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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	AWA Dockets 15-0125 and 15-0126
	)	
BURTON SIPP, an individual doing business as ANIMAL KINGDOM ZOO; and ANIMAL KINGDOM ZOO, INC., a New Jersey domestic stock corporation,	)	
	)	CONSENT DECISION
Respondents	)	AND ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(AWA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (APHIS), on June 11, 2015, alleging that the respondents willfully violated the Act and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.)(Regulations and Standards). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138). Respondents admit the jurisdictional allegations in the complaint and specifically admit that the Secretary has jurisdiction in this matter, admit the remaining allegations as set forth herein as findings of fact and conclusions of law, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding, to the entry of this decision. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Burton Sipp is an individual whose mailing addresses are (b) (6) [redacted] (b) (6) [redacted], and c/o Infront Training Center, LLC, 96 Trotter Road, New Cumberland, West Virginia 26047. At all times mentioned in the complaint, respondent Sipp did business as Animal Kingdom Zoo, was an exhibitor, as that term is defined in

the Act and the Regulations, held AWA license number 22-C-0094, and operated a zoo in Bordentown, New Jersey. AWA license 22-C-0094 was terminated on June 10, 2014.

2. Animal Kingdom Zoo, Inc. (AKZI), is a New Jersey domestic profit corporation (ID No. 0400525785), whose registered agent is Christopher J. Basner, 2 King's Highway West, Suite 205, Haddonfield, New Jersey 08033. At all times mentioned in the complaint, said respondent was an exhibitor, as that term is used in the Act and the Regulations, did not hold an AWA license and, together with respondent Sipp, operated a zoo in Bordentown, New Jersey.

3. On or about October 20, 2012, while a licensee, respondent Sipp failed to notify APHIS that there had been a change in the control of his business or operation, as required.

4. From on or about February 23, 2012, through October 10, 2012, respondent Sipp failed to employ an attending veterinarian under formal arrangements that included a written program of veterinary care for the provision of care to all animals in respondent's custody.

5. From on or about October 23, 2012, through February 6, 2013, respondents Sipp and AKZI failed to employ an attending veterinarian under formal arrangements that included a written program of veterinary care for the provision of care to all animals in respondent's custody.

6. On or about August 31, 2012, and September 1, 2012, respondent Sipp refused to follow his attending veterinarian's recommendations to provide additional care and treatment, including hospitalization, to an ailing lemur, refused to permit the attending veterinarian to provide such treatment and care, and the lemur died, without receiving treatment, on September 1, 2012.

7. On or about the following dates, respondent Sipp failed to provide adequate veterinary care to animals, and failed to establish and maintain programs of veterinary care that included the availability of appropriate personnel, the use of appropriate methods to prevent and

treat disease and injury, and daily observation and communication with his veterinarian and/or adequate guidance to personnel regarding animal handling:

a. February 23, 2012. Respondent failed to provide adequate hoof care to animals, and failed to observe and obtain adequate veterinary care for a Beisa oryx with overgrown hooves.

b. August 31, 2012, and September 1, 2012. Respondent failed to provide adequate veterinary care to a female lemur.

c. September 5, 2012, and October 10, 2012. Respondent failed to provide adequate veterinary care to:

i. Three wolves with wounds on their ears;

ii. Two pot-bellied pigs with wounds on their ears; and

iii. A spider monkey with a visibly-injured foot.8. On or about the following dates, respondents Sipp and AKZI failed to provide adequate veterinary care to animals, failed to establish and maintain programs of veterinary care that included the availability of appropriate personnel, and the use of appropriate methods to prevent and treat disease and injury, and/or daily observation and communication with respondents' veterinarian and/or adequate guidance to personnel regarding animal handling:

a. October 13, 2012, through October 25, 2012. Respondents failed for thirteen days to provide adequate veterinary care to an injured hyena, despite having been repeatedly advised by APHIS inspectors to have the hyena seen by a veterinarian immediately, and because of the respondents' delay in obtaining treatment for the hyena, the hyena's injuries progressed to the point where the hyena could no longer be successfully treated and was euthanized.

b. December 19, 2012. Respondents failed to provide adequate veterinary care to a giraffe (Zuri).

c. December 20, 2012, and December 26, 2012. Respondents failed to provide adequate veterinary care to:

i. A female spider monkey that was wheezing and had an abnormally large, pendulous abdomen, and had not been seen by a veterinarian for these conditions;

ii. A mandrill that had an untreated wound on his left hip, and the mandrill had not been seen by a veterinarian for this condition; and

iii. A pot-bellied pig with overgrown hooves.

9. On or about September 5, 2012, respondent Sipp failed to make, keep, and maintain complete and accurate records for four wolves and a lamb.

10. On or about October 10, 2012, respondent Sipp failed to make, keep, and maintain complete and accurate records for four wolves.

11. On or about December 20, 2012, respondents Sipp and AKZI failed to make, keep, and maintain complete and accurate records for four wolves.

12. On or about October 10, 2012, respondent Sipp transported nonhuman primates (a capuchin and a common marmoset) without having obtained the required health certificates.

13. On the following dates, respondent Sipp failed to comply with the handling Regulations:

a. May 12, 2012. During exhibition, respondent handled spider monkeys without adequate distance and/or barriers between the animals and the public, and one of three spider monkeys bit a child that was able to approach the spider monkeys' enclosure.

b. June 26, 2012. During exhibition, respondent handled mandrill, Siamang, and a Diana monkey without adequate distance and/or barriers between the animals and the public to ensure the safety of the animals and the public.

c. June 26, 2012. Respondent failed to have responsible and readily identifiable employees or attendants present during periods of public contact with nonhuman primates.

d. June 26, 2012. Respondent permitted the public to feed nonhuman primates food provided by the public.

16. On or about the following dates, respondents Sipp and AKZI failed to comply with the handling Regulations:

a. October 13-25, 2012. Respondents failed to care for an injured hyena.

b. December 22, 2012. Respondents failed to contain two hyenas who escaped from their enclosure, and one of the hyenas was hit by a car and killed.

17. On or about the following dates, respondent Sipp failed to meet the Standards:

a. February 23, 2012. Respondent failed to have his plan for environmental enhancement to promote the psychological well-being of nonhuman primates reviewed by his attending veterinarian.

b. February 23, 2012. Respondent housed hyena in an enclosure that contained exposed wire mesh with sharp edges.

c. February 23, 2012. Respondent housed coatimundi in an enclosure that had a structurally-compromised horizontal beam.

d. May 23, 2012. Respondent housed a Diana monkey in an enclosure that had a structurally-compromised cross beam.

e. June 26, 2012. Respondent housed nonhuman primates in enclosures that lacked adequate public barriers that restricted public contact between the public and the nonhuman primates.

f. September 5, 2012. Respondent housed nonhuman primates (Patas monkeys, lemurs, spider monkeys, grivet, Siamang, blue monkeys, Diana monkey, mandrill, Sykes Monkey) in enclosures that were structurally compromised and/or in disrepair.

g. September 5, 2012. Respondent failed to provide nonhuman primates and wolves with wholesome food that was not contaminated, moldy or deteriorated.

h. September 5, 2012. Respondent failed to establish and maintain an effective pest control program throughout the facility.

i. September 5, 2012. Respondent housed kangaroos, hyenas, wolves, coatimundi, and bearded pigs in enclosures that were structurally compromised and/or in disrepair.

j. September 5, 2012. Respondent failed to provide a suitable method to rapidly eliminate excess water in enclosures housing hyenas and wolves.

k. October 10, 2012. Respondent housed Patas monkeys, spider monkeys, blue monkeys, a Sykes monkey, and a Diana monkey in enclosures that were structurally compromised and/or in disrepair.

1. October 10, 2012. Respondent failed to establish and maintain an effective pest control program throughout the facility.

m. October 10,2012. Respondent housed kangaroos and hyenas in enclosures that were structurally compromised and/or in disrepair.

n. October 10, 2012. Respondent failed to provide a suitable method to rapidly eliminate excess water in enclosures housing hyenas and wolves.

18. On or about the following dates, respondents Sipp and AKZI failed to meet the Standards, as follows:

a. October 23, 2012. Respondents failed to maintain housing enclosures for hyenas in good repair so that they contained the hyenas, and as a result, three hyenas escaped from their enclosure.

b. October 23, 2012, November 9, 2012, and December 20, 2012. Respondents failed to employ a sufficient number of adequately-trained employees.

c. December 20, 2012, April 3, 2013, and May 17, 2013. Respondents housed nonhuman primates in enclosures that were structurally compromised and/or in disrepair.

d. December 20, 2012. Respondents housed hyenas in enclosures that were structurally compromised and in need of repair.

e. December 22, 2012. Respondents failed to maintain housing enclosures for hyenas in good repair so that they contained the hyenas, and as a result, two hyenas escaped from their enclosure, and one was killed.

f. April 3, 2013. Respondents housed bearded pigs, sheep, llamas, and pot-bellied pigs in enclosures that were structurally compromised and in need of repair.

g. April 3, 2013, May 17, 2013, and January 8, 2014. Respondents failed to provide a suitable method to rapidly eliminate excess water in enclosures housing hyenas.

h. April 9, 2013. There was an accumulation of construction and demolition debris on the premises and adjacent to animal housing areas.

i. May 17, 2013. Respondents failed to keep the premises clean and in good repair, in order to protect the animals from injury and facilitate husbandry practices.

j. May 17, 2013, and January 8, 2014. Respondents failed to provide a suitable method to rapidly eliminate excess water in enclosures housing wolves.

k. July 17, 2013. Respondents failed to provide adequate shelter from sunlight to a giraffe.

l. July 17, 2013, and August 1, 2013. Respondents failed to provide adequate shelter from sunlight to pot-bellied pigs.

m. July 17, 2013. Respondents failed to enclose the facility by an adequate perimeter fence, and specifically, respondents' fence permitted an animal or animals to enter the premises and the enclosure housing a red fox.

n. July 17, 2013, and January 8, 2014. Respondents failed to keep the premises clean and in good repair, in order to protect the animals from injury and facilitate husbandry practices.

Conclusions of Law

1. On October 20, 2012, respondent Sipp willfully violated the Regulations. 9 C.F.R. § 2.8.

2. From February 23, 2012, through October 10, 2012, respondent Sipp willfully violated the regulations by failing to employ an attending veterinarian as required. 9 C.F.R. § 2.40(a)(l).

3. From October 23, 2012, through February 6, 2013, respondents Sipp and AKZI willfully violated the Regulations by failing to employ an attending veterinarian as required. 9 C.F.R. § 2.40(a)(l).

4. On or about August 31, 2012, and September 1, 2012, respondent Sipp willfully violated the Regulations by failing to ensure that his attending veterinarian had appropriate authority to ensure the provision of adequate veterinary care. 9 C.F.R § 2.40(a)(2).

5. On or about February 23, 2012, through October 10, 2012, respondent Sipp willfully violated the veterinary care Regulations. 9 C.F.R §§ 2.40(a), 2.40(b)(1), 2.40(b)(2), 2.40(b)(3).

6. On October 13, 2012, through December 26, 2012, respondents Sipp and AKZI willfully violated the veterinary care Regulations. 9 C.F.R §§ 2.40(a), 2.40(b)(1), 2.40(b)(2), 2.40(b)(3).

7. On or about September 5, 2012 and October 10, 2012, respondent Sipp willfully violated the record-keeping Regulations. 9 C.F.R. § 2.75(b)(l).

8. On or about December 20, 2012, respondents Sipp and AKZI willfully violated the record-keeping Regulations. 9 C.F.R. § 2.75(b)(l).

9. On or about October 10, 2012, respondent Sipp willfully violated the Regulations (9 C.F.R. § 2.78(a)(l)), by transporting a capuchin and a common marmoset without health certificates.

10. On or about May 12, 2012, and through June 26, 2012, respondent Sipp willfully violated the handling Regulations. 9 C.F.R. §§ 2.131(c)(l), 2.131(d)(2), 2.131(d)(4).

11. On or about October 13, 2012, through December 22, 2012, respondents Sipp and AKZI willfully violated the handling Regulations. 9 C.F.R. § 2.131(b)(1).

12. On or about the following dates, respondent Sipp willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. February 23, 2012. 9 C.F.R. § 3.81.

b. February 23, 2012. 9 C.F.R. § 3.125(a).

c. February 23, 2012. 9 C.F.R. § 3.125(a).

d. May 23, 2012. 9 C.F.R. § 3.75(a).

e. June 26, 2012. 9 C.F.R. § 3.78(e).

f. September 5, 2012. 9 C.F.R. § 3.75(a).

g. September 5, 2012. 9 C.F.R. §§ 3.82(d), 3.129(b).

h. September 5, 2012. 9 C.F.R. §§ 3.84(d), 3.131(d).

i. September 5, 2012. 9 C.F.R. § 3.125(a).

j. September 5, 2012. 9 C.F.R. § 3.127(c).

k. October 10, 2012. 9 C.F.R. § 3.75(a).

l. October 10, 2012. 9 C.F.R. §§ 3.84(d), 3.131(d).

m. October 10, 2012. 9 C.F.R. § 3.125(a).

n. October 10, 2012. 9 C.F.R. § 3.127(c).

13. On or about the following dates, respondents Sipp and AKZI willfully violated the Regulations, 9 C.F.R. § 2.100(a), by failing to meet the Standards:

a. October 23, 2012. 9 C.F.R. § 3.125(a).

b. October 23, 2012, November 9, 2012, and December 20, 2012. 9 C.F.R. § 3.132.

c. December 20, 2012, April 3, 2013, and May 17, 2013. 9 C.F.R. § 3.75(a).

d. December 20, 2012. 9 C.F.R. § 3.125(a).

e. December 22, 2012. 9 C.F.R. § 3.125(a).

f. April 3, 2013. 9 C.F.R. § 3.125(a).

g. April 3, 2013, May 17, 2013, and January 8, 2014. 9 C.F.R. § 3.127(c).

h. April 9, 2013. 9 C.F.R. §§ 3.84(c), 3.131(c).

i. May 17, 2013. 9 C.F.R. §§ 3.84(c), 3.131(c).

j. May 17, 2013, and January 8, 2014. 9 C.F.R. § 3.127(c).

k. July 17, 2013. 9 C.F.R. § 3.127(a).

l. July 17, 2013, and August 1, 2013. 9 C.F.R. § 3.127(a).

m. July 17, 2013. 9 C.F.R. § 3.127(d).

n. July 17, 2013, and January 8, 2014. 9 C.F.R. § 3.131(c).

14. Respondents having admitted the findings and conclusions set forth above, and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. AWA license 22-C-0094 is hereby revoked, effective March 15, 2016.

3. The two-year period of time between March 15, 2016, and March 14, 2018, shall be referred to as the "probation period." Respondent Sipp agrees that if APHIS notifies him that it has documented a failure, during the probation period, to comply with the Act or the Regulations, upon receipt of such notice and copies of the supporting documentation, respondent Sipp may, without further procedure, be assessed a civil penalty of $15,000 for each such documented failure to comply with the Act or the Regulations. Respondent Sipp further agrees to a prospective waiver of his right to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with the Act or the Regulations, or to meet the minimum

Standards. The complainant and respondent Sipp agree that respondent Sipp may seek injunctive, declaratory or other appropriate relief in the United States District Court for the District of New Jersey or in the United States District Court for the District of Columbia.

The provisions of this order shall become effective immediately. Copies of this decision shall be served upon the parties.

ANIMAL KINGDOM ZOO, INC.
A New Jersey domestic stock corporation

Animal Kingdom Zoo

By [redacted]
Its
Respondent

[redacted]
Burton Sipp
Respondent

[redacted]
Colleen A. Carroll
Lauren E. Becker
Attorneys for Complainant

Done at Washington, D.C.
this 15 day of MAR 2016

[redacted]
Jill S. Clifton
Administrative Law Judge