

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

AWA Docket No. 04-0023

In re:

MARY JEAN WILLIAMS, an individual;
JOHN BRYAN WILLIAMS, an individual
and DEBORAH ANN MILETTE, an individual

DECISION AND ORDER

This action was commenced on August 19, 2004 by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, under the Animal Welfare Act, as amended (7 U.S.C. § 2131, et seq., hereafter the “Act”), by a complaint alleging that the Respondents willfully violated the Act.

Service was effected upon The Respondent John Bryan Williams by certified mail on August 25, 2004. Service upon the Respondent Mary Jean Williams was attempted by certified mail, but was returned marked “unclaimed” after which she was served by remailing by regular mail on October 7, 2004. The original attempt at serving the Respondent Deborah Ann Milette by certified mail was unsuccessful and was returned as “undeliverable”. After securing a new address, service was effected by certified mail on February 18, 2005.

Each of the Respondents were advised in the accompanying letter of service that an answer should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the complaint would constitute an admission of that allegation. None of the Respondents answered within the time prescribed by the Rules of Practice¹, and the material facts alleged in the complaint are admitted by reason of the Respondent's failure to answer in a timely fashion and are adopted and set forth herein as Findings of Fact.

FINDINGS OF FACT

1. Respondent Mary Jean Williams is an individual whose business mailing address is Route 1, Box 67, Ivanhoe, Texas 75447 and who at all times mentioned herein was a dealer as that term is defined in the Act and the Regulations.
2. Respondent John Bryan Williams is an individual whose business mailing address is Route 1, Box 67, Ivanhoe, Texas 75447 and who at all time mentioned herein as a dealer as that term is defined in the Act and the Regulations.
3. Respondent Deborah Ann Milette is an individual whose mailing address is 14 County Home Bridge Road, Warrensburg, New York 12885. At all times mentioned herein, the said respondent was a licensed exhibitor as that term is defined in the Act and the Regulations and held Animal Welfare Act License Number 21-C-2018.
4. The respondents have small businesses. The gravity of the violations alleged in the complaint is great and resulted in the death of a young tiger. The respondents have no record of prior violations.

¹ The Respondent Deborah Ann Milette did send a letter dated April 9, 2005 apparently after receiving a copy of the Complainant's Motion for Adoption of Proposed Decision in which she denies culpability; however, it was not received within the time prescribed for filing an answer. No good cause was advanced for its untimeliness and the facts alleged in the complaint will be deemed admitted pursuant to Rule 1.136(c).

5. On or about September 27 and 28, 2002, Respondents Mary Jean Williams and John Bryan Williams operated as dealers, as that term is defined in the Act and the Regulations, without obtaining a license from the Secretary to do so, and specifically, said respondents, while unlicensed, transported a young tiger for use in exhibition, from Hennepin, Illinois to Bloomington, Illinois.

6. On September 27, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to have an attending veterinarian provide adequate veterinary care to a young tiger, and specifically, although none of the respondents is a veterinarian, the Respondent John Bryan Williams administered a sedative solution provided by the Respondent Deborah Ann Milette to the young tiger, with the approval and acquiescence of the Respondent Mary Jean Williams.

7. On September 27, 2002, Respondents Mary Jean Williams, John Bryan Williams and Deborah Ann Milette failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, and specifically, personnel capable of handling a tiger safely.

8. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to prevent and control injuries, specifically lacking any plan to insure that a young tiger could not escape from its travel enclosure or to provide a plan for the animal's safe recapture.

9. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to establish and maintain a program of adequate veterinary care that included adequate guidance to personnel involved in the care and use of animals regarding

handling, and specifically lacked the ability to adequately care for and handle a young tiger themselves and failed to employ other personnel capable of doing so.

10. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to handle animals as expeditiously and carefully as possible in a manner that would not cause trauma, unnecessary discomfort, behavioral stress, or physical harm, specifically allowing a young tiger to exit its travel enclosure and escape into a parking lot of a restaurant, which resulted in local authorities shooting and killing the animal.

CONCLUSIONS OF LAW

1. On September 27 and 28, 2002, Respondents Mary Jean Williams and John Bryan Williams operated as dealers as that term is defined in the Regulations, without obtaining a license from the Secretary to do so, in willful violation of 9 CFR §2.1(a)(1), specifically transporting a young tiger for use in exhibition from Hennepin, Illinois to Bloomington, Illinois.

2. On September 27, 2002, Respondents Mary Jean Williams, John Bryan Williams and Deborah Ann Milette failed to have an attending veterinarian provide adequate veterinary care to animals or to handle animals as expeditiously as possible in a manner that would not cause unnecessary discomfort, behavioral stress or physical harm, specifically, although none of the respondents is a veterinarian, John Bryan Williams administered a sedative solution provided by the Respondent Deborah Ann Milette to a young tiger with the approval and acquiescence of the Respondent Mary Jean Williams in willful violation of 9 CFR §2.131(a)(1) and 2.40(a).

3. On September 27, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to establish and maintain a program of adequate veterinary care that included the

availability of appropriate personnel capable of safely handling a young tiger in willful violation of 9 CFR § 2.40(b).

4. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to prevent and control injuries, specifically lacking plans to prevent a young tiger from escaping its travel enclosure, or plans to provide for the animals safe recapture in willful violation of 9 CFR § 2.40(b)(2).

5. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to establish and maintain a program of adequate veterinary care that included adequate guidance to personnel involved in the care and use of animals regarding handling, specifically lacking the ability to adequately care for and handle a young tiger themselves and failing to employ other personnel capable of doing so, in willful violation of 9 CFR § 2.40(b)(4).

6. On September 28, 2002, Respondents Mary Jean Williams and John Bryan Williams failed to handle a young tiger as expeditiously and carefully as possible in a manner that would not cause trauma, unnecessary discomfort, behavioral stress or physical harm, specifically allowing a young tiger to exit its transport enclosure and escape into a parking lot of a restaurant, resulting in local authorities shooting and killing the animal, in willful violation of 9 CFR § 2.131(a)(1).

ORDER

1. The 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. Respondent Mary Jean Williams is assessed a civil penalty of Five Thousand Five Hundred Dollars (\$5,500.00), to be paid by certified check or money order made payable to the Treasurer of the United States within sixty (60) days of entry of this Order.
3. Respondent John Bryan Williams is assessed a civil penalty of Five Thousand Five Hundred Dollars (\$5,500.00), to be paid by certified check or money order made payable to the Treasurer of the United States within sixty (60) days of entry of this Order.
4. Respondent Deborah Ann Milette's Animal Welfare Act License (No. 21-C-0218) is hereby revoked.

The provisions of this Order shall become effective on the first day after this Decision becomes final. The Decision becomes final without further proceedings 35 days after service as provided in § 1.142 and 1.145 of the Rules of Practice.

Copies of this Decision and Order shall be served on the parties by the Hearing Clerk.

Done at Washington, D.C.
April 28, 2005

PETER M. DAVENPORT
Administrative Law Judge

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