

October 20, 2022

*Via email*

Robert M. Gibbens, D.V.M.  
 Director, Animal Welfare Operations  
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Dear Dr. Gibbens,

I am writing on behalf of PETA to respectfully urge the U.S. Department of Agriculture (USDA) to investigate and terminate the Animal Welfare Act (AWA) licenses of Tonia Haddix and Jerry Aswegan<sup>1</sup> for willfully and repeatedly committing perjury and submitting other false information to a federal court.

The AWA regulations provide that “[a] license will not be issued to”—or may be terminated for—“any applicant who ... [h]as made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies ... or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.” 9 C.F.R. §§ 2.11(a)(7), 2.12.

Both Haddix and Aswegan provided numerous false and fraudulent statements to the Court in *Missouri Primate Foundation v. PETA*, Case No. 4:16-CV-2163-CDP (E.D. Mo. 2016), such that the Judge has referred their conduct to the U.S. Attorney’s office for consideration of criminal perjury charges.<sup>2</sup> As discussed in detail below, Haddix continually lied under oath and submitted false pleadings in the case, and she and Aswegan submitted false declarations under penalty of perjury in their attempt to fake the death of a chimpanzee named Tonka for no reason other than to circumvent Haddix’s legal obligations to provide adequate care for chimpanzees or transfer them to a facility that is capable of doing so. For this and other reasons, the Court found Haddix in contempt of its orders on multiple occasions. [ECF Nos. 299, 307.]

Haddix’s and Aswegan’s fraudulent statements and information given to the U.S. District Court clearly demonstrate their contempt for federal law and that they are “unfit to be licensed” by the USDA, and allowing them to retain AWA licenses is “contrary to the purposes of the [AWA].” 9 C.F.R. § 2.11(7). Accordingly, PETA requests the USDA investigate and initiate license termination proceedings against these licensees. *Id.* § 2.12.

<sup>1</sup> Ex. 1, USDA APHIS Inspection Report, Tonia Haddix (Sept. 12, 2022) (approving Haddix’s Class B license); Ex. 2, USDA APHIS Inspection Report, Jerry Aswegan (July 28, 2022) (citing Aswegan for several AWA violations).

<sup>2</sup> Ex. 3, Referral for Criminal Investigation of Tonia Haddix and Jerry Awegan from Judge Catherine D. Perry to Assistant U.S. Attorney Carrie Costantin (June 10, 2022).

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 TO SUPPORT ANIMAL PROTECTION.

**AFFILIATES:**

- PETA U.S.
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- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

### A. Factual Background

In 2017, PETA filed Endangered Species Act claims against the Missouri Primate Foundation (MPF), its proprietor Connie Casey, and owners of chimpanzees who had boarded animals at the facility indefinitely, alleging that the chimpanzees were held in barren and unsanitary enclosures in which they were inhumanely deprived of the social contact, physical space, and environmental enrichment necessary to engage in species-typical behaviors such as foraging, nest-building, climbing, play, tool use, and socializing that are crucial to their well-being; that they were denied an adequate diet and regular veterinary care; and that as a result, the chimpanzees exhibited physical and behavioral evidence of distress and psychological harm. [ECF No. 23.] During the course of the litigation, MPF and Casey transferred ownership of the then-remaining seven chimpanzees to Tonia Haddix, after which Haddix was joined as a party to the lawsuit. [See ECF Nos. 168, 226.]

On September 16, 2020, PETA and its co-plaintiff (“Plaintiffs”), Haddix, Casey, and MPF entered into a Consent Decree. On October 2, 2020, the Consent Decree was entered by the Court, which also retained jurisdiction over its enforcement. [ECF No. 274 (“Decree”).] Pursuant to the Decree, Haddix would transfer four of the chimpanzees to an accredited sanctuary, but would be permitted to retain ownership and possession of the remaining three chimpanzees—including one named Tonka—if she adhered to her obligations to ensure appropriate welfare as outlined in the order. *Id.*

Despite negotiating the Decree’s terms, Haddix failed to meet virtually any of her obligations under the agreement. Ultimately, the Court ordered Haddix to relinquish all seven chimpanzees to an accredited sanctuary. [ECF No. 307; *see also* ECF No. 322.] Almost immediately after the Court entered that order, Haddix began to assert that Tonka died days earlier. [ECF No. 308.] This was a lie. As discussed in the following sections, Haddix and her husband, Aswegan, indisputably perjured themselves and she provided other false information in the course of the proceedings in support of their failed attempt to evade the Court’s orders to transfer Tonka to an accredited sanctuary. Instead, Tonka was trafficked, reportedly under a false name, and then relegated to a small cage in Haddix’s basement, where he was discovered by federal marshals just days before she was planning to “euthanize” him. PETA has since transferred Tonka to an accredited sanctuary. [ECF No. 374.]

### B. Haddix and Aswegan Committed Perjury to Fake Tonka’s Death

Haddix and Aswegan submitted extensive and detailed false information and testimony to the court in an attempt to fake the death of chimpanzee Tonka, instead absconding with him in violation of Court orders. In August 2021, Haddix submitted to the Court in a sworn declaration, “On May 30, 2021, Tonka died. On that same date, Jerry Aswegan cremated Tonka’s body. After the cremation, he gave me Tonka’s cremated remains.” [Ex. 4, ¶¶ 3-4.] In another declaration filed the same day, Aswegan told a story of how he “elected to handle the disposal of Tonka’s body.” [Ex. 5, ¶¶ 5, 6, 8, 9, 10, 11, 12, 13.]

On January 5, 2022, the Court then held a hearing on Plaintiffs’ motion for contempt in relation to Haddix’s failure to transfer Tonka as ordered. Plaintiffs called Haddix as their first witness, and she was sworn in. [Ex. 6, Transcript of Hearing (“Tr.”), 5:6-10 (Jan. 5, 2022).] Haddix’s additional false testimony under oath regarding Tonka’s “death” was extensive, including but not limited to:

- Describing in extensive detail how she found Tonka dead, including theatrically sobbing and crying to the extent that the Court took a ten-minute recess so she could compose herself. Tr. 46:22-48:21; see also Tr. 20:1-4 (“[T]hat was a big hit. Especially after you know how much I cared for him and how much I took care of him to try to get him better and he didn’t get better. (Witness crying.)”)
- Describing in extensive detail, accompanied by more performative crying, how she and Aswegan removed his body from his cage with a gator utility vehicle, “took him around and let the chimps say good-bye,” wrapped his body in plastic, and then transferred him to the bed of a truck. Tr. 54:14-55:14.
- Describing how she attempted to call Casey to tell her about Tonka’s death and chose not to leave a message because she didn’t want to inform her by voicemail, and instead told her in person the following day. Tr. 55:23-56:10.
- Describing how Aswegan provided her with Tonka’s ashes, and she then visited his property in Peculiar, Mo. to obtain additional ashes from the center of the burn pile there, “because that’s where you would imagine you put all the stuff to burn ... to burn Tonka’s body. So I went ahead and I was just trying to get something in that area.” Tr. 58:12-61:7.
- Describing how her veterinarian “gave me a week to try to make [Tonka] better and then he died in the process.” Tr. 118:12-13. “And he set a date for me to – he actually set a date for him to come out to euthanize him and I postponed it because I wanted to keep trying to save Tonka if I could. But then he just died on his own, so there was no saving him.” Tr. 122:19-23.
- “I know for a fact that Tonka was cremated but even the whole thing of it is it’s whether or not Tonka died, because I can’t provide him to you guys if he died. (Crying.)” Tr. 118:20-23.

During the hearing, Haddix also acknowledged suborning perjury from Aswegan:

Q. Only after the Court ordered that you provide evidence of his death did you have your husband send an email saying that he burned Tonka’s body, right?

A. That’s correct.

Tr. 26:11-14. Haddix further told a nonsensical story about why Tonka is older than either she or Casey acknowledged in their Answers in a transparent effort to age him and therefore make his supposed health issues more likely to be true. Tr. 38:11-46:1, 50:2-52:4.

Additionally, Haddix lied repeatedly in her attempt to explain the text message she sent to her friend that “Tonka needed groceries.” Haddix invented a story about how that referred to a later-acquired capuchin monkey who she named Tonka—first noting that she obtained this second Tonka in January 2021, before apparently realizing that was before the chimpanzee’s supposed death and settling on July 2021. Tr. 36:15-38:9. In that text exchange, Haddix also wrote, “I was at CY and could not talk. No signal,” which she explained meant that she “was at a store and I couldn’t talk. I mean I had went to Lowe’s and then I had went to this lighting store and stuff and there was no signal, so I couldn’t talk.” Tr. 36:4-38:9. Since the January 5, 2022, hearing, PETA obtained additional detail exposing these fabrications.

Haddix's reference to "CY" in her text message referred to Cyril Vierstra, proprietor of Union Ridge Wildlife Center, a roadside zoo in Wilkesville, Ohio (license no. 31-C-0259). On June 3, 2022, speaking to PETA representatives, he revealed that Haddix transferred Tonka to him in late July 2021, and Tonka remained there until late winter or early spring of this year. Vierstra asserts he was told that Tonka's name was "Joe," and that he did not know him to be Tonka until after Haddix had already removed Tonka from the facility, at which time he did not raise it because he felt it was not his business. According to Vierstra, Haddix visited the facility approximately four times while Tonka was present, and would give him \$300 to \$500 in cash and also bring groceries from Walmart. He further acknowledged that Tonka was transferred to and from his facility without obtaining any of the requisite state permits for importing and exporting exotic animals.

Haddix's (and Vierstra's) friend,<sup>3</sup> Cassandra MacDonald (née Fairbanks) has similarly acknowledged that Haddix secreted Tonka away to Vierstra's facility. In her online story otherwise littered with misinformation, MacDonald writes of the details of Haddix's contempt that were never before public and apparently obtained from Haddix herself:

Tonka the chimpanzee has been "dead" for the last year, at least that is what his caretaker wanted the courts and People for the Ethical Treatment of Animals to believe.

In reality, Tonka was not dead. His owner, Tonia Haddix, was hiding him after losing a lengthy court battle over custody of him and six other chimpanzees....

Haddix ... decided to fake his death. She would tell the veterinarian that he had passed away. For the next several months, she would post her despair in Facebook posts as evidence of his passing.

On July 27, 2021, the night before PETA's lawyer Jared Goodman and their associates arrived to take all of the chimps, Haddix brought Tonka to a hotel a couple of miles away. She snuck him in the room and hung out with him there, as she had been ordered to be at least two miles from the property while the seizure was under way....

Haddix brought Tonka to a friend's sanctuary, telling the owner that it was a chimp named "Joe," his name in the movie Buddy. Until the winter, he would remain in a large indoor/outdoor enclosure with a few female chimps.

Once the weather began to get cold, Haddix went and picked him up. She brought him to her home, part of which she had chimp-proofed ....<sup>4</sup>

The story included new photographs of the cage in Haddix's basement and wrote that "[a]n outdoor enclosure was also in the process of being constructed," which Haddix had never asserted publicly

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<sup>3</sup> See Tr. 63:14-64:1 (acknowledging their friendship and that she visited Haddix in Festus in July 2021, just prior to the six chimpanzees' transfer).

<sup>4</sup> Cassandra Fairbanks, *Trophy Hunting Tonka: One Woman's Crusade to Protect a Beloved Chimp and PETA's Victory Sending Him to a Notoriously Abusive Sanctuary*, Timcast (June 7, 2022), <https://timcast.com/news/trophy-hunting-tonka-one-womans-crusade-to-protect-a-beloved-chimp-and-petas-victory-sending-him-to-a-notoriously-abusive-sanctuary/>.

or to Plaintiffs, and no photographs of which appeared in the story.<sup>5</sup> Since Tonka's transfer, Haddix apparently also acknowledged to reporters that she lied. "In an interview with the Post-Dispatch ... Haddix acknowledged lying to authorities to 'protect [Tonka] from the evil clutches of PETA.'"<sup>6</sup>

Haddix's and Aswegan's lies to the Court were severe enough to warrant the presiding Judge to refer the matter of their extensive false and fraudulent statements to the U.S. Attorney's office for consideration of criminal perjury charges.

### C. Haddix Provided Other False Information Resulting in the Court Finding Her in Contempt

Haddix's lies about Tonka's death and location are only some of the numerous false information she provided during the course of proceedings. The Court found Haddix in contempt twice, citing several violations of the Decree. [ECF No. 299, 307.]

To provide just one example of Haddix's contempt that demonstrates her unfitness to maintain an AWA license: As part of her obligations under the Decree, Haddix was required to provide Plaintiffs with monthly updates on the status of the enclosure that she agreed to construct in order to retain custody of the three chimpanzees, including Tonka. On December 22, 2020, Haddix purported to fulfill this monthly obligation by sending the undersigned an email with two images she indicated were obtained that day and the subject line, "Completely done ground work and all septic and sewer and water and electric." The images showed some portion of excavated land, one including a portable toilet and Volvo excavation equipment. *This was also a lie.* Plaintiffs learned from the man who had been selling Haddix that property that she was delinquent on her installment payments to him, and to the contractor who had therefore removed his equipment from the property. He also provided a sworn declaration indicating that those photographs depicted the property as of November 2020, and that contrary to Haddix's representations, the "ground work" (i.e. excavation and grading) was never completed, and no electrical, water, sewer, septic, or concrete work was ever even started on the property. The Court therefore held Haddix in contempt. [ECF No. 299 at 2.]

Given the Court's contempt findings, it repeatedly warned Haddix of the potential consequences of her continuing contempt of the Court's orders, including on several occasions that she can be jailed until she complies. Notwithstanding Haddix's knowledge of the severe consequences of further violations of the Court's orders, she escalated her conduct and proceeded to repeatedly lie under oath, in declarations and in extensive fabricated testimony regarding Tonka's "death."

### D. Conclusion

Section 2.11(7) of the AWA regulations explicitly states that a "license will *not* be issued to any applicant who ... [h]as made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies ... or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the

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<sup>5</sup> *Id.*

<sup>6</sup> See, e.g., Katie Kull, *Owners of Movie Chimp Tonka Could Face Criminal Charges for Lying to Court About Primate's Death*, St. Louis Post Dispatch, (June 13, 2022), [https://www.stltoday.com/news/local/crime-andcourts/owners-of-movie-chimp-tonka-could-face-criminal-charges-for-lying-to-court-aboutprimate/article\\_6505a949-51aa-5b58-a125-d2f73328a601.html](https://www.stltoday.com/news/local/crime-andcourts/owners-of-movie-chimp-tonka-could-face-criminal-charges-for-lying-to-court-aboutprimate/article_6505a949-51aa-5b58-a125-d2f73328a601.html).

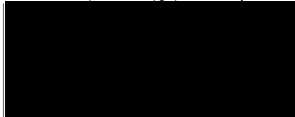
[AWA].” 9 C.F.R. § 2.11(7) (emphasis added). Section 2.12, in turn, provides that an existing license may be terminated for that same reason.

Haddix’s lies under oath, and Haddix and Aswegan’s submission of false declarations under penalty of perjury, fall squarely within the type of conduct described to require denial or revocation of an AWA license under sections 2.11(7) and 2.12. It is indisputable that they provided false and fraudulent information to the Court, as evidenced by the Judge’s criminal investigation referral letter [Ex. 3], and the Orders of Contempt entered against Haddix [ECF No. 299, 307].

These actions furthermore exemplify that Haddix and Aswegan are each “unfit to be licensed.” 9 C.F.R. § 2.11(7). Both took extreme, extensive, and criminal lengths to keep animals from receiving adequate, court-ordered care. Their actions demonstrate that their self-interest in the animals they confine far outweighs their consideration of their legal obligations. Allowing either Haddix or Aswegan, who have demonstrated their blatant disregard and disrespect for the law, to retain AWA licenses is unequivocally “contrary to the purposes of the Act.” *Id.*

We stand ready to provide copies of additional pleadings or any other information that may assist in your investigation. Thank you for your attention to this important matter.

Very truly yours,



Jared Goodman  
General Counsel, Animal Law

