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UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

In re:	)	
	)	
Michael Todd, an individual;	)	AWA Docket No. 18-0067
All Things Wild, Inc., an Illinois Corporation, d/b/a	)	AWA Docket No. 18-0068
All Things Wild County Line Farms & Ponies; and	)	
Michael Todd, an individual, d/b/a	)	AWA Docket No. 18-0069
All Things Wild County Line Farms & Ponies,	)	
	)	
	)	CONSENT DECISION
Respondents.	)	AND ORDER

This proceeding was instituted under the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (AWA or Act), by a complaint filed by the Administrator, Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), alleging that the Respondents willfully violated the Act and the Regulations issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

The Respondents, Michael Todd and All Things Wild, Inc., admit the findings of fact, as set forth herein, and specifically admit that the Secretary has jurisdiction in this matter, admit all remaining allegations, waive oral hearing and all further procedure, waive all rights to seek judicial review and otherwise challenge or contest the validity of this decision, including waiving challenges to the Administrative Law Judge's authority to enter this Consent Decision and Order under the Administrative Procedure Act and the Constitution of the United States, and waive any action against the USDA under the Equal Access to Justice Act of 1980 (5 U.S.C. § 504 et seq.) for fees and other expenses incurred by the Respondents in connection with this proceeding or any action against any USDA employee in their individual capacity.

The parties consent and agree for the purpose of settling this proceeding, to the entry of this decision.

FINDINGS OF FACT

1. The Respondent Michael Todd is an individual whose mailing address is 22 W. Washington Street; #1500, Chicago, Illinois 60602. At all times material herein, the Respondent Michael Todd (1) operated as an exhibitor, as that term is defined in the Act and the Regulations, and/or (2) acted for or was employed by a person operating as an exhibitor, All Things Wild, Inc., herein after referred to as the Respondent All Things Wild, Inc., and his acts, omissions or failures within the scope of his employment or office are, pursuant to section 2139 of the Act (7 U.S.C. § 2139), deemed to be his own acts, omissions, or failures, as well as the acts, omissions, or failures of the Respondent All Things Wild, Inc.

2. The Respondent All Things Wild, Inc., is an Illinois Corporation (File No. 68144485) whose president and registered agent for service of process is the Respondent Michael Todd, 22 W. Washington Street, #1500, Chicago, Illinois 60602. At all times material herein, the Respondent All Things Wild, Inc., operated as an exhibitor, as that term is defined in the Act and the Regulations.

3. The Respondents do business as All Things Wild Country Line Farms & Ponies.

4. At all times material herein, the Respondent Michael Todd held AWA license 33-C-0388.

5. On September 24, 2008, following a hearing, Administrative Law Judge (ALJ) Victor W. Palmer issued a Decision and Order in which ALJ Palmer: (1) concluded ZooCats, Inc. was not a "research facility" as that term is defined in the Act and the Regulations; (2) concluded ZooCats, Inc., Marcus Cook ("Mr. Cook"), and Melissa Coody (herein ZooCats) violated the Act

and the Regulations and standards by allowing the members of the public to be in dangerous physical contact with lions, tigers, and other predatory animals; (3) ordered ZooCats to cease and desist from further violations; and (4) revoked AWA license 74-C-0426. *In re ZooCats, Inc., et al.*, 67 Agric. Dec. 1048 (U.S.D.A. 2008), *aff'd*, 68 Agric. Dec. 737 (2009), *aff'd sub nom. ZooCats, Inc. v. U.S. Dep't of Agric.*, 417 Fed. App'x. 378 (5th Cir. 2011).

6. On July 27, 2009, Judicial Officer (JO) William G. Jenson adopted the ALJ's decision as the final decision of the Secretary with some modifications. *In re ZooCats, Inc., et al.*, 68 Agric. Dec. 737 (2009), *aff'd sub nom. ZooCats, Inc. v. U.S. Dep't of Agric.*, 417 Fed. App'x. 378 (5th Cir. 2011). Most notably the JO held:

> Respondents have repeatedly endangered the lives of the viewing public, as well as the lives of their animals. Mr. Cook has a history of deceiving law enforcement agencies. To allow Mr. Cook or Ms. Coody to have an Animal Welfare Act exhibitor license in either of their names or through a corporation or other entity, would subject both the animals they would exhibit and the public, to an unacceptable level of risk of harm. The Animal Welfare Act license under which Respondents operate is, therefore, revoked.

7. On February 2, 2011, the United States Court of Appeals for the Fifth Circuit denied ZooCats' petition. *ZooCats, Inc. v. U.S. Dep't of Agric.*, 417 Fed. App'x. 378 (5th Cir. 2011).

8. On October 3, 2011, the United States Supreme Court denied ZooCats' petition for writ of certiorari. *ZooCats, Inc. v. Dep't of Agric.*, 565 U.S. 879 (2011).

9. On or about February 5, 2012, the Respondents hired Mr. Cook as a full-time staff member of All Things Wild, Inc. so that Mr. Cook could exhibit tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

10. On February 20, 2013, Robert M. Gibbens, DVM, APHIS, Animal Care, Western Regional Director, notified Mr. Cook by certified mail: (1) AWA license 74-C-0426 was revoked; (2) he was not permitted to "buy, sell, transport, exhibit, or deliver for transportation, any animal

during the period of . . . revocation" in violation of 9 C.F.R. § 2.10(c); and (3) any licensee who employs him to "engage in regulated activities under the AWA . . . risks being subject to an administrative action to terminate his or her AWA license" in violation of 9 C.F.R. § 2.11(d).

11. On February 21, 2013, Elizabeth Goldentyer, DVM, APHIS, Animal Care, Eastern Regional Director, notified the Respondents by certified mail: (1) ZooCats, Inc.'s AWA license 74-C-0426 was revoked; (2) Mr. Cook was a principal-agent of ZooCats, Inc.; and (3) a license will not be issued if the Administrator determines it would "circumvent any order suspending, revoking, terminating, or denying a license under the Act. 9 C.F.R. § 2.11(d)."

12. On or about May 1, 2013, the Respondent Michael Todd granted Mr. Cook a "General Power of Attorney" and appointed Mr. Cook as his Attorney-in-Fact ("Agent") over "all business and personal affairs" to include himself, the Respondent All Things Wild, Inc., and AWA license 33-C-0388. The Respondent Michael Todd granted the "General Power of Attorney" to Mr. Cook so that he could exhibit tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

13. The Respondents did not notify APHIS of the "General Power of Attorney" within ten (10) days of its granting in violation of 9 C.F.R. § 2.8 so that Mr. Cook could exhibit tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

14. On or about August 26-31, 2013, the Respondents exhibited tigers at the Marshall County Blueberry Festival in Plymouth, Indiana under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

15. On or about August 26-31, 2013, Mr. Cook was present at the Marshall County Blueberry Festival in Plymouth, Indiana transporting and exhibiting tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

16. On or about August 26, 2013, Philip Martin, vice president of the Marshall County Blueberry Festival in Plymouth, Indiana, observed Mr. Cook transporting tigers at the Marshall County Blueberry Festival on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

17. On August 31, 2013, APHIS Animal Care Inspector (ACI) Lori E. Linn visited the Respondents' exhibition at the Marshall County Blueberry Festival in Plymouth, Indiana and observed Mr. Cook exhibiting tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

18. On or about June 6, 2014, the Respondents exhibited tigers in Lee's Summit, Missouri under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

19. On or about June 6, 2014, Mr. Cook was present at the exhibit in Lee's Summit, Missouri exhibiting tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

20. On or about June 6, 2014, APHIS officials visited the Respondents' exhibition in Lee's Summit, Missouri and observed that the Respondents failed to handle the animals of a public exhibition so that there is minimal risk of harm to the animals and to the public, in willful violation of 9 C.F.R. § 2.131(c)(1), in that the Respondents did not maintain sufficient distance and/or

barriers between the tigers and the public during the time that the public was allowed to feed the tigers.

21. On or about June 6, 2014, Ms. Lisa Lopez, Respondents' Manager, made false and/or fraudulent statements to DVM Konnie Plumlee, when she stated, "Yea, he [Mr. Cook] does not have anything with the license" and "Yea, he [Mr. Cook], we had bought the company from him, and for the next couple years he will help us learn...."

22. On or about June 13, 2014, Mr. Cook acting as the Respondent Michael Todd's Agent, made false and/or fraudulent statements to DVM Plumlee, when he stated, "That I when it went into my department because I'm kind of walking them through this as I get out of the part of it here. That way they've got the exhibit under control."

23. On or about August 20, 2014, the Respondents exhibited tigers at Central State Fair in Rapid City, South Dakota under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

24. On or about August 20, 2014, Mr. Cook was present at Central State Fair in Rapid City, South Dakota exhibiting tigers on behalf of the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

25. On or about August 20, 2014, APHIS officials visited the Respondents' exhibition, in Rapid City, South Dakota and observed that the Respondents failed to handle the animals of a public exhibition so that there is minimal risk of harm to the animals and to the public, in willful violation of 9 C.F.R. § 2.131(c)(1), in that the Respondents did not maintain sufficient distance and/or barriers between the tigers and the public during the time that the public was allowed to feed the tigers.

26. On or about October 7, 2014, APHIS officials visited the Respondents' place of business in Barrington, Illinois and the Respondents failed to provide APHIS officials with access for inspection, in willful violation of the Act and the Regulations. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126(b).

27. On or about November 3, 2014, APHIS officials visited the Respondents' exhibition in Hondo, Texas and observed that the Respondents failed to submit a written itinerary to the Animal Care Regional Director in advance of the exhibition, in willful violation of 9 C.F.R. § 2.126(c) and circumventing the revocation of AWA license 74-C-0426.

28. On or about May 16, 2015, APHIS officials visited the Respondents' exhibition in Canton, Texas and observed that the Respondents failed to submit a written itinerary to the Animal Care Regional Director in advance of the exhibition, in willful violation of 9 C.F.R. § 2.126(c) and circumventing the revocation of AWA license 74-C-0426.

29. On or about April 28, 2016, APHIS officials visited the Respondents' exhibition in Ft. Worth, Texas and observed that the Respondents failed to submit a written itinerary to the Animal Care Regional Director in advance of the exhibition, in willful violation of 9 C.F.R. § 2.126(c).

30. On or about October 12, 2016, APHIS officials visited the Respondents' place of business in Kaufman, Texas and the Respondents failed to provide APHIS officials with access for inspection, in willful violation of the Act and the Regulations 7 U.S.C. § 2146(a) and 9 C.F.R. § 2.126(a) and circumventing the revocation of AWA license 74-C-0426.

31. On or about October 18, 2016, APHIS officials visited the Respondents' exhibition in Laurel, Mississippi and observed that the Respondents failed to submit a written itinerary to the Animal Care Regional Director in advance of the exhibition, in willful violation of 9 C.F.R. § 2.126(c).

32. On or about April 20, 2017, APHIS officials visited the Respondents' place of business in Barrington, Illinois and the Respondents failed to provide APHIS officials with access for inspection, in willful violation of the Act and the Regulations. 7 U.S.C. § 2146(a); 9 C.F.R. § 2.126(b).

33. On or about June 8, 2017, APHIS officials visited the Respondents' exhibition in Valles Mines, Missouri and observed that the Respondents failed to submit a written itinerary to the Animal Care Regional Director in advance of the exhibition, in willful violation of 9 C.F.R. § 2.126(c).

34. On or about August 24, 2018, during a telephone conference with Complainant's counsel, in an attempt to settle these cases, the Respondents permitted Mr. Cook, a person who is not an attorney, to represent them and AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

35. On or about March 24, 2020, during a telephone conference call with CALJ Channing Strother, to discuss the status of the case and schedule a hearing date if appropriate, the Respondents permitted Mr. Cook, a person who is not an attorney, to represent them and AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

36. From August 2018 through July 2020, the Respondents permitted Mr. Cook, a person who is not an attorney, to write and/or file, on their behalf, all pleadings submitted to this Court to include, but not limited to, Respondents' First Original Answer on October 2, 2018;

Respondent Michael Todd's Original Answer To Complainant's Order To Show Cause Why Animal Welfare Act License 33-C-0388 Should Not Be Terminated on October 2, 2018; Respondent Michael Todd's Power Of Attorney on March 11, 2020; Respondents' Response To Complainant's Objection To Respondents' Motion For Extension Of Time To File Submissions on March 16, 2020; and Respondents' Witness And Exhibit List on March 31, 2020 circumventing the revocation of AWA license 74-C-0426.

37. Since on or about May 1, 2013, Mr. Cook has conducted thousands of exhibitions for the Respondents under AWA license 33-C-0388 circumventing the revocation of AWA license 74-C-0426.

38. The Respondents' have no experience in handling or exhibiting tigers outside of their affiliation with Mr. Cook.

39. On or about September 1, 2020, the Respondent Michael Todd revoked the "General Power of Attorney" issued the Mr. Cook on May 1, 2013.

CONCLUSIONS OF LAW

The Respondents, having admitted the findings of fact, as set forth herein, and the parties having agreed to the entry of this decision, such decision will be entered.

ORDER

1. The Respondents, their agents and employees, successor and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act, the Regulations, and/or the Standards.

2. AWA license number 33-C-0388 is hereby terminated. The Respondents may apply for an AWA license after six (6) months.

3. The Respondents are jointly and severally assessed a civil penalty of one hundred thousand dollars ($100,000), which will be held in abeyance for four (4) years.

4. The four (4) years after this Order becomes effective shall be referred to as a "probationary period."

5. The Respondents agree that if at any time during the "probationary period" the Respondents violate the Act, the Regulations, the Standards and/or this Consent Decision and Order the one hundred thousand dollars ($100,000) civil penalties, will be due and payable within ten (10) days of receipt of written notice with copies of supporting documentation from the Complainant as to the Respondents' violations. The Respondents will then make payment, by certified check, money order, or a valid personal check made payable to "USDA/APHIS". The Respondents will send payment to USDA, APHIS, Miscellaneous, P.O. Box 979043, St. Louis, MO 63197-9000.

6. The Respondents waive their rights to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such failure to comply with the Act or the Regulations, and/or to meet the minimum Standards. The parties agree the Respondents may seek injunctive, declaratory or other appropriate relief in the United States District Court for the Northern District of Illinois or in the United States District Court for the District of Columbia.

7. The Respondents agree to fully cooperate in any present or future APHIS AWA investigation and inspection.

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

By: [redacted]
Mr. Michael Todd
The Respondent

By: [redacted]
Mr. Michael Todd
President, The Respondent All Things Wild, Inc.

State of ILLINOIS
County of LAKE
The foregoing document was acknowledged before me on [redacted], 2020

JOYCE ADAMS
OFFICIAL SEAL
Notary Public - State of Illinois
My Commission Expires
April 27, 2024

By: [redacted]
Philip Dolci
Dolci & Weiland
Attorney for the Respondents

[redacted]
John V. Rodriguez
Attorney for the Complainant

Done at Washington, D.C.,
this 18th day of September 2020

[redacted]
Channing D. Strother
Chief Administrative Law Judge