

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

..... X
In the Matter of the Violations of the New York State
Environmental Conservation Law Article 11 and Parts 175 and
182 of Title 6 of the Official Compilation of Codes, Rules, and
Regulations of the State of New York, by:

ORDER ON CONSENT

GRANT KEMMERER, III,
WILD WORLD OF ANIMALS and
GRANT KEMMERER, III doing business as
WILD WORLD OF ANIMALS

File No. R1-20180119-44

Respondents.

..... X

WHEREAS:

1. The Department of Environmental Conservation of the State of New York ("NYSDEC" or "Department") is and has been a Department of the State of New York, charged with jurisdiction to enforce the environmental laws of the State pursuant to §3-0301 of the Environmental Conservation Law of the State of New York ("ECL"); and
2. The Department is responsible for the administration and enforcement of laws and regulations regarding the promotion and coordination of management of wildlife to assure their protection in the State of New York, as provided in Article 11 of the ECL and 6 NYCRR Parts 175 and 182; and
3. Department staff has documented that at all times relevant herein, Respondents GRANT KEMMERER, III, WILD WORLD OF ANIMALS ("WWA") and GRANT KEMMERER, III doing business as WWA (collectively referred to herein as "Respondents") conduct a traveling educational/outreach wildlife show, with their primary business location and animal housing at 15 Short Cut Road, Eighty Four, Pennsylvania 15330 ("Facility"); and
4. Respondents were issued DEC Dangerous Wildlife License #159 ("WL #159"), valid through April 2, 2017; and
5. Respondents were issued DEC Endangered/Threatened Species – Education/Exhibition License #403 ("ETSEE #403"), valid through May 17, 2018; and
6. Respondents were issued DEC License to Collect or Possess – Education/Exhibition License #651 ("LCPEE #651"), valid through January 21, 2019; and
7. ECL §11-0538(1)(a) defines "big cat" as "any live species of lion (*panthera leo*), tiger (*panthera tigris*), leopard (*panthera pardus*) (with the exception of clouded leopards (*neofelis nebulosa*)), jaguar (*panthera onca*), mountain lion, sometimes called cougar (*felis concolor*) or any hybrid of such species"; and

8. ECL §11-0538(1)(b) defines “direct contact” as physical contact or proximity where physical contact is possible, including, but not limited to, allowing a photograph to be taken without a permanent physical barrier designed to prevent physical contact between the public and big cats”; and
9. ECL §11-0538(2) states “It shall be unlawful for any person licensed or required to be licensed as an exhibitor or dealer pursuant to the Animal Welfare Act, 7 USC 2132 - 2134, including agents or employees of such person, to knowingly allow the public to have direct contact with a big cat”; and
10. ECL §11-0511 states “Subject to the provisions of section 11-0512 of this article, no person shall, except under a license or permit first obtained from the department containing the prominent warning notice specified in subdivision nine of section 11-0917 of this article, possess, transport or cause to be transported, imported or exported any ... endangered species designated pursuant to section 11-0535 of this title, species named in section 11-0536 of this title or other species of native or non-native live wildlife or fish where the department finds that possession, transportation, importation or exportation of such species of wildlife or fish would present a danger to the health or welfare of the people of the state ...”; and
11. ECL §71-0925(1) states “Unless another penalty is specifically provided for in this subdivision or elsewhere in the Fish and Wildlife Law, two hundred dollars (\$200) and an additional penalty of one hundred dollars (\$100) for each fish, bird or animal or part thereof, ... involved in the violation”; and
12. ECL §71-0925(13) states “... If the violation was an act prohibited by any regulation of the department promulgated pursuant to subdivision three of section 11-0535 of this chapter, then such penalty shall be not more than one thousand dollars (\$1,000), and an additional penalty of not more than two hundred dollars (\$200) for each fish, shellfish, crustacea, wildlife or part thereof involved in the violation”; and
13. 6 NYCRR §182.8(c) states “No person shall fail to comply with the terms or conditions contained in any permit issued pursuant to this Part [182] or Part 175 of this Title (Special Licenses)”; and
14. 6 NYCRR §182.16 states “Any person who violates this Part or any license, permit or order issued by the department pursuant to section 11-0535 of the Environmental Conservation Law or pursuant to the provisions of this Part may be liable for all penalties and other remedies provided for in the Environmental Conservation Law. Such penalties and remedies may be in addition to any other penalty or remedy available under any other law.”

FIRST VIOLATION

15. In or about August 2016, Respondents caused or allowed baby/juvenile tiger(s) to come into direct contact with people during a party at a private home located at [REDACTED] Melville, New York 11747 (the “Residence”), in violation of ECL §§11-0538(2) and -0511 and 6 NYCRR §182.8(c) and ETSEE #403 condition numbers 10, 12, 13.

SECOND VIOLATION

16. In or about August 2016, Respondents caused or allowed direct contact with a lion during a party at the Residence, in that a person was observed inside the outer fence barrier, in violation of ECL §§11-0538(2), 6 NYCRR §182.8(c), and WL #159 condition number 6.

THIRD VIOLATION

17. In or about October 2017, Respondents caused or allowed baby/juvenile tiger(s) to come into direct contact with people during a party at the Residence, in violation of ECL §§11-0538(2) and -0511 and 6 NYCRR §182.8(c) and ETSEE #403 condition number 10, 12, 13.

FOURTH VIOLATION

18. Respondents failed to disclose the 2016 tiger exhibition within its annual report, in violation of 6 NYCRR §182.8(c), WL #159 condition number 19, and ETSEE #403 condition number 21.

FIFTH VIOLATION

19. Respondents failed to disclose the 2016 lion exhibition within its annual report, in violation of 6 NYCRR §182.8(c), WL #159 condition number 19, and ETSEE #403 condition number 21.

NOW, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

- I. Cease and Desist. Respondents shall cease and desist from further violations of any provision of the ECL and implementing regulations, more particularly ECL Article 11 and Parts 175 and 182 of 6 NYCRR.
- II. Compliance. Respondents shall immediately comply with all state and local wildlife management laws, rules and regulations, including the Attachment A Compliance Schedule attached hereto.
- III. Civil Penalty. That with respect to the aforesaid violations, there is hereby imposed upon Respondents, a civil penalty in the sum of SEVEN THOUSAND THREE HUNDRED (\$7,300) DOLLARS, of which **FOUR THOUSAND (\$4,000) DOLLARS** is payable by CERTIFIED CHECK, BANK DRAFT or MONEY ORDER* made out to the "NYS Department of Environmental Conservation", and due upon Respondents' signing of this Order, with the remaining balance of THREE THOUSAND THREE HUNDRED (\$3,300) DOLLARS suspended provided that Respondents strictly adhere to the terms and conditions outlined in this Order, including Compliance Schedule A, annexed hereto.

*A check that is not bank certified will be returned to the Respondents and this matter will be deemed unresolved.

- IV. Submissions. All reports and submissions required in this Order and Attachment A attached hereto shall be made to Region One, New York State Department of Environmental Conservation, 50 Circle Road, Stony Brook University, Stony Brook, N.Y. 11790-3409, one copy each to the attention of: Bureau of Habitat and a copy addressed to the Regional Counsel at the same address, and also to Special Licenses Unit, New York State Department of Environmental Conservation, 625 Broadway, 5th Floor, Albany, New York 12233-4752. All communications will be considered submitted on the date of deposit with the U.S. Postal Service or delivery to a recognized carrier service.
- V. Reservation of Rights. The Department hereby reserves all its legal, administrative and equitable rights arising at common law or as granted to it pursuant to statute or regulation, including, but not limited to, any summary abatement powers of the Commissioner.
- VI. Modification. In those instances in which Respondents desire that any of the provisions, terms or conditions of this Order be changed, they shall make written application, setting forth the grounds for the relief sought, to the Commissioner, c/o Regional Counsel, 50 Circle Road, Stony Brook University, Stony Brook, NY 11790-3409. No change or modification to this Order shall become effective except as specifically set forth in writing and approved by the Commissioner or a duly authorized representative.
- VII. Default of Payment. The penalty assessed in the Order constitutes a debt owed to the State of New York. Failure to pay the assessed penalty, or any part thereof, in accordance with the schedule contained in the Order, may result in referral to the New York State Attorney General for collection of the entire amount owed (including the assessment of interest, and a charge to cover the cost of collecting the debt), or referral to the New York State Department of Taxation and Finance, which may offset any tax refund or other monies that may be owed to you by the State of New York by the penalty amount. Any suspended and/or stipulated penalty provided for in this Order will constitute a debt owed to the State of New York when and if such penalty become due.
- VIII. Access. For the purpose of monitoring and determining compliance with this Order, employees and agents of the Department shall be provided access to Respondents' Premises to inspect and/or perform such tests as the Department may deem appropriate, to copy such records, or to perform any other lawful duty or responsibilities, without prior notice of such inspection.
- IV. Indemnity. Respondents shall indemnify and hold harmless the Department, the State of New York, their representatives, employees, and agents for all claims, suits, actions, damages, and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of the provisions presented hereof by the Respondents, their directors, officers, employees, servants, agents, successors, or assigns.
- X. Future Compliance. Respondents shall conduct all wildlife management activities in strict conformance with Federal and New York State laws and regulations. For the purpose of ensuring compliance with this Order, duly authorized representatives of this Department shall be permitted access to the Premises during reasonable hours, in order to inspect and/or require such tests as may be deemed necessary to determine the status of Respondents' compliance herewith.

- XI. Binding Effect. The provisions, terms, and conditions of this Order, including Appendix A shall be deemed to bind Respondents and Respondents' agents, successors and assigns and all persons, firms and corporations acting under or for them.
- XII. Collection Costs/Fees. Respondents' failure to pay any penalty amounts due under the terms of this Order may result in a 22% surcharge in recovery costs and a potential tax refund offset by the Department of Taxation and Finance.
- XIII. Effective Date. The effective date of this Order shall be the date upon which it is signed by the Commissioner or the Commissioner's Designee on behalf of the Department.
- XIV. Special License Reinstatement. Concurrent with the full execution of this Order, the Department rescinds the Notice of Intent to Revoke License pertaining to ETSEE #403 and LCPEE #651, as issued on March 28, 2018. Respondents shall adhere to all requirements/procedures for proper licensure and renewal, as appropriate.
- XV. Unforeseen Events. Respondents shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if Respondent cannot comply with any requirements of the provisions hereof because of an Act of God, war, riot, or other catastrophe as to which negligence or willful misconduct on the part of Respondent was not foreseen or a proximate cause, provided, however, that Respondent shall immediately notify the Department in writing, when it obtains knowledge of any such condition and shall request an appropriate extension or modification of the provisions hereof; Respondent will adopt all reasonable measures to prevent or minimize any delay.
- XVI. Entire Agreement. This Order constitutes the entire agreement of the parties, and no provision of the agreement shall be deemed waived or otherwise modified without the written consent of the parties hereto or their lawfully designated successors.

DATED: Stony Brook, New York
 June 28, 2018

BASIL SEGGOS
Commissioner of Environmental Conservation

By: Carrie Meek Gallagher
CARRIE MEEK GALLAGHER
Regional Director

CONSENT BY BUSINESS ENTITY

Respondent WILD WORLD OF ANIMALS acknowledges the authority and jurisdiction of the Commissioner of the Department of Environmental Conservation of the State of New York to issue the foregoing Order, waives public hearing or other proceedings in the matter, accepts the terms and conditions set forth in the Order and consents to the issuance thereof and agrees to be bound by the provisions, terms and conditions contained therein.

Wild World of Animals
Respondent

By: [Signature]
Grant Kemmerer, III

Title: Owner

an individual duly authorized by the respondent business entity to sign on its behalf and whom may bind respondent to the terms and conditions contained herein.

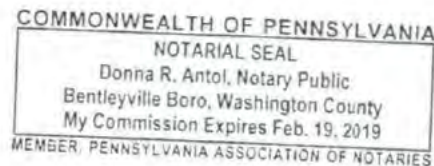
Date: 5/12/18

CORPORATE ACKNOWLEDGMENT

STATE OF PA)
COUNTY OF Washington) ss.:

On the 12 day of June in the year 2018, before me personally came Grant Kemmerer III, to me known, who, being duly sworn did depose and say that he resides at 15 Short Cut Rd Eighty Four Pa 15330, that he is the owner of Wild World of Animals, the corporation described herein and which executed the above instrument; and that he signed his name thereto with full authority so to do.

[Signature]
Notary Public



CONSENT BY INDIVIDUAL

Respondent GRANT KEMMERER, III acknowledges the authority and jurisdiction of the Commissioner of the Department of Environmental Conservation of the State of New York to issue the foregoing Order, waives public hearing or other proceedings in the matter, accepts the terms and conditions set forth in the Order and consents to the issuance thereof and agrees to be bound by the provisions, terms and conditions contained therein.

GRANT KEMMERER, III,
Respondent

Signature: _____

Full Home Address: _____

15 Short Cut Rd

Eighty Four, PA 15330

Date: _____

6 / 12 / 18

ACKNOWLEDGMENT

STATE OF PA)
COUNTY OF Washington) ss.:

On the 12 day of June in the year 2018, before me, the undersigned, GRANT KEMMERER, III, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his individual capacity.

Donna R Antol
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Donna R. Antol, Notary Public
Bentleyville Boro, Washington County
My Commission Expires Feb. 19, 2019
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

ATTACHMENT A
COMPLIANCE SCHEDULE
GRANT KEMMERER, III, WILD WORLD OF ANIMALS and
GRANT KEMMERER, III doing business as WILD WORLD OF ANIMALS
File No. R1-20180119-44

REGULATORY REQUIREMENTS:

- 1) Immediately: Respondents shall cease and desist from any and all violations of the ECL and the rules and regulations enacted pursuant thereto.
- 2) Immediately and ongoing: Respondents must submit, via email, with no less than seven (7) days advance notice (not to include the date of the event), of any appearances/exhibitions within the State of New York. Said notice shall be upon the attached form - FISH AND WILDLIFE EDUCATION/EXHIBITION REPORT FORM NOTICE OF UPCOMING EVENT, and shall be sent to SpecialLicenses@dec.ny.gov.
- 3) Exceptions may be made to the seven (7) day notice condition if Respondents are notified of a "last-minute" appearance, in which case the Department requires no less than 48 hours advance notice with 72 hour notice for Sunday appearances. Proof of the "last minute" appearance must accompany the attached form - FISH AND WILDLIFE EDUCATION/ EXHIBITION REPORT FORM NOTICE OF UPCOMING EVENT, and shall be sent to SpecialLicenses@dec.ny.gov.

NEW YORK STATE DEPARTMENT OF
ENVIRONMENTAL CONSERVATION

..... X

In the Matter of the Violations of the New York State
Environmental Conservation Law Article 11 and Parts 175 and
182 of Title 6 of the Official Compilation of Codes, Rules, and
Regulations of the State of New York, by:

**PENALTY
CALCULATION**

GRANT KEMMERER, III,
WILD WORLD OF ANIMALS and
GRANT KEMMERER, III doing business as
WILD WORLD OF ANIMALS

File No. R1-20180119-44

Respondents.

..... X

Penalties are assessed pursuant to Sections 71-0925(1) and 71-0925(13) of the ECL.

ECL §71-0925(1) states “Unless another penalty is specifically provided for in this subdivision or elsewhere in the Fish and Wildlife Law, two hundred dollars (\$200) and an additional penalty of one hundred dollars (\$100) for each fish, bird or animal or part thereof, ... involved in the violation”.

ECL §71-0925(13) states “ ... If the violation was an act prohibited by any regulation of the department promulgated pursuant to subdivision three of section 11-0535 of this chapter, then such penalty shall be not more than one thousand dollars (\$1,000), and an additional penalty of not more than two hundred dollars (\$200) for each fish, shellfish, crustacea, wildlife or part thereof involved in the violation”.

6 NYCRR §182.16 states “Any person who violates this Part or any license, permit or order issued by the department pursuant to section 11-0535 of the Environmental Conservation Law or pursuant to the provisions of this Part may be liable for all penalties and other remedies provided for in the Environmental Conservation Law. Such penalties and remedies may be in addition to any other penalty or remedy available under any other law.”

Violation	Statute/Regulation	Description of Violation	Penalty Assessed	Total
1	ECL §11-0538(2) ECL §11-0511 6 NYCRR §182.8(c) ETSEE #403 conditions 10, 12, 13	Respondents caused or allowed three (3) tigers to come into direct contact with people during a party at a private home in 2016	\$200 + \$300 under ECL §71-0925(1) \$1,000 + \$600 under ECL §71-0925(13)	\$ 500 1,600

2	ECL §11-0538(2) 6 NYCRR §182.8(c) WL #159 conditions 6, 9, 15	Respondents caused or allowed a lion to be exhibited during a party at a private home in 2016	\$200 + \$100 under ECL §71-0925(1)	300
			\$1,000 + \$100 under ECL §71-0925(13)	1,100
3	ECL §11-0538(2) and ECL §11-0511 6 NYCRR §182.8(c) ETSEE #403 conditions 10, 12, 13	Respondents caused or allowed two (2) tigers to come into direct contact with people during a party at a private home in 2017	\$200 + \$200 under ECL §71-0925(1)	400
			\$1,000 + \$400 under ECL §71-0925(13)	1,400
4	6 NYCRR §182.8(c) WL #159 condition 19 ETSEE #403 condition 21	Respondents failed to disclose the 2016 tiger exhibitions within its annual report	\$1,000 under ECL §71- 0925(13)	1,000
5	6 NYCRR §182.8(c) WL #159 condition 19 ETSEE #403 condition 21	Respondents failed to disclose the 2016 lion exhibition within its annual report	\$1,000 under ECL §71- 0925(13)	1,000
TOTAL PENALTY				\$7,300