

UNITED STATES DEPARTMENT OF AGRICULTURE 2015 OCT 13 PM 2:00

BEFORE THE SECRETARY OF AGRICULTURE

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16-0007

In re:)	AWA Docket No. 15-00 _____
)	
CINDY BARDIN, an individual doing)	
business as JUNGLE EXPERIENCE and)	
EXOTIC ANIMAL EXPERIENCE,)	
)	
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.)(AWA or Act), and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Cindy Bardin is an individual doing business as Jungle Experience, and whose mailing address is 6603 State Route 149, Granville, New York 12832. At all times mentioned herein, said respondent operated as an exhibitor, as that term is defined in the Act and the Regulations and held Animal Welfare Act license number 21-C-0319 as an "individual."

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

2. Respondent operates a zoo, as that term is defined in the Regulations. In 2012, respondent represented to APHIS that she held 24 animals, and in 2014, respondent represented to APHIS that she held 19 animals. The violations alleged in the instant complaint are serious, and involve repeated instances of noncompliance over an extended period of time. On or about May 31, and June 1, 2013, respondent acted in concert with, and as a surrogate exhibitor for, Jeffrey W. Ash, whose AWA license was terminated in September 2012, and participated in activities designed to

circumvent the Secretary's order terminating Mr. Ash's license.

3. Respondent has a history of previous violations of the Regulations. On April 16, 2013, Administrative Law Judge Janice K. Bullard filed a consent decision and order in *In re Cindy Bardin, dba Jungle Experience*, AWA Docket No. 12-0428, in which the Judge found that respondent committed no fewer than nineteen violations of the Regulations, including violations of the veterinary care, handling, and record-keeping Regulations. On May 9, 2011, respondent was convicted of three counts of violating New York state laws governing animals, specifically Environmental Conservation Law (ECL) sections 71-4001(a)(license violations) and 180(1)(b)(possession of an African lion without a permit).

FAILURE TO OBEY CEASE AND DESIST ORDER

4. In the consent decision and order in *In re Cindy Bardin, dba Jungle Experience*, AWA Docket No. 12-0428, Administrative Law Judge Janice K. Bullard ordered the respondent to cease and desist from violating the Act and the Regulations and Standards. On each of the dates set forth herein, respondent knowingly failed to obey that cease and desist order, and respondent is subject to a civil penalty of \$1,650 "for each offense, and each day during which such failure continues shall be deemed a separate offense." 7 U.S.C. § 2149(b); 7 C.F.R. § 3.91.

ALLEGED VIOLATIONS

5. On or about May 28, 2013, and January 21, 2015, respondent failed to have a responsible person available to accompany APHIS inspectors on an inspection, in willful violation of the Act and the Regulations. 7 U.S.C. § 2146(a), 9 C.F.R. § 2.126.

6. On or about May 7, 2013, respondent failed to employ an attending veterinarian under formal arrangements that included a written program of veterinary care and regularly scheduled visits to the facility, and specifically, respondent's written program of veterinary care did

not identify all of the species of animals at respondent's facility, and did not specify the frequency of veterinary visits to the premises, in willful violation of the Regulations. 9 C.F.R. § 2.40(a)(1).

7. On or about the following dates, respondent failed to maintain accurate and complete records of the acquisition and disposition of the following animals, in willful violation of the Regulations (9 C.F.R. § 2.75(b)):

a. May 7, 2013. One silver fox, one red fox, one hybrid fox, one black bear, one lemur, one fennec fox, and one cougar.

b. February 11 and February 20, 2014. One pot-bellied pig, two coatimundi, three prairie dogs, and one Canadian lynx.

8. On or about the following dates, respondent willfully violated the handling Regulations, as follows:

a. On or about May 31, 2013, at Six Flags' Great Escapes Theme Park, in Queensbury, New York, respondent failed to handle animals as carefully as possible in a manner that would not cause overheating, physical pain, stress, or discomfort, in willful violation of the Regulations, and specifically, respondent exhibited an infant (two-week old) arctic fox in an manner that caused the fox to overheat, and to suffer physical pain, stress and discomfort, and the arctic fox died later that day. 9 C.F.R. § 2.131(b)(1).

b. On or about May 31, 2013, at Six Flags' Great Escapes Theme Park, in Queensbury, New York, respondent exhibited animals, including an infant arctic fox, for periods of time and under conditions that were inconsistent with the animals' good health and well-being, in willful violation of the Regulations. 9 C.F.R. § 2.131(d)(1).

c. On or about May 31, 2013, at Six Flags' Great Escapes Theme Park, in Queensbury, New York, respondent failed to take appropriate measures to alleviate the

impact of climatic conditions that presented a threat to the health of an infant arctic fox, in willful violation of the Regulations, and said respondent subjected the fox to a combination of temperature and time that was detrimental to the animal's health and well-being. 9 C.F.R. § 2.131(e).

9. On or about the following dates, respondent willfully violated the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum Standards, as follows:

a. January 11, 2013. There was exposed insulation in the ceiling of the small animal building. 9 C.F.R. § 3.125(a).

b. January 11, 2013. There was an accumulation of trash near the small animal building that could serve as a harbor for pests. 9 C.F.R. § 3.131(c).

c. May 7, 2013. Respondent failed to develop, document, and follow an appropriate plan for environmental enhancement to promote the psychological well-being of nonhuman primates, and specifically, respondent's plan did not address social groupings, or the history, socialization attempts, or efforts to meet the needs of seven singly-housed nonhuman primates. 9 C.F.R. § 3.81(a).

d. May 7, 2013. Respondent housed the following animals in enclosures that were not structurally sound and/or in disrepair and/or would not contain the animals (9 C.F.R. § 3.125(a)):

i. The roof of the shelter structure in the pot-bellied pig enclosure had significant wood rot.

ii. The wooden den box for bears was in disrepair, and the front wall had visible holes and jagged edges, the roof had significant wood rot, and the wood plank flooring was loose.

- iii. The tiger enclosure had a gap between two hog panels through which the tiger could extend a paw.
- iv. A wood frame of a gate in the tiger enclosure was deteriorating.
- e. May 7, 2013. Respondent failed to enclose housing facilities for animals by a perimeter fence, as required (9 C.F.R. § 3.127(d)):
 - i. The back wall of the enclosures housing silver fox, hybrid fox, red fox, Siberian fox, African Crested porcupine and pot-bellied pig, which serve as perimeter fencing, have gaps that could permit the ingress of persons or animals.
 - ii. The perimeter fence post adjacent to the black bear enclosure is set into a cement block that has been split, causing the perimeter fence to lean towards the parking lot.
 - iii. The plastic lattice above the perimeter fencing behind the black bear enclosure was detached from the support post and was sagging.
 - iv. The perimeter fence behind the lion enclosure was constructed of wire attached to vertical wood posts, two of which were unsecured and leaning, causing the wire to sag.
- f. May 7, 2013. There was an accumulation of stored items between the lion den box and the perimeter fence. 9 C.F.R. § 3.131(c).
- g. May 7, 2013. The cement water trough to the right of the door in the Syrian bear enclosure contained an accumulation of dirt, mud, and dirty water. 9 C.F.R. §§ 3.130, 3.131(c).
- h. June 24, 2013. The enclosures housing foxes and African Crested porcupine have exposed chainlink fencing, wire mesh and metal grates at the substrate of the

enclosures. 9 C.F.R. § 3.125(a).

i. June 24, 2013. The plywood roof on the enclosure housing the baboon has become damaged. 9 C.F.R. § 3.125(a).

j. June 24, 2013. There were blood-soaked paper towels and frozen blood in the bottom of the freezer used for storing meat, and respondent was defrosting a box of frozen meat on top of the freezer, resulting in blood puddling underneath the box. 9 C.F.R. § 3.125(c).

k. June 24, 2013. There was an accumulation of debris, hay, tools, and supplies beneath the counters in the food storage area. 9 C.F.R. § 3.125(c).

l. June 24, 2013. There was green algae and debris in the water receptacle for lions. 9 C.F.R. § 3.130.

m. February 11, 2014. The water receptacle for a Flemish giant rabbit contained algae. 9 C.F.R. § 3.55.

n. February 11, 2014. Respondent housed a capuchin in an enclosure that had a plastic board on one of the walls, which board was damaged and had jagged edges. 9 C.F.R. § 3.75(c)(1).

o. February 11, 2014. Respondent housed the following animals in enclosures that were not structurally sound and/or in disrepair and/or would not contain the animals (9 C.F.R. § 3.125(a)):

i. The red fox enclosure was in disrepair, and had a gap in the chain link fencing that permitted the fox to have access to an area next to the perimeter fencing.

ii. The African Crested porcupine was housed in an enclosure that had a gap in the wood wall with jagged edges.

p. February 11, 2014. There was an accumulation of debris, hay, tools, and supplies beneath the counters in the food storage area, and food supplies were not stored in a manner that would protect them against deterioration, molding or contamination by vermin. 9 C.F.R. § 3.125(c).

q. February 11, 2014. Respondent failed to provide adequate shelter from the elements for a lion and two servals housed outdoors. 9 C.F.R. § 3.127(b).

r. February 11, 2014. Respondent's male lion and female cougar were extremely thin, and respondent was not providing these animals with food of sufficient quantity and nutritive value. 9 C.F.R. § 3.129(a).

s. February 11, 2014. Respondent failed to provide potable water to a red fox, black bear, lion, red fox, silver fox, and servals, and the water receptacle for the lion was not kept clean and sanitary. 9 C.F.R. § 3.130.

t. February 11, 2014. The warm barn was not kept clean and contained accumulations of extraneous items. 9 C.F.R. § 3.131(c).

u. February 20, 2014. Respondent's male lion and female cougar remain extremely thin, indicating non-adherence to the veterinarian's recommended diet and feeding schedule. 9 C.F.R. § 3.129(a).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, 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 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

APHIS requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity 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 8th day of ~~July~~ Oct 2015



Administrator
Animal and Plant Health Inspection Service

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