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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) AWA Docket No: 04-0033
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)
FOR THE BIRDS, INC., an Idaho)
corporation; and JERRY L. KORN,)
an individual, and SUSAN F. KORN, an)
individual, dba FOR THE BIRDS; and)
BEN KORN, an individual,) Consent Decision and Order
) as to Susan F. Korn dba
Respondents.) For the Birds

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 Act and the regulations and standards issued thereunder (9 C.F.R. § 1.1 et seq.). This decision is entered into pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondent Susan F. Korn, doing business as For the Birds, admits the allegations in the complaint as set forth herein as findings of fact and conclusions of law, waives oral hearing and further procedure, and consents and agrees to the entry of this decision for the purpose of settling this proceeding. The complainant agrees to the entry of this decision.

Findings of Fact

1. Respondent Susan F. Korn is an individual doing business as For the Birds, and whose mailing address is 26 S. Borah Way, Nampa, Idaho 83687. At all times mentioned herein, said respondent was an exhibitor as that term is defined in the Act and the Regulations. Between 2001 and May 23, 2003, said respondent held Animal Welfare Act license number 82-C-0035, issued to "JERRY L. AND SUSAN F. KORN DBA FOR THE BIRDS," which license was cancelled on

May 23, 2003, and has not been reinstated as of the issuance of this complaint.

2. Respondent has a moderate-sized business, with approximately fifty animals, including farm, wild and exotic animals: goats, llamas, giraffe, a camel, a bear, tigers, a mountain lion, lemurs, eland, elk, prairie dogs, rabbits, cats, dogs and a kangaroo. The gravity of the violations alleged in this complaint is great. They include repeated instances in which respondent knowingly exhibited animals without having a valid license, and continuing instances of a failure by respondent to provide minimally-adequate veterinary care, food, water or housing to animals and to handle animals carefully and in compliance with the Regulations (which failures have resulted in serious injuries to animals in respondents' custody). Respondent has continually failed to comply with the Regulations, after having been repeatedly advised of deficiencies.

3. Respondent has not shown good faith. Respondent Susan F. Korn has not provided notice of her current mailing addresses. Moreover, respondent has demonstrated an unwillingness to comply with the Act's and the Regulations' prohibition against exhibiting animals without having a valid license.

4. Respondent does not have a history of previous violations.

5. Between May 23, 2003 and at least August 24, 2003, respondent Susan F. Korn dba For the Birds exhibited animals without having been licensed by the Secretary to do so, and specifically, said respondent continuously kept the animals kept at 1506 Happy Valley Road, Nampa, Idaho 83687 on display to the public.

6. On or about the following dates, respondent Susan F. Korn failed to have an attending veterinarian provide adequate veterinary care to her animals:

a. October 2002 through June 2003. Respondent failed to obtain any veterinary

care for a giraffe whose hooves were overgrown.

b. Approximately May through August 2003. Respondent failed to obtain any veterinary care for a white Bengal tiger that was experiencing a rapid and extreme weight loss.

c. Approximately August 1 through August 16, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondents failed to obtain any veterinary care for a tiger that was limping and whose left front paw was severely swollen.

d. Approximately May through August 2003. Respondent failed to obtain any veterinary care for a camel with a golf-ball-sized abscess on her lower left jaw.

e. Approximately May through August 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondents failed to obtain any veterinary care for a camel, after respondent Jerry F. Korn lanced the golf-ball-sized abscess on the animal's lower left jaw, causing it to become a seeping, open wound that attracted a large number of flies.

f. On or about August 12, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a giraffe whose hooves were overgrown.

g. On or about July 7 through July 9, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, on July 7, 2003, respondent failed to obtain any veterinary care for a female snow leopard in obvious severe distress and bleeding from her vaginal and rectal area and whose condition

was reported directly to respondent Jerry F. Korn, who took no action, which inaction resulted in or contributed to the animal's death on or about July 9, 2003.

h. Spring 2002. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a pregnant llama, resulting in or contributing to the death of the animal and her baby.

i. On or about August 12, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for an claud whose hooves were overgrown.

7. On or about the following dates, respondent failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of veterinary care:

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|------------------|----------------------|
| a. March 7, 2001 | d. July 2, 2002 |
| b. April 3, 2002 | e. August 27, 2002 |
| c. May 22, 2002 | f. February 12, 2003 |

8. Between March 7, 2001, and August 24, 2003, respondent failed to ensure that her attending veterinarian or attending veterinarians had appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use.

9. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate facilities, including adequate enclosures and secure perimeter fences.

10. Between March 7, 2001, and August 24, 2003, respondent failed to establish and

maintain a program of adequate veterinary care that included the availability of appropriate personnel, including an adequate number of employees trained in species-specific animal care and husbandry, and specifically, on or about August 2002, failed to have sufficient personnel to remove mud and excreta in the elk enclosure, and allowed an aged elk to become trapped therein for several days, subjecting the elk to injury by a bull elk.

11. Between March 7, 2001, and August 24, 2003, respondents failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate equipment.

12. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate services, including veterinary services, and specifically, failed to have any veterinary services available for, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby.

13. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose and treat diseases and injuries, and the availability of emergency, weekend, and holiday care, and specifically, failed to use appropriate methods to treat, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby.

14. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included a mechanism of direct and frequent communication with the attending veterinarian or attending veterinarians, so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending

veterinarian or attending veterinarians, and specifically, failed to communicate to her attending veterinarian animal health information regarding, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby.

15. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included daily observation of all animals to assess their health and well-being, and specifically, failed to observe on a daily basis, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby, to assess their health and well-being.

16. Between March 7, 2001, and August 24, 2003, respondent 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, immobilization, anesthesia, and tranquilization, and specifically, failed to train personnel (including respondent Jerry F. Korn) in the care and handling of animals.

17. On or about the following dates, respondent failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondent's control, or disposed of by respondents.

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|---------------------|----------------------|
| a. March 7, 2001 | c. February 11, 2003 |
| b. August 27, 2002. | d. February 12, 2003 |

18. On April 3, 2002, respondent failed to allow APHIS officials, during business hours, to examine records required to be kept by the Act and the Regulations.

19. On or about the following dates, respondent 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.

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|----|----------------------------|----|---|
| a. | May 1, 2001 (tigers) | g. | February 19, 2003 (tigers) |
| b. | May 10, 2001 (tiger- Raja) | h. | May 6, 2003 (tigers, hoofstock, kangaroo) |
| c. | April 3, 2002 (giraffe) | i. | May 8, 2003 (tigers) |
| d. | June 4, 2002 (tiger) | j. | May 13, 2003 (tigers) |
| e. | June 2002 (tiger - Raja) | k. | July 23, 2003 (tiger) |
| f. | June 25, 2002 (bear) | l. | August 2002 (elk) |

20. On May 6, 2003, respondent used physical abuse to handle a tiger during an exhibition to the public.

21. On May 1, 2001, respondent 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, and specifically exhibited an adult tiger (Raja) to the public without sufficient any barrier or distance.

22. On May 10, 2001, respondent 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, and specifically exhibited an adult tiger (Raja) to the public without sufficient barrier or distance.

23. In June 2002, respondent 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, and specifically exhibited an adult tiger (Raja) to a child without sufficient barrier or distance.

24. On June 4, 2002, respondent 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, and specifically exhibited adult tigers to children without any barrier or distance.

25. On February 19, 2003, respondent 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, and specifically exhibited adult tigers to the public without any barrier or distance.

26. On May 13, 2003, respondent 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, and specifically exhibited adult tigers to the public without any barrier or distance.

27. On May 6, 2003, respondent 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, and specifically, said respondent exhibited two adult tigers to the public without any distance or barriers between the animals and the public (resulting in at least one injury to a member of the public).

28. On May 6, 2003, respondent 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, and specifically, said respondent exhibited adult and juvenile goats, a juvenile kangaroo, an eland, a giraffe, and a camel to the public, without sufficient distance or barriers to protect the animals from the public.

29. On May 8, 2003, respondent 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.

30. On July 23, 2003, respondent 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, and specifically, said respondent exhibited adult tigers to approximately 40 children, without any distance or barriers between the animals and the public.

31. On August 12, 2003, respondent 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, and specifically, said respondent exhibited an adult giraffe and an adult eland to the public, without any distance or barriers between the animals and the public.

32. Between approximately May 2003 and August 16, 2003, respondent 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, and specifically, said respondent regularly allowed

customers to enter the primary enclosure containing two tigers, without any distance or barriers between the animals and the public.

33. On May 6, 2003, respondent exhibited animals under conditions that were inconsistent with the animals' well-being, and specifically, said respondent exhibited tigers to the public outside of any enclosures, and allowed personnel and the public to touch, tease and harass animals, including adult goat and her kids, an adult eland, a giraffe and a juvenile kangaroo.

34. On or about the following dates, respondent failed to meet the minimum facilities and operating standards for nonhuman primates, as follows:

- a. On August 24, 2003, respondent failed to provide any food to two lemurs.
- b. On August 24, 2003, respondent failed to provide potable water in sufficient quantity to non-human primates, and specifically, respondent provided no water to two lemurs.
- c. On August 27, 2002, respondent failed to keep the premises clean and in good repair, specifically, the building housing two lemurs needed cleaning, and the lemur enclosures had a large accumulation of cobwebs.
- d. On February 12, 2003, respondent failed to keep the premises clean and in good repair, specifically, the building housing two lemurs needed cleaning, and the lemur enclosures had a large accumulation of cobwebs.
- e. Between August 27, 2002, and August 24, 2003, respondent failed to have enough employees to carry out the level of husbandry practices and care for non-human primates required by the Regulations and Standards.

35. On or about the following dates, respondent failed to meet the minimum general

facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding structural strength, as follows:

- a. On April 3, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair torn metal in the eland enclosure.
- b. On July 2, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to construct the bear enclosure so that it contained the bear securely.
- c. On July 2, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to construct the tiger enclosure so that it contained the tigers securely.
- d. On August 12, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair exposed nails in camel enclosure.
- e. On August 27, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair jagged wire mesh in the tiger cub enclosure.
- f. On August 27, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gap between the frame and wire in the

tiger cub enclosure.

g. On May 6, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair broken wire in the enclosure housing a juvenile kangaroo.

h. On February 11, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gate and handling chute in the enclosure housing a bull elk and a cow elk.

i. On February 12, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gate and handling chute in the enclosure housing a bull elk and a cow elk.

36. On or about the following dates, respondent failed to meet the minimum general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding storage, as follows:

a. On August 27, 2002, respondent failed to store supplies of food in facilities that adequately protected them from contamination.

b. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from contamination, and specifically failed to protect food supplies from vermin, including the three to four rats found in the food preparation area.

c. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from contamination, and specifically failed to dispose of rancid food in the food preparation area, leaving it out for days at a time.

e. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from deterioration and contamination, and specifically failed to protect animal bedding supplies, which contained countless live maggots.

37. On or about the following dates, respondent failed to meet the minimum general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding waste disposal, as follows:

a. On April 3, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove food waste (bones) from the tiger enclosure.

b. On April 3, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta from the giraffe enclosure.

c. On July 2, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the prairie dog enclosure.

d. On August 12, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove waste and debris from the moat adjacent to the bear enclosure.

- e. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the giraffe enclosure.
- f. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the eland enclosure.
- g. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the elk enclosure.
- h. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove mouse droppings from the food preparation area.
- i. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and old bones from the tiger enclosure.
- j. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the camel enclosure.
- k. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the giraffe enclosure.
- l. On February 12, 2003, respondent failed to provide for the removal and

disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the eland enclosure.

m. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the food preparation area.

n. On May 6, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the goat enclosure.

o. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the camel enclosure.

p. Between October 2002 and June 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta from the giraffe enclosure.

q. On August 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the camel enclosure.

r. On August 12, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove waste and debris from the moat adjacent to the cougar enclosure.

38. On or about the following dates, respondent failed to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman

primates and marine mammals, by failing to comply with the general facilities standards, as follows:

a. On August 27, 2003, respondent failed to provide a suitable and sanitary method to eliminate rapidly excess water from indoor housing facilities for tigers.

39. On or about the following dates, respondent failed to meet the minimum the general facilities standards facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, as follows:

a. On August 27, 2002, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter.

b. On November 8, 2002, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter.

c. On February 11, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter.

d. On February 12, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter.

e. On August 12, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter.

f. On February 11, 2003, respondent failed to provide a suitable method to rapidly eliminate excess water from the elk enclosure.

g. On March 15, 2001, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger and bear enclosures.

- h. On April 3, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the mountain lion enclosure.
- i. On April 3, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the snow leopard enclosure.
- j. On July 2, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger enclosure.
- k. On July 2, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the bear enclosure.
- l. On May 22, 2002, respondents failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger enclosure.
- m. On May 22, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the bear enclosure.
- n. On August 27, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from

going through it, and specifically, there was no perimeter fence around the bear enclosure.

o. On February 12, 2003, respondent failed to provide a suitable method to rapidly eliminate excess water from the elk enclosure.

40. On or about the following dates, respondent failed to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding space requirements, as follows:

a. Between October 2002 and May 30, 2003, respondent failed to construct and maintain enclosures so as to provide sufficient space to allow each animal contained therein to make normal postural and social adjustments, and specifically, failed to construct the giraffe enclosure so as to provide sufficient space for the animal to make normal postural adjustments.

b. On August 12, 2003, respondent failed to construct and maintain enclosures so as to provide sufficient space to allow each animal contained therein to make normal postural and social adjustments, and specifically, failed to construct the giraffe enclosure so as to provide sufficient space for the animal to make normal postural adjustments.

41. On or about the following dates, respondent failed to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding feeding, as follows:

a. Between March 2002 and February 2003, respondent repeatedly failed to provide tigers with a sufficient quantity of wholesome, palatable food, and routinely failed to feed tigers any food for four days in a row.

b. On or about April 3, 2002, respondent failed to minimize contamination of food, and specifically, provided spoiled meat to tigers.

c. On or about August 15, 2003, respondent failed to minimize contamination of food, and specifically, food for tigers was putrified and contained maggots.

d. On or about August 24, 2003, respondent failed to provide animals with food that was wholesome, palatable and free from contamination and of sufficient quantity, and specifically, failed to feed sufficient food to a giraffe, an eland, rabbits, a kangaroo, elk, tigers, and domestic cats, which animals were thin and hungry.

42. On or about the following dates, respondent failed to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding watering, as follows:

a. On or about May 22, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically allowed large clumps of algae to grow in the eland's water trough.

b. On or about July 2, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically had allowed large clumps of algae to grow in the eland's water trough, and failed to remove a dead bird from the trough.

c. On or about April 3, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically had allowed large clumps of algae to grow in the eland's water trough, and failed to remove a dead bird from the trough.

d. On or about July 2, 2002, respondent failed to minimize maintain water receptacles for the snow leopards clean and sanitary.

e. On or about August 24, 2003, respondent failed to provide animals with potable water as often as necessary, and specifically, failed to provide adequate water to rabbits.

43. On or about the following dates, respondent failed to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding sanitation, and specifically, the cleaning of enclosures, as follows:

a. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the giraffe enclosure had contained excessive fecal material.

b. On August 24, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the giraffe enclosure contained excessive fecal material.

c. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the eland enclosure contained excessive fecal material.

d. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing

the cow elk and bull elk contained excessive excreta.

e. [deleted]

f. On April 3, 2002, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the giraffe contained excessive excreta.

g. On August 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the camel contained excessive excreta.

h. On February 11, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the cow elk and bull elk contained excessive excreta.

44. On or about the following dates, respondent failed to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding employees, as follows:

a. During 2002 and 2003, and specifically on July 2, 2002, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

45. On or about the following dates, respondent failed to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs,

nonhuman primates and marine mammals, regarding the separation of animals, as follows:

- a. During Spring and Summer 2002, respondent housed incompatible animals in the same enclosure, and specifically housed a cow elk (which became trapped in mud and excreta) in the same enclosure as a bull elk which harassed and attacked the trapped elk.

CONCLUSIONS OF LAW

1. Respondent Susan F. Korn is an individual doing business as For the Birds, and whose mailing address is 26 S. Borah Way, Nampa, Idaho 83687. At all times mentioned herein, said respondent was an exhibitor as that term is defined in the Act and the Regulations. Between 2001 and May 23, 2003, said respondent held Animal Welfare Act license number 82-C-0035, issued to "JERRY L. AND SUSAN F. KORN DBA FOR THE BIRDS," which license was cancelled on May 23, 2003, and has not been reinstated as of the issuance of this complaint.

2. Between May 23, 2003 and at least August 24, 2003, respondents Ben Korn and Susan F. Korn dba For the Birds exhibited animals without having been licensed by the Secretary to do so, and specifically, said respondent continuously kept the animals kept at 1506 Happy Valley Road, Nampa, Idaho 83687 on display to the public, in willful violation of sections 2.1(a) and 2.100(a) of the Regulations. 9 C.F.R. §§ 2.1(a), 2.100(a).

3. On or about the following dates, respondent failed to have an attending veterinarian provide adequate veterinary care to her animals, in willful violation of section 2.40(a) of the Regulations (9 C.F.R. § 2.40(a)):

- a. October 2002 through June 2003. Respondent failed to obtain any veterinary care for a giraffe whose hooves were overgrown.
- b. Approximately May through August 2003. Respondent failed to obtain any

veterinary care for a white Bengal tiger that was experiencing a rapid and extreme weight loss.

c. Approximately August 1 through August 16, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a tiger that was limping and whose left front paw was severely swollen.

d. Approximately May through August 2003. Respondent failed to obtain any veterinary care for a camel with a golf-ball-sized abscess on his lower left jaw.

e. Approximately May through August 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a camel, after respondent Jerry F. Korn lanced the golf-ball-sized abscess on the animal's lower left jaw, causing it to become a seeping, open wound that attracted a large number of flies.

f. On or about August 12, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a giraffe whose hooves were overgrown.

g. On or about July 7 through July 9, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, on July 7, 2003, respondent failed to obtain any veterinary care for a female snow leopard in obvious severe distress and bleeding from her vaginal and rectal area and whose condition was reported directly to respondent Jerry F. Korn, who took no action, which inaction resulted in or contributed to the animal's death on or about July 9, 2003.

h. Spring 2002. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for a pregnant llama, resulting in or contributing to the death of the animal and her baby.

i. On or about August 12, 2003. Respondent failed to employ an attending veterinarian to provide adequate veterinary care to her animals, and specifically, respondent failed to obtain any veterinary care for an eland whose hooves were overgrown.

4. On or about the following dates, respondent failed to employ a full-time attending veterinarian or a part-time attending veterinarian under formal arrangements that include a written program of veterinary care, in willful violation of section 2.40(a)(1) of the Regulations. 9 C.F.R. § 2.40(a)(1):

- | | |
|------------------|----------------------|
| a. March 7, 2001 | d. July 2, 2002 |
| b. April 3, 2002 | e. August 27, 2002 |
| c. May 22, 2002 | f. February 12, 2003 |

5. Between March 7, 2001, and August 24, 2003, respondent failed to ensure that their attending veterinarian or attending veterinarians had appropriate authority to ensure the provision of adequate veterinary care and to oversee the adequacy of other aspects of animal care and use, in willful violation of section 2.40(a)(2) of the Regulations. 9 C.F.R. § 2.40(a)(2).

6. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate facilities, including adequate enclosures and secure perimeter fences, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

7. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, including an adequate number of employees trained in species-specific animal care and husbandry, and specifically, on or about August 2002, failed to have sufficient personnel to remove mud and excreta in the elk enclosure, and allowed an aged elk to become trapped therein for several days, subjecting the elk to injury by a bull elk, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

8. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate equipment, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

9. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate services, including veterinary services, and specifically, failed to have any veterinary services available for, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

10. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included the use of appropriate methods to prevent, control, diagnose and treat diseases and injuries, and the availability of emergency, weekend, and holiday care, and specifically, failed to use appropriate methods to treat, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby, in willful violation of section 2.40(b)(2) of the Regulations. 9 C.F.R. § 2.40(b)(2).

11. Between March 7, 2001, and August 24, 2003, respondent failed to establish and

maintain a program of adequate veterinary care that included a mechanism of direct and frequent communication with the attending veterinarian or attending veterinarians, so that timely and accurate information on problems of animal health, behavior, and well-being is conveyed to the attending veterinarian or attending veterinarians, and specifically, failed to communicate to their attending veterinarian animal health information regarding, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby, in willful violation of section 2.40(b)(3) of the Regulations. 9 C.F.R. § 2.40(b)(3).

12. Between March 7, 2001, and August 24, 2003, respondent failed to establish and maintain a program of adequate veterinary care that included daily observation of all animals to assess their health and well-being, and specifically, failed to observe on a daily basis, *inter alia*, a snow leopard, a camel, two tigers, an elk, a giraffe, an eland, a pregnant llama and her baby, to assess their health and well-being, in willful violation of section 2.40(b)(3) of the Regulations. 9 C.F.R. § 2.40(b)(3).

13. Between March 7, 2001, and August 24, 2003, respondent 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, immobilization, anesthesia, and tranquilization, and specifically, failed to train personnel (including respondent Jerry F. Korn) in the care and handling of animals, in willful violation of section 2.40(b)(4) of the Regulations. 9 C.F.R. § 2.40(b)(4).

14. On or about the following dates, respondent failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondent's control, or disposed of by respondent, in willful violation of section 2.75(b)(1)

of the Regulations. 9 C.F.R. § 2.75(b)(1).

- | | |
|---------------------|----------------------|
| a. March 7, 2001 | c. February 11, 2003 |
| b. August 27, 2002. | d. February 12, 2003 |

15. On April 3, 2002, respondent failed to allow APHIS officials, during business hours, to examine records required to be kept by the Act and the Regulations, in willful violation of section 2.136(a)(2) of the Regulations. 9 C.F.R. § 2.126(a)(2).

16. On or about the following dates, respondent 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, in willful violation of the handling regulations. 9 C.F.R. § 2.131(a)(1).

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|-------------------------------|--|
| a. May 1, 2001 (tigers) | g. February 19, 2003 (tigers) |
| b. May 10, 2001 (tiger- Raja) | h. May 6, 2003 (tigers, hoofstock, kangaroo) |
| c. April 3, 2002 (giraffe) | i. May 8, 2003 (tigers) |
| d. June 4, 2002 (tiger) | j. May 13, 2003 (tigers) |
| e. June 2002 (tiger - Raja) | k. July 23, 2003 (tiger) |
| f. June 25, 2002 (bear) | l. August 2002 (elk) |

17. On May 6, 2003, respondent used physical abuse to handle a tiger during an exhibition to the public, in willful violation of the handling regulations. 9 C.F.R. § 2.131(a)(2)(i).

18. On May 1, 2001, respondent 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 the handling regulations, and specifically exhibited an adult tiger (Raja)

to the public without sufficient any barrier or distance. 9 C.F.R. § 2.131(b)(1).

19. On May 10, 2001, respondent 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 the handling regulations, and specifically exhibited an adult tiger (Raja) to the public without sufficient barrier or distance. 9 C.F.R. § 2.131(b)(1).

20. In June 2002, respondent 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 the handling regulations, and specifically exhibited an adult tiger (Raja) to a child without sufficient barrier or distance. 9 C.F.R. § 2.131(b)(1).

21. On June 4, 2002, respondent 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 the handling regulations, and specifically exhibited adult tigers to children without any barrier or distance. 9 C.F.R. § 2.131(b)(1).

22. On February 19, 2003, respondent 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 the handling regulations, and specifically exhibited adult tigers to the public without any barrier or distance. 9 C.F.R. § 2.131(b)(1).

23. On May 13, 2003, respondent 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 the handling regulations, and specifically exhibited adult tigers to the public without any barrier or distance. 9 C.F.R. § 2.131(b)(1).

24. On May 6, 2003, respondent 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, and specifically, said respondent exhibited two adult tigers to the public without any distance or barriers between the animals and the public (resulting in at least one injury to a member of the public), in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

25. On May 6, 2003, respondent 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, and specifically, said respondent exhibited adult and juvenile goats, a juvenile kangaroo, an eland, a giraffe, and a camel to the public, without sufficient distance or barriers to protect the animals from the public, in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

26. On May 8, 2003, respondent 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 the handling regulations. 9 C.F.R. § 2.131(b)(1).

27. On July 23, 2003, respondent 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, and specifically, said respondent exhibited adult tigers to approximately 40 children, without any distance or barriers between the animals and the public, in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

28. On August 12, 2003, respondent 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, and specifically, said respondent exhibited an adult giraffe and an adult eland to the public, without any distance or barriers between the animals and the public, in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

29. Between approximately May 2003 and August 16, 2003, respondent 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, and specifically, said respondent regularly allowed customers to enter the primary enclosure containing two tigers, without any distance or barriers between the animals and the public, in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

30. On May 6, 2003, respondent exhibited animals under conditions that were inconsistent with the animals' well-being, and specifically, said respondent exhibited tigers to the public outside of any enclosures, and allowed personnel and the public to touch, tease and harass animals, including adult goat and her kids, an adult eland, a giraffe and a juvenile kangaroo, in willful violation of the handling regulations. 9 C.F.R. § 2.131(c)(1).

31. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for nonhuman primates (9 C.F.R. §§ 3.75-3.92), as follows:

a. On August 24, 2003, respondent failed to provide any food to two lemurs. 9 C.F.R. § 3.83.

b. On August 24, 2003, respondent failed to provide potable water in sufficient quantity to non-human primates, and specifically, respondent provided no water to two lemurs. 9 C.F.R. § 3.83.

c. On August 27, 2002, respondent failed to keep the premises clean and in good repair, specifically, the building housing two lemurs needed cleaning, and the lemur enclosures had a large accumulation of cobwebs. 9 C.F.R. § 3.84(c).

d. On February 12, 2003, respondent failed to keep the premises clean and in good repair, specifically, the building housing two lemurs needed cleaning, and the lemur enclosures had a large accumulation of cobwebs. 9 C.F.R. § 3.84(c).

e. Between August 27, 2002, and August 24, 2003, respondent failed to have enough employees to carry out the level of husbandry practices and care for non-human primates required by the Regulations and Standards. 9 C.F.R. § 3.85.

32. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding structural strength (9 C.F.R. § 3.125(a)), as follows:

a. On April 3, 2002, respondent failed to maintain their housing facilities

structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair torn metal in the eland enclosure.

b. On July 2, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to construct the bear enclosure so that it contained the bear securely.

c. On July 2, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to construct the tiger enclosure so that it contained the tigers securely.

d. On August 12, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair exposed nails in camel enclosure.

e. On August 27, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair jagged wire mesh in the tiger cub enclosure.

f. On August 27, 2002, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gap between the frame and wire in the tiger cub enclosure.

g. On May 6, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and

to contain them, and specifically, failed to repair broken wire in the enclosure housing a juvenile kangaroo.

h. On February 11, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gate and handling chute in the enclosure housing a bull elk and a cow elk.

i. On February 12, 2003, respondent failed to maintain their housing facilities structurally sound and in good repair to protect the animals housed therein from injury and to contain them, and specifically, failed to repair the gate and handling chute in the enclosure housing a bull elk and a cow elk.

33. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding storage (9 C.F.R. § 3.125(c)), as follows:

a. On August 27, 2002, respondent failed to store supplies of food in facilities that adequately protected them from contamination.

b. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from contamination, and specifically failed to protect food supplies from vermin, including the three to four rats found in the food preparation area.

c. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from contamination, and specifically

failed to dispose of rancid food in the food preparation area, leaving it out for days at a time.

d. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from deterioration and contamination, and specifically failed to protect food supplies in the produce cooler, which contained countless live maggots.

e. In approximately June 2003, respondent failed to store supplies of food and bedding in facilities that adequately protected them from deterioration and contamination, and specifically failed to protect animal bedding supplies, which contained countless live maggots.

34. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum general facilities standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding waste disposal (9 C.F.R. § 3.125(d)), as follows:

a. On April 3, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove food waste (bones) from the tiger enclosure.

b. On April 3, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta from the giraffe enclosure

c. On July 2, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the prairie dog enclosure.

- d. On August 12, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove waste and debris from the moat adjacent to the bear enclosure.
- e. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the giraffe enclosure.
- f. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the eland enclosure.
- g. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta and debris from the elk enclosure.
- h. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove mouse droppings from the food preparation area.
- i. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and old bones from the tiger enclosure.
- j. On August 27, 2002, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the camel enclosure.
- k. On February 12, 2003, respondent failed to provide for the removal and

disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the giraffe enclosure.

l. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the eland enclosure.

m. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the food preparation area.

n. On May 6, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the goat enclosure.

o. On February 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris from the camel enclosure.

p. Between October 2002 and June 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove excreta from the giraffe enclosure.

q. On August 12, 2003, respondent failed to provide for the removal and disposal of animals and food wastes, bedding, dead animals, trash and debris, and specifically, failed to remove debris and excreta from the camel enclosure.

r. On August 12, 2002, respondent failed to provide for the removal and disposal of animal and food wastes, bedding, dead animals, trash and debris, and specifically,

failed to remove waste and debris from the moat adjacent to the cougar enclosure.

35. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), by failing to comply with the general facilities standards (9 C.F.R. § 3.126) as follows:

a. On August 27, 2003, respondent failed to provide a suitable and sanitary method to eliminate rapidly excess water from indoor housing facilities for tigers. 9 C.F.R. § 3.126(d).

36. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum the general facilities standards facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.142), by failing to comply with(9 C.F.R. § 3.127) as follows:

a. On August 27, 2002, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter. 9 C.F.R. § 3.127(b).

b. On November 8, 2002, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter. 9 C.F.R. § 3.127(b).

c. On February 11, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter. 9 C.F.R. § 3.127(b).

d. On February 12, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter. 9 C.F.R. § 3.127(b).

e. On August 12, 2003, respondent failed to provide a bear housed outdoors with appropriate natural or artificial shelter. 9 C.F.R. § 3.127(b).

f. On February 11, 2003, respondent failed to provide a suitable method to rapidly eliminate excess water from the elk enclosure. 9 C.F.R. § 3.127(c).

g. On March 15, 2001, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger and bear enclosures. 9 C.F.R. § 3.127(d).

h. On April 3, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the mountain lion enclosure. 9 C.F.R. § 3.127(d).

i. On April 3, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the snow leopard enclosure. 9 C.F.R. § 3.127(d).

j. On July 2, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger enclosure. 9 C.F.R. § 3.127(d).

k. On July 2, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the bear enclosure. 9 C.F.R. § 3.127(d).

l. On May 22, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the tiger enclosure. 9 C.F.R. § 3.127(d).

m. On May 22, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the bear enclosure. 9 C.F.R. § 3.127(d).

n. On August 27, 2002, respondent failed to construct a perimeter fence so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it, and specifically, there was no perimeter fence around the bear enclosure. 9 C.F.R. § 3.127(d).

o. On February 12, 2003, respondent failed to provide a suitable method to rapidly eliminate excess water from the elk enclosure. 9 C.F.R. § 3.127(c).

37. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding space requirements (9 C.F.R. § 3.128), as follows:

a. Between October 2002 and May 30, 2003, respondent failed to construct and maintain enclosures so as to provide sufficient space to allow each animal contained therein to make normal postural and social adjustments, and specifically, failed to construct the giraffe enclosure so as to provide sufficient space for the animal to make normal postural

adjustments.

b. On August 12, 2003, respondent failed to construct and maintain enclosures so as to provide sufficient space to allow each animal contained therein to make normal postural and social adjustments, and specifically, failed to construct the giraffe enclosure so as to provide sufficient space for the animal to make normal postural adjustments.

38. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding feeding (9 C.F.R. § 3.129), as follows:

a. Between March 2002 and February 2003, respondent repeatedly failed to provide tigers with a sufficient quantity of wholesome, palatable food, and routinely failed to feed tigers any food for four days in a row.

b. On or about April 3, 2002, respondent failed to minimize contamination of food, and specifically, provided spoiled meat to tigers.

c. On or about August 15, 2003, respondent failed to minimize contamination of food, and specifically, food for tigers was putrified and contained maggots.

d. On or about August 24, 2003, respondent failed to provide animals with food that was wholesome, palatable and free from contamination and of sufficient quantity, and specifically, failed to feed sufficient food to a giraffe, an eland, rabbits, a kangaroo, elk, tigers, and domestic cats, which animals were thin and hungry.

39. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum animal health and husbandry standards for animals other

than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals regarding watering (9 C.F.R. § 3.130), as follows:

a. On or about May 22, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically allowed large clumps of algae to grow in the eland's water trough.

b. On or about July 2, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically had allowed large clumps of algae to grow in the eland's water trough, and failed to remove a dead bird from the trough.

c. On or about April 3, 2002, respondent failed to maintain water receptacles for the eland clean and sanitary, and specifically had allowed large clumps of algae to grow in the eland's water trough, and failed to remove a dead bird from the trough.

d. On or about July 2, 2002, respondent failed to minimize maintain water receptacles for the snow leopards clean and sanitary.

e. On or about August 24, 2003, respondent failed to provide animals with potable water as often as necessary, and specifically, failed to provide adequate water to rabbits.

40. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding sanitation, and specifically, the cleaning of enclosures (9 C.F.R. § 3.131(a)) as follows:

a. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein

and to minimize disease hazards and reduce odors, and specifically, the giraffe enclosure had contained excessive fecal material.

b. On August 24, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the giraffe enclosure contained excessive fecal material.

c. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the eland enclosure contained excessive fecal material.

d. On February 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the cow elk and bull elk contained excessive excreta.

e. [deleted]

f. On April 3, 2002, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the giraffe contained excessive excreta.

g. On August 12, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing

the camel contained excessive excreta.

h. On February 11, 2003, respondent failed to remove excreta from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors, and specifically, the enclosure housing the cow elk and bull elk contained excessive excreta.

41. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding employees (9 C.F.R. § 3.132), as follows:

a. During 2002 and 2003, and specifically on July 2, 2002, respondent failed to have a sufficient number of adequately-trained employees to carry out the level of husbandry practices and care required by the Regulations and Standards.

42. On or about the following dates, respondent willfully violated section 2.100(a) of the Regulations by failing to meet the minimum animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, regarding the separation of animals (9 C.F.R. § 3.133), as follows:

a. During Spring and Summer 2002, respondent housed incompatible animals in the same enclosure, and specifically housed a cow elk (which became trapped in mud and excreta) in the same enclosure as a bull elk which harassed and attacked the trapped elk.

43. Respondent Susan F. Korn, having admitted the jurisdictional facts, and the parties having agreed to the entry of this decision, such decision will be entered.

Order

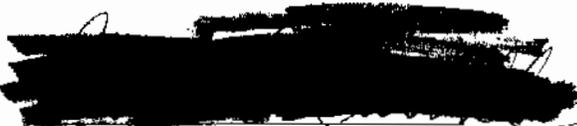
1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the Regulations and Standards.

2. Animal Welfare Act license number 82-C-0035, as to Susan F. Korn, is hereby revoked, effective immediately.

This order shall become effective on the first day after service of this decision on the respondent. Copies of this decision shall be served upon the parties.


Susan F. Korn
Respondent

8/19/05


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 6th day of September 2005


Peter M. Davenport
Administrative Law Judge