

USDA
OALJ/OHC

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:

Docket No.

12-0277

Gus White
also known as
Gustave L. White III,
doing business as
Collins Exotic Animal Orphanage,

Respondent

Complaint

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.), hereinafter referred to as the Act, and the regulations and standards (9 C.F.R. § 1.1 et seq.) issued pursuant to the Act, and, therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS") issues this complaint alleging the following:

I

A. Gus White also known as Gustave L. White III hereinafter referred to as the respondent, is an individual whose address is 2900 Highway 49, Collins, Mississippi. The respondent operates under the business name of Collins Exotic Animal Orphanage.

B. The respondent, at all times material hereto, was operating as an exhibitor as defined in the Act and the regulations.

C. The respondent's Animal Welfare license number is 65-C-0012. When the respondent was licensed, he received a copy of the regulations and the standards issued pursuant to the Act and agreed in writing to comply with them.

II

A. From May 24, 2007, and continuing to the present the respondent did not utilize a sufficient number of adequately trained employees under a supervisor who has a background in animal care to maintain the professionally acceptable level of husbandry practices as set forth in the regulations in willful violation of 9 C.F.R. § 3.132.

B. From May 24, 2007, and continuing to the present the respondent failed to have enough employees to carry out the level of husbandry practices and care for nonhuman primates as provided for in 9 C.F.R. Part 3 Standards Subpart D and failed to have employees supervised by an individual who has knowledge, background, and experience in proper husbandry and care of nonhuman primates in willful violation of 9 C.F.R. § 3.85.

C. From May 24, 2007, and continuing to the present the respondent did not have enough employees to carry out the required level of husbandry practices and care for dogs and cats under the supervision of an individual who has knowledge,

background, and experience in proper husbandry and care of dogs and cats in willful violation of 9 C.F.R. § 3.12.

III

On or about April 19, 2011, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine, in willful violation of section 2.40(a)(2) of the regulations (9 C.F.R. § 2.40(a)(2)).

IV

A. On or about September 8, 2010, APHIS inspected respondent's premises and found that respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about September 8, 2010, APHIS inspected respondent's premises and records and found that the respondent had failed to maintain complete records showing the acquisition, disposition, and identification of animals, in willful violation of section 10 of the Act (7 U.S.C. § 2140) and section 2.75(b)(1) of the regulations (9 C.F.R. § 2.75(b)(1)).

C. During public exhibitions, a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

D. On or about September 8, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facilities for respondent's animals were not structurally sound so as to protect the animals from injury, to contain the animals, and to restrict the entrance of other animals, because the perimeter fence required repairs (9 C.F.R. § 3.127(a));

2. The perimeter fence was not of sufficient height to keep animals and unauthorized persons out since the perimeter fence in sections was less than 8 feet high (9 C.F.R. § 3.127(d));

3. Animals were not provided with wholesome and uncontaminated food (9 C.F.R. § 3.129(a));

4. Provisions were not made for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris (9 C.F.R. § 3.125(d));

5. Supplies of food and bedding were not stored in a manner that adequately protects the supplies against deterioration, molding, or contamination against vermin and the perishable food

was not properly refrigerated since the freezer was not functioning properly (9 C.F.R. § 3.125(c));

6. The facility was not constructed of such material and such strength and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. 3.125(a)); and

7. The food receptacles for rabbits were not kept clean and sanitized as required and were not located so as to minimize contamination by excreta (9 C.F.R. § 3.54(b)).

V

A. On or about March 26, 2010, APHIS inspected respondent's premises and records and found that the respondent had failed to maintain complete records showing the acquisition, disposition, and identification of animals, in willful violation of section 10 of the Act (7 U.S.C. § 2140) and section 2.75(b)(1) of the regulations (9 C.F.R. § 2.75(b)(1)).

VI

A. On or about March 23, 2010, APHIS inspected respondent's premises and found that respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40).

B. On or about March 23, 2010, APHIS inspected respondent's premises and records and found that the respondent had failed to maintain complete records showing the acquisition, disposition, and identification of animals, in willful violation of section 10 of the Act (7 U.S.C. § 2140) and section 2.75(b)(1) of the regulations (9 C.F.R. § 2.75(b)(1)).

C. On or about March 23, 2010, the respondent willfully violated the regulations since during public exhibition or exhibitions a sufficient distance or barrier was not maintained between the animal and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131(c)(1)).

D. On or about March 23, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. The facility was not constructed of such material and such strength and was not maintained in good repair to protect the animals from injury and contain the animals (9 C.F.R. § 3.125(a));

2. Natural or artificial shelter appropriate to the local climatic conditions for the species concerned was not provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals (9 C.F.R. § 3.127(b));

3. The facilities for respondent's animals did not contain a perimeter fence of sufficient height to keep animals and unauthorized persons out because the fence required repairs (9 C.F.R. § 3.127(d));

4. Animals were not provided with wholesome, palatable food that was free of contamination and of sufficient quantity and nutritive value to maintain the animal in good health (9 C.F.R. § 3.129(a)); and

5. Excreta was not removed from primary enclosures as often as necessary to prevent contamination of the animals contained in them and minimize disease hazards since the enclosures were excessively soiled and stained (9 C.F.R. § 3.131(a)).

VII

A. On or about January 21, 2010, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Housing facilities for dogs were not structurally sound and maintained in good repair so as to protect the animals from injury, contain the animals securely, and restrict other animals from entering (9 C.F.R. § 3.1(a));

2. The facility was not constructed of such material and such strength and was not maintained in good repair to protect

the animals from injury and contain the animals (9 C.F.R. § 3.125(a)); and

3. A suitable method was not provided to rapidly eliminate excess water from outdoor housing facilities for animals (9 C.F.R. § 3.127(c)).

VIII

On or about December 10-11, 2009, the respondent failed to maintain programs of disease control and prevention, euthanasia, and adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40) since a wolf-hybrid called "Olive" was observed with a distended abdomen and in distress but was not seen by a veterinarian. The wolf-hybrid was found dead the following day.

IX

On or about September 24, 2009, APHIS inspected respondent's premises and found the following willful violations of section 2.100(a) of the regulations (9 C.F.R. § 2.100(a)) and the standards specified below:

1. Rabbits kept outdoors were not provided with access to shelter that allowed them to remain dry during rain or snow (9 C.F.R. § 3.52(b));

2. Primary enclosures for rabbits were not constructed and maintained so as to enable rabbits to remain dry and clean (9 C.F.R. § 3.53(a)(2));

3. Primary enclosures for rabbits did not provide the minimum floor space as required in the regulations to allow for animals to make normal postural adjustments with adequate freedom of movement (9 C.F.R. § 3.53(c)(2));

4. The food for rabbits was not free from contamination, wholesome, palatable and of sufficient quantity and nutritive value for the rabbits since the food was tossed on the ground for them to eat (9 C.F.R. § 3.54(a));

5. The food receptacles for rabbits were not kept clean and sanitized as required and were not located so as to minimize contamination by excreta (9 C.F.R. § 3.54(b));

6. Housing facilities for dogs were not constructed so that they are structurally sound and maintained in good repair (9 C.F.R. § 3.1(a)); and

7. A suitable method was not provided to rapidly eliminate excess water from outdoor housing facilities for animals (9 C.F.R. § 3.127(c)).

X

On or about November 6, 2008, APHIS inspected respondent's premises and found that the respondent failed to maintain programs of disease control and prevention, euthanasia, and

adequate veterinary care under the supervision and assistance of a doctor of veterinary medicine and failed to provide veterinary care to animals in need of care, in willful violation of section 2.40 of the regulations (9 C.F.R. § 2.40) including but not limited to:

1. failing to provide veterinarian care to a wolf-hybrid called "Olive" that was observed with a brownish discharge in both eyes; and
2. failing to have an ocular condition in a caracal called "Pretty Boy" examined by a veterinarian.

XI

On or about July 11, 2008, APHIS inspected respondent's premises and found that the respondent willfully violated the regulations since during public exhibition or exhibitions a sufficient distance or barrier was not maintained between the animal or animals and the general viewing public to assure the safety of the animal and viewing public (9 C.F.R. § 2.131 (c)(1)).

XII

On or about May 24, 2007, the respondent failed to maintain complete records showing the acquisition, disposition, and identification of animals, in willful violation of section 10 of the Act (7 U.S.C. § 2140) and section 2.75(b)(1) of the regulations (9 C.F.R. § 2.75(b)(1)).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations and standards issued under the Act, this complaint shall be served upon the respondent. The respondent 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.

The Animal and Plant Health Inspection Service requests:

1. That unless the respondent fails to file an answer within the time allowed therefor, or files 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

2. That such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order:

- (a) Requiring the respondent to cease and desist from violating the Act and the regulations and standards issued thereunder;

- (b) Assessing civil penalties against the respondent in accordance with section 19 of the Act (7 U.S.C. § 2149); and
- (c) Permanently revoking the respondent's license under the Act.

Done at Washington, D.C.

this 3rd day of March, 2012

Acting

Administrator
Animal and Plant Health
Inspection Service

Sharlene Deskins
Attorney for Complainant
Office of the General Counsel
United States Department of
Agriculture
MAIL STOP 1417
1400 Independence Ave., S.W.
Washington, D.C. 20250-1417
Telephone (202) 720-2595