanzee at respondents' facility, and respondents failed to follow their own enrichment

plan. 9 C.F.R. § 3.81.

e. Respondents failed to keep a food receptacle for nonhuman primates clean and sanitized to minimize contamination, and the produce bucket was rusted and deteriorated. 9 C.F.R. § 3.82(d).

f. Respondents failed to remove uneaten food and food waste from the enclosures housing rhesus macaques, grey-cheeked mangabey, and Japanese macaques. 9 C.F.R. § 3.84(a).

g. Respondents failed to establish and maintain an effective program of pest control, and specifically, there were roach infestations in the enclosures housing rhesus macaques, grey-cheeked mangabey, and Japanese macaques. 9 C.F.R. § 3.84(d).

h. Respondents housed two bobcats in an enclosure containing a shredded blanket and an exposed nail, which presented a hazard to the animals. 9 C.F.R. § 3.125(a).

i. Respondents housed black bears in an enclosure containing a rusted and deteriorated metal bar, and a cement pool that had cracked, exposing wire. 9 C.F.R. § 3.125(a).

j. Respondents housed prairie dogs in an enclosure with an opening over the door, through which the prairie dogs could escape or other animals could enter the enclosure. 9 C.F.R. § 3.125(a).

k. Respondents housed a tiger (Tigger) and a lion (Rainbow) in an enclosure with a deteriorated fence post. 9 C.F.R. § 3.125(a).

l. Respondents housed two tigers (Sultan and Misha) in an enclosure with an unsecured feeding door. 9 C.F.R. § 3.125(a).

- m. Respondents housed two tigers (Special and Kryptonite) in an enclosure with detached fencing. 9 C.F.R. § 3.125(a).
- n. Respondents stored food supplies (potatoes) uncovered, and on a rusted and flaking rack. 9 C.F.R. § 3.125(c).
- o. Respondents housed black bears in an enclosure that lacked sufficient lighting to permit routine inspection of the bears' den. 9 C.F.R. § 3.126(c).
- p. Respondents failed to provide an adequate method to drain excess water from enclosures housing tigers (Special, Kryptonite, Misha, Sultan, and Magoo). 9 C.F.R. § 3.127(c).
- q. Respondents failed to provide an adequate method to drain excess water from enclosures housing grey fox. 9 C.F.R. § 3.127(c).
- r. Respondents failed to provide exotic felids with wholesome food to maintain them in good health, and prepared with consideration for their species, ages, and size. 9 C.F.R. § 3.129(a).
- s. Respondents failed to remove excreta from the coyote and bobcat enclosures, as required. 9 C.F.R. § 3.131(a).
- t. Respondents failed to keep the enclosure for black bears clean and in good repair, and there was an excessive amount of hair, cobwebs and dust on the ceiling, floor, and elevated surface, and the enclosure was ringed by an overgrowth of bamboo. 9 C.F.R. § 3.131(c).
- u. Respondents failed to keep the enclosure for coyotes clean, and the enclosure was soiled and covered in dust. 9 C.F.R. § 3.131(c).

v. Respondents failed to keep enclosures for a cavy clean, and there was an excessive amount of scrap bamboo pieces that impeded the cavy's movement. 9 C.F.R. § 3.131(c).

w. Respondents failed to keep the food prep room clean and in good repair, and the ceiling insulation was deteriorated and insulation particles had fallen throughout the room, including onto the prep areas. 9 C.F.R. § 3.131(c).

x. Respondents failed to establish and maintain an effective program of pest control, and specifically, there was a roach infestation in the black bear enclosure. 9 C.F.R. § 3.131(d).

y. Respondents failed to employ an adequate number of trained employees. 9 C.F.R. §§ 3.85, 3.132.

16. On or about August 28, 2013, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents failed to establish and maintain an effective program of pest control, and specifically, there was a roach infestation in the enclosure housing rhesus macaques. 9 C.F.R. § 3.84(d).

b. Respondents housed black bears in an enclosure containing an old cement pool filled with an excessive amount of scrap bamboo and other debris. 9 C.F.R. § 3.125(a).

c. Respondents housed a tiger (Magoo) in an enclosure with an unsecured feeding door. 9 C.F.R. § 3.125(a).

d. Respondents failed to ensure that bobcats had accessible potable water, and

failed to keep the water receptacles for bobcats clean and sanitary. 9 C.F.R. § 3.130.

e. Respondents continued to fail to keep the enclosure for black bears clean and in good repair, and there was an excessive amount of hair, cobwebs and dust on the ceiling, floor, and elevated surface, and the enclosure was ringed by an overgrowth of bamboo. 9 C.F.R. § 3.131(c).

f. Respondents continued to fail to keep the food prep room clean and in good repair, and the ceiling insulation was deteriorated and insulation particles had fallen over the room. 9 C.F.R. § 3.131(c).

17. On or about December 17, 2013, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents failed to clean and sanitize the surfaces of housing facilities for nonhuman primates as required, and specifically, the enclosures for rhesus macaques, Japanese snow macaques, crested black ape, and grey-cheeked mangabey had caked mud and debris, and had not been cleaned as required. 9 C.F.R. § 3.75(c)(3).

b. Respondents failed to remove food and animal waste from the enclosure housing foxes. 9 C.F.R. § 3.125(d).

18. On or about June 4, 2014, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents failed to ensure that the surfaces of housing facilities for nonhuman primates (a chimpanzee (Joe), rhesus macaques, and a bonnet macaque) were free of excessive rust. 9 C.F.R. § 3.75(c)(1)(i).

b. Respondents failed to ensure that the surfaces of objects (toys) within

housing facilities for nonhuman primates (lemurs, a chimpanzee (Joe), rhesus macaques, and a bonnet macaque) were free of excessive rust. 9 C.F.R. § 3.75(c)(2).

c. Respondents failed to clean and sanitize enclosures for nonhuman primates (rhesus macaques, and a bonnet macaque) as required. 9 C.F.R. § 3.75(c)(3).

d. Respondents failed to remove trash and clutter from the enclosure housing a chimpanzee (Joe). 9 C.F.R. § 3.84(c).

e. Respondents failed to establish and maintain an effective pest control program, and flies were observed inside the enclosure housing a chimpanzee (Joe), and swarming in and around the stall adjacent to Joe's enclosure. 9 C.F.R. § 3.84(c).

f. Respondents housed bears and tigers (Special, Kryptonite, Misha, and Sultan) in enclosures with holes that could permit the entrance of other animals or could cause injury to the bears or tigers. 9 C.F.R. § 3.125(a).

g. Respondents housed bears in an enclosure with a cement pool that had exposed, rusted wire. 9 C.F.R. § 3.125(a).

h. Respondents housed tigers (Special, Kryptonite, Misha, and Sultan) in an enclosure containing a platform with exposed pieces of jagged wood that could injure the animals. 9 C.F.R. § 3.125(a).

i. Respondents housed a black leopard (Jack) in an enclosure with a rusted and broken primary fence, and a degraded wood platform that had lost its structural strength. 9 C.F.R. § 3.125(a).

j. Respondents housed black leopards in an enclosure with a degraded wood platform that had lost its structural strength. 9 C.F.R. § 3.125(a).

k. Respondents housed a coatimundi in an enclosure with a degraded wood platform that had lost its structural strength. 9 C.F.R. § 3.125(a).

l. Respondents housed grey foxes in an enclosure with a fence post that was rusted and pitted, reducing its structural strength. 9 C.F.R. § 3.125(a).

m. Respondents failed to remove food and animal waste from the enclosure housing caviés. 9 C.F.R. § 3.125(d).

n. Respondents failed to provide an adequate method to drain excess water from the enclosure housing two tigers (Special and Kryptonite). 9 C.F.R. § 3.127(c).

o. Respondents failed to provide an adequate method to drain excess water from the enclosure housing a tiger (Magoo). 9 C.F.R. § 3.127(c).

p. Respondents failed to keep food receptacles for bears clean and sanitary. 9 C.F.R. § 3.129(a).

q. Respondents failed remove excreta from the enclosure housing grey foxes as often as necessary. 9 C.F.R. § 3.131(a).

r. Respondents failed to keep the premises clean and in good repair, and to remove trash outside of the enclosure housing bears. 9 C.F.R. § 3.131(c).

s. Respondents failed to employ an adequate number of trained employees. 9 C.F.R. §§ 3.85, 3.132.

19. On or about July 15, 2014, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents failed to ensure that the surfaces of objects (toys) within housing facilities for nonhuman primates (lemurs, rhesus macaques, and a bonnet

macaque) were clean and sanitary, or replaced when worn or soiled. 9 C.F.R. § 3.75(c)(2).

b. Respondents housed tigers (Misha, and Sultan) in an enclosure containing holes that could injure the animals. 9 C.F.R. § 3.125(a).

c. Respondents housed bears in an enclosure containing holes that could injure the animals. 9 C.F.R. § 3.125(a).

d. Respondents failed to provide an adequate method to drain excess water from the enclosure housing two tigers (Special and Kryptonite). 9 C.F.R. § 3.127(c).

e. Respondents failed to provide an adequate method to drain excess water from the enclosure housing bears. 9 C.F.R. § 3.127(c).

n. Respondents failed to provide an adequate method to drain excess water from the enclosure housing a tiger (Magoo). 9 C.F.R. § 3.127(c).

20. On or about September 30, 2014, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of non-human primates, and respondents failed to provide adequate, or meaningful, enrichment to a singly-housed snow macaque (Mojo) at respondents' facility. 9 C.F.R. § 3.81.

b. Respondents housed a bobcat in an enclosure that had excessively rusted fencing. 9 C.F.R. § 3.125(a).

21. On or about January 13, 2015, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents housed two lemurs in an enclosure with a support bar that was

rusted throughout, compromising the structural integrity of the enclosure and presenting a hazard to the lemurs. 9 C.F.R. § 3.75(c)(1)(i).

b. Respondents failed to ensure that the surfaces of objects (toys) within housing facilities for nonhuman primates were clean and sanitary, or replaced when worn or soiled. 9 C.F.R. § 3.75(c)(2).

c. Respondents housed two lemurs, two rhesus macaques, and one bonnet macaque in outdoor enclosures that were not enclosed by an adequate perimeter fence. 9 C.F.R. § 3.78(d).

d. Respondents failed to keep the food receptacle for a raccoon clean and sanitary. 9 C.F.R. § 3.129(b).

e. Respondents failed to maintain the water receptacle for a grey fox clean and sanitary. 9 C.F.R. § 3.130.

f. Respondents housed a lion in an enclosure that contained an excessive amount of feces. 9 C.F.R. § 3.131(a).

g. Respondents housed a grey fox in an enclosure that contained an excessive amount of feces. 9 C.F.R. § 3.131(a).

h. Respondents failed to employ an adequate number of trained employees. 9 C.F.R. §§ 3.85, 3.132.

22. On or about May 20, 2015, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents continued to house two lemurs in an enclosure with a support bar that was rusted throughout, compromising the structural integrity of the enclosure and

presenting a hazard to the lemurs. 9 C.F.R. § 3.75(c)(1)(i).

b. Respondents continued to house two lemurs, two rhesus macaques, and one bonnet macaque in outdoor enclosures that were not enclosed by an adequate perimeter fence. 9 C.F.R. § 3.78(d).

c. Respondents housed a chimpanzee (Joe) in an enclosure that had not been regularly or adequately cleaned. 9 C.F.R. § 3.84(b)(2).

d. Respondents housed a coyote, four deer, and six Patagonian cavies in enclosures that were in disrepair. 9 C.F.R. § 3.125(a).

e. Respondents continued to house bobcats in an enclosure that had excessively rusted fencing. 9 C.F.R. § 3.125(a).

f. Respondents houses four bears, a lion, and four tigers in enclosures that had overgrown bamboo adjacent to the enclosures' fencing, which effectively reduced the height of the enclosures, and provided a potential avenue of escape for the animals. 9 C.F.R. § 3.125(a).

g. Respondents housed six Patagonian cavies and four red deer in enclosures to lacked adequate shelter from inclement weather. 9 C.F.R. § 3.127(b).

h. Respondents housed two leopards in an enclosure that was not surrounded by an adequate perimeter fence. 9 C.F.R. § 3.127(d).

i. Respondents housed six Patagonian cavies in enclosures that did not provide each of the animals with adequate space. 9 C.F.R. § 3.128.

j. Respondents failed to provide wholesome, nutritious food to a lion and four tigers, and failed to prepare their diet with consideration for their species, and in accordance

with the feeding plan established by respondents' attending veterinarian and consistent with professionally-accepted practices. 9 C.F.R. § 3.129(a).

k. Respondents failed to maintain the food receptacles for a racoon and four bears clean and sanitary. 9 C.F.R. § 3.129(b).

l. Respondents used PVC pipes to funnel food into the enclosures housing one raccoon, four bears, one lion, and four tigers, and the PVC pipes were inadequately cleaned and each was covered with a brownish-green film that could contaminate the animals' food. 9 C.F.R. § 3.129(b).

m. Respondents housed three bobcats and four bears in enclosures that contained an excessive amount of feces. 9 C.F.R. § 3.131(a).

n. Respondents housed four bears, a lion, and four tigers in enclosures that contained excessively overgrown foliage and plants, which provided harborage for pests, and impeded the ability of APHIS inspectors to visually observe the animals contained in those enclosures. 9 C.F.R. § 3.131(c).

o. Respondents failed to keep the premises in and adjacent to enclosures housing four bears, four tigers, four deer, and nonhuman primates clean and in good repair, and free of accumulations of trash. 9 C.F.R. §§ 3.84(c), 3.131(c).

p. Respondents' food preparation room had exposed ceiling insulation that was deteriorated, resulting in particles of insulation material falling onto the food preparation areas. 9 C.F.R. §§ 3.84(c), 3.131(c).

q. Respondents failed to establish and maintain an adequate pest control program. 9 C.F.R. §§ 3.84(d), 3.131(d).

r. Respondents failed to employ an adequate number of trained employees. 9 C.F.R. §§ 3.85, 3.132.

23. On or about June 25, 2015, respondents willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the minimum Standards, as follows:

a. Respondents continued to house two lemurs, two rhesus macaques, and one bonnet macaque in outdoor enclosures that were not enclosed by an adequate perimeter fence. 9 C.F.R. § 3.78(d).

b. Respondents continued to house a chimpanzee (Joe) in an enclosure that had not been regularly or adequately cleaned. 9 C.F.R. § 3.84(b)(2).

c. Respondents failed to keep the premises adjacent to the enclosure housing a chimpanzee (Joe) clean and free from accumulations of trash, junk, waste, and discarded matter. 9 C.F.R. § 3.84(c).

d. Respondents housed six Patagonian cavies in an enclosure that was in disrepair. 9 C.F.R. § 3.125(a).

e. Respondents housed a lion (Rainbow) in an enclosure that had overgrown bamboo adjacent to the enclosure's fencing, which effectively reduced the height of the enclosure, and provided a potential avenue of escape for the lion. 9 C.F.R. § 3.125(a).

f. Respondents used PVC pipe to funnel food into the enclosure housing four bears, and the PVC pipe was inadequately cleaned and was covered with a brownish-green film that could contaminate the animals' food. 9 C.F.R. § 3.129(b).

g. Respondents housed a chinchilla in an enclosure that contained an excessive amount of feces. 9 C.F.R. § 3.131(a).

h. Respondents' food preparation room had exposed ceiling insulation that was deteriorated, resulting in particles of insulation material falling onto the food preparation areas. 9 C.F.R. §§ 3.84(c), 3.131(c).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the Regulations, this amended complaint shall be served upon the respondents. The respondents 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 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this amended complaint. APHIS requests that this proceeding be conducted in conformance 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.

Respectfully submitted,


Colleen A. Carroll
Attorney for Complainant