

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	
)	
Jamie Michelle Palazzo, an individual;)	AWA Docket No. 11-0023
James Lee Riggs, an individual;)	
Eric John Drogosch, an individual;)	
Thomas R. Lease, an individual; and)	
Joseph M. Estes, an individual,)	Decision and Order as to
)	ONLY Jamie Michelle Palazzo
Respondents)	by Reason of Default

1. The Complaint, filed on October 21, 2010, alleged among other things, that the Respondent Jamie Michelle Palazzo (frequently herein “Respondent Palazzo” or “Respondent”), in 2008, 2009, and 2010, willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131, *et seq.*) (frequently herein the “Animal Welfare Act” or the “AWA” or the “Act”), and the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 *et seq.*) (frequently herein the “Regulations” or the “Standards”).

Parties and Counsel

2. The Complainant, the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture (herein frequently “APHIS” or “Complainant”), is represented by Colleen A. Carroll, Esq., Office of the General Counsel (Marketing

Division), United States Department of Agriculture, 1400 Independence Avenue, S.W., Washington D.C. 20250-1417.

3. The Respondent, Jamie Michelle Palazzo, has failed to appear.

Procedural History

4. The Complainant's Motion for Adoption of Decision and Order as to Respondent Jamie Palazzo by Reason of Default, filed November 22, 2010, is before me. Respondent Palazzo failed to respond to that Motion. A copy of that Motion (for default decision) was sent by certified mail to Respondent Palazzo's business address in Haltom City, Texas and went "UNCLAIMED."¹ Thereafter, on January 5, 2011, a copy of that Motion (for default decision) was re-mailed "by Regular mail", in accordance with 7 C.F.R. § 1.147(c)(1) of the Rules of Practice, again to Respondent Palazzo's business address in Haltom City, Texas. The time for Respondent Palazzo to file a response to that Motion (for default decision) expired on January 25, 2011. Respondent Palazzo still, to this day, has not responded to the Motion for default decision.

5. Respondent Palazzo did not file an answer to the Complaint, which is why she is in default. The Hearing Clerk sent a copy of the Complaint by certified mail to Respondent Palazzo's business address in Haltom City, Texas. What was included in that mailing by certified mail, sent by the Hearing Clerk on October 22, 2010, was a copy of the Complaint,

1. The envelope bears Certified Mail Return Receipt 7009 1680 0001 9851 9480 and includes the following remarks by postal authorities: "No Response Left Notice 11-27-10" "Palazzo 11-27 12-2, 12-12" (showing the 3 dates in 2010 when notice was left), and "RETURNED TO SENDER, UNCLAIMED."

a copy of the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151), and a copy of the Hearing Clerk's "notice letter" dated October 22, 2010.

6. The Hearing Clerk also sent duplicate documents, by certified mail, return receipt requested, to Respondent Jamie Michelle Palazzo at another address that she had provided to APHIS on her license renewal forms and other correspondence,² but that attempt at service was not successful.

7. At Respondent Palazzo's business address in Haltom City, Texas, the signatures are the same for receipt of both Respondent Palazzo's copy of the Complaint, and James Lee Riggs' copy of the Complaint (Mr. Riggs is another respondent in this case). Those deliveries and, thus, service of the Complaint on Respondent Palazzo (and on Respondent Riggs), happened on October 25, 2010.³ The 20th day after service of the Complaint on Respondent Palazzo was November 14, 2010, which was a Sunday. Respondent Palazzo failed to file an answer by the next day, and still, to this day, has not filed an answer.

2. The two business addresses Respondent Palazzo had given APHIS are 5888 Echo Bluff Drive, Haltom City, Texas 76137, and 4600 Diaz Ranch Road, Amarillo, Texas 79108. The Hearing Clerk's certified mailing to the Amarillo address was not delivered. The US Postal Service marked the mailing to the Amarillo address:

"10/27/10
RETURN TO SENDER
NOT DELIVERABLE AS ADDRESSED
UNABLE TO FORWARD
RETURN TO SENDER".

Thus, service was not effected with the Amarillo, Texas mailing.

3. The same Haltom City, Texas business address was used to mail copies of the Complaint to two respondents, to Jamie Michelle Palazzo (Certified Mail Return Receipt 7009 1680 0001 9853 4995) and to James Lee Riggs (Certified Mail Return Receipt 7009 1680 0001 9853 4469). Both envelopes were delivered at 1:34 pm on October 25, 2010 in Fort Worth, Texas 76137. Service was thereby effected on October 25, 2010.

8. The Rules of Practice provide that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. 7 C.F.R. §1.136(c). Further, the failure to file an answer constitutes a waiver of hearing. 7 C.F.R. § 1.139.

9. Accordingly, the material allegations in the Complaint, which are admitted by Respondent Palazzo's default, are adopted and set forth herein as Findings of Fact. This Decision and Order, therefore, is issued pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139. *See* 7 C.F.R. §1.130 *et seq.*

Mixed Findings of Fact and Conclusions

10. The Secretary of Agriculture has jurisdiction over the parties and the subject matter.

11. Respondent Jamie Palazzo is an individual who does or has done business as Great Cat Adventures, with a business mailing address of 5888 Echo Bluff Drive, Haltom City, Texas 76137. Respondent Jamie Palazzo has also done business at 4600 Diaz Ranch Road, Amarillo, Texas 79108. At all times material herein, Respondent Palazzo was operating as an exhibitor, as that term is defined in the Animal Welfare Act and the Regulations, and held Animal Welfare Act license number 74-C-0627.

12. On January 19, 2010, and on April 28, 2010, Respondent Palazzo failed to provide APHIS inspectors access to her facilities, records and animals, in willful violation of section 2146(a) of the Act (7 U.S.C. § 2146(a)) and section 2.126(a) of the Regulations (9 C.F.R. § 2.126(a)).

13. On or about July 24, 2009, Respondent Palazzo failed to establish and maintain programs of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, and specifically, Respondent had no record of having obtained vaccinations for a tiger identified as both Lily and Athena, in willful violation of section 2.40(b)(2) of the Regulations (9 C.F.R. § 2.40(b)(2)).

14. On or about March 4, 2010, Respondent Palazzo failed to have had a veterinarian provide adequate veterinary care to animals in Respondent's custody, including a tiger and a lynx with untreated hair loss over their entire bodies, in willful violation of sections 2.40(a), 2.40(a)(2), and 2.40(b)(2) of the Regulations (9 C.F.R. §§ 2.40(a), 2.40(a)(2), 2.40(b)(2)).

15. On or about March 9, 2010, Respondent Palazzo failed to have a veterinarian provide adequate veterinary care to animals in Respondent's custody, in willful violation of sections 2.40(a), 2.40(a)(2), and 2.40(b)(2) of the Regulations (9 C.F.R. §§ 2.40(a), 2.40(a)(2), 2.40(b)(2)).

16. On August 7, 2008, at the Washington Town and Country Fair, Washington, Missouri, Respondent Palazzo exposed young or immature animals to rough or excessive public handling or exhibited them for periods of time that would be detrimental to the health and well-being, in willful violation of section 2.131(c)(3) of the Regulations. 9 C.F.R. § 2.131(c)(3).

17. On March 16, March 17, and March 18, 2010, Respondent Palazzo failed to have a veterinarian provide adequate veterinary care to animals in Respondent's custody, specifically a lynx with hair loss over its entire body, roughened and thickened skin around

its face, and who was thin and shaking its feet as though they were sore,⁴ in willful violation of sections 2.40(a), 2.40(a)(2), 2.40(b)(2) and 2.40(b)(3) of the Regulations (9 C.F.R. §§ 2.40(a), 2.40(a)(2), 2.40(b)(2), 2.40(b)(3)).

18. Between February 2010 and March 2010, Respondent Palazzo failed to keep, make and maintain records or forms that fully and correctly disclosed the required information regarding animals owned, held, leased, or otherwise in her possession or control, or transported, sold, euthanized, or otherwise disposed of, in willful violation of section 2.75(b) of the Regulations (9 C.F.R. § 2.75(b)).

19. On or about the following dates, Respondent Palazzo failed to handle tigers as carefully as possible in a manner that does not cause behavioral stress, physical harm, or unnecessary discomfort, in willful violation of section 2.131(b)(1) of the Regulations. 9 C.F.R. § 2.131(b)(1).

- a. September 29, 2008 (Tulsa Fair Grounds, Tulsa, Oklahoma)
- b. February 27, 2009 (Brownwood Intermediate School, Brownwood, Texas)
- c. April 11, 2009 (Great Cat Adventures, Atoka, Oklahoma)
- d. March 3, 2009 (Dublin Elementary School, Dublin, Texas)
- e. August 7, 2008 (Washington Town and Country Fair, Washington, Missouri)

4. On March 18, 2010, the Animal and Plant Health Inspection Service confiscated the lynx, and placed it with another licensee.

20. On or about the following dates, Respondent Palazzo failed to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, in willful violation of section 2.131(c)(1) of the Regulations. 9 C.F.R. § 2.131(c)(1).

- a. September 29, 2008 (Tulsa Fair Grounds, Tulsa, Oklahoma)
- b. February 27, 2009 (Brownwood Intermediate School, Brownwood, Texas)
- c. April 11, 2009 (Great Cat Adventures, Atoka, Oklahoma)
- d. March 3, 2009 (Dublin Elementary School, Dublin, Texas)
- e. August 7, 2008 (Washington Town and Country Fair, Washington, Missouri)

21. On or about September 29, 2008, Respondent Palazzo failed to provide animals with wholesome, nutritious, and palatable food in sufficient quantities, and specifically, Respondent fed large felids a diet with insufficient calcium and taurine, in willful violation of section 2.100(a) of the Regulations and section 3.129 of the Standards (9 C.F.R. §§ 2.100(a), 3.129).

22. On or about December 22, 2009, Respondent Palazzo failed to provide animals with wholesome, nutritious, and palatable food in sufficient quantities, and specifically, a necropsy report performed on a dead serval held in Respondent Palazzo's custody, showed that the serval was very thin with little or no fat on its body, and no evidence of any disease

or cause of death other than starvation, in willful violation of section 2.100(a) of the Regulations and section 3.129 of the Standards (9 C.F.R. §§ 2.100(a), 3.129).

23. On or about September 29, 2008, Respondent Palazzo willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet to meet section 3.125(a) of the Standards (9 C.F.R. § 3.125(a)), by failing to construct and maintain enclosures for two leopards and one cougar in a manner that protects the animals from injury and contains them, and specifically, the animals' enclosure had no top, other than a canvas shade.

24. On or about July 24, 2009, Respondent Palazzo willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet section 3.125(a) of the Standards (9 C.F.R. § 3.125(a)), by failing to construct and maintain enclosures for a lynx in a manner that protects the animal from injury and contains the animal, and specifically, the animal's enclosure had no top.

25. On or about September 30, 2009, Respondent Palazzo willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet section 3.127(b) of the Standards (9 C.F.R. § 3.127(b)), by failing to provide adequate shelter for two leopards kept outside in a wire enclosure without any additional shelter box to protect them from the elements.

26. On or about September 30, 2009, Respondent Palazzo willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet section 3.127(d) of the Standards (9 C.F.R. § 3.127(d)), by housing two leopards in a primary enclosure without a perimeter fence.

27. On March 4, March 16, March 17, and March 18, 2010, Respondent Palazzo willfully violated section 2.100(a) of the Regulations (9 C.F.R. § 2.100(a)), by failing to meet section 3.132 of the Standards (9 C.F.R. § 3.132), by failing to utilize a sufficient number of adequately trained employees.

28. On or about March 16 and March 17, 2010, Respondent Palazzo failed to provide animals with wholesome, nutritious, and palatable food in sufficient quantities, and specifically, Respondent fed large felids a mostly chicken diet with insufficient supplements, in willful violation of section 2.100(a) of the Regulations and section 3.129 of the Standards (9 C.F.R. §§ 2.100(a), 3.129).

29. Respondent Palazzo operates a moderate-size business exhibiting wild and exotic animals for profit. The gravity of the violations detailed in this Decision is great, including repeated instances in which Respondent Palazzo failed to handle animals safely, after having been warned by APHIS that her manner of exhibition, which involves allowing the public, including toddlers and young children, to handle tigers directly, violated the Regulations. People were injured by Respondent's tigers. A previous investigation by APHIS of alleged violations of the handling and housing Regulations for tigers by Respondent Palazzo (documented on August 15 and September 12, 2005) was resolved by way of Respondent Palazzo's payment of a \$750 civil penalty.⁵ Respondent Palazzo has previously violated the

5. APHIS Case No. TX 06008.

Regulations; Respondent Palazzo's Animal Welfare Act license number 74-C-0627 is under a 3-year suspension, effective August 13, 2010.⁶

30. Respondent Palazzo has not shown good faith. Respondent Palazzo, after having specifically been advised that the failure to handle animals during public exhibition so there was minimal risk of harm to the animals and to the public, with sufficient distance and/or barriers between the animals and the general viewing public so as to assure the safety of animals and the public, is a violation, has knowingly continued to violate the handling Regulations, and to do so in a manner that presents a serious risk of harm to both people and animals.

31. The following Order is authorized by the Animal Welfare Act and is warranted in light of Respondent Palazzo's history of noncompliance, refusal to adhere to the requirements of the Animal Welfare Act, and continued handling of wild and exotic animals in a manner that poses a danger of harm to the public and to the animals.

Order

32. Respondent Jamie Michelle Palazzo, and her agents and employees, successors and assigns, directly or through any corporate or other device, shall **cease and desist** from violating the Animal Welfare Act and the Regulations and Standards issued thereunder.

33. The foregoing **cease and desist** provision of this Order (paragraph 32) shall be effective on the day after this Decision is served on Respondent Palazzo.

6. See the USDA Judicial Officer's Decision and Order issued May 10, 2010 in AWA Docket No. 07-0207, which will be available when published in hard copy as *In re Palazzo*, 69 Agric. Dec. ____ (2010), and which is now available online at <http://www.nationalaglawcenter.org/assets/decisions/palazzo.pdf>.

34. Animal Welfare Act license number 74-C-0627 issued to Respondent Palazzo is **revoked**, effective on the day after this Decision becomes final. Further, Respondent Palazzo's privilege to engage in activities that require an Animal Welfare Act license is **revoked**, effective on the day after this Decision becomes final. [See paragraph 37 for when this Decision becomes final.]

35. Respondent Palazzo is permanently disqualified from becoming licensed under the Animal Welfare Act or from otherwise obtaining, holding, or using an Animal Welfare Act license, directly or indirectly, or through any corporate or other device or person, effective on the day after this Decision becomes final.

36. Under the Animal Welfare Act, revocations and permanent disqualifications are equally permanent.

Finality

37. This Decision and Order shall be final without further proceedings 35 days after service upon Respondent Palazzo, unless an appeal to the Judicial Officer is filed with the Hearing Clerk within 30 days after service, pursuant to section 1.145 of the Rules of Practice (7 C.F.R. § 1.145, see enclosed Appendix A).

Copies of this Decision and Order, including Appendix A, shall be served by the Hearing Clerk **upon each** of the parties (including every respondent, not just Respondent Palazzo).

Done at Washington, D.C.
this 7th day of April 2011

s/ Jill S. Clifton

Jill S. Clifton
Administrative Law Judge

Hearing Clerk's Office
U.S. Department of Agriculture
South Building Room 1031
1400 Independence Ave SW
Washington DC 20250-9203
202-720-4443
Fax: 202-720-9776