

January 25, 2022

Robert Gibbens, DVM
Director, Animal Welfare Operations
USDA/APHIS/Animal Care

Via e-mail: [REDACTED] animalcare@usda.gov

Dear Dr. Gibbens:

I am writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) investigate the Cleveland County Agriculture and Livestock Exchange (license no. 55-B-0232), for the following apparent Animal Welfare Act (AWA) violations, observed and documented by concerned citizens during the October 8–9, 2021 Shelby Alternative Livestock Auction, and detailed in the attached appendix:

- A zonkey was caught by a leg in a gate of a makeshift corral and struggled for over a minute and a half while workers attempted to free him. He later showed signs of pain but did not appear to receive any veterinary evaluation. (*See Videos 1–2.*)
- A ram was underweight and exhibited labored breathing. Zebu and watusi cows were severely underweight, indicating illness, inadequate veterinary care, and/or malnutrition. (*See Videos 3–4 and Photos 1–3.*)
- Auction workers appeared inexperienced and/or reckless in their handling of exotic animals, including by carrying cranes by their wings and chasing frightened and stressed bison, oryx, and emus into makeshift corrals where they could easily injure themselves or humans. (*See Videos 5–10.*)
- Auction workers also roughly handled visibly stressed and frantic animals both when moving them to/from the auction ring and when they were in the auction block itself, including by kicking and whipping goats and sheep or dragging them by their horns, slamming a goat kid into the side of a pen, dangling a wallaby and a coatimundi by their tails, lifting up full-grown pigs by their tails, and carrying a piglet by one leg. (*See Videos 11–29.*)
- Animals were confined to extremely cramped improvised cages, including a pig who could barely turn around and birds, guinea pigs, and rabbits who were so crowded together they could not freely move. These intensely crowded conditions can cause stress and immunosuppression, and can lead to disease transmission and illness. (*See Video 30 and Photos 4–14.*)

Please investigate these apparent violations, and hold the consigning exhibitors, dealers, the Cleveland County Agriculture and Livestock Exchange, and any other responsible parties accountable to the fullest extent of the law. Should the next alternative auction take place as scheduled on March 18–19, 2022, please ensure that animals held at the auction site are provided with adequate veterinary care, safe enclosures, and are otherwise handled in accordance with the AWA.

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,



Debbie Metzler, M.S.
Associate Director of Captive Animal Law Enforcement
[REDACTED]

PEOPLE FOR
THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

Washington
1536 16th St. N.W.
Washington, DC 20036
202-483-PETA

Los Angeles
2154 W. Sunset Blvd.
Los Angeles, CA 90026
323-644-PETA

Norfolk
501 Front St.
Norfolk, VA 23510
757-622-PETA

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Appendix

On October 1, 2021, the Cleveland County Agriculture and Livestock Exchange was approved for its AWA license when no animals were present or inspected. On October 8, the USDA apparently only inspected a total of 78 animals at the Shelby Alternative Livestock Auction, overlooking the care and treatment of the majority of the hundreds of regulated animals who were held and sold at this auction. (*See Exhibit 1.*) As the photographs and video evidence enclosed show, this licensee and its consignors demonstrated several apparent violations of the AWA during this inaugural event, which took place on October 8 and 9, 2021. Please hold the responsible parties fully accountable for any and all violations that you uncover as you investigate this evidence.

Please also inspect all animals, as well as their veterinary records and living conditions, at the next Shelby Alternative Livestock Auction to ensure these apparent violations do not reoccur and that the animals receive adequate veterinary care, are not handled in a manner that uses physical abuse or causes unnecessary discomfort, and are able to engage in normal postural adjustments even while confined to temporary areas.

a. Zonkey Injured in Makeshift Corral Apparently Went Without Veterinary Evaluation and/or Treatment

On October 9, a witness observed and documented a zonkey who appeared agitated while confined to a makeshift corral. The animal attempted to escape from the corral and in doing so, jumped on the gate. (*See Video 1 at 1:10.*) The zonkey's left front leg then became trapped in the gate latch and he violently tried to free himself, thrashing around, which went unnoticed by workers until onlookers loudly yelled to get their attention. The leg was cranked across the animal's chest and neck and was forced to bear the entire weight of the front half of his body as his right leg remained suspended above ground. He was trapped for approximately 1.5 minutes and exhibited extreme distress as he struggled and whinnied from discomfort and/or pain. After finally being freed, he was favoring this leg and holding the limb off the ground. After about a minute, workers opened the door and he ran out of the corral and along the corridor. Workers managed to recapture and confine him using portable wooden walls to make a stall. (*See Video 2.*) The witness who observed the incident noted, "even though I checked on him frequently, I did not see him receive any treatment." Another witness who saw the zonkey after the incident noted, "I saw that the zonkey was not putting much weight, if any at all, on that leg while standing and moving in the enclosure. I later saw this zonkey walking to a trailer while being loaded. S/he was favoring his/her front left leg and slipped or misstepped with that same leg." After reviewing the footage, wildlife veterinarian Dr. Heather Rally opined that "based upon the severity of the disfigurement, I would be shocked if this animal does not have a broken leg, and s/he has certainly sustained serious injury to the muscles, ligaments, and joints of the limb. This is all the result of absolutely inappropriate, unsafe, unsound enclosures and heightened stress at this ramshackle facility."

This animal was clearly injured while at the auction site, as a direct result of poor enclosure integrity in apparent violation of 9 C.F.R. § 3.125(a), which requires that "[t]he 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." The zonkey apparently never received veterinary evaluation in the many hours that went by from the time of the injury and the time at which the animal was loaded and hauled away, in apparent violation of 9 C.F.R. § 2.40.

b. Severely Underweight Animals in Apparent Need of Veterinary Evaluation

On October 8, a witness observed and documented an underweight ram who was exhibiting increased respiratory effort. (*See* Video 3.) The ram also appeared lethargic with decreased level of activity compared to other animals around him. Dr. Rally opined that the causes for the lethargy and labored breathing could range from exertional stress, pain, or injury to a primary respiratory or cardiovascular condition, or other systemic disease. Without further diagnostics it would be impossible to know from what or how this animal was suffering. However it is clear that he was stressed, pained, sick, or a combination thereof, and in need of veterinary evaluation.

On October 9, witnesses observed and documented several exotic cows including zebu and watusi who appeared severely underweight, with the bones of the vertebrae, hips, and ribs appearing prominent. (*See* Video 4 and Photos 1–3.) Dr. Rally wrote that “this appearance is not normal and can be indicative of inadequate nutrition, insufficient caloric intake or absorption, or excess energy consumption from poor husbandry, competition and inappropriate social housing, physical or psychological stress, or from underlying illness. These animals should be evaluated by a qualified veterinarian to rule out disease and certainly should not be subjected to the exhaustion of transport, overcrowding, and confinement to these stressful housing and handling conditions. It is important to note as well that some significant infectious diseases of cattle can manifest as chronic weight loss and wasting despite a normal appetite and it is essential that underweight animals are promptly and thoroughly evaluated to safeguard the health of all animals at this facility, and beyond.”

The fact that multiple animals were in such poor body condition likely indicates that the Cleveland County Agriculture and Livestock Exchange and/or its consignors were not providing adequate veterinary care to these animals pursuant to 9 C.F.R. § 2.40. The responsible parties may also be in violation of *id.* § 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.”

c. The Auction’s Dangerous Facilities Put Animals and Humans at Risk of Injury

In addition to the aforementioned incident with the zonkey, other enclosures were poorly constructed or made of random and unsafe materials that put animals at risk of injury in apparent violation of 9 C.F.R. § 3.125(a). For instance, on October 8, witnesses observed and documented handlers attempting to corral an adult oryx. (*See* Video 5 and Video 6.) As one handler used a sorting panel to coerce the animal to back up, the oryx repeatedly charged and head butted the panel. At 0:58 in Video 5, a divider wall fell down, and was caught by a beam on the left side, which is apparently the only reason it did not crush the animal or the handler. A worker was heard exclaiming, “holy shit ... oh God, I’m glad that beam was there.” After the handler placed the wall back up, the oryx then charged toward another worker, whose sorting panel did not keep the animal from barreling through another makeshift wall, and a third handler had to leap over a gate to avoid getting hit or impaled by the animal’s horns (*see* Video 6). The oryx continued to frantically run around the pen, charging any handler who attempted to restrict him, and by 1:19 in Video 6 there were at least a half dozen workers trying to contain the animal using sorting panels or by putting their weight against the makeshift walls. At 1:24, the animal charged head-first into the metal bars of a gate, risking “direct damage to skull, brain, nerves and cervical vertebrae, as well as eyes, nose, ears and other tissue,” according to animal behavior expert Jay Pratte.

According to Dr. Rally, “oryx are notoriously challenging animals to manage in a captive setting. They are strong, fierce, incredibly agile and capable of swift and unpredictable movements, and they can leap to impressive heights, making their handling particularly difficult even when properly equipped with expertise and facilities to accommodate the species. Oryx are prey animals who are easily stressed during handling, movement, and transport. Although flight is their primary defense, an oryx will not hesitate to fight for their life, especially when cornered. The oryx’s long, slender horns are incredibly dangerous and are easily capable of impaling a human being. These handlers were lucky to have avoided serious injury as they clearly wildly underestimated the strength of this animal and the danger that they were in, as evidenced by men present inside of the enclosure without sorting boards attempting to grab the frightened, confused, and aggressive animal by the horns. This footage demonstrates dangerous, unprofessional, and outright ignorant animal handling that took place at this facility, which was clearly unequipped to manage exotic hoof stock.”

Pursuant to 9 C.F.R. § 2.131(a), “licensees who maintain wild or exotic animals must demonstrate adequate experience and knowledge of the species they maintain.” Both the zonkey and oryx incidents illustrate how the auction’s handlers were clearly not knowledgeable enough and had insufficient training in how to manage these species. Both animals were clearly distressed and were not handled “as expeditiously and carefully as possible in a manner that does not cause trauma... behavioral stress, physical harm, or unnecessary discomfort” in accordance with *id.* § 2.131(b)(1).

d. Reckless Handling While Unloading, Moving Animals to and From the Auction Ring

Further evidence of auction handlers’ inexperience was prevalent in the workers’ actions while unloading animals and rushing them to and from the auction ring.

On October 8, animals were unloaded from a truck from Zootastic of Lake Norman (license no. 55-C-0272). The driver was identified as Zootastic’s owner Scottie Brown. (*See* Video 7.) At 5:10 in Video 7, a bird¹ was heard vocalizing in apparent distress as workers began unloading three African crested cranes. At 5:35, the first bird unloaded was still vocalizing with alarm and was breathing rapidly, clearly in a panicked state while a worker held the animal by the wings. At 6:02, a second bird was unloaded and both cranes were carried away by a worker holding the animals by the wings. Dr. Rally opined that “carrying or restraining birds by holding them at the base of the wings is inappropriate and dangerous to the animal. Doing so hyperextends the wing at the shoulder and places excessive strain on the delicate joints of the shoulder girdle. This can easily result in painful and debilitating injuries including fractures and brachial paralysis leading to loss of flight.” Pratte opined that since the birds are also struggling in these positions, their risk of injury is exacerbated. At 6:21, a third crane was unloaded and a different worker held the animal by claspings both legs in his left fist as the bird struggled to get free. Pratte noted that the workers appeared unaware of the signs of distress of these birds, or chose to ignore them. Brown was in the immediate vicinity throughout this unloading activity and did not advise the workers on proper handling of these birds.

On October 8, a witness observed and documented bison who were visibly panicked while trying to evade workers who attempted to corral the animals. (*See* Video 8 and Video 9.) In Video 8, a bison lost his or her footing and fell to the ground. According to Dr. Rally, “this animal displayed clear

¹Although the USDA is in the process of developing 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.

behavioral signs of stress and impending aggression, including alert and agitated movements with an erect tail.” Despite these behavioral indications of danger, a handler entered the pen and was charged by the bison and just barely managed to avoid getting attacked. The distressed animal slipped and nearly tripped again. Pratte opined that the bison was clearly overstimulated, which significantly increased the risk of injury to animals and humans. He added that “handlers were using overlapping fear tactics such as yelling, whipping, and arm flapping. These tactics compound the risk of distress, injury, and displacement of frustration of fear onto another animal.” In Video 9, bison again showed clear signs of agitation and charged toward handlers who did not appear to have an understanding of the animals’ behavior nor of their own danger. One animal collided with a metal gate at 0:54, risking injury to the horns, head, and neck. At 1:41, a bison was running down a corridor as handlers chased him or her into the holding pen. The panicked animal slipped and his or her head impacted the ground before the animal regained his or her footing. Several bison almost fell down in a similar manner while being corralled and pursued by handlers.

On October 8, handlers were observed and documented shoving and attempting to kick emus to and from the auction block. (*See* Video 9 and Video 10.) It is never appropriate to use physical force to handle or move an animal. Dr. Rally also opined that for the welfare of the emus, as well as the safety of humans since emus can be aggressive, it is important that these animals are able to move along a path that is free of human presence in order to mitigate unnecessary stress, flighty behavior, and risk of injury. At 0:20 in Video 10, workers rushed to quickly close a gate that was still open in order to prevent the emus from escaping. It is clear from this footage that the handlers did not have sufficient expertise to properly and safely handle emus, nor did they have a coordinated plan for animal movement which resulted in unnecessary stress and risk of escape.

Goats were pulled by horns on October 8 (*see* Video 11, Video 12, and Video 13) and on October 9 (*see* Video 14). Animals were dragged a long distance by the horns or had their forelimbs lifted all the way up off the ground by the horns. According to Dr. Rally, “dragging a goat by the horns is an inappropriate form of handling and poses a risk of injury to the animal. The handling depicted in this footage caused distress to goats resulting in excessive stress and struggle against the handler. In addition to the risk of injury to the horns and neck from improper handling technique, goats are more likely to make attempts to fight or flight under excessive stress, which further increased the risk of injury to the handler and the animal. Common injuries from this sort of handling include damage or fracture to the horns themselves as well as painful straining and injury to the neck.”

On October 9, a worker slammed a baby goat into the side of a pen, apparently in an effort to capture the animal. (*See* Video 15.) After the worker swiftly ran and slid across the ground and pinned the goat against the metal bars of the enclosure, the animal’s head was whipped violently through the bars of the metal fencing and appeared to be stopped only by the impact of the animal’s shoulders and forelimbs against the metal. Dr. Rally said that “this impact most certainly caused this animal pain and could easily have caused injury such as bruising upon impact with metal. Such handling is violent and abusive and causes undue distress and pain for the animal.”

On October 9, workers were observed and documented roughly handling goats and sheep while herding them. (*See* Video 16, Video 17, Video 18, and Video 19.) Handlers were seen kicking the animals and hitting them with a stick or whip as they ran away. This dangerous handling risked injury to the animals and caused pain, panic, and distress.

- At 0:12 in Video 16, a handler kicked a black goat in the abdomen. This animal was cornered at the back of a pen at the moment he or she was kicked and was already running away from the handler. Thus, the kick was not an attempt to move the animal in the direction of the exit but instead was a malicious act whereby the handler took out his frustration on the animal, apparently with the intention of inflicting fear and pain to force the animal to avoid him and leave the pen. According to Dr. Rally, “this is outright abuse.”
- At 0:25 in Video 17, a sheep was trapped behind a metal divider and was separated from the flock. The animal was visibly distressed attempting to return to the social group. A handler kicked the animal from behind while he or she was clearly stuck in a deep pile of hay with the front end wedged into a corner of the metal enclosure. After being kicked, the animal’s body hit the side of the enclosure and he or she attempted to flee, but was only able to move slowly while sinking into the hay with every step. The handler proceeded to continue to repeatedly whip the animal from behind with a stick, calling the animal a “stupid bitch” while kicking him or her again, and the sheep appeared to get stuck again. The handler then placed her foot on the animal’s rump and shoved forcefully, but the animal appeared unable to move. According to Dr. Rally, “the handling depicted here is violent and abusive and undoubtedly caused this animal excessive distress and pain.”
- In Video 18, a handler used a stick with a flag to hit the animals repeatedly and with significant force. The animals recoiled after each blow. At 0:19, a goat made numerous attempts to turn and was whipped three times in a row directly in the face. Pratte noted that the handler’s physical presence alone would act as a barrier and the additional tactics of whipping and jabbing with the flag “are unnecessarily cruel.” According to Dr. Rally, a flag such as this can be used simply as a visual deterrent that is waved around to quietly and strategically guide the animals along a path. Instead, the auction’s handler was brandishing the flag as a weapon and used it to abuse the animals. The stick could have caused bruising from blunt force trauma, abrasions or lacerations, and it could have easily inflicted serious injury to the animals’ eyes when they were hit in the face.
- At 0:40 in Video 19, a man kicked a goat in the neck and head and then grabbed and swung the animal around by the groin. According to Dr. Rally, this rough handling risked physical injury to the animal from contusion, fracture, or other consequence of blunt force trauma.

On October 9, cows were repeatedly jabbed, poked, prodded, and hit across the face and rump with a metal whip in attempt to move the animals through a chute. (*See* Video 20.) Pratte observed that “even when the animals exhibited visible and audible signs of distress, they are ignored and the harassing and injurious actions continued, sometimes even intensified.” Indeed, when jabbing and prodding wouldn’t get the animals to move the direction the handlers wanted them to go, they shoved a metal gate up against the back of the animals. One of the handlers hung from the walkway above and pushed full-force against the gate with his feet while the other handler repeatedly hit the cows on the rump. The man hanging from the walkway then put his feet over the gate and stood on the rump of the cows apparently pushing and kicking them from behind. This treatment went on for several minutes before the animals finally moved. Dr. Rally opined that “this manner of handling is entirely inhumane, and it highlights just how distressing this environment is to the animals who would rather stand there and be physically beaten than move in the direction they were being ushered. Physical abuse is never an appropriate handling technique, as it causes pain, suffering, and injury, and can also make animals even less cooperative, prolonging the stress of handling.”

On October 9, a piglet continually tried to evade workers who chased the animal between several adjacent pens. (See Video 21.) Dr. Rally said that “it is clear from this video that the facilities were insufficient to contain this animal. The animal was chased and repeatedly harassed for two straight minutes by several handlers before being captured. This incident would have caused undue stress to the animal and placed him or her at risk of physical injury during attempted captures or while darting through gaps or holes in the metal fencing.” Pratte noted that other animals were being herded in the vicinity of this chase, and that the piglet could have been trampled or crushed to death since the piglet was small enough to enter any pen in the area.

According to Pratte, “the tactics used by these handlers were all aversive and fear-based. Several methods were redundantly used in unison, amplifying external stressors on the animals. Further, many methods such as whipping and kicking are unnecessarily cruel and injurious and the attitudes of these handlers reflects a lack of caring toward the well-being of the animals, and is symptomatic of the mistreatment and cruelty observed.” In addition to failing to provide secure and safe enclosures and failing to handle animals in accordance with 9 C.F.R. §§ 3.125(a), 2.131(a), and (b)(1), the auction also apparently violated *id.* § 2.131(b)(2)(i), which requires that “[p]hysical abuse shall not be used to train, work, or otherwise handle animals.”

e. Rough Handling of Visibly Distressed Animals During Frightening Auction Presentation

On October 8, witnesses observed and documented that handlers suspended a 16-month-old wallaby upside down by the mid-shaft of the tail as he kicked and thrashed around in a struggle to get free. (See Video 22 and Video 23.) According to Dr. Rally, it is improper to suspend a wallaby’s full weight by holding the tail away from the base for a protracted period of time. This manner of handling places the animal at serious risk of painful injury to the spinal cord and delicate joints of the tail. Pratte added that injury risks such as bruising, muscle-tearing, and nerve damage are “increased significantly when the animal is in distress, fearful, and struggling and thrashing while under the control of handlers who exhibited an utterly nonresponsive and casual disregard for these easily observable signs of distress.” According to the auctioneer, this animal was the only wallaby at the auction, so he was likely consigned by Zootastic, since a wallaby was documented coming off the Zootastic truck that day (see Video 7). The wallaby was sold to bidder #6145.

On October 8, witnesses observed and documented a 6-month-old coatimundi demonstrate extreme distress during the auction. (See Video 24.) Despite a comment from the auctioneer that “he’s a little nervous with all the noise and everything,” the handler removed the coatimundi from the carrier and immediately grabbed the frightened animal by the tail and dangled him upside down. As the handler attempted to set the animal down, the coatimundi tried to bite the handler, and eventually by 1:00 the handler placed a forceful grip around the animal and pressured him to remain still on the table. The coatimundi chattered loudly from apparent distress. Dr. Rally stated that “coatis have semi-prehensile tails that are only used for balance and are not adapted to bear the animal’s weight. This animal was terrified and was fighting for his life. The adrenaline surge experienced by this animal caused a fight or flight response that resulted in extremely panicked behavior, which placed the tail and spinal cord at even higher risk of injury from improper restraint.” Earlier in the day, a witness observed and documented this coatimundi pacing in the carrier in a holding area, indicating that the animal was experiencing extreme distress and likely fear throughout the auction in response to the noise and foreign environment. (See Video 25.) This coatimundi was assigned consignor lot #1037 and was purchased by buyer #6219.

On October 8, two Fennec foxes were auctioned off. (See Video 26.) Pratte noted that for this naturally reclusive and nocturnal species, being forced into the chaos of stimuli in the middle of the day can be very traumatizing. These animals are also sensitive to odors and loud noises, and this environment undoubtedly caused “sensory overload and distress that could interfere with normal communication and behavior patterns.” The auctioneer commented that one of the animals didn’t like to be handled. The other fox was biting at the caging (at 1:25) and exhibited agitated movements that indicated distress. The abnormal cage-biting behavior could cause significant injury to the animals’ teeth, tongue, and mouth. These foxes were assigned consignor lot #1030 and they were purchased by buyer #537.

On October 9, at least two Kunekune pigs were lifted up by their tails while being auctioned off. (See Video 27 and Video 28.) According to Dr. Rally, “a pig’s tail is a delicate structure, connected at the base to the sacrum and the spinal cord. The tail is used by the pig as a form of emotional expression and communication and is in no way adapted to bearing physical weight, let alone the entire physical weight of the hind end of a full-grown pig. Yanking on the tail in such a violent manner and suspending the animal by this delicate structure risks significant injury to the coccygeal vertebrae, sacrum, spinal cord, and the associated ligaments and tendons. Severe tissue and nerve injuries to the tail of a pig can result in activation of central pain processing pathways, and lead to the development of chronic neuropathic pain.” In Video 28, the pig responded to the yanking by fighting the handler. Dr. Rally said that “this rough handling is clearly painful and caused distress to the animal, as evidenced by the pig’s regression of the forward movement that the handler is trying to achieve.”

On October 9, a piglet escaped from the auction ring and upon recapture a handler dangled the animal in an inverted position by just one of the piglet’s hind limbs. (See Video 29.) Dr. Rally stated that “it is not acceptable to restrain or move piglets by suspending them from the hind limbs without supporting the body weight for any protracted period of time. Particularly with pigs who are actively struggling, as this animal appears to be, handling in this manner poses a serious risk of injury to the delicate bones and joints of the hind legs as well as the hips and the spine.” This incident underscored the facility’s chronic failure to adequately and safely contain animals, which put the animal at risk of injury as well as the stress of excessive harassment from poor handling technique.

Pratte opined that these handlers appeared unskilled and were “unresponsive to or lacked knowledge to recognize behavioral signs of distress.” In addition to failing to handle animals in accordance with 9 C.F.R. § 2.131(a), (b)(1), and (b)(2)(i), the auction also apparently violated *id.* § 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.”

f. Animals Confined to Cramped, Improvised, and Extremely Crowded Cages

Throughout the auction site, animals were crammed into tiny cages, many only as large as the animal confined within or so small that animals were prevented from being able to stand to their full height. Several animals were also confined to crowded cages that virtually eliminated their ability to move freely or so much as turn around without difficulty. According to Dr. Rally, “such overcrowded and constrained conditions can be distressing, inhibiting the animals’ ability to engage in almost all meaningful natural behaviors, preventing avoidance or escape in the face of perceived threats such as the presence of human beings, and can lead to excessive conspecific aggression and traumatic injuries. Furthermore, the conditions depicted are a breeding ground for infectious disease and can

pose a threat to public health.” Disease transmission is particularly concerning since children at the auction were observed inserting their hands into cages confining birds, a pig, and a guinea pig.

Pursuant to 9 C.F.R. § 3.137(c), enclosures used to transport live animals, which many of the auction animals were likely confined to for at least two full days, 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.” The following examples document just a few of the poorly constructed and overly crowded pens that appeared to violate this requirement:

- On October 8, a witness observed and documented a pig held in wire pen on plywood that was just barely big enough for the animal to stand upright. (*See* Photos 4 and 5.) The pig was assigned consignor lot #1052.
- On October 8, turkeys, pigeons, and chickens were confined to improvised crates or baskets that were just barely big enough for the animals, who were sometimes kept two to a basket, and had virtually no room to turn around. (*See* Photos 6 and 7.) These animals were assigned separate consignor lots per makeshift containers from #1038 to #1047.
- On October 8 and 9, witnesses observed and documented small mammals and birds kept in cramped and in some cases severely over-crowded conditions in wood and metal wire cages that were stacked on top of each other. (*See, e.g.,* Video 25 and Video 30.) For instance, hedgehogs were confined to plastic trays that were hardly taller than the animals themselves with wire fencing zip-tied to cover the containers (*see* Photo 8), and half a dozen pigeons were confined to a makeshift crate where their heads would poke out above the wire covering if they stood fully upright, and one of the birds was missing feathers on his or her neck (*see* Photo 9). The hedgehogs were assigned consignor lot #1379 and the pigeons were #1128.

On October 8, guinea pigs were also kept in very crowded carriers, including 10 animals confined to one cage that appeared no bigger than 17” x 28” or 476 square inches. (*See* Photos 10 and 11.) These guinea pigs appeared to be over 600 grams and thus pursuant to 9 C.F.R. § 3.36(e)(1)(ii), require a minimum of 55 square inches per animal in transport carriers, or 550 square inches for 10 animals confined together. The guinea pigs in this container were assigned consignor lot #342. On October 9, guinea pigs who also appeared to be over 600 grams were so tightly confined to a makeshift carrier that at least three were piled on top of each other. (*See* Video 31 and Photo 12.) These guinea pigs were assigned consignor lot #1129.

On October 9, four rabbits in the queue for auction were so tightly confined that they were forced to climb on top of each other. (*See* Photos 13 and 14.) Pursuant to 9 C.F.R. § 3.61(c), “enclosures used to transport live rabbits shall be large enough to ensure that each rabbit contained therein has sufficient space to turn about freely and to make normal postural adjustments.” These rabbits were assigned consignor lot #1125.

Dr. Rally opined that considering the likelihood that the excessively small enclosures would cause significant psychological stress, risk of physical trauma, and exposure to the elements without access to shelter, these animals were highly susceptible to illness. Pratte added that the “close proximity and stacking of animals from varying sources with no type of quarantine or separation process whatsoever guarantees transmission of pathogens and both endo- and ectoparasites,” and that “increased levels of distress due to the handling and aversive environmental stimuli will increase susceptibility to disease and parasite transmission.” In addition to all the aforementioned apparent space requirement violations, these conditions appeared to also violate *id.* § 2.131(b)(1) and (d)(1).