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December 28, 2016

Robert Gibbens, D.V.M.
Director, Animal Welfare Operations
USDA/APHIS/AC Western Region
2150 Centre Ave., Bldg. B, Mailstop 3W11
Fort Collins, CO 80526-8117

Via UPS and e-mail: acwest@aphis.usda.gov

Re: Request for Investigation of Apparent Animal Welfare Act Violations at Birds
& Animals Unlimited (License No. 93-C-0886)

Dear Dr. Gibbens:

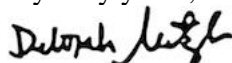
I am writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) promptly investigate Birds & Animals Unlimited (BAU; license number 93-C-0886) for the following apparent Animal Welfare Act (AWA) violations, documented by an eyewitness who worked at BAU's Acton, California, location between August and November 2016 and described in more detail in the attached appendix:

- Three pigs had a very poor body condition. They were very thin and had dry, flaky skin as well as overgrown hooves. (See Photos 1–5 and Video 1.) One pig, Miss Piggy, had bloody, raw lesions on her side. A facility manager told the eyewitness that this was melanoma, but Miss Piggy had not been seen by a licensed veterinarian and had not received treatment. (See Video 2.)
- Animals were deprived of food for sometimes more than a day for training purposes.
- Dogs were left outside overnight without any kind of bedding, even though temperatures dropped to below 50 degrees. (See Video 3.)
- A kangaroo named Lenny was not "returned ... to Texas" as BAU falsely reported to the USDA but apparently died at BAU after being unable to eat. Postmortem X-rays reportedly showed that he had a broken jaw. His disposition papers were apparently fabricated, which constitutes sufficient grounds to revoke BAU's AWA license.
- At the time the eyewitness left BAU, the facility had apparently not had an attending veterinarian for approximately one month.

Please ensure that *all* animals at BAU are provided with adequate veterinary care, shelter, food, and water and are otherwise handled in accordance with the AWA. Please also hold the company fully accountable for any and all violations that you discover during your investigation.

Thank you for your attention to this important matter. Please inform me of the complaint number that your agency assigns to this correspondence.

Very truly yours,



Deborah Metzler, M.S.
Captive Animal Law Enforcement

Appendix

An eyewitness who worked at BAU's Acton, California, facility between August and November 2016 observed and documented the following apparent AWA violations. As you investigate BAU, please ensure that the identity of the eyewitness is protected to the fullest extent of the law.¹

a. Pigs in Need of Veterinary Evaluation and Treatment

The eyewitness documented that three thin-to-emaciated pigs, named Miss Piggy, Frankie, and Punky, all had dry, flaky skin. (*See, e.g.,* Photos 1 and 2 and Video 1.) According to veterinarian Dr. Heather Rally, the pigs had body condition scores of 1 to 1.5 out of 5 and "these animals were all demonstrating indications of chronic skin diseases, including diffusely dry, crusting, flaky, thickened skin with buildup of greasy exudate along the crest of the spine and around the face."

Frankie and Punky had overgrown hooves. Punky's hooves were so long that one had curved on top of another. The eyewitness first discussed her hooves with another BAU worker on August 17 and again with the facility manager, [redacted], on August 18, who said a farrier would come to the facility to trim her hooves. On August 21, the eyewitness observed that Punky was limping, likely as a result of her overgrown hooves. Her gait still appeared to be affected on August 27, apparently from the same cause. On August 28, her hooves were trimmed—but by September 30, they appeared to be overgrown again. Frankie's hooves also appeared to be overgrown. On October 8, [redacted] acknowledged that these pigs needed to have their hooves trimmed, indicating that a farrier would be asked to return. On October 26, a farrier was scheduled to come trim their hooves but had to cancel. At the time the eyewitness left BAU, the hooves still had not been trimmed to an appropriate length. (*See* Photos 3–5 and Video 1.)

Miss Piggy was "exceptionally emaciated," with a body condition score of 1 out of 5, according to Dr. Rally, and suffering from a chronic skin condition that had resulted in multifocal to coalescing lesions across her right lower flank and abdomen. They presented as raw and bloody, with one particularly large lesion that appeared growth-like. The eyewitness documented Miss Piggy's condition over a period of several weeks (*see* Video 2) and repeatedly discussed it with [redacted], who said it was melanoma—a conclusion that was apparently made by the pigs' farrier but not a licensed veterinarian. [Redacted] told the eyewitness that Miss Piggy's condition became more prominent after she had lost weight, which [redacted] claimed was because of a diet change. According to Dr. Rally, Miss Piggy's condition "is not consistent with a typical melanoma presentation in swine, and diagnosing such a condition requires a skin biopsy to be performed by a licensed veterinarian and submitted to a laboratory for evaluation. . . . This condition has resulted in numerous open wounds, which are prone to painful bacterial infections and are very unlikely to resolve on their own." While the eyewitness was at BAU, no diagnostics were apparently performed nor was a therapeutic regimen implemented to treat Miss Piggy's condition or provide relief.

¹*See* 5 U.S.C. § 552(b)(6) (protecting information from disclosure when its release would cause a clearly unwarranted invasion of personal privacy and where such privacy interest outweighs any public interest that would be advanced by the disclosure of the individuals not employed with the government); *see also* 5 U.S.C. § 552(b)(7)(C) (protecting from disclosure records or information collected for law-enforcement purposes when its release could reasonably be expected to constitute an unwarranted invasion of personal privacy), *Id.* § 552a(b) (prohibiting the disclosure of information by government agencies without the consent of the individual to whom the record pertains, barring a few specific exceptions).

Please inspect these pigs, as well as their veterinary records, and ensure that they are receiving adequate veterinary and husbandry care pursuant to 9 C.F.R. § 2.40. Please also ensure that they are receiving an appropriate amount of food for their species, in accordance with 9 C.F.R. § 3.129(a), which requires that "food shall be wholesome, palatable, ... and of sufficient quantity and nutritive value to maintain all animals in good health."

b. Animals Deprived of Food for Training Purposes

The eyewitness was not invited into the training building while animals were trained but was informed of days when animals would be used in training and would be denied food prior to the training session. BAU maintained a "don't feed list" on a marker board that employees had to check prior to making the rounds during feeding times. One of the trainers told the eyewitness explicitly that they don't want the animals to be fed before a training session, because "we want them to be hungry, they're working for food."

In accordance with 9 C.F.R. § 2.131(b)(2)(ii), "[d]eprivation of food or water shall not be used to train, work, or otherwise handle animals; Provided, however, that the short-term withholding of food or water from animals by exhibitors is allowed by these regulations as long as each of the animals affected receives *its full dietary and nutrition requirements each day*" [emphasis added]. The following are specific examples of apparent violations of this regulation:

- On August 28, employees were instructed not to feed two cats named Gus Gus and Nibbs that day or the next. They had last eaten around 10 a.m. on August 27. [Redacted] told the eyewitness that the trainer thought the cats looked "fat" and that was why they were not being fed. On the afternoon of August 29, the trainer permitted [redacted] to feed the cats a small amount. She fed them each 10 grams of food. On September 1, the eyewitness weighed Gus Gus and Nibbs. Gus Gus weighed 8.24 pounds, whereas he had been 8.66 pounds on August 27. Nibbs was 9.42 pounds but had been 9.92 pounds on August 27. In five days, these cats each lost approximately 5 percent of their bodyweight.
- On August 29, three Rottweilers were on the "don't feed list" to be used in training that day.
- On September 7, Ebony, one of the Rottweilers who had been on the "don't feed list" on August 29, was again denied food prior to a training session. Three wolfhounds were also denied food before a training session.
- On September 10, two labradoodles were brought to the facility, apparently to be used in the training area later in the evening, so the employees were instructed not to feed them.
- On September 12, an employee told the eyewitness not to feed dogs named Cooper, Franklin, and Emmy because they would be traveling the following day. A Rottweiler named Kain was acting in an aggressive manner, so the eyewitness asked another employee to try feeding him. Apparently, the other employee checked with a trainer, who said not to feed him because he would be traveling the next day.
- On September 15, employees were instructed not to feed the wolfdogs because they would be used in training that day. Two trainers apparently said that a wolfhound named Kai should "go a day or two" without food because they felt he was overweight.
- On September 19, two goats were listed on the "don't feed list." On September 21, the eyewitness checked with [redacted] about whether the goats should be fed. (They were still listed on the marker board.) A trainer apparently told [redacted] to give the goats a little hay "to keep them occupied."

- On September 25, employees were instructed not to give the afternoon feeding to two Rottweilers because they were going to be used for training the following morning.
- On September 27, employees were instructed by a trainer not to feed dogs named Yogi, Chuck, and Zavvie that day. [Redacted] said that she regularly had to remind trainers which animals had and had not been given food on a given day because "they forget all the time." This raises the possibility that trainers often instruct staff not to feed certain animals they later don't use in training.
- On September 30, a trainer instructed employees not to feed a cat named Mr. Krinkles over the weekend. [Redacted] apparently talked the trainer into allowing employees to feed him 30 grams of food over the weekend. (He would normally have been fed 45 grams of food.) The trainer was apparently planning to work with him, either over the weekend or early Monday.
- On September 30, the eyewitness noticed that Kai's daily food allowance had been reduced by 1 cup of food. He was apparently supposed to lose about 20 pounds for a movie shoot. He weighed 86 pounds, but the trainer wanted him to be 65 pounds, according to [redacted]. In addition to this reduced food allowance, Kai's regular dog food was changed to "lite" dog food on October 13.
- On October 2, a trainer instructed employees not to feed the Rottweilers that afternoon but did not say why.
- On October 7, employees were instructed not to feed Chuck "10/10–10/12."

Please ensure that these animals are under veterinary care, pursuant to 9 C.F.R. § 2.40, and also ensure that they are receiving an appropriate diet in accordance with *Id.* § 3.9(a), which requires that cats and dogs "be fed at least once each day, except as otherwise might be required to provide adequate veterinary care. The food must be ... of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal. The diet must be appropriate for the individual animal's age and condition."

c. Dogs Housed Outside in Temperatures Below 50 Degrees With No Bedding

On the following mornings, the eyewitness arrived for work and noticed that the dogs had not been given blankets or other bedding overnight (*see* Video 3), even though overnight temperatures were lower than 50 degrees, according to the [National Weather Service](#) reports for Acton, California (*see* Exhibit 1):

- October 3, after an overnight low of 43 degrees
- October 4, after an overnight low of 46 degrees
- October 12, after an overnight low of 45 degrees
- October 13, after an overnight low of 44 degrees
- October 15, after an overnight low of 47 degrees (On this date, the eyewitness noticed that a beagle named Scout appeared to be shivering.)
- October 18, after an overnight low of 47 degrees
- October 22, after an overnight low of 46 degrees
- October 29, after an overnight low of 49 degrees
- October 31, after an overnight low of 43 degrees
- November 1, after an overnight low of 42 degrees

Please ensure that dogs who are housed outdoors overnight are provided with bedding, pursuant to 9 C.F.R. § 3.4(b)(4), which requires that outdoor shelters must "[c]ontain clean, dry, bedding material if

the ambient temperature is below 50° F." Please keep in mind that certain breeds "that cannot tolerate the prevalent temperatures of the area without stress or discomfort (such as short-haired breeds in cold climates)" or "[s]ick, infirm, aged or young dogs ... must not be kept in outdoor facilities[]" and that dogs whose "acclimation status is unknown ... must not be kept in outdoor facilities when the ambient temperature is less than 50° F." 9 C.F.R. § 3.4(a)(1)(ii), (iii), and (a)(2).

These dogs are also handled in apparent violation of 9 C.F.R. § 2.131(e)(1), which requires that "[w]hen climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being, taking into consideration such factors as the animal's age, species, breed, overall health status, and acclimation."

d. Apparently Falsified Disposition Paperwork for Deceased Kangaroo

On June 9, 2015, Animal Care Inspector Jeanne Lorang inspected BAU's Acton location. During her inspection, she discovered that some disposition paperwork needed to be completed in order to comply with 9 C.F.R. § 2.75(b). Specifically, the inspection report stated that "1 red kangaroo was listed as 'returned with Billy to Texas,' with no further information provided. ... Correct to ensure that accurate and complete disposition records are available at the time of inspection."²

On September 15 of this year, Veterinary Medical Officer Dr. Jeffery Lee arrived at BAU, apparently to follow up on non-compliant items cited during the June 9, 2015, inspection, including checking the kangaroo's disposition paperwork. The eyewitness was working on September 15 and discussed the USDA's visit with [redacted], who explained the issue with the paperwork for the kangaroo named Lenny and revealed that he had actually died but that "instead of creating a drama saga thing," she "just said" he returned to the Texas exhibitor who leases kangaroos to BAU, in apparent violation of 9 C.F.R. § 2.75(b)(1), requiring that exhibitors "shall make, keep, and maintain records or forms which fully and correctly disclose ... information concerning animals ... transported, sold, euthanized, or otherwise disposed of by that dealer or exhibitor."

[Redacted] stated that Lenny died after he had stopped eating, and although the then-attending veterinarian thought that something might be wrong with his jaw, BAU did nothing about it. Postmortem X-rays revealed that Lenny had a broken jaw, according to [redacted].

The USDA may revoke an exhibitor's license if the exhibitor violates "any of the rules or regulations or standards" promulgated pursuant to the AWA. 7 U.S.C. § 2149(a). The regulations further provide that a license may be terminated at any time for any of the reasons that an initial license application may be denied. 9 C.F.R. § 2.12. A license may be denied on a number of grounds, including noncompliance with AWA regulations or standards or if a licensee:

- (6) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled nolo contendere (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise

²See USDA Inspection Report, Birds & Animals Unlimited, License No. 93-C-0886, Site 002, dated June 9, 2015.

unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.

BAU appears to have intentionally made false and fraudulent statements to USDA representatives and gave the agency false and fraudulent records in order to conceal its apparent failure to provide Lenny with adequate veterinary care, leading to his reported death. The USDA should initiate proceedings to revoke BAU's AWA license on this basis.

The eyewitness noted that, according to statements made by BAU staff, the USDA was at the facility on September 15 for approximately 20 to 25 minutes. Apparently, BAU's Acton facility has not had a full inspection since June 9, 2015. Please conduct a full inspection of BAU's Site 002, including a thorough investigation into the integrity of all of BAU's disposition paperwork.

e. BAU Apparently Had No Attending Veterinarian for at Least Four Weeks

On October 4, the eyewitness spoke with [redacted] regarding BAU's attending veterinarian, whose name is believed to be [redacted]. [Redacted] said she believed that [the veterinarian] had quit. The eyewitness asked whether there was a veterinarian who would come to the facility to care for the animals, and [redacted] said "no." For the rest of October, the eyewitness was not aware that BAU had retained an attending veterinarian. Please ensure that BAU has an attending veterinarian who can go to the facility in case of an animal health emergency and is otherwise available to diagnose and treat health concerns in accordance with 9 C.F.R. § 2.40(a)(1), which requires that exhibitors "have an attending veterinarian who shall provide adequate veterinary care to its animals ... under formal arrangements."