

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 05-0026
)	
CRAIG A. PERRY, an individual; PERRY'S)	Decision and Order
WILDERNESS RANCH & ZOO, INC., an Iowa)	as to ONLY JEFF
corporation; LEANN SMITH, an individual; and)	BURTON and
JEFF BURTON and SHIRLEY STANLEY,)	SHIRLEY STANLEY,
individuals doing business as BACKYARD)	individuals doing
SAFARI,)	business as BACKYARD
)	SAFARI
Respondents.)	

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.)(the "Act"), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondents willfully violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This initial decision and order is entered pursuant to section 1.142(c) of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.142(c)).

The Administrator of the Animal and Plant Health Inspection Service ("APHIS") initiated this case in furtherance of USDA's statutory mandate under the Act to ensure that animals transported, sold or used for exhibition are treated humanely and carefully.¹ In its complaint, APHIS seeks penalties against respondents for violating the Act and the regulations and standards promulgated thereunder, 9 C.F.R. § 2.1 et seq. (the "Regulations" and "Standards"). The respondents filed answers denying the material allegations of the complaint.

¹The Animal Welfare Act, 7 U.S.C. § 2131 et seq. (the "Act"), was originally passed by Congress specifically to address the public's interest in preventing the theft of pets and in ensuring that animals used in research were treated humanely. The Act was amended to regulate the transportation, purchase, sale, housing, care, handling and treatment of animals used for exhibition purposes or as pets

On November 16, 2008, I presided over an oral hearing in this matter in Chicago, Illinois. Complainant was represented by Colleen Carroll, Office of the General Counsel, U.S. Department of Agriculture. Respondents Jeff Burton and Shirley Stanley dba backyard Safari were *pro se*. Neither of the aforementioned respondents appeared at the oral hearing. Both were duly notified of the hearing. Neither had good cause not to appear at the hearing. Said respondents are deemed to have waived their right to an oral hearing and are deemed to have admitted any facts that may have been presented at the hearing. Such failure by respondents Jeff Burton and Shirley Stanley shall also constitute an admission of all of the material allegations of fact contained in the complaint.

The complainant has orally moved for issuance of a decision pursuant to section 1.141(e) of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.141(e)).

I granted complainant's motion, and issue this initial decision and order on November 16, 2009.

Findings of Fact

1. Respondent Jeff Burton is an individual doing business as Backyard Safari, and whose business mailing address is 23397 Gutman Road, Wapakoneta, Ohio 45895. On or about February 18, 2003, said respondent was a dealer, as that term is defined in the Act and the Regulations, and held AWA license No. 31-B-0101.

2. Respondent Shirley Stanley is an individual doing business as Backyard Safari, and whose business mailing address is 23397 Gutman Road, Wapakoneta, Ohio 45895. On or about February 18, 2003, said respondent was a dealer, as that term is defined in the Act and the Regulations, and held AWA license No. 31-B-0101.

3. From approximately February 11, 2003, through February 19, 2003, respondent Jeff

Burton failed to have a veterinarian provide adequate veterinary care to three unweaned infant tigers, born February 11, 2003, and instead, on or about February 19, 2003, “donated” them to respondent Perry’s Wilderness Ranch, and transported them by truck from Ohio to Iowa.

4. On or about February 19, 2003, respondent Jeff Burton 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, and specifically, “donated” three 8-day-old infant tigers to respondent Perry’s Wilderness Ranch, and caused the transportation of the three infants by truck from Ohio to Iowa, for use in exhibition.

Conclusions

1. From approximately February 11, 2003, through February 19, 2003, respondent Jeff Burton failed to have a veterinarian provide adequate veterinary care to three unweaned infant tigers, born February 11, 2003, and instead, on or about February 19, 2003, “donated” them to respondent Perry’s Wilderness Ranch, and transported them by truck from Ohio to Iowa, in willful violation of section 2.40(a)(1) of the Regulations. 9 C.F.R. § 2.40(a)(1).

2. On or about February 19, 2003, respondent Jeff Burton 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, and specifically, “donated” three 8-day-old infant tigers to respondent Perry’s Wilderness Ranch, and transported the three infants by truck from Ohio to Iowa, for use in exhibition, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1)[formerly 2.131(a)(1)].

3. Respondents Jeff Burton and Shirley Stanley, dba Backyard Safari, have admitted the facts set forth herein.

Order

1. Respondents Jeff Burton and Shirley Stanley, doing business as Backyard Safari, 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 No. 31-B-0101 is hereby revoked.

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

Done at Chicago, Illinois
this 16th day of November 2009

_____/s/_____
Jill S. Clifton
Administrative Law Judge