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December 5, 2017

Robert Gibbens, D.V.M.
Director, Animal Welfare Operations
USDA/APHIS/Animal Care

Via e-mail: [REDACTED]; acwest@aphis.usda.gov

Dear Dr. Gibbens:

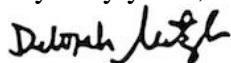
I am writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) promptly investigate Lolli Bros. Livestock Market, Inc. ("Lolli Bros."; license no. 43-B-0010), for the following apparent Animal Welfare Act (AWA) violations, observed and documented by a concerned citizen during the summer Alternative Livestock auction and detailed in the attached appendix:

- Three cows were underweight or emaciated, indicating illness, inadequate veterinary care, and/or malnutrition. (*See Photos 1–7.*)
- Auction workers roughly handled animals, including a 2-year-old wallaby, who was dangled in the air by his tail; a camel, who was smacked near his or her head repeatedly with a paddle; and emus, who were forcefully pulled and shoved in the auction ring. (*See Video 1, Video 2, and Video 3.*)
- Animals were confined to extremely cramped makeshift cages, including a capybara who could barely turn around and a cat and zebra who exhibited signs of apparent psychological distress. (*See Video 4, Video 5, and Video 6.*)
- Several animals were crowded into tiny cages, many of them filthy. These conditions can cause stress and immunosuppression, which can lead to disease transmission and illness. (*See Photos 8 and 9.*)

Although these animals are likely no longer present at the auction site, these apparent violations are evidence of chronic, widespread issues. Please ensure that animals held at Lolli Bros. are provided with adequate veterinary care, shelter, and water and are otherwise handled in accordance with the AWA—including during the auction. The next [Alternative Livestock auction is December 6 to 8](#). Please hold the facility and all responsible parties 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.
Senior Wildlife Specialist, Captive Animal Law Enforcement
[REDACTED]

Appendix

During the summer Alternative Livestock auction at Lolli Bros., a concerned citizen documented several apparent AWA violations over the course of three days, July 12 to 14, 2017.

a. Emaciated Cows in Apparent Need of Veterinary Evaluation

The witness observed and documented that three cows were underweight or emaciated. Wildlife veterinarian Dr. Christine Capaldo opined that "the black and white cow is very thin and has an unkempt hair coat with either dirt or diarrhea on her hind end, tail, and legs. This could indicate malnutrition, parasites, or serious illness. Her ribs can easily be seen and she has prominent hip bones and a sunken waist." (*See* Photos 1–4.) She added that "the white calf appears emaciated and has an extremely sunken waistline" (*see* Photos 5–6) and "the tan cow is also thin" (*see* Photo 7).

Pursuant to 9 C.F.R. § 2.40(b)(2) and (3), dealers must "prevent, control, diagnose, and treat diseases and injuries" and perform "[d]aily observation of all animals to assess their health and well-being." Furthermore, "a mechanism of direct and frequent communication is required so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian." The fact that multiple animals' bodies were in such poor condition likely indicates that Lolli Bros. is not providing adequate veterinary care, making daily observations, or maintaining frequent communication with an attending veterinarian. It may also be in violation of 9 C.F.R. § 3.129(a), which requires that "food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health."

Please thoroughly inspect all the animals at the next auction, as well as their veterinary records and diets, to ensure that they are receiving adequate veterinary care and nutrition.

b. Rough Handling During Auction Presentation

The witness observed and documented that a 2-year-old wallaby was struggling for 40 seconds while an auction presenter dangled him in the air by his tail. (*See* Video 1 at 0:20–1:00.) According to Dr. Capaldo, "This could cause serious life-threatening injuries such as dislocations or fractures of the back or tail (resulting in paralysis or inability to stand), or muscle or tendon injuries."

The witness also documented that handlers struck a camel near his or her head with a large paddle at the end of a broomstick. (*See* Video 2 at 5:12.) The camel had been pacing and behaving anxiously in a small pen, and earlier in the presentation, at 3:06 in the video, the owner stated that the animals were "nervous." The camel was hit after he or she kicked a handler, who then fell to the ground.

Handlers were also observed and documented roughly grabbing, pulling, and shoving emus in the auction pen.¹ (*See* Video 3.)

These incidents appear to violate the following AWA handling regulations:

- 9 C.F.R. § 2.131 (b)(1), requiring that "[h]andling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort."

¹Although the USDA has not yet developed specific standards for birds, these warm-blooded animals are covered by the plain language of the AWA (*see* 7 U.S.C. § 2132(g); *see also* 9 C.F.R. § 1.1), and AWA regulations, including the general AWA standards set forth in subpart F, 9 C.F.R. §§ 3.125–3.142.

- 9 C.F.R. § 2.131(b)(2)(i), requiring that "[p]hysical abuse shall not be used to train, work, or otherwise handle animals."
- 9 C.F.R. § 2.131(d)(1), requiring that "[a]nimals shall be exhibited only for periods of time and under conditions consistent with their good health and well-being."

Please inspect the handling of all animals presented during the auction and ensure that they are not handled in a manner that uses physical abuse or causes unnecessary discomfort.

c. Animals Confined to Cramped Cages Exhibiting Signs of Distress

Throughout the auction site, animals were crammed into tiny cages, many only as large as the animal confined within. A capybara was documented clearly struggling even to turn around inside the cage he or she was confined to. (*See Video 4 at 0:35.*) Pursuant to 9 C.F.R. § 3.128, "Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement." Even "[p]rimary enclosures used to transport live animals," which many of the auction animals are apparently confined to for several days during the auction, are required to "be large enough to ensure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments." 9 C.F.R. § 3.137(c).

Furthermore, bathing water is essential for capybara welfare. According to the USDA's [Animal Care Inspection Guide](#), for "species that, under natural conditions, spend a significant portion of their time in water (such as capybaras ...), compliance with space requirements means there should be both dry and aquatic portions of the primary enclosure, each of which must, at a minimum, provide sufficient space to allow each animal therein to make 'normal postural and social adjustments with adequate freedom of movement.'" Confining this animal to a tiny cage that provides barely enough room to make a single rotation and failing to provide a pool—especially in the heat of mid-July—are causes for serious concerns about animal welfare.

Many other animals were also confined to small areas that may have contributed to psychological distress. A cat was documented frantically scratching the side of a cage and mewling from apparent distress. (*See Video 5.*) A zebra was confined to a pen where he or she was able to take only a few steps in any direction and was documented repeatedly pacing in that small area. (*See Video 6.*) Pacing is a stereotypical behavior, is likely caused by a lack of sensory stimulation, and suggests poor welfare and suffering.²

The abnormal behavior displayed by the cat and zebra likely indicates psychological distress and suggests that Lolli Bros. was exhibiting or dealing these animals in apparent violation of 9 C.F.R. § 2.131(b)(1) and (d)(1). Although the cages were temporary during the auction, the animals were likely confined to the same space for days on end, and their distressed behavior indicates that Lolli Bros. did not provide them with sufficient space, in apparent violation of 9 C.F.R. § 3.128, which states that "[i]nadequate space may be indicated by evidence of ... stress, or abnormal behavior patterns."

Please inspect the animals during the next auction, as well as their veterinary records, and ensure that they are receiving adequate veterinary care pursuant to 9 C.F.R. § 2.40. Please also inspect cages and

²R.R. Swaisgood and D.J. Shepherdson, *Scientific Approaches to Enrichment and Stereotypies in Zoo Animals: What's Been Done and Where Should We Go Next?* *Zoo Biology* 24, 499–518 (2005).

holding pens and ensure that animals are able to engage in normal postural adjustments even while confined to temporary areas. As you inspect the cages, please keep in mind that Lolli Bros. has previously been cited for confining animals to too-small enclosures and that one report stated that cats were "unable to turn about normally" and "also could not lie in a natural position."³

Please inspect the cages that animals are confined to for the duration of the auction and ensure that they allow for sufficient space to make normal postural and social adjustments and that they are large enough and complex enough to alleviate stereotypical behavior.

d. Crowded and Filthy Cages

Several smaller animals were confined to very crowded cages that virtually eliminated their ability to move freely and make normal postural and social adjustments, in apparent violation of 9 C.F.R. § 3.128. Additionally, many of these cages were filthy, filled with mud or feces, or soaked in urine. (See, e.g., Photos 8 and 9.) The unsanitary conditions observed throughout the auction appeared to violate 9 C.F.R. § 3.131(a), which states that "[e]xcreta 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."

As you inspect the enclosures, please keep in mind that Lolli Bros. was previously cited for failing to clean rabbit, primate, and fennec fox cages adequately. Inspectors noted that rabbits were standing on packed fecal matter and "were unable to lay down or move around without coming in contact with the fecal material"; primates were confined to enclosures containing "liquid waste," and the hands and feet of one animal were in the waste, which completely covered the floor of the cage; and a fennec fox was confined to an enclosure with soaked newspaper bedding that was not adequately absorbing waste.⁴ Primary enclosures used to transport live animals are mandated to be "cleaned and sanitized in a manner prescribed in § 3.131 of the standards." 9 C.F.R. § 3.137(d).

These crowded and often extremely filthy cages can cause stress and immunosuppression and can lead to disease transmission and illness and can pose a threat to public health. Please inspect the animals' living conditions during the auction, as well as their veterinary records, and ensure that they're receiving adequate veterinary care pursuant to 9 C.F.R. § 2.40.

³See USDA Inspection Report, Lolli Bros. Livestock Market, Inc., license number 43-B-0010, April 12, 2013.

⁴*Id.*