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ATTORNEY AT LAW

March 28, 2019

VIA CERTIFIED MAIL/ RETURN RECEIPT REQUESTED and FIRST CLASS MAIL

David Nearhouse
General Manager
SeaQuest Aquariums
3528 S. Maryland Parkway, Suite 340
Las Vegas, NV 89169

Re: Cases No.: A19-009250-1

ADMINISTRATIVE CITATION APPEAL

Dear Mr. Nearhouse:

This matter originally came before the undersigned on March 26, 2019, on SeaQuest Aquariums' appeal of the administrative citation issued on February 22, 2019. In attendance on behalf of SeaQuest Aquariums were you, Vince Covino (CEO of SeaQuest Aquariums), Shane Shiwada (owner of SeaQuest Aquariums) and Amber Scott, Esq. (SeaQuest Aquariums' counsel). On behalf of the County, Officer Victor Zavala and Jim Andersen, Chief of Code Enforcement were present.

The following was submitted by Clark County Animal Control:

1. On May 22, 2018, an exotic animal permit was issued to SeaQuest/ David Nearhouse for three (3) coatimundis and two (2) otters. The permit identified the ages of all five animals.
2. Sometime in August 2018, one of the otters identified in the exotic pet permit died. The deceased otter was replaced with a two-year old female otter by the name of Hazelnut on October 2, 2018. SeaQuest Aquariums did not notify the county of the replacement otter and did not have a permit to house Hazelnut.
3. On or about January 8, 2019, the County was advised that Hazelnut may be pregnant. This pregnancy was confirmed on January 11, 2019. On this same date, Officer Zavala informed that the breeding of the otters was strictly prohibited pursuant to the exotic animal permit. Three days later, Hazelnut gave birth to four otter babies.

4. On or about February 13, 2019, a press release was made public wherein SeaQuest Aquariums advertised a special event with the baby otters. While the event was cancelled, SeaQuest Aquariums was unable to cancel the press release. On this same date, SeaQuest Aquariums received a letter informing they were in violation of the exotic animal permit.
5. SeaQuest Aquariums received permission from Clark County Animal Control to keep the baby otters on site so long as they were not displayed to the public until April 30, 2019 (the date Mr. Covino stated would be safe to move the baby otters out of the state).
6. On February 22, 2019, an administrative citation was issued to SeaQuest Aquariums for the four otter pups. The amount of the fine was \$500.00 per baby otter for a total of \$2,000.00.
7. On or about March 11, 2019, SeaQuest Aquariums informed the County that Hazelnut, Peanut and two of the baby otters would be transported to another SeaQuest Aquariums facility, leaving two male baby otters in Clark County. The two male baby otters are currently not displayed, as valid permits have not been obtained.

Mr. Covino addressed the issues regarding the permit of the deceased otter and thereafter, the substitution of Hazelnut. The permit required the specific ages of the otters to be disclosed as well as photographs of each otter.

Furthermore, Clark County Code §10.18.010(g) specifically states:

(g) A permit to keep an exotic or animal may be issued for the period prescribed by the animal control officer upon payment of a fee and a favorable inspection by an animal control officer of each location where the animal is to be kept. The permit authorizes the keeping of *the individually permitted animal* only in accordance with the conditions and restrictions imposed thereon, and does not authorize exhibition, unless expressly provided therein. A new application and a new fee are required in order to extend the time period or to change or remove any condition or restriction. (emphasis added)¹

Mr. Covino stated it was SeaQuest Aquariums' understanding that so long as they did not exceed the count of two otters, they were in compliance with the exotic animal

¹ Despite Hazelnut being housed at the SeaQuest Aquariums in violation of the exotic animal permit, a fine was never assessed for Hazelnut.

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permit. He and SeaQuest Aquariums now know that replacing animals within the breed is not allowed without obtaining the valid permits on each specific animal.

The permit also specifically prohibited the animals from breeding. Mr. Nearhouse acknowledged this fact when the permit was issued. SeaQuest Aquariums claim that Peanut at age 15 months was too young to have been sexually active. While chances of pregnancy may have been less had Peanut been in the same enclosure as the original otter of the same age, Hazelnut was already two years old. Given that the gestation period (according to The Smithsonian's National Zoo and Conservation Biology Institute) is somewhere between 68-72 days, Hazelnut was likely impregnated the first week in November 2018.

While the pregnancy may not have been planned or anticipated, SeaQuest Aquariums should have recognized that the breeding would violate the exotic animal permit. They were made aware of this potential violation on or about January 11, 2019. Instead of remedying this violation, SeaQuest Aquariums attempted to capitalize and profit from it, by issuing a press release about an event exhibiting the baby otters on Valentine's Day. This event was cancelled, but the press release was not.

Mr. Nearhouse and counsel, Ms. Scott argued a lack of communication by the County and/or Officer Zavala. They noted dates in which alleged communications were attempted on their end, but not reciprocated by the County. Nonetheless, the facts do not change. First, Hazelnut had no right to be on SeaQuest Aquariums' property situated in Clark County. Second, Hazelnut was two years old when introduced to Peanut and therefore, potential pregnancy concerns should have arisen at that time. Third, while SeaQuest Aquariums maintain the otters are diligently cared for, the undersigned questions the knowledge and experience of those individuals as Hazelnut was first identified as being pregnant approximately only one week prior to giving birth. Finally, even after being notified of the exotic animal permit violation, SeaQuest Aquariums willfully tried to take advantage of the situation by marketing and attempting to exhibit the baby otters.

For the above reasons, it is the decision of this hearing office to uphold the administrative citation of \$2,000.00.

Thank you for your cooperation, understanding and attention to these matters.

Very truly yours,


Sunny M. Kvor, Esq.

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