

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

James Svoboda, an individual d/b/a
Sunrise Side Animal Educational
Park and Nature Trail, a/k/a
Sunrise Side Nature Trail and
Exotic Park,

Respondent.

AWA Docket No. 23-J-0004

COMPLAINT

REC'D - USDA/OALJ/HCO
2022 OCT 24 10:15 AM

There is reason to believe that the Respondent named herein has violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (AWA or Act), and the regulations thereunder (9 C.F.R. § 1.1 et seq.) (Regulations). Therefore, the Administrator of the Animal and Plant Health Inspection Service (APHIS) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent James Svoboda is an individual whose business address is 1220 North Kobs Road, Tawas City, MI 48763. At all times material herein, Respondent was an exhibitor as that term is defined in the Act and the Regulations and held AWA license 34-C-0166 as an “individual.”

2. On or about August 4, 2021, Respondent voluntarily terminated AWA license 34-C-0166.

ALLEGED VIOLATIONS

3. On or about July 23, 2019, Respondent failed to have a responsible adult available to accompany APHIS officials during an inspection in violation of the Act and the Regulations (7 U.S.C. § 2146(a); 9 C.F.R. § 2.126).

4 Since approximately February 2020, Respondent failed to employ an attending veterinarian to provide adequate veterinary care to Respondent's animals in violation of 9 C.F.R. §§ 2.40(a), 2.40(a)(1).

5. Between approximately October 2020 and July 21, 2021, Respondent failed to:

a. obtain adequate veterinary care for a bear with an ulcerated, red wound above its eye in violation of 9 C.F.R. § 2.40(b)(2); and

b. communicate with an attending veterinarian on the bear's wound in violation of 9 C.F.R. § 2.40(b)(3).

7. On or about July 19, 2021, Respondent housed its bears outside with access to a wooden shelter that had one or two walls that the bears had torn down and rotten floorboards in violation of 9 C.F.R. §§ 2.100(a), 3.125(a), and 3.127(b).

8. On or about July 19, 2021, Respondent failed to remove excreta from the lion and bobcat primary enclosures often enough to prevent contamination, minimize disease hazards, and reduce odors in violation of 9 C.F.R. §§ 2.100(a) and 3.131(a).

6. Between at least July 19 and July 21, 2021, Respondent failed to:

a. obtain adequate veterinary care for a bobcat that was obese and had matted hair on its neck and back, in violation of 9 C.F.R. § 2.40(b)(2); and

b. communicate with an attending veterinarian on the bobcat's health, behavior, and wellbeing in violation of 9 C.F.R. § 2.40(b)(3).

9. On or about July 21, 2021, Respondent failed to:

a. obtain adequate veterinary care for a lion that was very thin with prominent vertebral bodies in violation of 9 C.F.R. § 2.40(b)(2);

b. communicate with an attending veterinarian on the lion's thin body condition in violation of C.F.R. § 2.40(b)(3).

10. On or about July 21, 2021, Respondent failed to remove excreta from the bobcat enclosure such that there were still excessive feces in the enclosure and a strong odor in violation of 9 C.F.R. §§ 2.100(a) and 3.131(a).

ALLEGATIONS REGARDING GRAVITY OF
VIOLATIONS AND HISTORY OF PREVIOUS VIOLATIONS

11. For approximately a year and a half, Respondent did not have an attending veterinarian employed at his facility, or any part-time attending veterinarian or consultant arrangements, to provide adequate veterinary care to Respondent's animals. In the year and a half that Respondent did not have an attending veterinarian, one of Respondent's bears suffered from a wound above its left eye that started as a small lump and grew to a red, ulcerated, necrotic wound four to five inches in diameter. This bear was found to be suffering as a result of Respondent's failure to comply with the attending veterinarian and adequate veterinary care regulations (9 C.F.R. §§ 2.40(b)(2), 2.40(b)(3)). Respondent was served with a Notice of Intent to Confiscate ("NOIC") on July 23, 2021, requesting that Respondent correct the bear's condition immediately and provide adequate care to alleviate the bear's suffering. Respondent refused to sign the NOIC and was served with a Notice of Confiscation ("NOC") on July 23, 2021. The bear was confiscated that same day.

12. APHIS issued Respondent three citations for violations of the AWA on or about July 31, 2014, with respect to handling of animals, perimeter fence requirements, and adequately trained employees (9 C.F.R. §§ 2.131(c)(1), 3.127(d), 3.132). Specifically, Respondent was cited for an incident that occurred on or about July 26, 2014, when a visitor, under the supervision of

Respondent's employee, was able to access the area between the lion's primary enclosure and the perimeter fence. As a result, the visitor stuck her finger into the lion enclosure and the lion bit the visitor's finger. On or about January 1, 2016, Respondent and APHIS resolved this matter and entered into a settlement agreement requiring Respondent to pay a \$1,950 monetary penalty.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact violated the Act and the Regulations issued under the Act, this complaint shall be served upon the respondent. Respondent shall file an answer with the Office of the Hearing Clerk, Room 1031-South Building, United States Department of Agriculture, 1400 Independence Avenue, SW, Washington, DC 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-162.13). Failure to file an answer shall constitute an admission of all the material allegations of this complaint. APHIS requests that this matter proceed in accordance with the Rules of Practice governing proceedings under the Act, and that such order or orders be issued as are authorized by the Act (7 U.S.C. § 2149) and warranted under the circumstances, including revocation of AWA license 34-C-0166, and civil penalties as warranted under the circumstances.

Done at Washington DC
this 21st day of Oct. 2022



Kevin Shea
Administrator
Animal and Plant Health Inspection Service

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