



Animal and Plant
Health Inspection
Service

VIA: USPS Certified Mail
Shipping Event: 1st

November 17, 2016

Marketing and
Regulatory Programs
Business Services

Zootastic of Lake Norman Inc.
448 Pilch Road
Troutman, NC 28166

Registered Agent: Robert S. Brown
177 Peachtree Road
Troutman, NC 28166

Investigative and
Enforcement Services

Headquarters:
4700 River Road
Unit 85
Riverdale, MD 20737
Voice 301.851.2948
Fax 301.734.4328

Eastern Region:
920 Main Campus Drive
Suite 200
Raleigh, NC 27606
Voice 919.855.7080
Fax 919.855.7090

Western Region:
2150 Centre Avenue
Building B-3W10
Fort Collins, CO 80526
Voice 970.494.7485
Fax 970.494.7487

SETTLEMENT AGREEMENT

Dear Sir or Madam:

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described in the attached Settlement Agreement. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$10,000, or other sanctions, for each violation described in this Settlement Agreement. We are offering you the opportunity to resolve this matter by paying an amount that is much lower than the maximum civil penalty.

What are the terms of the Settlement Agreement?

You should review the information in this Settlement Agreement, including the citation and notification of penalty.

If you agree to waive your right to a hearing and pay the penalty, then do the following:

- Pay the amount due, \$7,450, by **December 19, 2016**. You can pay by check, money order, or credit card. For your convenience, we have included additional instructions for making payments.
- If you are unable to pay the full amount due by **December 19, 2016**, you may be eligible for a payment plan. To request a payment plan, you must use the enclosed form to submit a written response to this letter by **December 19, 2016**, that indicates you wish to pay the penalty and waive your right to a hearing. You must also submit a copy of your most recent federal tax return. As part of your response, please include a phone number and an email address so that we may contact you.

An Equal Opportunity Provider and Employer

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2016 APHIS ANIMAL WELFARE



What are my other options?

If you do not agree with the terms of this Settlement Agreement, submit a written request for a hearing, with your Reference Number, to our office by **December 19, 2016**, at 4700 River Rd., Unit 85, Riverdale, MD, 20737.

What happens if I fail to respond?

If we do not receive a payment or hearing request from you by **December 19, 2016**, we will forward this matter to our Office of the General Counsel for litigation.

What should I do if I need help?

If you have any questions concerning this letter, contact Kelly Ferrell at (301) 851-2755, or call our main office at (301) 851-2948.

I am a small business owner and have comments or concerns regarding APHIS's enforcement of animal and plant health laws. Who should I contact?

APHIS always welcomes comments on how it can better assist small businesses. If you have comments about APHIS's enforcement of animal and plant health laws, please contact me, Steven M. Bennett, the APHIS Small Business Ombudsperson, at 301-851-2948. If you would prefer to comment to someone outside APHIS, you may contact the Small Business Regulatory Enforcement Ombudsperson at <http://sba.gov/ombudsman>, email ombudsman@sba.gov, or toll free at 1-888-REG-FAIR. The Ombudsperson's office receives comments from small businesses and annually evaluates federal agency enforcement activities for their responsiveness to the special needs of small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "S.M. Bennett".

Steven M. Bennett, Director
Investigative and Enforcement Services



Zootastic of Lake Norman Inc.
448 Pilch Road
Troutman, NC 28166

CITATION AND NOTIFICATION OF PENALTY

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

Date of Violation: October 27, 2014

9 C.F.R. § 3.132 Employees. A sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care.

You failed to utilize adequately trained employees. One of your employees, who was not experienced in animal handling, brought members of the public into the drive-thru area of the park in her car. The members of the public left the car and walked to the tour wagon and boarded it, and while this happened, there was no barrier between them and the animals in the park, even though a female wildebeest with a calf was nearby. The employee escorting them was subsequently charged and attacked by the wildebeest, which resulted in major injuries and required hospitalization and surgery for the employee.

Date of Violation: November 5, 2014

9 C.F.R. § 3.127(d) Facilities, outdoor. Perimeter fence. On or after May 17, 2000, all outdoor housing facilities (i.e., facilities not entirely indoors) must be enclosed by a perimeter fence that is of sufficient height to keep animals and unauthorized persons out. Fences less than 8 feet high for potentially dangerous animals, such as, but not limited to, large felines (e.g., lions, tigers, leopards, cougars, etc.), bears, wolves, rhinoceros, and elephants, or less than 6 feet high for other animals must be approved in writing by the Administrator. The fence must be constructed so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility, and so that it can function as a secondary containment system for the animals in the facility. It must be of sufficient distance from the outside of the primary enclosure to prevent physical contact between animals inside the enclosure and animals or persons outside the

perimeter fence. Such fences less than 3 feet in distance from the primary enclosure must be approved in writing by the Administrator.

You failed to construct and maintain an adequate perimeter fence. Your perimeter fence had gaps under it in the drive-thru area, and also had a large gap under the gate of the drive-thru area next to the road.

Date of Violation: On or about February 3, 2015

9 C.F.R. § 3.125(a) Facilities, general. Structural strength. The facility must be constructed of such material and of such strength as appropriate for the animals involved. The indoor and outdoor housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

You failed to construct enclosures in a manner to protect the animals from injury and contain the animals. A kinkajou escaped and was killed by a lion cub, after the kinkajou went into the cub's enclosure.

Date of Violation: February 11, 2015

9 C.F.R. § 3.125(a) Facilities, general. Structural strength. The facility must be constructed of such material and of such strength as appropriate for the animals involved. The indoor and outdoor housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury and to contain the animals.

You failed to replace or repair a wall between the camels and an area housing a sitatunga, an alpaca, a mini zebra, and 2 kangaroos, that had a large hole in it.

Date of Violation: July 5, 2016

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinary care (dealers and exhibitors). Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care.

You failed to provide adequate veterinary care to the following animals:

- 1) One adolescent female white tiger, who had a tail wound that was actively bleeding, with reddened tissue exposed beyond the skin margin;
- 2) One young male li-liger, who had significant hair loss over approximately 40% of its body. The tops of its paws appeared reddened and the skin appeared thickened; and
- 3) One very young female white tiger cub, who had significant



swelling around her eyes, yellow ocular discharge, and staining of the surrounding fur. She also had at least two patches of hair loss.

Date of Violation: July 5, 2016

9 C.F.R. § 2.75(b)(1) Records: Dealers and exhibitors. Every dealer other than operators of auction sales and brokers to whom animals are consigned, and exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose the following information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held, leased, or otherwise in his or her possession or under his or her control, or which is transported, sold, euthanized, or otherwise disposed of by that dealer or exhibitor. The records shall include any offspring born of any animal while in his or her possession or under his or her control.

You failed to make, keep, and maintain complete and accurate acquisition and disposition records.

Date of Violation: July 5, 2016

9 C.F.R. § 3.131(a) Sanitation. Cleaning of enclosures. Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

You failed to adequately clean two chinchilla enclosures in the western town and back reptile room that had excessive build-ups of fecal material throughout the enclosures and scattered onto the surrounding floors.

Date of Violation: July 5, 2016

9 C.F.R. § 3.131(c) Sanitation. Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

You failed to keep the premises clean. Western town, the medication/treatment room, and the food prep room had excessive build-ups of dust and grime, spilled litter, spilled medications, and/or dirty walls.

Date of Violation: September 26, 2016



9 C.F.R. § 3.129(a) Feeding. The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of the animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

You failed to ensure that food was kept wholesome, palatable, and free from contamination:

- 1) The right large walk-in freezer used to store meat was malfunctioning and was not receiving power. The internal temperature was 54.5 degrees Fahrenheit and the meat was thawing. After notification of this concern, you discarded all the product in the freezer, cleaned it, and had the freezer repaired.
- 2) Multiple bags of feed in the feed storage area were torn and/or chewed open, and spilled feed was on the floor in many areas in the barn and had been there long enough to become moldy.

The penalty for the alleged violation(s) described above is \$7,450.