

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:)	AWA Docket No. 04-0026
)	
LISA R. WHITEAKER, an individual doing)	
business as MONKEYS-N-MORE; MONKEYS-)	DECISION AND ORDER
N-MORE, INC., a Nevada domestic corporation,)	AS TO LISA R.
and; SHANE LOGAN, an individual,)	WHITEAKER BY
)	REASON OF ADMISSION
Respondents.)	ADMISSION OF FACTS

Preliminary Statement

This proceeding was instituted under the Animal Welfare Act (“Act”), as amended (7 U.S.C. § 2131 et seq.), by an amended complaint filed by the Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, alleging that the respondent willfully violated the Act and the regulations and standards issued thereunder (the “Regulations” and “Standards”) (9 C.F.R. § 1.1 et seq.).

On September 17, 2004, the Hearing Clerk sent to respondent Lisa R. Whiteaker (“respondent”), by certified mail, return receipt requested, copies of the amended complaint and service letter. Respondent was informed in the accompanying letter of service that an answer to the amended complaint should be filed pursuant to the Rules of Practice and that failure to answer any allegation in the amended complaint would constitute an admission of that allegation. Respondent actually received the amended complaint on September 28, 2004.¹ Respondent failed to file an answer within the time prescribed in the Rules of Practice, thus, the material facts alleged in the amended complaint, which are admitted by said respondent’s default, are adopted and set forth

¹See Domestic Return Receipt for Article Number 7003 2260 0005 5721 4387.

herein as Findings of Fact. This Decision and Order, therefore, is issued pursuant to section 1.139 of the Rules of Practice, 7 C.F.R. § 1.139.

FINDINGS OF FACT

1. Respondent Lisa R. Whiteaker is an individual doing business as Monkeys-N-More, and whose address is 9031 Baysinger Drive, Las Vegas, Nevada 89129-7001. At all times mentioned herein respondent was operating as a dealer and/or exhibitor as those terms are defined in the Act and the Regulations. Between February 24, 2003, and February 24, 2004, respondent held Animal Welfare Act license number 88-B-0016, issued to "LISA R. WHITEAKER."

Between June 29, 2001, and July 1, 2002, respondent Whiteaker was also a principal, manager, officer and agent of respondent Monkeys-N-More, Inc., and the acts, omissions, and failures to act by respondent Whiteaker alleged herein were within the scope of said respondent's office, and are deemed to be the acts, omissions and failures of respondent Monkeys-N-More, Inc., as well as of respondent Whiteaker, for the purpose of construing or enforcing the provisions of the Act.

2. APHIS personnel conducted inspections of respondent's facilities, records and animals for the purpose of determining respondent's compliance with the Act, Regulations, and Standards on October 16, 2002, and December 4, 2002.

3. On or about June 16, 2002, respondent failed to handle a Bolivian Squirrel Monkey ("Zackery") as carefully as possible in a manner that does not cause trauma.

4. On or about June 16, 2002, respondent failed to handle a Bolivian Squirrel Monkey ("Zackery") as carefully as possible in a manner that does not cause behavioral stress.

5. On or about June 16, 2002, respondent failed to handle a Bolivian Squirrel Monkey

("Zackery") as carefully as possible in a manner that does not cause physical harm.

6. On or about June 16, 2002, respondent failed to handle a Bolivian Squirrel Monkey ("Zackery") as carefully as possible in a manner that does not cause unnecessary discomfort.

7. On or about June 16, 2002, respondent failed to meet the minimum standards for humane handling, care and treatment of nonhuman primates, by failing to employ adequately-trained personnel to handle and care for nonhuman primates, and specifically, allowed an inadequately-trained person to handle a Bolivian Squirrel Monkey ("Zackery"), contributing to the animal's death.

8. On or about June 26, 2002, respondent failed to notify APHIS officials, within ten days, of any change in the name, address, management, or ownership of business or of any additional sites, and specifically, failed to notify APHIS officials of additional sites housing animals.

9. On or about August 1, 2002, through on or about December 11, 2002, respondent held herself out as a facility licensed in accordance with the Animal Welfare Act and operated as an exhibitor without having a valid license.

10. On October 16, 2002, respondent failed to make, keep, and maintain records that fully and correctly disclose required information concerning animals in the possession of respondent, and specifically, failed to maintain accurate records concerning the acquisition and disposition of animals.

11. On or about October 28, 2002, respondent failed to meet the minimum facilities and operating standards for other animals, by failing to construct facilities so that they were structurally sound and to maintain them in good repair to protect the animals from injury and to

contain the animals, and specifically, two juvenile tigers escaped from their enclosure.

12. On December 4, 2002, respondent failed to make, keep, and maintain records that fully and correctly disclose required information concerning animals in the possession of respondent, and specifically, failed to maintain accurate records concerning the acquisition and disposition of animals.

CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. On or about June 16, 2002, respondent willfully violated section 2.131(a)(1) of the Regulations by failing to handle a Bolivian Squirrel Monkey (“Zackery”) as carefully as possible in a manner that does not cause trauma. 9 C.F.R. § 2.131(a)(1).
3. On or about June 16, 2002, respondent willfully violated section 2.131(a)(1) of the Regulations by failing to handle a Bolivian Squirrel Monkey (“Zackery”) as carefully as possible in a manner that does not cause behavioral stress. 9 C.F.R. § 2.131(a)(1).
4. On or about June 16, 2002, respondent willfully violated section 2.131(a)(1) of the Regulations by failing to handle a Bolivian Squirrel Monkey (“Zackery”) as carefully as possible in a manner that does not cause physical harm. 9 C.F.R. § 2.131(a)(1).
5. On or about June 16, 2002, respondent willfully violated section 2.131(a)(1) of the Regulations by failing to handle a Bolivian Squirrel Monkey (“Zackery”) as carefully as possible in a manner that does not cause unnecessary discomfort. 9 C.F.R. § 2.131(a)(1).
6. On or about June 16, 2002, respondent willfully violated section 2.100(a) of the Regulations and section 3.85 of the Standards. 9 C.F.R. §§ 2.100(a), 3.85.
7. On or about June 26, 2002, respondent willfully violated section 2.8 of the

Regulations. 9 C.F.R. § 2.8.

8. On or about August 1, 2002, through on or about December 11, 2002, respondent willfully violated sections 2.1(a)(1) and 2.100(a) of the Regulations. 9 C.F.R. §§ 2.1(a)(1), 2.100(a).

9. On October 16, 2002, and December 4, 2002, respondent willfully violated section 2.75 of the Regulations. 9 C.F.R. § 2.75(b)(1).

10. On or about October 28, 2002, respondent willfully violated sections 2.100(a) of the Regulations and section 3.125(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.125(a).

ORDER

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

2. Respondent is assessed a \$ 3,025 civil penalty. The civil penalty shall be paid by certified check or money order made payable to the Treasurer of the United States and sent to:

Bernadette R. Juarez
United States Department of Agriculture
Office of the General Counsel
Marketing Division
1400 Independence Avenue, SW
Room 2343-South Building
Washington, DC 20250-1417

Respondent shall state on the certified check or money order that the payment is in reference to AWA Docket No. 04-0026.

3. Respondent Lisa R. Whiteaker's Animal Welfare Act license (Animal Welfare Act license number 88-B-0016) is revoked.

The provisions of this order shall become effective on the first day after this decision becomes final. This decision becomes final without further proceedings 35 days after service as provided in sections 1.142 and 1.145 of the Rules of Practice. Copies of this decision shall be served upon the parties.

**Done at Washington, D.C.
this 3rd day of January, 2005**

**Marc R. Hillson
Administrative Law Judge**

