



**United States
Department of
Agriculture**

Office of
Administrative
Law Judges

Hearing Clerk

Room 1081
South Building

1400 Independence
Avenue SW

Washington, DC
20250-9200

(202) 720-4443
(202) 720-9776 fax

CERTIFIED RECEIPT REQUESTED

April 19, 2005

**Mr. Joe Schreibvogel d/b/a
G.W. Exotic Animal Foundation
RR 2, Box 67
Wynnewood, Oklahoma 73098**

**G.W. Exotic Animal Memorial Foundation
Agent for service Joe Schreibvogel
RR 2, Box 64
Wynnewood, Oklahoma 73098**

Dear Mr. Schreibvogel:

**Subject: In re: Joe Schreibvogel, an individual; and G.W. Exotic Animal Memorial Foundation (formerly known as G.W. Exotic Animal Foundation), an Oklahoma nonprofit corporation, d/b/a G.W. Exotic Animal Memorial Park - Respondents
AWA Docket No. 05-0014**

Enclosed is a copy of a Complaint, which has been filed with this office under the Animal Welfare Act, as amended.

Also enclosed is a copy of the Rules of Practice, which govern the conduct of these proceedings. You should familiarize yourself with the rules in that the comments, which follow, are not a substitute for their exact requirements.

The rules specify that you may represent yourself personally or by an attorney of record. Unless an attorney files an appearance in your behalf, it shall be presumed that you have elected to represent yourself personally. Most importantly, you have 20 days from the receipt of this letter to file with the Hearing Clerk an original and four copies of your written and signed answer to the complaint. It is necessary that your answer set forth any defense you wish to assert, and to specifically admit, deny or explain each allegation of the complaint.

Your answer may include a request for an oral hearing. Failure to file an answer or filing an answer which does not deny the material allegations of the complaint, shall constitute an admission of those allegations and a waiver of your right to an oral hearing.

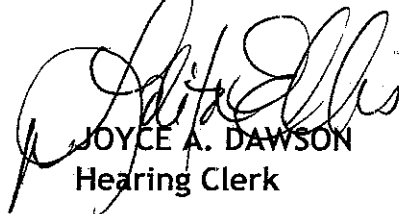
In the event this proceeding does go to hearing, the hearing shall be formal in nature and will be held and the case decided by an Administrative Law Judge on the basis of exhibits received in evidence and sworn testimony subject to cross-examination.

You must notify us of any future address changes. Failure to do so may result in a judgment being entered against you without your knowledge. We also need your present and future telephone number.

Your answer, as well as any motions or requests that you may hereafter wish to file in this proceeding should be submitted in quadruplicate to the Hearing Clerk, OALJ, Room 1081, South Building, United States Department of Agriculture, Washington, D.C. 20250-9200.

Questions you may have respecting the possible settlement of this case should be directed to the attorney whose name and telephone number appears on the last page of the complaint.

Sincerely,



JOYCE A. DAWSON
Hearing Clerk

Enclosures

Sent to: Bernadette R. Juarez, Marketing Div. OGC - w/complaint
Alan Christian, APHIS, Unit 85 - w/complaint

TMFisher: 4/19/05

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UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:) AWA Docket No: 05-~~0014~~
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)
JOE SCHREIBVOGEL, an individual; and)
G.W. EXOTIC ANIMAL MEMORIAL)
FOUNDATION (formerly known as G W)
EXOTIC ANIMAL FOUNDATION), an)
Oklahoma nonprofit corporation, doing)
business as G.W. EXOTIC ANIMAL)
MEMORIAL PARK,)
)
)
Respondents.) 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.) (the "Act"), and the regulations and standards (9 C.F.R. § 1.1 et seq.) ("Regulations" and "Standards") issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging as follows:

JURISDICTIONAL ALLEGATIONS

1. Joe Schreibvogel is an individual whose mailing address is RR 2 Box 67, Wynnewood, Oklahoma 73098, and at all times mentioned herein was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number 73-C-0139 issued to "JOE SCHREIBVOGEL DBA: GW EXOTIC ANIMAL FOUNDATION."

Respondent Schreibvogel is also the president and executive director of respondent G.W. Exotic Animal Memorial Foundation, and directed, managed and controlled its business activities. The acts, omissions, and failures to act by respondent Schreibvogel alleged herein were within the scope of said respondent's office, and are deemed the acts, omissions and failures of respondent G.W. Exotic Animal Memorial Foundation, as well as respondent Schreibvogel, for the purpose of

construing or enforcing the provisions of the Act and Regulations

2 G W. Exotic Animal Memorial Foundation is an Oklahoma domestic nonprofit corporation whose agent for service of process is Joe Schreibvogel Route 2 Box 64, Wynnewood, Oklahoma 73098 At all times mentioned herein, said respondent was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held between 116 and 193 animals regulated pursuant to the Act.

3 APHIS personnel conducted inspections of respondents' facilities, records and animals for the purpose of determining respondents' compliance with the Act, Regulations, and Standards on May 11, 2000 (105 animals inspected), October 30, 2000 (127 animals inspected), August 2, 2001 (128 animals inspected), July 23, 2002 (215 animals inspected), April 4, 2003, November 3, 2003 (123 animals inspected), December 18, 2003 (157 animals inspected), May 4, 2004 (177 animals inspected), October 2, 2004 (traveling exhibit only, 16 animals inspected), and December 14, 2004 (174 animals inspected)

ALLEGATIONS REGARDING THE SIZE OF RESPONDENTS' BUSINESSES,
THE GRAVITY OF THE ALLEGED VIOLATIONS,
RESPONDENTS' GOOD FAITH AND RESPONDENTS' COMPLIANCE HISTORY

4 Respondents have a large business and hold an average of 150 animals, including wild and exotic animals.

5 The gravity of the violations alleged in this complaint is great Specifically, respondents verbally abused APHIS officials, repeatedly handled animals in manner that risked the safety of the animals and members of the public and failed to provide animals with minimally-

adequate husbandry and care. Respondents have continually failed to comply with the Regulations, after having been repeatedly advised of deficiencies.

6. Respondents have no previous history of previous violations. However, respondents' conduct over the period covered by this complaint reveals a consistent disregard for, and unwillingness to abide by, the requirements of the Animal Welfare Act and the Regulations and Standards. An ongoing pattern of violations establishes a "history of previous violations" for the purposes of section 19(b) of the Animal Welfare Act (7 U.S.C. § 2149(b)) and lack of good faith.

NONCOMPLIANCE WITH REGULATIONS

7. On December 12, 2003, respondents wilfully violated section 2.4 of the Regulations by failing to not interfere with, threaten abuse (including verbally abuse), or harass any APHIS official in the course of carrying out his or her duties, and specifically, respondents verbally abused an APHIS official in the course of carrying out her duties. 9 C.F.R. § 2.4.

8. Respondents willfully violated the attending veterinarian and veterinary care regulations (9 C.F.R. § 2.40), as follows:

- a. May 11, 2000. Respondents failed to establish and maintain programs of adequate veterinary care that included the availability of appropriate personnel, equipment and services, and specifically, failed to trim a lama's overgrown hoof. 9 C.F.R. § 2.40(b)(1)
- b. October 30, 2003. Respondents failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and the availability of emergency, weekend, and holiday care, and specifically, failed to provide veterinary care to a female cougar that

appeared thin and limped 9 C.F.R. § 2.40(b)(2).

c. July 8, 2004. Respondents failed to employ a full-time attending veterinarian, or to employ a part-time attending veterinarian under formal arrangements that includes a written program of veterinary care and regularly scheduled visits to the premises, and specifically, failed to maintain a written program of veterinary care. 9 C.F.R. § 2.40(a)(1).

9. On the dates as follows, respondents willfully violated the record-keeping regulations by failing to make, keep, and maintain records which fully and correctly disclose information concerning animals in their possession, and specifically:

a. August 2, 2001. Respondents failed to maintain a complete record of all animals on hand. 9 C.F.R. § 2.75(b)(1).

b. October 30, 2003. Respondents failed to maintain a complete and accurate record of all animals on hand and failed to record information related to the acquisition and disposition of animals. 9 C.F.R. § 2.75(b)(1).

10. On April 4, 2003, respondents willfully violated section 2.125 of the Regulation by failing to furnish APHIS officials with information concerning the business of the exhibitor which APHIS may request in connection with the enforcement of the Act and the Regulations and Standards, and specifically, failed to provide APHIS officials with an itinerary for their traveling animal exhibition. 9 C.F.R. § 2.125

11. On the dates as follows, respondents willfully violates section 2.131(b)(1) of the Regulations (formerly cited as 9 C.F.R. § 2.131(a)(1), *see* 69 Fed. Reg. 42089, 42102 (July 14, 2004)) by failing to handle animals as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary

discomfort, and specifically:

a. October 30, 2003 Respondents failed to remove a metal chain from a juvenile tiger's neck that dragged on the ground risking trauma, physical harm, and unnecessary discomfort to the animal. 9 C F R. § 2 131(b)(1)

b. February 20, 2004. Respondents failed to handle an adult tiger as carefully as possible in a manner that does not cause behavioral stress or unnecessary discomfort.
9 C F R § 2 131(b)(1)

12 On the dates as follows, respondents willfully violated section 2 131(c)(1) of the Regulations (formerly cited as 9 C F R § 2.131(b)(1), *see* 69 Fed Reg 42089, 42102 (July 14, 2004)) by failing, during public exhibition, to handle any animal so that there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of the animals and the public, and specifically:

a. July 2, 2002. Respondents, during public exhibition at G W. Exotic Animal Memorial Park, Wynnewood, Oklahoma, failed to handle one sloth, three hamsters, one skunk, two sugar gliders, and three ferrets so that there was minimal risk of harm to the animals, with sufficient barriers and/or distance between the animals and the general viewing public so as to assure the safety of the animals and the public. 9 C F R § 2.131(c)(1).

b. On or about April 3, 2003, through on or about April 4, 2003 Respondents, during public exhibition at Paradise Valley Mall, Phoenix, Arizona, failed to handle adult tigers and a juvenile lion so that there was minimal risk of harm to the animals and to the public,

with sufficient barriers or distance between the animals and the general viewing public so as to assure the safety of the animals and the public 9 C F R. § 2.131(c)(1)

c. On or about June 12, 2003, through on or about June 14, 2003. Respondents, during public exhibition at Village Square Mall, Dodge City, Kansas, failed to handle adult tigers so that there was minimal risk of harm to the animals and to the public, with sufficient barriers or distance between the animals and the general viewing public so as to assure the safety of the animals and the public. 9 C F R. § 2.131(c)(1).

d. October 30, 2003. Respondents, during public exhibition at G.W. Exotic Animal Memorial Park, Wynnewood, Oklahoma, failed to handle sugar guilders and civets so that there was minimal risk of harm to the animals and to the public, with sufficient barriers and/or distance between the animals and the general viewing public to assure the safety of the animals and the public. 9 C F R. § 2.131(c)(1)

e. On or about November 15, 2003. Respondents, during public exhibition at McDonalds restaurant, Norman, Oklahoma, failed to handle adult tigers so that there was minimal risk of harm to the animals and to the public, with sufficient barriers or distance between the animals and the general viewing public so as to assure the safety of the animals and the public. 9 C F R. § 2.131(c)(1).

f. December 18, 2003. Respondents, during public exhibition at G.W. Exotic Animal Memorial Park, Wynnewood, Oklahoma, failed to handle foxes so that there was minimal risk of harm to the animals and to the public, with sufficient barriers and/or distance to assure the safety of the animals and the public 9 C F R. § 2.131(c)(1).

g. December 19, 2003. Respondents, during public exhibition at Flint Hills Mall,

Emporia, Kansas, failed to handle an adult male tiger and a juvenile tiger so that there was minimal risk of harm to the animals and to the public, with sufficient barriers or distance between the animals and the general viewing public so as to assure the safety of the animals and the public 9 C F R. § 2.131(c)(1)

h February 20, 2004. Respondents, during public exhibition at the Sooner Theater in Norman, Oklahoma, failed to handle an adult tiger so that there was minimal risk of harm to the animal and to the public, with sufficient barriers or distance between the animal and the general viewing public so as to assure the safety of the animal and the public. 9 C F R. § 2.131(c)(1).

i May 4, 2004. Respondents, during public exhibition at G.W. Exotic Animal Memorial Park, Wynnewood, Oklahoma, failed to handle three deer so that there was minimal risk of harm to the animals and to the public, with sufficient barriers and/or distance to assure the safety of the animals and the public. 9 C F R. § 2.131(c)(1)

13 On May 4, 2004, respondents willfully violated section 2.131(d)(2) of the Regulations (formerly cited as 9 C F R. § 2.131(c)(2), *see* 69 Fed. Reg. 42089, 42102 (July 14, 2004)), by failing to have to have a responsible, knowledgeable, and readily identifiable employee or attendant present at all time during periods of public contact, and specifically, three deer roamed the park, during periods of public, with no identifiable park employees present 9 C F R. § 2.131(d)(2)

14 Respondents willfully violated section 2.100(a) of the Regulations and Standards by failing to meet the minimum facilities and operating standards for guinea pigs (9 C F R. § 3.25-3.41), by failing to not house guinea pigs in outdoor facilities unless such facilities are

located in an appropriate climate and prior approval for such outdoor housing is obtained from the Deputy Administrator, and specifically, failed to provide any housing for loose guinea pigs that roamed respondents' facility, enter other animals' enclosures and ate their food. 9 C.F.R. §§ 2.100(a), 3.25(a), 3.27(b).

15 Respondents willfully violated section 2.100(a) of the Regulations and Standards by failing to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. § 3.75-3.92), as follows:

- a. August 2, 2001. Respondents failed to remove excreta and food waste from inside each indoor primary enclosure daily, and specifically, the primates' enclosure contained accumulated feces, hair, and food waste. 9 C.F.R. §§ 2.100, 3.84(a)
- b. October 30, 2003. Respondents failed to design and construct housing facilities for nonhuman primates that are structurally sound for the species of nonhuman primates housed in them and that are in good repair, protect the animals from injury, contain the animals securely, and restrict other animals from entering, and specifically, housed no fewer than six nonhuman primates in enclosures that allowed the animals to reach outside the enclosures to grab the insulation that dangled from the roof. 9 C.F.R. §§ 2.100, 3.75(a), 3.80(a)(2)(ii)
- c. October 30, 2003. Respondents failed to construct surfaces of nonhuman primate housing facilities in a manner and made of materials that allow them to be readily cleaned and sanitized, and specifically, used porous, concrete blocks and wire panel, which could not be readily cleaned or sanitized, to construct the indoor portion of the lemur enclosure. 9 C.F.R. §§ 2.100, 3.75(c)(1)

d. October 30, 2003. Respondents failed to equip nonhuman primate housing facilities with drainage systems that are properly constructed, installed, operated, and maintained so that water is rapidly eliminated and animals the animals stay dry and failed to mop or drain standing puddles of water in the animal areas so that the animals reaming dry, and specifically, housed no fewer that six nonhuman primates in enclosures with standing water. 9 C F R. §§ 2 100, 3 75(f).

e. October 30, 2003. Respondents failed to enclose the outdoor area of a sheltered housing facility for nonhuman primates by a fence that is of sufficient height to keep unwanted species out, and constructed so that in protects the animals by restricting unauthorized humans, and animals the size of dogs, skunks, and racoons from going through it or under it and having contact with the nonhuman primates, and specifically, failed to enclose the outdoor area housing no fewer than six nonhuman primates with a perimeter fence that restricted small animals from going through it or under it; APHIS officials observed loose guinea pigs throughout the facility. 9 C F R. §§ 2 100, 3 77(f).

f. December 18, 2003. Respondents failed to design and construct housing facilities for nonhuman primates that are structurally sound for the species of nonhuman primates housed in them and that are in good repair, protect the animals from injury, contain the animals securely, and restrict other animals from entering, and specifically, housed baboons and macaques in enclosures that allowed the animals to reach outside of enclosures to grab the insulation that dangled from the roof. 9 C F R. §§ 2 100, 3 75(a), 3 80(a)(2)(ii).

g. December 18, 2003. Respondents failed to equip nonhuman primate housing facilities with drainage systems that are properly constructed, installed, operated, and

maintained so that water is rapidly eliminated and animals the animals stay dry and failed to mop or drain standing puddles of water in the animal areas so that the animals reaming dry, and specifically, housed baboons and macaques in enclosures with standing water.

9 C.F.R. §§ 2.100, 3.75(f).

h. December 18, 2003 Respondents failed to enclose the outdoor area of a sheltered housing facility for nonhuman primates by a fence that is of sufficient height to keep unwanted species out, and constructed so that in protects the animals by restricting unauthorized humans, and animals the size of dogs, skunks, and racoons from going through it or under it and having contact with the nonhuman primates, and specifically, failed to enclose the outdoor area housing no fewer than six nonhuman primates with a perimeter fence that restricted small animals from going through it or under it; APHIS officials observed loose guinea pigs throughout the primate facility. 9 C.F.R. §§ 2.100, 3.77(f)

i. May 4, 2004 Respondents failed to construct surfaces of nonhuman primate housing facilities in a manner and made of materials that allow them to be readily cleaned and sanitized, and specifically, used porous wood, which could not be readily cleaned or sanitized, to construct the indoor portion of the lemur enclosure. 9 C.F.R. §§ 2.100, 3.75(c)(1)

j. May 4, 2004 Respondents failed to establish and maintain an effective program for control of birds and mammals that are pests so as to promote the health and well-being of the animals and reduce contamination by pests in animal areas, and specifically, failed to establish a minimally-adequate program for control rodent infestation; rodent droppings

contaminated the lemurs' enclosures. 9 C.F.R. §§ 2.100, 3.84(d)

16. Respondents willfully violated section 2.100(a) of the Regulations and Standards by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), as follows:

a. **3.125 Facilities, general**

- i. May 11, 2000 Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, housed one tiger and one mountain lion in an enclosure that lacked any means to shift or restrain the animals so that respondents could safely and humanely provide husbandry and veterinary care. 9 C.F.R. §§ 2.100(a), 3.125(a).
- ii. August 2, 2001 Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, housed cougars in an enclosure that failed to adequately contain the animals. 9 C.F.R. §§ 2.100(a), 3.125(a).
- iii. August 2, 2001 Respondents failed to store food supplies in facilities that adequately protect such supplies against deterioration, molding, or contamination by vermin, and specifically, failed to take any steps to protect open feed bags from deterioration or contamination by vermin. 9 C.F.R. §§ 2.100(a), 3.125(c).
- iv. July 23, 2002 Respondents failed to construct indoor and outdoor housing facilities

so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, provided a structurally unsound shelter to one leopard; the shelter consisted of stacked concrete blocks with a plywood roof weighed down with concrete blocks 9 C.F.R. §§ 2.100(a), 3.125(a)

v. October 12, 2003 Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, failed to construct facilities of such material and of such strength as appropriate for an adult tiger, which tiger escaped from its enclosure and attacked a camel 9 C.F.R. §§ 2.100(a), 3.125(a)

vi. October 12, 2003 Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, housed a camel in an enclosure that failed to protect the animal from injury; a tiger entered the camel's enclosure and attacked the camel causing it to suffer puncture wounds to both front legs and the left rear leg hock area and severing its gastrocnemius tendon 9 C.F.R. §§ 2.100(a), 3.125(a)

vii. October 30, 2003 Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically:

- (1) Housed two pot-bellied pigs and a donkey in an enclosure that had sharp, protruding metal panels and wire fencing;

- (2) Failed to remove or repair the sharp nails that protruded from the wood spools provided to the leopards;
- (3) Housed a raccoon in a unstable, raised enclosure that leaned;
- (4) Housed a lion in an enclosure with sharp, protruding fencing;
- (5) Failed to repair or replace the decrepit shelter provided to a lioness;
- (6) Failed to repair or replace the collapsing shade structure and the unstable shelters that sagged under the wight of the dirt and plywood stacked on top of them in the enclosure housing eight tigers; and
- (7) Housed tigers in enclosures that had sharp, protruding metal panels

9 C F R. §§ 2.100(a), 3.125(a).

viii. October 30, 2003 Respondents failed to store supplies of food in facilities which adequately protect the food against deterioration, molding or contamination by vermin, and specifically, blood and dirt covered the floor of the walk in refrigerator and flies covered the food being prepared for the animals in the commissary. 9 C F R. §§ 2.100(a), 3.125(c)

ix. October 30, 2003 Respondents failed to make provisions for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris and to provide and operate disposal facilities as to minimize vermin infestation, odors, and disease hazards, and specifically, respondents kept the facility's trash dumpster inside the enclosure that housed donkeys and emu; the dumpster had a strong odor, was infested with flies, and had decaying rumen and intestines laying proximate thereto. 9 C F R. §§ 2.100(a), 3.125(d).

x. October 30, 2003 Respondents failed to make provisions for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris and to provide

and operate disposal facilities as to minimize vermin infestation, odors, and disease hazards, and specifically, failed to remove old bedding, straw clumped with mud and feces, and old food from inside and around the enclosures housing large felids and bears 9 C.F.R.

§§ 2.100(a), 3.125(d).

xi. December 18, 2003: Respondents failed to make provisions for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris and to provide and operate disposal facilities as to minimize vermin infestation, odors, and disease hazards, and specifically, maintained the facility's trash dumpster inside the enclosure housing deer and emu; the emu ate from the dumpster, which contained animal waste, debris, and trash. 9 C.F.R. §§ 2.100(a), 3.125(d).

xii. December 18, 2003: Respondents failed to construct indoor and outdoor housing facilities so that they were structurally sound and failed to maintain them in good repair to protect the animals from injury and to contain the animals, and specifically, failed to repair or replace the collapsing shade structure and the unstable shelters that sagged under the weight of the dirt and plywood stacked on top of them in the enclosure housing eight tigers 9 C.F.R. §§ 2.100(a), 3.125(a).

xiii. June 16, 2003: Respondents failed to store supplies of food in facilities which adequately protect the food against deterioration, molding or contamination by vermin, and specifically, stored and thawed meat in a non-functioning freezer that had meat fluids and blood from exposed carcasses dripping on to other meat and the freezer floor, and a large number of maggots and flies accumulated at the freezer entrance. 9 C.F.R. §§ 2.100(a), 3.125(c).

xiv May 4, 2004 Respondents failed to store food supplies in facilities that adequately protect such supplies against deterioration, molding, or contamination by vermin, and specifically, the building used to store food contained pigeons, pigeon feces, and also served as a storage area that invited rodent and insect infestation 9 C.F.R. §§ 2.100(a), 3.125(c).

xv May 4, 2004 Respondents failed to make provisions for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris and to provide and operate disposal facilities as to minimize vermin infestation, odors, and disease hazards, and specifically, failed to remove straw clumped with mud and feces from the enclosures housing two bears, two foxes, six tigers, and two lions. 9 C.F.R. §§ 2.100(a), 3.125(d)

b. 3.127 Facilities, outdoor

i May 11, 2000 Respondents failed to provide appropriate natural or artificial shelter for all animals kept outdoors to afford them protection and to prevent discomfort of such animals, and specifically, failed to provide any shelter to one tiger. 9 C.F.R. §§ 2.100(a), 3.127(b).

ii October 30, 2000 Respondents failed to provide a suitable method to rapidly eliminate excess water, and specifically, failed to remove standing water and mud from inside and around the enclosures housing approximately thirty-four animals, including tigers, bears, goats, deer, a llama, and a wolf. 9 C.F.R. §§ 2.100(a), 3.127(c)

iii October 30, 2003 Respondents failed to provide a suitable method to rapidly eliminate excess water, and specifically, failed to remove standing water from around the enclosures housing a camel, wolves, and large felids, including water contaminated with black or blue-green algae and mosquito larvae. 9 C.F.R. §§ 2.100(a), 3.127(c).

iv. August 2, 2001 Respondents failed to enclose their outdoor housing facilities by a perimeter fence of sufficient height to keep animals and unauthorized persons out, and as a containment system for dangerous animals housed in the facility, failed to enclose the exhibit area holding dangerous animals with an 8 foot high perimeter fence. 9 C.F.R.

§§ 2.100(a), 3.127(d).

v. July 23, 2002 Respondents failed to provide appropriate natural or artificial shelter for all animals kept outdoors to afford them protection and to prevent discomfort of such animals, and specifically, failed to provide adequate shelter to one leopard that had an unstable shelter constructed of concrete blocks and plywood and eight young tigers that shared one house that deprived the animals of the ability to sit, stand, lie in a normal manner, and turn about freely. 9 C.F.R. §§ 2.100(a), 3.127(b).

vi. July 23, 2002 Respondents failed to enclose their outdoor housing facilities by a perimeter fence of sufficient height to keep animals and unauthorized persons out, and that served as a containment system for dangerous animals housed in the facility, and specifically, failed to enclose the "Welcome Building," which housed four tigers, with a perimeter fence. 9 C.F.R. §§ 2.100(a), 3.127(d)

vii. October 30, 2003 Respondents failed to provide appropriate natural or artificial shelter for all animals kept outdoors to afford them protection and to prevent discomfort of such animals, and specifically, failed to provide any shelter to an immobile camel and eight tigers that had unstable shelters that sagged under the weight of the dirt and plywood stacked on top of it. 9 C.F.R. §§ 2.100(a), 3.127(b).

viii. October 30, 2002 Respondents failed to provide a suitable method to rapidly

eliminate excess water, and specifically, housed thirty-four animals (tigers, bears, a wolf, a lama, goats, and deer) in nine enclosures that contained standing water and mud that prevented the animals from remaining clean and dry. 9 C.F.R. §§ 2.100(a), 3.127(c).

ix. December 19, 2003. Respondents failed to enclose their outdoor housing facilities by a perimeter fence of sufficient height to keep animals and unauthorized persons out, and that served as a containment system for dangerous animals housed in the facility, and specifically, failed to construct and maintain a perimeter fence that restricted animals from going through it or under it; guinea pigs penetrated respondents' perimeter fence, roamed freely in the facility and entered other animals' enclosures. 9 C.F.R. §§ 2.100(a), 3.127(d).

x. May 4, 2004. Respondents failed to enclose their outdoor housing facilities by a perimeter fence of sufficient height to keep animals and unauthorized persons out, and that served as a containment system for dangerous animals housed in the facility, and specifically, failed to construct and maintain a perimeter fence that restricted small animals from going through it or under it. 9 C.F.R. §§ 2.100(a), 3.127(d).

c. **3.128 Space requirements.**

i. July 23, 2002. Respondents failed to construct and maintain enclosures so as to provide sufficient space to allow each animal to make normal postural adjustments and social adjustments with adequate freedom of movement, and specifically, failed to provide adequate space to two wolves that exhibited behavior stress, vocalized, and paced. 9 C.F.R. §§ 2.100(a), 3.128.

d. **3.129 Feeding.**

i. May 4, 2004. Respondents failed to provide animals with food of sufficient nutritive

value to maintain good animal health that was prepared with consideration for the age, species, condition, size, and type of animal, and specifically, failed to provide any vitamin or mineral supplements to large felids. 9 C.F.R. §§ 2.100(a), 3.129

e. **3.130 Watering**

i. July 23, 2002 Respondents failed to make potable water accessible to the animals at all times, or as often as necessary for the animals' health and comfort, and to keep water receptacles clean and sanitary, and specifically, failed to provide potable water to 18 lions, 23 tigers, 15 bears, 20 cougars, 3 leopards, and a pig. 9 C.F.R. §§ 2.100(a), 3.130.

ii. October 30, 2003 Respondents failed to make potable water accessible to the animals at all times, or as often as necessary for the animals' health and comfort, and to keep water receptacles clean and sanitary, and specifically, respondents' water and water receptacles were contaminated with dirt, algae and mosquito larvae. 9 C.F.R. §§ 2.100(a), 3.130

f. **3.131 Sanitation**

i. October 30, 2000 Respondents failed to keep premises clean and in good repair, and specifically, the table used to prepare the meat for the animals was contaminated with old food. 9 C.F.R. §§ 2.100(a), 3.131(c).

ii. August 2, 2001 Respondents failed to keep premises clean and in good repair, and specifically, respondents' freezers and ice boxes were caked with blood and frozen dirt. 9 C.F.R. §§ 2.100(a), 3.131(c).

iii. October 30, 2003 Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of animals, minimize disease hazards, and reduce

odor, and specifically, housed large felids and bears in enclosures with excessive feces

9 C.F.R. §§ 2.100(a), 3.131(a)

iv. October 30, 2003. Respondents failed to establish and maintain an adequate program of pest control, and specifically, failed to take minimally-adequate steps to control rodent and fly infestation. 9 C.F.R. §§ 2.100(a), 3.131(d)

v. December 18, 2003. Respondents failed to establish and maintain an adequate program of pest control, and specifically, failed to take minimally-adequate steps to control rodent infestation. 9 C.F.R. §§ 2.100(a), 3.131(d)

vi. October 30, 2003. Respondents failed to remove excreta from primary enclosures as often as necessary to prevent contamination of animals, minimize disease hazards, and reduce odor, and specifically, housed two bears, two foxes, six tigers, and two lions in enclosures with excessive fecal material. 9 C.F.R. §§ 2.100(a), 3.131(a)

g. **3.132 Employees**

i. October 30, 2003. Respondents failed to utilize a sufficient number of adequately trained employees to maintain a professionally acceptable level of husbandry practices, and specifically, failed to utilize a sufficient number employees to provide husbandry and care the animals, as evidence by the condition of the animals' enclosures and the employees' lack of knowledge regarding how many people worked at the facility or how often animals were fed. 9 C.F.R. §§ 2.100(a), 3.132

ii. December 18, 2003. Respondents failed to utilize a sufficient number of adequately trained employees to maintain a professionally acceptable level of husbandry practices, and specifically, failed to utilize a sufficient number employees to provide husbandry and care the

animals; there were no adequately-trained employees present to provide care to eighty large dangerous felids. 9 C.F.R. §§ 2.100(a), 3.132.

h. 3.137 Primary enclosures used to transport live animals.

i. October 2, 2004. Respondents failed to use primary enclosures to transport animals that have solid bottoms to prevent leakage in shipment and that are cleaned and sanitized as prescribed, and specifically, transported 15 animals (11 tigers and 5 lions) in primary enclosures that lacked adequate waste trays between the stacked enclosures to prevent urine, feces, or both from contaminating the animal housed below. 9 C.F.R. §§ 2.100(a), 3.137(d)

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations issued under the Act, this 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 complaint.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondents fail to file an answer within the time allowed therefor, or file 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

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

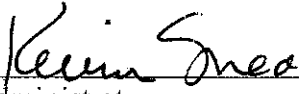
(a) Requiring the respondents to cease and desist from violating the Act and the

regulations and standards issued thereunder;

(b) Assessing civil penalties against the respondents in accordance with section 19 of the Act (7 U.S.C. § 2149); and

(c) Suspending or revoking respondent's license.

Done at Washington, D.C.
this 14th day of April, 2005



Administrator
Animal and Plant Health
Inspection Service

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