

USDA
 OIG
 10/07/2009 15:53

UNITED STATES DEPARTMENT OF AGRICULTURE
 BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No. 09-0 155
)
 TERRANOVA ENTERPRISES, INC., a Texas)
 corporation doing business as ANIMAL)
 ENCOUNTERS, INC.; DOUGLAS KEITH)
 TERRANOVA, an individual; WILL ANN)
 TERRANOVA, an individual; FARIN)
 FLEMING, an individual; SLOAN DAMON,)
 an individual; CRAIG PERRY, an individual)
 doing business as PERRY'S EXOTIC)
 PETTING ZOO; EUGENE "TREY" KEY, III,)
 an individual; and KEY EQUIPMENT)
 COMPANY, INC., an Oklahoma corporation)
 doing business as CULPEPPER &)
 MERRIWEATHER CIRCUS,)
)
 Respondents.) COMPLAINT

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

JURISDICTIONAL ALLEGATIONS AND
ALLEGATIONS REGARDING THE SIZE OF RESPONDENTS' BUSINESSES,
THE GRAVITY OF THE ALLEGED VIOLATIONS, AND
RESPONDENTS' GOOD FAITH AND COMPLIANCE HISTORY

A. The Terranova Respondents

1. Respondent Terranova Enterprises, Inc. ("Terranova Enterprises"), is a Texas corporation (Number 159995901) doing business as "Animal Encounters, Inc.," whose

2

registered agent for service of process respondent Douglas Keith Terranova. The address of the registered office of respondent Terranova Enterprises is 6962 S. FM 148, Kaufman, Texas 75142. On February 11, 2005, the Texas Secretary of State ordered the corporate charter of respondent Terranova Enterprises forfeited for failure to file a franchise tax return and/or to pay state franchise tax. The charter remained forfeited until respondent Terranova Enterprises sought reinstatement, on or about November 30, 2005. On July 25, 2008, the Texas Secretary of State again ordered the corporate charter of respondent Terranova Enterprises forfeited, for noncompliance with the Texas Tax Code. The charter remained forfeited until on or about March 11, 2009, when respondent Terranova Enterprises sought reinstatement. At all times mentioned herein, respondent Terranova Enterprises was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number 74-C-0199.

2. Respondent Douglas Keith Terranova ("Doug Terranova") is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is the President, registered agent, and a director of respondent Terranova Enterprises. Respondent Key Equipment Company, Inc., on its 2007, 2008, and 2009 license renewal applications submitted to the complainant, identified respondent Doug Terranova as its agent and/or person "authorized to conduct business" for respondent Key Equipment Company, Inc. At all times mentioned herein, respondent Doug Terranova was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by

an exhibitor or exhibitors (respondents Terranova Enterprises, Craig A. Perry, and Key Equipment Company, Inc.), and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc.

3. Respondent Will Ann Terranova is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is the secretary, treasurer, and a director of respondent Terranova Enterprises. At all times mentioned herein, respondent Will Ann Terranova was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc.), and her acts, omissions or failures within the scope of her employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be her own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc..

4. Respondent Farin Fleming is an individual whose mailing address is 6962 S. FM 148, Kaufman, Texas 75142. Said respondent is a director of respondent Terranova Enterprises. At all times mentioned herein, respondent Fleming was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondents Terranova Enterprises, Craig A. Perry, and/or Key

4.

Equipment Company, Inc.), and her acts, omissions or failures within the scope of her employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be her own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc.

5. Respondent Sloan Damon is an individual whose mailing address is Post Office Box 248, Merrimack, New Hampshire 06054. Between April 2008 and September 2008, said respondent was (1) operating as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc.), and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of respondents Terranova Enterprises, Craig A. Perry, and/or Key Equipment Company, Inc.

6. Respondents Terranova Enterprises, Doug Terranova, Will Ann Terranova and Farin Fleming (jointly referred to as the "Terranova Respondents") operate a moderately-sized animal exhibition business, and on December 12, 2008, respondent Terranova Enterprises reported to complainant custody of 20 animals. Said respondents exhibit wild and exotic animals to the public at traveling locations, and during 2008, leased animals (specifically, two elephants, "Kamba" and "Congo") to respondent Key Equipment for use in exhibition. The gravity of the violations alleged in this complaint is great, involving

5

instances in which respondents failed to handle animals as carefully as possible, and, during exhibition, failed to ensure the safety of the animals and the public by maintaining adequate distance and/or barriers between the animals and the public. Respondent Doug Terranova has not shown good faith. He sought to hide the existence of a young tiger cub housed in a transport trailer, and instructed his employee, respondent Damon, not to speak with APHIS about the animal, which APHIS confiscated on August 16, 2008, at the Iowa State Fairgrounds.

B. Craig Perry

1. Respondent Craig A. Perry ("Perry") is an individual whose business mailing address is 3295 54th Street Trail, Center Point, Iowa 52213. At all times mentioned herein, said respondent was operating as an exhibitor, as that term is defined in the Act and the Regulations. From approximately April 3, 1992 to April 17, 1993, respondent Perry held AWA license No. 42-C-0083, and from approximately October 6, 1993 to September 2, 1994, held AWA license No. 42-C-091. On June 1, 1995, respondent Perry applied for an AWA license as the "owner" of Perry's Wilderness Ranch & Zoo, Inc., and thereafter was issued AWA license No. 42-C-0101.¹ That license was terminated June 24, 1996, and subsequently reinstated. In 2000 and 2001, respondent Perry renewed AWA license No. 42-C-0101 as an "individual." Respondent Perry did not hold an AWA license in his own name at the time of the violations alleged in this complaint.

¹The license was issued to: "CRAIG PERRY DBA: PERRY'S WILDERNESS RANCH & ZOO."

2. Respondent Perry operates a large animal exhibition business, and on June 12, 2008, reported to complainant custody of 73 animals. Said respondent exhibits wild, exotic and farm animals to the public at a fixed and traveling locations. The gravity of the violations alleged in this complaint is great, involving instances in which respondent Perry failed to handle animals as carefully as possible, and, during exhibition, failed to ensure the safety of the animals and the public by maintaining adequate distance and/or barriers between the animals and the public. Respondent Perry has not shown good faith, having demonstrated an unwillingness to comply with the Act and the Regulations and Standards, after having been repeatedly advised of deficiencies. Respondent Perry was issued a warning notice (APHIS Form 7060) for AWA violations on July 27, 1994, and has been a respondent in two previous AWA enforcement proceedings in 1996.² Respondent Perry is a respondent in *In re Craig A. Perry, etc., et al.*, AWA Docket No.05-0026, currently pending before the Secretary of Agriculture, and scheduled for hearing in November and December 2009.

3. On December 21, 2007, respondent Perry entered into a written contract with the Iowa State Fair Authority to provide, among other things, an exotic petting zoo, camel rides and a venue for selling photographs of individuals with animals at the Iowa State Fair, scheduled for August 7-17, 2008. Thereafter, respondent Perry entered into a contract and/or joint venture with respondents Terranova Enterprises and Doug Terranova to provide two zebu cattle, and to offer camel and elephant rides at the 2008 Iowa State Fair as part of

²*In re Craig A. Perry*, AWA Dockets Nos. 96-0023 & 96-0025.

respondent Perry's exhibition.

C. The Key Equipment Respondents

1. Respondent Key Equipment Company, Inc. ("Key Equipment"), is an Oklahoma corporation (Number 1900657188) doing business as "Culpepper & Merriweather Circus," whose registered agent for service of process respondent Brain Galvano, 1609 Jackson Street, Hugo, Oklahoma 74743. The address of the registered office of respondent Key Equipment is Post Office Box 813, Hugo, Oklahoma 74743. At all times mentioned herein, respondent Key Equipment was operating as an exhibitor, as that term is defined in the Act and the Regulations, and held Animal Welfare Act license number 73-C-0144. According to the Oklahoma Secretary of State, the corporate charter of respondent Key Equipment was suspended effective February 8, 2002 (document # 1071180), for failure to pay state franchise taxes, and has not been reinstated. As of June 19, 2009, the Oklahoma Secretary of State identified respondent Key Equipment as "inactive."

2. Respondent Eugene E. "Trey" Key, III ("Trey Key"), is an individual whose mailing address is Post Office Box 813, Hugo, Oklahoma 74743. At all times mentioned herein, said respondent was the president and "Circus Manager" of respondent Key Equipment. At all times mentioned herein, said respondent was (1) operating as an exhibitor as that term is defined in the Act and the Regulations, and/or (2) acting for or employed by an exhibitor (respondent Key Equipment), and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139),

deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of respondent Key Equipment.

3. Respondents Key Equipment and Trey Key have a large business exhibiting wild and exotic animals for profit. Although on its 2008 license renewal form, respondent Key Equipment represented that it held three wild and/or exotic animals, said respondent leases animal acts in connection with its operation of a circus (Culpepper & Merriweather Circus). Said respondent has further identified the business address of the Terranova Respondents as a site where respondent Key Equipment housed and houses animals.

4. The gravity of the violations alleged in this complaint is great. They include repeated instances in which respondents failed to handle animals safely. Moreover, respondents Key Equipment and Trey Key have not shown good faith, having falsely represented to complainant in writing (on annual license renewal forms signed by respondent Trey Key) that respondent Key Equipment was a "corporation," when in fact it had been suspended since 2002.

ALLEGED VIOLATIONS

D. 2005

1. On June 23-25, 2005, at the Great Circus Parade and Festival in Baraboo, Wisconsin, respondents Terranova Enterprises, Doug Terranova, Will Ann Terranova and Farin Fleming willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet the minimum facilities and operating standards (the "Standards") (9 C.F.R.

Part 3), and specifically, by failing to have developed and documented an appropriate plan for environmental enhancement adequate to promote the psychological well-being of two spider monkeys, in accordance with section 3.81 of the Standards. 9 C.F.R. § 3.81.

2. Since February 8, 2002, and continuing through the date of the filing of this complaint, respondent Key Equipment has been an "inactive," "suspended" corporation, and has willfully violated section 2.8 of the Regulations (9 C.F.R. § 2.8), by failing to notify APHIS of such suspension.

E. 2006

1. On June 15, 2006, at Circus World Museum in Baraboo, Wisconsin, respondents Terranova Enterprises and Doug Terranova failed to handle animals (two camels, Zaire and Kai, and three elephants, Moxie, Kamba and Congo) as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically, a rope dividing the camel and elephant enclosures was loose and draping to the ground, and one of the camels tethered in the camel enclosure was entangled in that loose rope, in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

2. On June 15, 2006, at Circus World Museum in Baraboo, Wisconsin, respondents Terranova Enterprises and Doug Terranova failed to handle animals (two camels, Zaire and Kai), during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and

10

the general viewing public so as to assure the safety of animals and the public, in willful violation of section 2.131(c)(1) of the Regulations. 9 C.F.R. § 2.131(c)(1).

F. 2007

1. On June 5, 2007, at the Universoul Circus in Landover, Maryland, respondents Terranova Enterprises and Doug Terranova failed to handle animals (a mountain lion) as carefully as possible in a manner that does not cause behavioral stress, physical harm or unnecessary discomfort, and specifically, respondents cleaned the lion's enclosure with a hose, without having first isolated the lion, thereby causing the lion to become involuntarily wet and stressed, as visibly demonstrated by the lion's growling and other behaviors, and respondents exposed the lion to chemical detergents which could cause skin irritation and/or damage, in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

2. On the following dates, respondents Terranova Enterprises and Doug Terranova willfully violated section 2.100(a) of the Regulations by failing to meet the Standards (9 C.F.R. §§ 3.125-3.142), as follows:

a. On June 5, 2007, at the Universoul Circus in Landover, Maryland, said respondents failed to protect animals from being involuntarily wetted or sprayed with water during cleaning, in accordance with section 3.131(a) of the Standards. 9 C.F.R. § 3.131(a).

b. On July 24, 2007, said respondents failed to enclose their outdoor

housing facilities for two tigers and one lion by an adequate perimeter fence, in accordance with section 3.127(d) of the Regulations. 9 C.F.R. § 3.127(d).

G. 2008

1. On February 28, 2008, respondents Terranova Enterprises and Doug Terranova failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of veterinary care, in willful violation of section 2.40(a)(1) of the Regulations. 9 C.F.R. § 2.40(a)(1).

2. On or about May 2 or 3, 2008, respondents Terranova Enterprises, Doug Terranova, Sloan Damon, Trey Key and Key Equipment willfully violated section 2.131(b)(1) of the Regulations, 9 C.F.R. § 2.131(b)(1), by failing to handle animals (an adult female tiger, Delia, and her three infant cubs) as carefully as possible in a manner that does not cause behavioral stress, physical harm or unnecessary discomfort, and specifically, said respondents, knowing that Delia was pregnant with her first litter, kept her "on the road" in respondents' circus, whereupon, in transit between Paris, Missouri and Glasgow, Missouri, she gave birth to three cubs (two males and one female). Respondents represented to a local veterinarian (with almost no experience with large felids) that Delia might not allow the cubs to nurse, and therefore respondent Damon was going to hand-raise them. That veterinarian provided respondents with kitten milk replacement, administered antibiotics to Delia, and "recommended that they keep an eye on the cubs and if any problems came up, contact an exotic animal specialist." The veterinarian further warned of "the probability of passive

transfer since the cubs had not nursed and the cubs had not received colostrum." The female cub died three days after birth. Respondents did not have a necropsy performed to determine the cause of death. On May 12, 2008, respondent Damon took the remaining two cubs to Kansas State University. One of the male cubs died on route. A necropsy was performed, and the cub was determined to have been, among other things, immuno-compromised, and suffering from e-coli infection. The remaining cub was examined by a veterinarian with large felid experience, and diagnosed as having an improper diet, as evidenced by hypoglycemia, hyponatremia (an electrolyte disturbance in which sodium levels are low), and hypochloridemia (abnormal chloride level). The veterinarian prescribed a proper diet and advised that the cub be weighed daily.

2. Between approximately May 2, 2008, to May 11, 2008, respondents Terranova Enterprises, Doug Terranova, Sloan Damon, Trey Key, and Key Equipment failed to have an attending veterinarian provide adequate veterinary care to animals, and specifically, respondents did not consult a veterinarian trained and experienced in large felids to care for Delia, who gave birth on May 2 or 3, 2008, or to her three cubs, two of which died before being examined by a qualified exotic animal veterinarian, in willful violation of section 2.40(a) of the Regulations. 9 C.F.R. § 2.40(a).

3. Between approximately May 12, 2008, to August 13, 2008, respondents Terranova Enterprises, Doug Terranova, Sloan Damon, Trey Key, and Key Equipment failed to have an attending veterinarian provide adequate veterinary care to animals, and

specifically, respondents did not consult a veterinarian trained and experienced in large felids to care for the remaining male tiger cub, and specifically, respondents failed to follow the recommendations of the one exotic animal specialist who examined the cub (as to diet or the taking of daily weights, which were supposed to be the basis for calculating the cub's food portions), in willful violation of sections 2.40(a) and 2.40(b) of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b).

4. Between May 12, 2008, and August 12, 2008, respondents Terranova Enterprises, Doug Terranova, Sloan Damon, Trey Key, and Key Equipment willfully violated section 2.100(a) of the Regulations by failing to provide the male tiger cub with wholesome, food of sufficient quantity and nutritive value to maintain the animal in good health, or to follow the recommendations of the exotic animal specialist who had examined him on May 12 and 13, 2008, as required by section 3.129(a) of the Standards.

5. On June 5, 2008, at WaKeeney, Kansas, respondents Terranova Enterprises, Doug Terranova, Sloan Damon, Trey Key, and Key Equipment willfully violated section 2.131(b)(1) of the Regulations (9 C.F.R. § 2.131(b)(1)), by failing to handle animals (two elephants, Kamba and Congo) as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort. Specifically, respondents offered elephant rides to the public at WaKeeney, Kansas (despite four days of National Weather Service advance warnings that severe tornadoes were expected in Kansas), the two elephants were outside and working when the tornadoes hit the area and lifted an inflatable

14

slide off the ground, which fell onto one of the elephants. Respondent Damon approached one of the elephants (Congo), whereupon the elephant "threw" respondent Damon, resulting in injuries to him (broken teeth and ribs). Both elephants left the area, and separately walked through local neighborhoods several blocks away. The elephants were not recovered for several hours, and one elephant (Congo) was caused to be tranquilized in order to enter respondents' transport trailer.

6. On June 5, 2008, respondents Terranova Enterprises, Doug Terranova, Trey Key, and Key Equipment willfully violated sections 2.40(b)(1) and 2.40(b)(4) of the Regulations (9 C.F.R. §§ 2.40(b)(1), 2.40(b)(4)), by failing to establish and maintain a program of adequate veterinary care that included the availability of appropriate equipment and services, including veterinary services, and capture, restraint and tranquilization equipment, and failed to provide adequate guidance to personnel in the care and use of animals (elephants) regarding handling, immobilization, and tranquilization.

7. On June 9 and 10, 2008, at Kaufman, Texas, respondents Terranova Enterprises and Doug Terranova failed to allow access to respondents' premises, animals and records during normal business hours, in willful violation of section 2.126 of the Regulations. 9 C.F.R. § 2.126.

8. On June 11, 2008, respondents Terranova Enterprises and Doug Terranova failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically the rope dividing the camel

15

and elephant enclosures was loose and draping to the ground, and one of the camels tethered in the camel enclosure was entangled in that loose rope, in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

9. Between August 7 through 17, 2008, respondent Perry operated as an exhibitor, as that term is defined in the Act and the Regulations, without having obtained a license from the Secretary, in willful violation of section 2.1(a) of the Regulations. 9 C.F.R. § 2.1(a).

10. On August 13, 2008, the Terranova Respondents, and respondents Sloan Damon and Perry failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically said respondents conducted elephant rides with insufficient personnel, and without having contained a second elephant (which was inside the ride area but not being used for rides), in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

11. On August 13, 2008, the Terranova Respondents, and respondents Sloan Damon and Perry failed to handle animals (elephants), during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, in willful violation of section 2.131(c)(1) of the Regulations. 9 C.F.R. § 2.131(c)(1).

12. Between approximately April 2008 and August 16, 2008, the Terranova Respondents and respondent Sloan Damon willfully violated sections 2.40(a), 2.40(b)(1) and

2.40(b)(2) of the Regulations, by failing to provide adequate veterinary medical treatment to two elephants, and failing to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, equipment and services and the use of appropriate methods to prevent disease and injuries, and specifically, the elephants' feet had not been trimmed (by order of respondent Doug Terranova³) during the aforementioned time period, and by August 13, 2008, the pads of the elephants' feet were overgrown, with uneven surfaces and flaps of tissue embedded with dirt, fecal material and other material, the elephants were not provided with adequate skin care, resulting in an accumulation of dead skin on their heads, backs and ears, and respondents had failed to obtain veterinary care to determine the cause of the skin discoloration on the back and legs of one of the elephants (Kamba). 9 C.F.R. §§ 2.40(a), 2.40(b)(1), 2.40(b)(2).

13. Between approximately August 7, 2008, and August 16, 2008, respondent Perry willfully violated sections 2.40(a), 2.40(b)(1) and 2.40(b)(2) of the Regulations, by failing to provide adequate veterinary medical treatment to two elephants, and failing to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, equipment and services and the use of appropriate methods to prevent disease and injuries, and specifically, the elephants' feet had not been trimmed during the aforementioned time period, and by August 13, 2008 (and continuing through August 16, 2008), the pads of the elephants' feet were overgrown, with uneven surfaces and

³Said respondent advised APHIS that the elephants' feet would not be trimmed until October 2008.

flaps of tissue embedded with dirt, fecal material and other material, the elephants were not provided with adequate skin care, resulting in an accumulation of dead skin on their heads, backs and ears, and respondents had failed to obtain veterinary care to determine the cause of the skin discoloration on the back and legs of one of the elephants (Kamba). 9 C.F.R. §§ 2.40(a), 2.40(b)(1), 2.40(b)(2).

14. On August 13, 2008, the Terranova Respondents and respondents Sloan Damon and Perry willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), as follows:

a. Said respondents failed to ensure that housing facilities for two elephants were structurally sound and maintained in good repair, specifically: (1) a 15-18 metal rod was protruding from the ground; (2) two lengths of coaxial cable were within the enclosure; and (3) a piece of sharp-edged metal (accessible to the elephants) was affixed to the ceiling of the elephant trailer. 9 C.F.R. § 3.125(a).

b. Said respondents failed to store supplies of food for elephants in facilities that adequately protect them against deterioration, molding and contamination, and specifically, feed hay was stored on the floor of a trailer that had not been cleaned after transporting livestock, consequently, the feed was mixed with fecal material. 9 C.F.R. § 3.125(c).

c. Said respondents failed to provide two elephants housed outdoors with sufficient shade by natural or artificial means. 9 C.F.R. § 3.125(c).

15. On August 13 and 14, 2008, the Terranova Respondents, and respondents Trey Key, Sloan Damon and Key Equipment failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically said respondents sought to hide from APHIS inspectors the fact that they housed a tiger cub in a dog carrier in the sleeper area of a semi-trailer truck (including by playing a radio inside the truck to mask the tiger's cries), in order to prevent the inspectors from observing the animal for the purpose of determining compliance with the Act and the Regulations, in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

16. On August 14, 2008, the Terranova Respondents, and respondents Trey Key, Sloan Damon and Key Equipment failed to handle animals as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, and specifically said respondents housed a tiger cub in a small dog carrier in a trash-strewn transport truck, with insufficient ventilation and cooling, in a harness that was too small for the tiger and caused chafing, without having provided the tiger with sufficient food and water in accordance with a diet that had been prescribed by an experienced exotic animal veterinarian or an updated diet plan that provided sufficient nutrition, and without having treated the tiger for abrasions on its face and a wound near its right eye, in willful violation

of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

17. On August 14 and 15, 2008, the Terranova Respondents, and respondents Trey Key, Sloan Damon and Key Equipment willfully violated sections 2.40(a), 2.40(b)(1) and 2.40(b)(2) of the Regulations, by failing to provide adequate veterinary medical treatment to a tiger cub, and failing to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, equipment and services and the use of appropriate methods to prevent disease and injuries, and specifically, the tiger was visibly thin, with protruding backbone and hips, and a poor coat. 9 C.F.R. §§ 2.40(a), 2.40(b)(1), 2.40(b)(2).

18. On August 14, 2008, the Terranova Respondents, and respondents Trey Key, Sloan Damon and Key Equipment willfully violated section 2.131(e) of the Regulations by failing to take appropriate measures to alleviate the impact of climatic conditions that present a threat to the health or well-being of a tiger cub, and specifically, said respondents housed the tiger in a small dog carrier in a transport truck, with insufficient ventilation and cooling, and the interior temperature measured 89.4 degrees Fahrenheit, with 48% humidity and a heat index ranging from 93.7 to 95.3 degrees Fahrenheit. 9 C.F.R. § 2.131(e).

19. On August 14, 2008, the Terranova Respondents and respondents Trey Key, Sloan Damon and Key Equipment willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§

3.125-3.142), as follows:

a. Said respondents failed to ensure that housing facilities for a young tiger were sufficiently regulated by cooling to protect the animal from extreme temperatures. 9 C.F.R. § 3.126(a).

b. Said respondents failed to ensure that housing facilities for a young tiger were adequately ventilated. 9 C.F.R. § 3.126(b).

c. Said respondents failed to provide adequate space to a young tiger housed in a small dog crate that did not permit the tiger to make normal postural adjustments with adequate freedom of movement. 9 C.F.R. § 3.128.

d. Said respondents failed to provide to a young tiger food of sufficient quantity and nutritive value, and that was appropriate for the tiger's age, species, condition, size and type. 9 C.F.R. § 3.129(a).

20. On August 15, 2008, the Terranova Respondents and respondents Trey Key, Sloan Damon and Key Equipment willfully violated section 2.100(a) of the Regulations by failing to meet the Standards (9 C.F.R. §§ 3.125-3.142), and specifically by failing to provide to a young tiger food of sufficient quantity and nutritive value, and that was appropriate for the tiger's age, species, condition, size and type, and on August 17, 2008, the 3½ month-old tiger weighed less than 20 pounds. 9 C.F.R. § 3.129(a).⁴

⁴On August 16, 2008, the U.S. Department of Agriculture confiscated the young tiger pursuant to section 16 of the Act (7 U.S.C. § 2146) and section 2.129 of the Regulations. 9 C.F.R. § 2.129.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondents have in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondents. The respondents shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

////

////

////

////

////

////

////

////

////

////

////

////

////

22

The Animal and Plant Health Inspection Service requests that unless the respondents fail to file an answer within the time allowed therefor, or file an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order that respondents cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against respondents in accordance with section 19 of the Act (7 U.S.C. § 2149), and revoking respondents' AWA licenses.

Done at Washington, D.C.
this 16th day of July 2009

Adm
Kevin Shea
Administrator
Animal and Plant Health Inspection Service

COLLEEN A. CARROLL
Attorney for Complainant
Office of the General Counsel
United States Department of Agriculture
Washington, D.C. 20250-1400
Telephone (202) 720-6430
FAX: (202) 690-4299
e-mail: colleen.carroll@usda.gov