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July 31, 2015

Secretary Thomas J. Vilsack
United States Department of Agriculture
1400 Independence Ave., SW
Washington, DC 20250
Fax: 202-720-6314

Re: Animal Welfare Act (AWA) Enforcement

Dear Secretary Vilsack:

The Animal Law Committee of the New York City Bar Association¹ writes to request that, where warranted, the United States Department of Agriculture (USDA) exercise its jurisdiction to (1) decline to renew and to suspend or revoke the licenses of those exhibitors whose conduct and operations constitute repeated or serious violations of the Animal Welfare Act (AWA) or demonstrate a pattern of violating the AWA by either repeat violations or a failure to cure cited violations of the AWA and (2) confiscate the involved animals and transfer them to accredited sanctuaries. We also recommend that the USDA adopt robust thresholds to determine when a particular license should not be renewed or should be suspended or revoked.

The AWA requires dealers and exhibitors to have licenses from the USDA and directs the agency not to grant licenses “until the dealer or exhibitor shall have demonstrated that his facilities comply with the standards promulgated by the Secretary” pursuant to 7 U.S.C. § 2143. 7 U.S.C. § 2133; see also 9 C.F.R. § 2.1(a)(1). Applicants must also show that they have met the requirements of 9 C.F.R. §§ 2.1-2.3. 9 C.F.R. § 2.1(c)(1). Under current practices, it appears that the application for an initial license is the first and last time the USDA makes a meaningful inquiry into the conditions and lawfulness of the operation of an exhibitor or dealer.

License Renewal

AWA regulations require applicants for license renewal to certify that they are in compliance, and will continue to comply, with the law. 9 C.F.R. § 2.2(b). In practice, however, the USDA’s review of applications for license renewals does not appear to implement

¹ The New York City Bar Association is an independent non-governmental organization of more than 24,000 lawyers, law professors and government officials, predominantly from New York City but also from throughout the United States and fifty other countries. The Committee is the first of its kind in the country has a history of commenting on matters affecting animal welfare and public health, including those relating to enforcement of the AWA.

substantive standards or include an inquiry into the compliance history of applicants. In view of these practices, a court has characterized the USDA position as one where the license renewal process is “an automatic, ‘rubberstamping’ type transaction.”² For example, in a March 2013 declaration submitted in the *Ray v. Vilsack* case, Elizabeth Goldentyer, a Doctor of Veterinary Medicine employed by the USDA, stated:

The renewal process for AWA licenses does not include a review of public complaints. License renewal is not contingent on a determination that the licensee has met the standards for animal handling, care and treatment, or is or has been in compliance with regulations other than the regulations governing license renewal.³

Dr. Goldentyer further attested in another declaration in that case, on April 2013, that “the renewal of an existing license is a wholly administrative function. Unlike the procedure for obtaining an initial license, there is no demonstration of compliance required to renew an existing license.”⁴ Another veterinarian employed by the USDA, Nicolette Petervary, asserted in a March 2014 letter that the “AWA does not reference license renewals” and that the AWA “license renewal process is not intended to operate as an enforcement mechanism.”⁵ These statements appear to reflect the USDA’s position that it is not required to apply AWA standards in reviewing AWA license renewal applications.

We respectfully submit that the letter and spirit of the AWA do not support these practices. To the contrary, AWA must be read to support the conclusion that, upon the expiration of a license, former licensees should again make all the proofs the AWA requires of first-time license applicants and that the USDA should consider prior AWA violations in reviewing AWA license renewal applications. *See* 9 C.F.R. § 2.1(e) (“The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license”); 7 U.S.C. § 2143. 9 C.F.R. § 2.12 provides in pertinent part: “A license may be terminated during the license renewal process or *at any other time* for any reason that an initial license application may be denied pursuant to § 2.11 after a hearing in accordance with the applicable rules of practice.” (Emphasis added.) Among the reasons for denial in § 2.11 are violations of any regulations in the AWA subchapter or of any federal, state, or local laws.

²*Ray v. Vilsack*, No. 5:12-CV-212-BO (E.D.N.C. Oct 7. 2013), Hon. Terrence W. Doyle, Order granting plaintiffs’ motion to compel production of the full administrative record and plaintiffs’ motion for leave to file supplemental complaint. The case was brought under the Administrative Procedure Act by plaintiffs challenging the defendants’ decisions to renew the AWA license of roadside menagerie and animal dealer Jambbas Ranch. Plaintiffs argued that the renewal contravened the AWA’s statutory mandate requiring facilities to comply with USDA standards under the AWA and reflected a pattern, practice, and policy of rubberstamping AWA license renewal applications without requiring a demonstration of compliance.

³*Id.* at Declaration of Elizabeth Goldentyer, D.V.M, Document 36-1, para. 5.

⁴*Id.* at Declaration of Elizabeth Goldentyer, D.V.M, Document 43-1, para. 7.

⁵ Letter, Nicolette Petervary, Regional Animal Care Specialist, Eastern Region, Animal Care to Meyer, Glitzenstein and Crystal, March 21, 2014 (relating to AWA exhibitor license for Marine Exhibition Corporation, Inc.)

Section 2.12 reflects the clear intent of the AWA that licensees must comply— at all times—with the AWA. Renewing the licenses of exhibitors or dealers who are not complying with the AWA undermines both the letter and the spirit of that statute, and works against its public policy goals of keeping both humans and animals safe. Therefore, the USDA should develop and implement a process for evaluating license renewal applications that assesses AWA compliance and considers AWA violations by the licensee (particularly if they are serious, ongoing or reflect repeat non-compliance) as a basis for denying license renewal.

License Revocation and Suspension

In addition to modifying the renewal process to formally assess licensees' continued legal compliance, we urge the USDA to vigorously exercise its powers to suspend and revoke licenses and confiscate animals as a means of addressing AWA violations. It is crucial that the USDA exercise its authority to impose these penalties and do so consistently so that licensees will understand the consequences of AWA violations. The threat posed by consistently applied penalties should operate as a deterrent to licensees who might otherwise violate the AWA.

A single violation of the AWA is grounds for license revocation without any prior process if that violation is willful. 5 U.S.C. § 558(c) (An agency may immediately revoke a license “in cases of willfulness or those in which public health, interest, or safety requires” it). *Cox v. United States Dep't of Agriculture*, 925 F.2d 1102, 1105 (8th Cir. 1991) Other courts have held that the following are all evidence that a violation is willful: “notorious neglect of explicit provisions of law” (*Eastern Produce Co. v. Benson*, 278 F.2d 606, 609 (3d Cir. 1960)); conduct that is “intentional, or knowing, or voluntary, as distinguished from accidental,” and “conduct marked by careless disregard whether or not one has the right so to act” (*id.*, quoting *United States v. Murdock*, 290 U.S. 389, 394 (1933)).

The USDA is empowered to suspend or revoke a license based on just one violation even if it is not willful. 9 C.F.R. § 2.1(e) provides: “The failure of any person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for denial of a license; or for its suspension or revocation by the Secretary.” The USDA also has jurisdiction to revoke the licenses of violators pursuant to 9 C.F.R. § 2.12, as discussed above, for violations of any regulations in the AWA subchapter or of any state or local laws as well as the federal law.

The USDA need not have proof that a violation has occurred in order to temporarily suspend a license. It is enough for the agency to have “reason to believe” that a violation occurred, or to learn of a “threatened physical harm to animals,” even if the violation has not yet taken place. 9 C.F.R. § 4.10. Where the agency “has reason to believe that” a licensee “has violated or is violating any provision of the Act, or the regulations or standards issued thereunder,” and suspension is “warranted under the circumstances,” written notification to the licensee operates to suspend the license. 9 C.F.R. § 4.10(a). In addition, in “any case of actual or threatened physical harm to animals in violation of the Act, or the regulations or standards issued thereunder, by a person licensed under the Act,” the agency can suspend the license by giving written or oral notification, “whichever is earlier.” 9 C.F.R. § 4.10(b).

Confiscation of Animals

The USDA is empowered to confiscate from licensees animals “found to be suffering as a result of a failure to comply with any provision of [the AWA] or any regulation or standard issued thereunder” (7 U.S.C. § 2146(a); *accord* 9 C.F.R. § 2.129(a)). The USDA must do so consistently when the circumstances warrant it in order to effect the AWA’s intended purpose of protecting animals from inhumane treatment. Congress enacted the AWA in part to protect the public’s interest in insuring “that animals intended...for exhibition purposes ...are provided humane care and treatment.” 7 U.S.C. § 2131(1).

In practice however, it appears that the USDA exercises this power only infrequently, and as a result animals may remain in unsafe or abusive situations. Repeat and uncured violations involving safety and mistreatment constitute objective evidence that confiscation may be appropriate. Another practical way to identify proper occasions for confiscation, for example with traveling circuses, would be for inspection visits to be unannounced; for inspection to take place when animals are being handled, trained and transported rather than during down times when conditions and treatment are less likely to be observed; and for inspection to be conducted in the immediate hours before animals take the stage.

Conclusion and Recommendation

Notwithstanding the USDA’s substantial authority under the AWA to decline to renew, suspend or revoke a license, or to confiscate animals of exhibitors in violation of the AWA, the Committee has reviewed a substantial number of USDA inspection reports reflecting serious AWA violations including abuse and neglect of animals by exhibitors whose licenses were renewed and whose animals which were the subject of the violation were not confiscated. A sampling of these instances is set forth at Exhibit A.

In conclusion, we urge the USDA to exercise its jurisdiction to decline to renew, to suspend, or to revoke the licenses of those exhibitors whose conduct and operations constitute repeated or serious violations of the AWA (or constitute a pattern of violating the AWA) and, in addition, to confiscate the involved animals and transfer them to accredited sanctuaries. We recommend that the USDA establish objective standards for the implementation of these powers to streamline the process and make it fair and consistent. While we have not studied the potential standards the USDA might adopt, nor do we have the USDA’s expertise in the matter, we note that one possibility is to revoke the license of anyone who, at that time, would not be eligible for an initial license and who remains in that non-compliant status for a certain period of time, *e.g.* someone who keeps an animal in unlawful conditions for one month or more.

Respectfully,



Christine Mott
Chair, Animal Law Committee

Cc: Sen. Charles Schumer (NY)
Sen. Kirsten Gillibrand (NY)
Rep. Carolyn Maloney (NY)
Rep. Jerrold Nadler (NY)
Rep. Williams Owens (NY)
Rep. Charles Rangel (NY)
Rep. Jim Moran (VA)
Rep. Walter B. Jones, Jr. (NC)
Rep. Henry C. Johnson, Jr. (GA)
Rep. Judy Chu (CA)
Rep. Adam Schiff (CA)
Rep. Tony Cardenas (CA)
Rep. Jared Polis (CO)
Rep. Sam Farr (CA)
Rep. Jerry McNerney (CA)
Rep. Anna Eshoo (CA)
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Rep. Eleanor Holmes Norton (DC-At Large)
Rep. Raul Grijalva (AZ)
Rep. Barbara Lee (CA)
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Rep. Madeleine Bordallo (GU-At Large)
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Rep. Grace Napolitano (CA)
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Rep. Linda Sanchez (CA)
Rep. Zoe Lofgren (CA)
Rep. Alan Lowenthal (CA)
Rep. Beto O'Rourke (TX)
Rep. Gwen Moore (WI)
Rep. Debbie Wasserman Schultz (FL)
Rep. Rosa DeLauro (CT)

EXHIBIT A⁶

A. Hugo Liebel, dba Great American Family Circus LLC, Davenport, FL

Exhibitor cited for 33 AWA violations during the USDA's 14 inspections of exhibitor's facilities between 2007 and 2011, including, by way of example only, (1) "a portion of the metal wall of the enclosure housing Nosey was detached, exposing a sharp metal edge that could injure the elephant", in willful violation of 9 C.F.R. §§2.100(a) and 3.125(a), (2) depriving Nosey of adequate veterinary care, and programs of veterinary care for a protracted period of time so that a "visibly poor skin condition" persisted, her weight loss occurred "and respondent had not consulted with his attending veterinarian as to the reasons therefor" and, in addition, her feet "revealed overgrowth of the soles, with trapped manure and leaves in flaps" all in violation of 9 C.F.R. § 2.40, and (3) tethering Nosey so tightly "that the elephant could only move a few feet from side to side" and "in such a manner that the elephant could not stand comfortably," depriving her of the ability "to make normal postural adjustments with adequate freedom of movement", in willful violation of 9 C.F.R. §§3.128 and 2.131(b)(1).⁷ The USDA recognized that "(t)he gravity of the violations is great." *Id.*

MOST RECENT LICENSE RENEWAL: JANUARY 30, 2015⁸

B. Sue Pearce, dba Animal Adventures, Okeechobee, Florida

Since 2011, APHIS has inspected this facility 22 times and all but three of those inspections resulted in citations, many of which were identified as "repeat" violations (some including "direct" repeat violations, with direct violations meaning those that affect the health and well-being of the animals). The exhibitor's license has been continuously renewed, most recently on April 14, 2015. Set forth below is a sample of this exhibitor's ongoing and repeat violations during this short period of time:

- Covering the period June 9, 2001-July 11, 2011, an "Official Warning Violation of Federal Regulations" was issued for violations of regulatory sections 2.40(b), 2.131(b)(1), 3.83 and 3.125(a). (*See* USDA Official Warning, Case No. FL 11309) These included violations for inadequate veterinary follow-up treatment for a tiger, animal handling where animals were forced to give birth in a 5' x 7' or 4' x 6' enclosure within a transport trailer, or in an enclosure where tiger cubs were trampled after an aggressive

⁶ USDA APHIS Inspection Reports, applicable to exhibitors, are available for viewing at <https://acisearch.aphis.usda.gov/LPASearch/faces/CustomSearch.jspx>, except that such website shows only reports for the most recent three years.

⁷ *See* In re Hugo Tommy Liebel, Complaint, AWA Docket No. 12-0103, Dec. 7, 2011, http://www.aphis.usda.gov/foia/enforcement_actions/2011/December/Animal%20Welfare%20Act/Complaints/AWA%2012-0103%20Hugo%20Tommy%20Liebel.pdf (last visited June 24, 2015).

⁸ *See* search results for Hugo Liebel on USDA webpage, <https://acisearch.aphis.usda.gov/LPASearch/faces/LPASearch.jspx;jsessionid=7f00000130dfe61647a5a68a4333ae08b8d570470991.e380bx8Sb3yQby0La3aMby0> (last visited June 24, 2015).

male tiger –housed with the tigress and cubs-exhibited aggressive behavior.

- On March 13, 2012, cited for violation of 9 C.F.R. §3.125(a) - inadequate facility construction, and §3.131(a) - unsanitary excrement in primary enclosure (*See* USDA Inspection Report, dated March 18, 2013)
- On June 19, 2012, cited for violations under 9 C.F.R. §§2.40(b)(1)(Direct NCI), 3.125(a), 3.127(a) and 3.131(c). These related to inadequate veterinary care for female lion and coatimundi, disrepair of enclosures for lions, black bear, bobcats and skunk, inadequate shade, excessively filthy swimming tanks for large cats and disrepair of flooring. (*See* USDA Inspection Report, dated June 19, 2012)
- On November 26, 2012, cited for violation of 9 C.F.R. §§2.40, 3.125 and 3.131(d)-licensee overdue for semi-annual visit, inadequate flooring for black leopard exposing it to possible injury and ineffective pest control. (*See* USDA Inspection Report, dated November 26, 2012)
- On March 18, 2013, cited for violations under 9 C.F.R. §§3.125(a), 2.40(a)(1)(repeat violation), 20(b), 3.31(b), 3.75(c)(3), 3.81, 3.125(a), and 3.31(d). These included matters such as enclosure disrepairs; inadequate veterinary care and medication past the 2011 expiration date; excessive grasses and weeds around enclosure such that licensee's animals died from coral snake bites; excessive fecal material on baboon shelter boxes; unapproved plan for environmental enhancement to promote psychological well-being of animals; unsanitary conditions. (*See* USDA Inspection Report, dated March 18, 2013)
- On July 1, 2013, cited for violations under 9 C.F.R. §§2.40(b)(2) (repeat violation, Direct NCI), 3.75(f), 3.125(a), 3.127(b), 3.127(c), 3.130, 3.131(c), and 3.131(d). These included matters such as inadequate veterinary care, inadequate drainage and waste disposal such that lemurs and baboons had 50% of their flooring under water, inadequacy of shelter boxes, inadequate shelter from inclement weather for tiger, significant standing water in enclosure and shelters for large cats and bears, no water or automatic waterer for female tiger, excessive grasses and weeds wherein coral snakes had bit animals and problems with sanitation and pest control. (*See* USDA Inspection Report, dated July 1, 2013)
- On July 31, 2013, cited for violations under 9 C.F.R. §§2.40(b)(2) (repeat violation, Direct NCI), 3.131(d), 3.127(b) & (c)(repeat violations), 3.129, and 3.131(a),(c) & (d)(repeat violations). These related to matters such as inadequate veterinary care for female fox with ocular discharge and matted hair around eyes and female tiger with fresh open wounds, sanitation and pest control problems, and inadequate shelter from inclement weather. (*See* USDA Inspection Report, dated August 1 2013)
- On September 5, 2013, cited for violations under 9 C.F.R. §§3.125(a), 3.125(c), 3.127(b) & (c)(repeat violations), 3.131(a) & (c). These related to matters such as problems with structural strength of facility; inadequate refrigeration; inadequate shelter from inclement

weather; inadequate drainage with wet and muddy enclosures for tiger, lions and bears; food waste and fecal matter at enclosures conducive to pest problems and disease hazards; and excessive grasses and weeds around enclosures. (See USDA Inspection Report, dated September 5, 2013)

- On January 6, 2014, cited for violations of 9 C.F.R. §§3.125(a)(repeat violation Direct NCI), 3.127(c)(repeat violation), 3.131(a), (c) and (d)(repeat violations). These related to matters such as inadequate enclosure allowing for death of leopard who sustained injury from an altercation with a leopard in an adjacent enclosure, wet and muddy enclosures, unsanitary shelter and sanitation violations. (See USDA Inspection Report, dated January 6, 2014)

MOST RECENT LICENSE RENEWAL: APRIL 14, 2015⁹

C. The Mobil Zoo, Wilmer, Alabama

Set forth below is a sample of the ongoing and repeat violations by The Mobile Zoo during the period since 2011:

- On June 14, 2011, cited for violation of 9 C.F.R. §3.125(a) relating to non-compliant enclosures housing big cats. (See USDA Inspection Report, dated August 10, 2011)
- On May 31, 2012, cited for violations under 9 C.F.R. §§2.131(b)(1), Direct NCI, 3.75(a), 3.84(c), 3.125(a)(repeat violation), 3.125(d), 3.127(d), 3.130, and 3.131(c) & (d). These related to matters such as non-compliant handling such that a pack of dogs was able to enter premises and attacked and killed animals on exhibit, disrepair of chimpanzee housing, housekeeping problems, rusted and corroded enclosures, buckets that were no longer safe to use as enrichment for Siberian tiger, trash and debris, a perimeter fence unable to restrict entry of unwanted animals, no water in coatimundi enclosure and thick layers of algae in leopard enclosure, and other housekeeping problems. (See USDA Inspection Report, dated July 13, 2012)
- On June 28, 2012, cited for violations of 9 C.F.R. §§2.40(b)(2), Direct NCI, 3.84(c)(repeat violation), 3.125(a)(repeat violation), 3.125(d)(repeat violation), 3.127(d)(repeat violation), 3.130 and 3.131(c) (repeat violation). These related to inadequate veterinary care for 15-year old tiger that had not eaten for days and had not been examined for possible abdominal mass, housekeeping problems, disrepair of enclosures, enrichment issues¹⁰, waste disposal issues and perimeter fencing being unable

⁹ See search results for Sue Pearce on USDA webpage, <https://acisearch.aphis.usda.gov/LPASearch/faces/CustomSearch.jspx> (last visited June 24, 2015).

¹⁰ See 9 C.F.R. §3.81(b) which provides as follows: “(b) *Environmental enrichment*. The physical environment in the primary enclosures must be enriched by providing means of expressing noninjurious species-typical activities. Species differences should be considered when determining the type or methods of enrichment. Examples of environmental enrichments include providing perches, swings, mirrors, and other increased cage complexities;

to restrict entry of unwanted animals. (*See* USDA Inspection Report, dated June 28, 2012)

- On November 28, 2012, cited for violations under 9 C.F.R. §§2.40(b)(2) (repeat violation Direct NCI), 2.126(a), 3.75(a), 3.125(a) (repeat violation), 3.126(c), 3.127(d) (repeat violation), 3.131(c), and 3.133. These related to matters such as inadequate veterinary care, inadequate lighting preventing access and inspection by the inspector and insufficient light for the animal, disrepair of enclosure for chimpanzee and macaques, inadequate perimeter fencing, clutter and trash, improper separation such that incompatible animals were improperly housed together. (*See* USDA Inspection Report, dated November 29, 2012)
- On January 10, 2013, cited for violations under 9 C.F.R. §§3.75(a), 3.125(a), 3.126(c), 3.127(d), and 3.131(c) (all repeat violations). Licensee cited for continued problems with non functional or inadequate enclosures, insufficient lighting, inadequate fencing, and sanitation issues. (*See* USDA Inspection Report, dated January 10, 2013)
- On July 24, 2013, cited for violations under 9 C.F.R. §§2.40(b)(Direct NCI), 2.40(b), 2.75(b)(2), 2.131(e)(Direct NCI), 3.75(a) (repeat violation), 3.80(a)(2)(ix), 3.81 (Direct NCI), 3.82(d), 3.84(a) & (d), 3.125(a) and other. These related to matters such as inadequate veterinary care, non-provision of medication, outdated records, inadequate water for bears' needs, unsound or unrepaired housing, primary enclosures not meeting minimum requirements, lack of environmental enhancement to promote psychological well-being, unsanitary food receptacles, old food and roach feces in primary enclosures for macaques and mangabey, and pest control issues. (*See* USDA Inspection Report, dated July 26, 2013)
- On August 28, 2013, cited for violations under 9 C.F.R. §§3.84(d) (repeat violation), 3.125(a)(repeat violation), 3.130 and 3.131(c) (repeat violation). These related to problems with enclosures, inaccessibility of potable water, and unsanitary conditions. (*See* USDA Inspection Report, dated September 9, 2013)
- On December 17, 2013, cited for violations under 9 C.F.R. §§3.75(c)(3) and 3.125(d). These related to problems with animals' housing facilities (green biofilm; mud and debris) and excessive old meat and feces within enclosure of primary enclosure for foxes. (*See* USDA Inspection Report, dated December 18, 2013)
- On June 4, 2014, cited for violations under 9 C.F.R. §§2.40(b)(2), 2.131(c)(1), 2.131(a) and other. These related to inadequate veterinary care for bear, unsafe management for public for feed chimpanzee, and bears den with temperature registering 150 degrees F on the ceiling and no cooling apparatus inside the den. (*See* USDA Inspection Report, dated

providing objects to manipulate; varied food items; using foraging or task-oriented feeding methods; and providing interaction with the care giver or other familiar and knowledgeable person consistent with personnel safety precautions.”

June 5, 2014)

- On July 15, 2014, cited for violations under 9 C.F.R. §§2.40(b)(2), 3.75(c)(2), 3.125(a) and 3.127(c) (all repeat violations). These related to lack of notice to or care by veterinarian regarding bloody appearance on cheek of tiger and soiled and wet enclosures for animals. (See USDA Inspection Report, dated July 16, 2014)
- On September 30, 2014, cited for violations under 9 C.F.R. §§3.81(b) and 3.125(a) (repeat violation). These related to lack of required environment enhancement to promote psychological well-being of snow macaque and disrepair of fencing for bobcats. (See USDA Inspection Report, dated October 17, 2014)
- On January 13, 2015, cited for violations under 9 C.F.R. §§2.131(c)(1), 3.75(c)(1)(i), 3.75(c)(3), 3.78(d), 3.129(b), 3.130 and 3.131(a). These related to matters such as handling of animals with the public, unsanitary toys for non-human primates, and unsanitary food bowls, and excessive accumulation of feces in fox and lioness enclosures. (See USDA Inspection Report, dated January 13, 2015)
- On February 27, 2015, the USDA moved against The Mobile Zoo and John Hightower requesting an order revoking AWA license 64-C-0178 and the assessment of a joint and several civil penalty of \$16,000. (See AWA Dockets Nos. 15-0060/15-0061, Motion For Adoption of Decision and Order by Reason of Default, February 27, 2015, in connection with USDA Complaint of January 16, 2015)
- On May 20, 2015, cited for violations under 9 C.F.R. §§ 2.40(b)(2), 240(b)(3)(Direct NCI), 3.75(c)(1)(i)(repeat violation), 3.78(d)(repeat violation), 3.84(b)(2), 3.125(a), 3.127(b) & (d), 3.129(b)(repeat violation), 3.131(a)(repeat violation), 3.131(c) & (d), and 3.132. (See USDA Inspection Report, dated May 21, 2015)
- On June 25, 2015, cited for violations under 9 C.F.R. §§3.78(d), 3.84(b)(2)(repeat violation), 3.84(c), 3.125(a)(repeat violation), 3.129(b)(repeat violation), 3.131(a) & (c)(repeat violations). (See USDA Inspection Report, dated June 26, 2015)

MOST RECENT LICENSE RENEWAL: JUNE 13, 2015 ¹¹

D. Henry Hampton (3 roadside zoos), Mount Ulla, NC

Henry Hampton is an exhibitor with three roadside zoos. Below is a summary of various AWA violations identified through inspections by APHIS from 2011-2015, almost all of which included violations of 9 C.F.R. §2.40(b) relating to the lack of an attending veterinarian and to inadequate veterinary care. A large number of these were repeat violations. The exhibitor's

¹¹See search results for The Mobil Zoo on USDA webpage, <https://acisearch.aphis.usda.gov/LPASearch/faces/CustomSearch.jspx> (last visited July 27, 2015).

license was renewed in August 2014 (see below).

During a recent sample period, 2011-2015 period, USDA inspections were conducted on the following dates which resulted in cited violations: January 19, 2011; January 26, 2011; March 10, 2011; April 11, 2011; May 23, 2011; May 26, 2011; July 7, 2011; August 10, 2011; August 18, 2011; September 22, 2011; September 29, 2011; November 3, 2011; November 10, 2011; December 15, 2011; February 9, 2012; March 21, 2012; April 24, 2012; May 8, 2012; June 6, 2012; July 9, 2012; August 14, 2012; December 4, 2012; January 9, 2013; January 23, 2013; February 20, 2013; February 22, 2013; April 8, 2013; June 12, 2013; October 22, 2013; February 19, 2014; June 4, 2014; June 30, 2014; November 10, 2014; November 12, 2014; March 17, 2015; April 15, 2015. (For inspections conducted in the last three years: *See* USDA Inspection Reports dated as follows: July 9, 2012; August 15, 2012; December 6, 2012; January 9, 2012; January 23, 2013; February 20, 2013; February 22, 2013; April 8, 2013; June 12, 2013; August 18, 2014 (relating to October 22, 2013 inspection); February 19, 2014; August 15, 2014 (relating to June 4, 2014 inspection); July 2, 2014; November 13, 2014; November 13/17, 2014; March 18, 2015; and April 22, 2015, corresponding to the above-cited inspections July 9, 2012 – April 15, 2015.).

Examples of AWA violations are as follows: a giraffe with overgrown hooves (so long that there was an exaggerated, abnormal gait and inspectors found “this does not appear to be an appropriate method of veterinary care to address this situation” or to “meet current standards of veterinary care used by zoo veterinarians working with giraffe” and there was lack of “guidance from a veterinarian knowledgeable in the specific needs of giraffes jeopardizes the health, comfort and well being of this giraffe. Continued imbalance results in undue stress on her bones, ligaments, tendons and muscles, putting her at higher risk for injury and arthritis”; a male baboon with a continued enlarged, discolored upper eyelid that remains effectively closed, with an area that appears ulcerated and moist, but a hands on examination of this animal by a licensed veterinarian was not conducted; inadequate veterinary care for llamas which had patchy areas of hair loss and flaky skin; failure to recognize and address veterinary problems in a ewe that was limping on the front leg, and had a swollen joint; and tail dockings and castrations performed apparently on “thousands” of sheep without veterinary guidance for procedures that satisfy current accepted veterinary standards; failure to provide veterinary care for a limping female mouflon; a highly pregnant female camel that was having difficulty breathing and had severe swelling in the facial/head area and lower limbs; and expired drugs in the refrigerator, the drug cabinet, etc.; and as recently as April 20, 2015, a ram with a golf ball sized mass on the chest with discharge oozing from it and no notations regarding observation of this condition were entered by the facility staff in their daily observation records and continued performance of tail docking or castrations without an updated program of veterinary care that included written guidance procedures. All of the described violations are contained in the above-cited USDA Inspection Reports.

MOST RECENT LICENSE RENEWAL: AUGUST 13, 2014¹²

¹² *See* search results for Henry Hampton on USDA webpage, <https://acisearch.aphis.usda.gov/LPASearch/faces/CustomSearch.jspx> (last visited June 24, 2015).