



United States Department of Agriculture

Animal and Plant Health
Inspection Service

Marketing and
Regulatory Programs
Business Services

Investigative and
Enforcement Services

Headquarters:
4700 River Road
Unit 85
Riverdale, MD 20737
Voice 301.851.2948
Fax 301.734.4328

Eastern Region:
920 Main Campus Drive
Suite 200
Raleigh, NC 27606
Voice 919.855.7080
Fax 919.855.7090

Western Region:
2150 Centre Avenue
Building B-3W10
Fort Collins, CO 80526
Voice 970.494.7485
Fax 970.494.7487

VIA: USPS Certified Mail. Shipping: 1st

August 1,
2018

Kevin Hayner
dba Real Pets Corporation
(b) (6), (b) (7)(C)
[REDACTED]

M. Burr Keim Company
2021 Arch Street
Philadelphia, PA 19103

OFFICIAL WARNING NOTICE OF ALLEGED VIOLATION

Re: Reference number PA150026-AC

Dear Sir or Madam:

We believe that you failed to comply with the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), and its implementing regulations, as described in the attached Official Warning. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and regulations and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may pursue civil penalties of up to \$10,000, or other sanctions, for each alleged violation described in this Official Warning. Although we have authority to pursue penalties for this type of alleged violation(s), we have decided not to pursue penalties in this instance so long as you comply, in the future, with the AWA and regulations.

What happens if I do not comply in the future? If you fail to comply in the future, we may pursue criminal penalties, or we may pursue civil penalties for the alleged violations described in this Official Warning, in addition to any penalties we may pursue for any future violations.

What should I do if I have questions? If you have any questions concerning this Official Warning, contact Olivia Simmons at (301) 851-2757 or call our main office at (301) 851-2948.

I am a small business owner and have comments or concerns regarding APHIS's enforcement of animal and plant health laws. Who should I contact?
If you have comments about APHIS's enforcement of animal and plant health laws, please contact me, Steven M. Bennett, the APHIS Small Business Ombudsperson, at (301) 851-2948. If you prefer to comment to someone outside APHIS, contact the Small Business Regulatory Enforcement Ombudsperson at <http://sba.gov/ombudsman>, email ombudsman@sba.gov, or 1-888-REG-FAIR. The Ombudsperson's office receives comments and annually evaluates federal agency enforcement activities for their responsiveness to the special needs of small businesses.

Sincerely,

Steven M. Bennett, Director
Investigative and Enforcement Services



UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE

USDA
OFFICIAL WARNING
NOTICE OF ALLEGED VIOLATION

CASE NUMBER:
PA150026-AC

ALLEGED VIOLATOR:
Kevin Hayner
dba Real Pets Corporation

ADDRESS (City, State, ZIP Code):
Denver, PA 17517

The U.S. Department of Agriculture has evidence that on or about the date(s) listed below, you or your organization committed the following alleged violation(s) of Federal laws:

Date of Alleged Violation: February 4, 2015

9 C.F.R. § 3.31(a)(1) Sanitation. Cleaning and sanitization of primary enclosures. (1) Primary enclosures shall be cleaned and sanitized often enough to prevent an accumulation of excreta or debris.

You failed to ensure that primary enclosures were cleaned and sanitized. APHIS officials observed excessively dirty enclosures with ten weaned guinea pigs and an enclosure with five breeding guinea pigs with more fecal matter than bedding.

Date of Alleged Violation: February 4, 2015

9 C.F.R. § 3.31(b) Sanitation (b) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.

You failed to ensure that premises were kept clean and in good repair. APHIS officials observed the following:

- 1) Excessively dirty cart, knives and potato slicer that are used to prepare food for animals.
- 2) Top rack for hamsters with debris.
- 3) Excessively dusty shelves used for dwarf hamsters.
- 4) Spilled feed and bedding on the floor around the storage area.
- 5) Spilled feed in the shipping/staging room and washroom.

Date of Alleged Violation: February 4, 2015

9 C.F.R. § 3.31(c) Sanitation (c) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.



You failed to maintain an effective program for pest control. APHIS officials observed rodent droppings along the walls and by spilled feed and bedding.

Date of Alleged Violation: April 27, 2015

9 C.F.R. § 3.31(b) Sanitation (b) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.

You failed to ensure that premises were kept clean and in good repair. APHIS officials observed the following:

- 1) Excessively dirty cart, knives and potato slicer that are used to prepare food for animals.
- 2) Enclosure racks housing 496 hamsters with debris on the shelves.
- 3) Cobwebs on the racks, shelves and between the enclosures.

Date of Alleged Violation: April 27, 2015

9 C.F.R. § 3.31(c) Sanitation (c) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

You failed to maintain an effective program for pest control. APHIS officials observed rodent droppings along the walls in the room with the potato cart, the animal room, storage room, and between pallets of food.

Date of Alleged Violation: July 15, 2015

9 C.F.R. § 2.40(b) Attending veterinarian and adequate veterinarian care (dealers and exhibitors). (b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and to conduct daily observation of all animals to assess their health and well-being.

You failed to provide adequate veterinary care and use appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and to conduct daily observation of all animals to assess their health and well-being. APHIS officials observed the following:

- 1) An enclosure with six live gerbils that appeared unthrifty housed with three dead gerbils. The hair and coats of the live gerbils were rough and dull and the animals appeared listless.
- 2) Two enclosures with five live gerbils housed with a dead gerbil.
- 3) Five enclosures housing five dead Chinese hamsters, three were housed alone and two were with live Chinese hamsters.

Date of Alleged Violation: July 15, 2015

9 C.F.R. § 3.26(b) Facilities, indoor. (b) Ventilation. Indoor housing facilities for guinea pigs or hamsters shall be adequately ventilated to provide for the health and comfort of



the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, or air conditioning, and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

You failed to provide adequate ventilation in indoor housing facilities. APHIS officials observed ventilation systems for two rolling racks not in use for 478 Chinese hamsters and their offspring. The racks had a buildup of condensation, humidity, and many had moldy feed.

Date of Alleged Violation: July 15, 2015

9 C.F.R. § 3.29(a) Feeding. (a) Guinea pigs and hamsters shall be fed each day except as otherwise might be required to provide adequate veterinary care. The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the guinea pig or hamster.

You failed to provide food free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements. APHIS officials observed approximately 110 Chinese hamsters in 55 enclosures with offspring with either no food or wet and moldy food.

Date of Alleged Violation: July 15, 2015

9 C.F.R. § 3.31(a)(2) Sanitation. Cleaning and sanitization of primary enclosures. (2) In the event a primary enclosure becomes soiled or wet to a degree that might be harmful or uncomfortable to the animals therein due to leakage of the watering system, discharges from dead or dying animals, spoiled perishable foods, or moisture condensation, the guinea pigs or hamsters shall be transferred to clean primary enclosures.

You failed to ensure that hamsters were transferred to clean primary enclosures. APHIS officials observed the following:

- 1) Thirty Chinese hamsters with offspring housed in eighteen enclosures with excessively wet and dirty bedding.
- 2) Ten Russian hamsters with offspring housed in five enclosures with excessively wet and dirty bedding.

Date of Alleged Violation: July 28, 2015

9 C.F.R. § 3.31(b) Sanitation (b) Housekeeping. Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Premises shall remain free of accumulations of trash.

You failed to ensure that premises were kept clean and in good repair. APHIS officials observed the following:

- 1) Enclosure racks housing guinea pigs with dirt and cobwebs on the support frames, top and shelves.
- 2) Large accumulation of brown matter adhered to surface above enclosure housing ten guinea pigs.

**Date of Alleged Violation: October 20, 2015**

9 C.F.R. § 3.31(a)(3) Sanitation. Cleaning and sanitization of primary enclosures. (3) Prior to the introduction of guinea pigs or hamsters into empty primary enclosures previously occupied, such enclosures shall be sanitized in the manner provided in paragraph (a)(4) of this section.

You failed to ensure that primary enclosures were sanitized. APHIS officials observed a buildup of white to brown roughened scale and debris in the corners, sides, and around the bottom of enclosure used for guinea pigs.

Date of Alleged Violation: January 14, 2016

9 C.F.R. § 2.40(a)(1) Attending veterinarian and adequate veterinarian care (dealers and exhibitors). (a) Each dealer or exhibitor shall have an attending veterinarian who shall provide adequate veterinary care to its animals in compliance with this section (1) Each dealer and exhibitor shall employ an attending veterinarian under formal arrangements. In the case of a part-time attending veterinarian or consultant arrangements, the formal arrangements shall include a written program of veterinary care and regularly scheduled visits to the premises of the dealer or exhibitor.

You failed to provide an adequate written program of veterinary care (PVC). The PVC failed to provide specific guidance for the care of animals; no specific guidance for internal parasite control and treatment of conditions for various species; species specific dosing not included for the drugs listed on the PVC; and no specific guidance for method of euthanasia including the personnel trained and authorized to perform the euthanasia for the various species.

Date of Alleged Violation: April 5, 2016

9 C.F.R. § 2.40(b)(3) Attending veterinarian and adequate veterinarian care (dealers and exhibitors). (b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include (3) Daily observation of all animals to assess their health and well-being.

You failed to conduct daily observation of all animals to assess their health and well-being and failed to ensure that hamsters were transferred to clean primary enclosures. APHIS officials observed the following:

- 1) A flooded enclosure with two dead adult Djungarian hamsters with a strong odor of decomposition.
- 2) An enclosure with two dead adult Robo hamsters and a strong odor of decomposition.
- 3) An enclosure with a Russian hamster with a wet, ruffled hair coat with excessively wet bedding.
- 4) An enclosure with an adult Russian hamster and seven of its offspring with bedding that was excessively wet and dirty.

Date of Alleged Violation: April 5, 2016

9 C.F.R. § 3.31(c) Sanitation (c) Pest control. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

You failed to maintain an effective program for pest control. APHIS officials observed rodent droppings on pallet holding bags of poultry and livestock food and on the floor.

Date of Alleged Violation: March 1, 2017

9 C.F.R. § 2.75(b)(1) Records: Dealers and exhibitors. Every dealer...and exhibitor shall make, keep, and maintain records or forms which fully and correctly disclose...information concerning animals other than dogs and cats, purchased or otherwise acquired, owned, held, leased, or otherwise in his or her possession or under his or her control, or which is transported, sold, euthanized, or otherwise disposed of by the dealer or exhibitor.

You failed to maintain records that fully and correctly disclose information concerning animals. You had no previous weekly inventories for the weeks from the last inspection. Also, the facility inventory did not have a date and didn't include guinea pigs, rabbits, gerbils, and ferrets.

Date of Alleged Violation: May 31, 2017

9 C.F.R. § 2.40(b)(2) Attending veterinarian and adequate veterinarian care (dealers and exhibitors). (b) Each dealer or exhibitor shall establish and maintain programs of adequate veterinary care that include (2) the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries.

You failed to provide adequate veterinary care and use appropriate methods to prevent, control, diagnose, and treat diseases and injuries. APHIS officials observed the following:

- 1) An adult female guinea pig with extensive hair loss over her back and rump with large multifocal patches where underlying skin was bright red and the surface was broken.
- 2) A juvenile white smooth haired guinea pig with both eyes sunken and partially closed; was lethargic and considerably smaller than other juveniles in same enclosure and observed repeatedly being walked on by other animals in enclosure with limited reaction and seen pushed off female when attempting to nurse.
- 3) A juvenile tan and white medium haired guinea pig with incomplete hair loss on both sides and underlying skin appeared flaky.
- 4) A juvenile white smooth haired guinea pig with partially closed eyes that appeared glassy, with brown discolored fur on the head and rump.
- 5) A juvenile white and liver colored smooth-haired guinea pig with a sunken right eye that appeared squinted.
- 6) A juvenile tricolor black, brown and white, smooth-haired guinea pig with

a firm moveable mass on its neck, under the chin, approximately 2 centimeters in diameter. The skin appeared reddened and inflamed in this area.

7) A juvenile brown and white guinea pig with hair loss on the left side of the nose approximately 1.5 centimeters and occupied nearly the entire area from the nose to the eye. The underlying skin was crusty with numerous scabs.

8) A juvenile tricolor, brown, tan and white smooth-haired guinea pig with hair loss covering the bridge of the nose approximately 1.5 centimeters. The underlying skin was crusty and had numerous scabs.

9) A juvenile brown smooth-haired guinea pig with hair loss on the right side of the nose covering approximately 1 centimeter and extending approximately half way from the nose to the right eye. The underlying skin was crusty with numerous scabs.

10) A juvenile grey and white smooth haired guinea pig with hair loss on the left side of its face above the left eye approximately 1 centimeter by $\frac{1}{2}$ centimeter. The underlying skin was crusty and had numerous scabs.

11) Juvenile white and black smooth-haired guinea pig with multiple areas of hair loss on the face surrounding the left eye, behind the left ear, and on the left neck. In some areas the skin appeared flaky while other areas had small scabs. The pinna of the left ear had an irregular margin that appeared chewed.

12) An adult brown and white Abyssinian type guinea pig holding its left eyelid nearly closed with a missing eye.

13) An adult white and black smooth-haired guinea pig holding its left eyelid nearly closed with a missing eye and a mild amount of crusty discharge.



The Animal and Plant Health Inspection Service (APHIS) published federal regulations to ensure the welfare of animals and help prevent the spread of animal and plant pests and diseases. Since violations of the regulations can have serious and costly impacts that are detrimental to the public interest, APHIS is providing you with an Official Warning for the alleged violation(s) described above. This Official Warning is not to be construed as a final agency action, or as an adjudicated finding of a violation. If APHIS obtains evidence of any future violation of these federal regulations, APHIS may pursue civil penalties, criminal prosecution, or other sanctions for this alleged violation(s) and for any future violation(s). If you have any questions concerning this Official Warning or alleged violation(s), please contact the APHIS official listed in this notice.

APHIS OFFICIAL (Name): Steven M. Bennett	OFFICE ADDRESS: 4700 River Road, Unit 85 Riverdale, MD 20737	
APHIS OFFICIAL (Title): Director, Investigative and Enforcement Services	DATE ISSUED: 8/1/2018	TELEPHONE NUMBER: (301) 851-2948

APHIS FORM 7060

Previous editions may be used

Rev. 9-13-16