

UNITED STATES DEPARTMENT OF AGRICULTURE  
BEFORE THE SECRETARY OF AGRICULTURE

In re: ) AWA Docket No. 03-0012  
)  
Chris McDonald and ) DECISION AND ORDER  
Donia McDonald ) AS TO CHRIS MCDONALD  
d/b/a McDonalds Farm, ) AND DONIA MCDONALD  
) BY REASON OF  
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 respondents 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 3, 2004, the Hearing Clerk sent to each respondent, by certified mail to their last known residence, return receipt requested, a copies of the amended complaint, order granting complainant’s motion to amend complaint, and service letter dated September 3, 2004.<sup>1</sup> The United States Postal Service marked each mailing “unclaimed” and returned the mailings to the Hearing Clerk. On October 5, 2004, in accordance with section 1.147(c)(1) of the Rules of Practice, the Hearing Clerk remailed, by ordinary mail to the same address, the amended complaint, order granting complainant’s motion to amend complaint, and service letter dated September 3, 2004. The Hearing Clerk**

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<sup>1</sup>See Domestic Return Receipt for Article Number 7003 2260 0005 5721 4295 (Chris McDonald); See Domestic Return Receipt for Article Number 7003 2260 0005 5721 4301 (Donia McDonald).

**informed each respondent in the accompanying September 3, 2004, service letter that an answer to the amended complaints must be filed pursuant the Rules of Practice and that failure to answer any allegation in the amended complaint would constitute an admission of that allegation. Respondents 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 respondents' default, are adopted and set forth herein as Findings of Fact.**

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

### FINDINGS OF FACT

1. Chris McDonald is an individual, doing business as McDonalds Farm, hereinafter referred to as respondent, whose mailing address is 2134 40th Street, Peabody, Kansas 66866.

2. Donia McDonald is an individual, doing business as McDonalds Farm, hereinafter referred to as respondent, whose mailing address is 2134 40th Street, Peabody, Kansas 66866.

3. At all times mentioned herein, said respondents were licensed and operating as exhibitors, as that term is defined in the Act and the Regulations, under Animal Welfare Act license number 48-C-0126, issued to Chris and Donia McDonald, doing business as "McDonalds Farm."

4. In August 2001, respondents received an official warning notice from complainant for alleged violations of the Regulations, documented in Animal Welfare investigation No. KS-01012-AC.

5. APHIS personnel conducted inspections of respondents' facilities, records and animals for the purpose of determining respondents' compliance with the Act, Regulations, and

Standards on October 25, 2001, December 28, 2001, March 29, 2002 (unable to inspect), June 20, 2002, August 15, 2002, November 1, 2002, April 1, 2003, July 18, 2003, August 28, 2003, November 25, 2003, November 26, 2003, November 28, 2003, December 1, 2003, December 5, 2003, December 11, 2003, and December 30, 2003.

6. On the following dates, respondents failed to have an attending veterinarian provide adequate veterinary care to their animals:

a. November 26, 2003. Respondents failed to provide adequate veterinary treatment to three tigers that appeared thin, with the spinous processes and the pin bones of the hips protruding out from under their skin, and had hair loss, skin irritation and respiratory dysfunction.

b. December 5, 2003. Respondents failed to obtain treatment for three tigers that appeared emaciated, and suffered from hair loss and skin irritation.

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

a. October 25, 2001. Respondents failed to arrange for regularly scheduled veterinary visits to the premises.

b. December 28, 2001. Respondents failed to arrange for regularly scheduled veterinary visits to the premises.

c. November 28, 2003. Respondents failed employ a part-time attending veterinarian under formal arrangements that included a written program of veterinary care.

d. December 30, 2003. Respondents failed employ a part-time attending veterinarian

under formal arrangements that included a written program of veterinary care.

8. On the following dates, respondents failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate facilities, personnel, equipment, and services to comply with the Regulations and Standards:

- a. December 9, 2003. Respondents failed to provide an appropriate method to capture, contain, restrain, and ultimately euthanize an adult female tiger (“Shania”).
- b. December 9, 2003. Respondents failed to provide an appropriate method to capture, contain, and restrain a hybrid wolf.
- c. December 12, 2003. Respondents failed to provide an appropriate method to contain, restrain, and euthanize an adult male tiger (“Tia-Tia”).

9. On the following dates, respondents 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:

- a. November 25, 2003. Respondents failed to obtain treatment for three tigers that appeared thin, with the spinous processes and the pin bones of the hips protruding out from under their skin, and suffered hair loss, skin irritation and respiratory dysfunction.
- b. November 25, 2003. Respondents failed to obtain treatment a bobcat whose right ear was bent over.
- c. November 26, 2003. Respondents failed to prevent, control, treat or diagnose the cause of the hair loss, skin irritation, apparent emaciation, and respiratory dysfunction suffered by three tigers.

- d. December 5, 2003. Respondents failed to prevent, control, treat or diagnose the cause of the hair loss, skin irritation, apparent emaciation, and respiratory dysfunction suffered by three tigers.
  - e. December 9, 2003. Respondents failed prevent injury to an adult female tiger (“Shania”), and specifically, respondents killed the animal despite the fact that the animal was contained in its enclosure.
  - f. December 11, 2003. Respondents failed to control and treat, as directed by their attending veterinarian, the hair loss, skin irritation, and emaciation of three tigers.
  - g. December 12, 2003. Respondents failed prevent injury to an adult male tiger (“Tia-Tia”), and specifically, respondents killed the animal despite the fact that the animal was contained in its enclosure.
10. On the following dates, respondents 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, including a mechanism of direct and frequent communication:
- a. On October 25, 2001. Respondents failed observe and assess the daily health of a hybrid wolf that was thin and not tracking in a straight line.
  - b. June 20, 2002. Respondents failed observe and assess the daily health of four juvenile hybrid wolves whose skeletal frames were protruding beneath their skin and were not tracking in a straight line, and were, therefore, unable to convey accurate information regarding the animals' health and well-being to the attending veterinarian.
  - c. June 20, 2002. Respondents failed observe, assess, and obtain veterinary treatment for a male tiger with open sores on its shoulders and tail head.

d. November 25, 2003. Respondents failed to observe and assess the daily health of three tigers that appeared thin, with the spinous processes and the pin bones of the hips protruding out from under their skin, and exhibited hair loss, skin irritation, and respiratory dysfunction, and a bobcat whose right ear was bent over, and were, therefore, unable to convey accurate information as to the animals' health, behavior and well-being to their attending veterinarian.

e. December 5, 2003. Respondents failed to observe and assess the daily health of three tigers suffering hair loss, skin irritation, and apparent emaciation, and were, therefore, unable to convey accurate information as to the animals' health, behavior and well-being to their attending veterinarian.

f. December 30, 2003. Respondents failed to observe and assess the daily health of a newly born leopard cub, and were, therefore, unable to convey accurate information as to the animal's health, behavior and well-being to their attending veterinarian and to obtain treatment, contributing to the animal's death.

11. On the following dates, respondents 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, analgesia, tranquilization, and euthanasia:

a. December 9, 2003. Respondents failed to maintain an adequate program of veterinary care regarding euthanasia, and specifically, attempted to euthanize an adult female tiger ("Shania") by shooting the animal behind the front leg in its shoulder before finally directing a sheriff's officer to kill the animal.

b. December 12, 2003. Respondents failed to maintain an adequate program of veterinary care regarding euthanasia, and specifically, directed a sheriff's officer to shoot an adult male tiger ("Tia-Tia") because respondents feared the animal would escape its enclosure.

12. Respondents failed to comply with the record keeping regulations, as follows:

a. June 20, 2002. Respondents failed to maintain any records concerning the animals at their facility.

b. December 30, 2003. Respondents failed to maintain any records concerning the animals at their facility.

13. On March 29, 2002, respondents failed to have a responsible party available during business hours to permit APHIS officials to conduct an inspection of respondents' animal facilities.

14. On the following dates, respondents failed to handle animals as expeditiously and carefully as possible in a manner that did not cause trauma, behavior stress, physical harm, and unnecessary discomfort:

a. December 9, 2003. Respondents handled an adult female tiger ("Shania") and a hybrid wolf in a manner that caused trauma, behavioral stress, physical harm, and unnecessary discomfort.

b. December 12, 2003. Respondents handled an adult male tiger ("Tia-Tia") in a manner that caused trauma, behavioral stress, physical harm, and unnecessary discomfort.

15. On the following dates, respondents failed during public exhibition, to handle animals so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the general viewing public so as to assure the safety of the animals and the

public:

- a. July 17, 2003. Respondents exhibited a fourteen month old tiger, to the general viewing public, without sufficient distance or barriers, resulting the animal pulling a three year old boy into its enclosure bars.
- b. July 18, 2003. Respondents exhibited a seven month old tiger, to the general viewing public, by walking the animal on a leash without sufficient distance or a barrier.

16. On the following dates, respondents failed to meet the minimum facilities and operating standards for dogs, by failing to ensure that the housing facilities for hybrid wolves were structurally sound and maintained in good repair to protect animals from injury:

- a. December 1, 2003. Respondents failed to fill a hole under the structural fencing in the hybrid wolf's enclosure.
- b. December 9, 2003. Respondents housed a hybrid wolf in an inadequately maintained enclosure that permitted the animal to escape.

17. On the following dates, respondents failed to meet the minimum facilities and operating standards for dogs, and specifically, failed to remove excreta and food waste from primary enclosures daily, and from under the primary enclosures as often as necessary to prevent excessive accumulation of feces and food waste:

- a. December 28, 2001. Excessive excreta was present in the hybrid wolves' enclosure.
- b. August 15, 2002. Excessive excreta and food waste was present in an enclosure housing two hybrid wolves.
- c. April 1, 2003. Respondents housed a wolf hybrid in an enclosure with excessive amounts of accumulated waste.



d. August 28, 2003. Respondents housed a wolf hybrid in an enclosure with excessive amounts of accumulated waste.

18. On the following dates, respondents failed to meet the minimum facilities and operating standards for dogs, by failing to provide potable water in water receptacles that are clean and sanitized:

a. October 25, 2001. Respondents provided a hybrid wolf with water and a water receptacle that contained green algae.

b. August 28, 2003. Respondents provided a hybrid wolf with water and a water receptacle that contained green algae.

19. On August 15, 2002, respondents failed to meet the minimum facilities and operating standards for dogs, by failing to provide sufficient space to allow each dog to turn about freely, to stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner, and specifically, respondents' six hybrid wolves were unable to turn about freely, stand, sit, and lie in a comfortable, normal position, and to walk in a normal manner in their enclosure.

20. On April 1, 2003, respondents failed to meet the minimum facilities and operating standards for dogs, by failing to feed dogs, at least one each day, food that is uncontaminated, wholesome, palatable, and of sufficient quantity and nutritive value to maintain the normal condition and weight of the animal, and specifically, fed a hybrid wolf deteriorated calf carcass that had been in the animal's enclosure for three days.

21. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, by failing to construct indoor and outdoor housing facilities so that they were structurally sound and to maintain them in good repair to

protect the animals from injury and contain them therein:

- a. December 28, 2001. Respondents failed to repair exposed nails on top of the wood shelter box used by a Canadian Lynx.
- b. April 1, 2003. Respondents failed to repair the chewed, jagged plywood in a leopard's enclosure.
- c. November 25, 2003. Respondents housed a leopard in an enclosure with rusted, jagged metal, and two tigers in an enclosure (west) that lacked sufficient structural strength to contain the tigers.
- d. November 28, 2003. Respondents failed to repair the broken, torn, and protruding wire mesh attached to the cattle panel in the enclosure housing six juvenile tigers.
- e. November 28, 2003 through December 5, 2003. Respondents failed to repair the jagged and protruding plywood ceiling in the enclosure (transport trailer used as primary enclosure) housing five tigers and a black leopard.
- f. December 9, 2003. Respondents housed an adult female tiger ("Shania") in an inadequately maintained enclosure that permitted the animal to escape.
- g. December 11, 2003. Respondents housed numerous animals in structurally unsound enclosures, risking escape and injury, to wit:
  - (i) The guillotine door in the leopard's enclosure was secured by weaving wire around broken cattle panel fencing.
  - (ii) The side panels of the enclosure housing four tigers and a lioness curled, bowed, and were not secured to the ground.
  - (iii) The wire mesh side panels in the enclosure housing two juvenile leopards (one

male and one female) were detached from the top rail bar, and there was a hole in the fencing's south-side, upper corner.

(iv) The wire mesh on the north entrance gate in an adult male tiger's ("Tia-Tia") enclosure was detached and curled, and the fencing, in general, lacked structurally integrity.

h. December 12, 2003. Respondents housed adult male tiger ("Tia-Tia") in an inadequately maintained enclosure that permitted the animal to escape.

i. December 30, 2003. Respondents housed numerous animals in structurally unsound enclosures, risking escape and injury, to wit:

(i) A black leopard's enclosure ("Rocky") had a 3" gap between the fencing and unstable tin top that shifted in the wind, the metal shelter box was rusted on the lower left hand side, and the fencing was detached from the metal frame in the double entry.

(ii) Housed three tigers, a lioness, and a black leopard in an enclosure (far southeast) with loose fencing that bowed and was not secured to the metal frame, the animals' metal shelter box was torn and jagged on the east side, and there was a hole, approximately 9" in diameter, in the fencing on the east side.

(iii) Housed a black leopard ("Kera") in an enclosure with broken and rusted cattle panel strands, cattle panels that were not secured to the metal frame, and old wire held the front gate together.

22. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, by failing to store supplies of food in

facilities that adequately protected them from deterioration, molding or contamination by vermin:

- a. December 28, 2001. Respondents failed to store cattle carcasses in a manner that prevented contamination, deterioration, or consumption by vermin.
- b. June 20, 2002. Respondents stored chicken in a manner that resulted in deterioration and fly infestation.
- c. November 25, 2003. Thawing chicken wings were contaminated with rodent feces.

23. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to remove and dispose of animal and food wastes, bedding, dead animals, trash and debris:

- a. December 28, 2001. Respondents allowed excessive amounts of waste to accumulate in a tiger's enclosure.
- b. June 20, 2002. Respondent allowed excessive amounts of waste to accumulate in five exotic felids' enclosures.

24. On August 28, 2003, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, by failing to provide sufficient shade by natural or artificial means to animals kept outdoors to protect themselves from direct sunlight, and specifically, failed to provide two tigers with adequate over-head shade to protect themselves from direct sunlight.

25. On the following dates, respondents failed failing to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to provide adequate natural or artificial shelter to animals kept outdoors:

- a. November 25, 2003. Respondents failed to provide any bedding to six exotic felids.

- b. November 25, 2003. Respondents provided inadequate shelter to four adult tigers and one adult lioness; the animals shared two, open front shelter boxes measuring approximately 2.5' by 3'.
- c. November 28, 2003. Respondents provided inadequate shelter to animals, to wit:
- (i) Two adult tigers and one adult lioness shared one, open front shelter box measuring approximately 2.5' by 3'.
  - (ii) Six juvenile tigers (weighting approximately 85 to 110 pounds) shared one, open front shelter box measuring approximately 2.5' by 3'.
  - (iii) Five tigers and a black leopard shared an over-turned, inaccessible shelter box.
- d. December 5, 2003. Respondents failed to provide any shelter to five tigers and a black leopard housed in the transport trailer.
- e. December 11, 2003. Respondents provided inadequate shelter to animals, to wit:
- (i) Five tigers and a leopard had no shelter from climatic conditions.
  - (ii) The open front, uninsulated metal shelter boxes provided to the other animals failed to restrict air flow, rain, snow, or help maintain body heat, and the available bedding was old and soiled.
- f. December 30, 2003. Respondents provided inadequate shelter to animals, to wit:
- (i) The only source of shelter to many animals consisted of open front, uninsulated shelter boxes that failed to restrict air flow, rain, snow, or help maintain body heat.
  - (ii) Two tigers and a lioness (far southeast enclosure) shared a decrepit, make-shift shelter box.
  - (iii) Six felids had no bedding at all.

26. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to provide a suitable method to rapidly eliminate excess water:

- a. June 20, 2002. Housed two tigers in an enclosure with standing water and mud, such that the animals were unable to remain clean and dry.
- b. August 15, 2002. Standing water and mud covered approximately thirty-percent of the floor area in an enclosure housing two tigers.
- c. April 1, 2003. Respondents housed two tigers in a muddy enclosure, such that the animals were unable to remain clean and dry.
- d. December 5, 2003. Standing water and mud covered approximately ninety-percent of the floor area in the far southeast enclosure housing two tigers and a lioness.
- e. December 30, 2003. Housed a female tiger (“Rasha”) in an enclosure with standing water that covered an area approximately three feet.

27. On or about April 1, 2003, through on or about December 30, 2003, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to construct a perimeter fence to keep animals and unauthorized persons out, and to function as a secondary containment system for the animals in the facility.

28. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to construct enclosures so as to provide sufficient space to allow each animal to make normal postural adjustments with adequate freedom of movement:

- a. December 28, 2001. Respondents’ leopards were unable to make normal postural

and social adjustments with adequate freedom of movement in their enclosure.

b. June 20, 2002. Respondents' leopards were unable make normal postural and social adjustments with adequate freedom of movement in their enclosure.

29. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to provide animals with food of sufficient quantity and nutritive value to maintain good animal health, that was prepared with consideration for the age, species, condition, size, and type of animal:

a. November 25, 2003. At least three of respondents tigers were malnourished, with the spinous processes and the pin bones of the hips protruding out from under their skin.

b. November 26, 2003. Respondents failed to provide a diet of sufficient quantity and nutritive value to maintain all animals in good health, to wit:

(i) At least three of respondents tigers appeared malnourished with the spinous processes and the pin bones of the hips protruding out from under their skin.

(ii) The adult tigers, aside from those in the travel trailer, had faded coats and poor body condition.

(iii) The tiger cubs (northwest enclosure) lacked fat, were thin over the top, with faded coats and rounded bellies.

c. December 11, 2003. Respondents fed 22 large felids, 2 bob cats, and 2 leopard cubs a diet that consisted solely of chicken, and failed to adequately dispense a nutritional supplement (calcium phosphorous), as directed by their attending veterinarian.

30. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to make potable

water accessible to the animals at all times, or as often as necessary for the animals' health and comfort, and to keep water receptacles clean and sanitary:

- a. October 25, 2001. Respondents' water receptacle (metal water tank) used by a tiger contained green algae and needed to be sanitized.
- b. June 20, 2002. Respondents' water receptacle used by the bobcats contained green algae and needed to be sanitized.
- c. August 15, 2002. Respondents' water receptacle used by two tigers contained green algae and needed to be sanitized.
- d. November 25, 2003. Respondents failed to provide any water to four tigers and a lioness (far east enclosure) and the black leopard's water receptacle was caked with mud.
- e. November 28, 2003. Respondents provided water receptacles and water to two tigers (far southeast enclosure) that contained mud and dry leaves.
- f. December 11, 2003. Respondents provided frozen water receptacles and water to 22 large felids, 2 bobcats, and 2 leopard cubs.
- g. December 30, 2003. Respondents' water receptacle and water, if any, contained dirt, caked mud, and, in one instance, feces (bobcat enclosure).

31. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to remove excreta from primary enclosures to prevent contamination of animals, minimize disease hazards, and reduce odors:

- a. April 1, 2003. Respondents housed two tigers in an enclosure (north) with excessive excreta.



- b. August 28, 2003. Respondents housed two tigers in an enclosure (north) with excessive excreta.
- c. November 25, 2003. Respondents housed two tigers in an enclosure (north) with excessive excreta.
- d. December 11, 2003. Respondents failed to remove accumulated excreta from all animal enclosures.

32. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to keep premises clean and in good repair:

- a. June 20, 2002. Respondents failed to remove weeds that were two to four feet tall, from around the outdoor housing facilities and premises.
- b. August 15, 2002. Respondents failed to remove weeds that were two to four feet tall, from around the outdoor housing facilities and premises.
- c. April 1, 2003. Respondents failed to remove dozens of old bones, a wood pile, broken barrels, a kitchen appliance, and tires from around the outdoor housing facilities and premises.
- d. August 28, 2003. Respondents failed to remove weeds that were three to five feet tall, dozens of empty card board boxes, and other trash from around the outdoor housing facilities and premises.
- e. November 25, 2003. Respondents failed to remove weeds that were three to five feet tall, dozens of empty card board boxes, and other trash (old car battery, tires, plastic, papers, clothes, sheet metal, pipes, carcasses) from around the outdoor housing facilities

and premises.

f. December 1, 2003. Respondents failed to remove a dead rabbit and old bones from around the outdoor housing facilities and premises.

g. December 11, 2003. Respondents failed to remove dead weeds that were three to five feet tall, a dozen old carcasses, fencing, sheet metal, pipes, and other house trash from around the outdoor housing facilities and premises.

h. December 30, 2003. Respondents failed to remove dead weeds that were three to five feet tall, and animal and house trash from around the outdoor housing facilities and premises.

33. On December 30, 2003, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, by failing to establish and maintain an adequate program of pest control, and specifically, failed to take minimally-adequate steps to eradicate respondents' rodent infestation.

34. On the following dates, respondents failed to meet the minimum standards for humane handling, care and treatment of other animals, and specifically, failed to employ a sufficient number of adequately-trained employees to maintain a professionally-acceptable level of husbandry practices, under a supervisor with a background in animal care:

a. December 9, 2003. Respondents failed to have a sufficient number of adequately-trained employees to comply with the Regulation and Standards, and, therefore, required the assistance of a sheriff's officer to capture and kill an adult female tiger ("Shania").

b. December 12, 2003. Respondents failed to have a sufficient number of adequately-trained employees to comply with the Regulation and Standards, and, therefore, required

the assistance of a sheriff's officer to kill an adult male tiger ("Tia-Tia").

35. On July 18, 2003, respondents failed to construct primary enclosures, such as transport cages used to transport animals, of structural strength sufficient to contain the live animals and to withstand the rigors of travel, and specifically, transported six tigers in a transport trailer with deteriorating doors and floors, and an unsecured portable outdoor exercise area.

36. On July 18, 2003, respondents allowed live animals to travel with any material, substance, or device which may reasonably expected to be injurious to the health and well-being of the animals, and specifically, housed a tiger in a travel compartment with cleaning materials.

### CONCLUSIONS OF LAW

1. The Secretary has jurisdiction in this matter.
2. On November 26, 2003 and December 5, 2003, respondents willfully violated section 2.40(a) of the Regulations. 9 C.F.R. § 2.40(a).
3. On October 25, 2001, December 28, 2001, November 28, 2003, and December 30, 2003, respondents willfully violated section 2.40(a)(1) the Regulations. 9 C.F.R. § 2.40(a)(1).
4. On December 9, 2003 and December 12, 2003, respondents willfully violated section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).
5. On November 25, 2003, November 26, 2003, December 5, 2003, December 9, 2003, December 11, 2003, and December 12, 2003, respondents willfully violated section 2.40(b)(2) of the Regulations. 9 C.F.R. § 2.40(b)(2).
6. On October 25, 2001, June 20, 2002, November 25, 2003, December 5, 2003, and December 30, 2003, respondents willfully violated section 2.40(b)(3) of the Regulations. 9

C.F.R.

§ 2.40(b)(3).

7. On December 9, 2003, and December 12, 2003, respondents willfully violated section 2.40(b)(4) of the Regulations. 9 C.F.R. § 2.40(b)(4).

8. On June 20, 2002, and December 30, 2003, respondents willfully violated section 2.75 of the Regulations. 9 C.F.R. § 2.75.

9. On March 29, 2002, respondents willfully violated section 2.100(a) of the Regulations and section 2.126(a) of the Standards. 9 C.F.R. §§ 2.100(a), 2.126(a).

10. On December 9, 2003 and December 12, 2003, respondents willfully violated section 2.131(a)(1) of the Regulations. 9 C.F.R. \_ 2.131(a)(1).

11. On July 17, 2003, and July 18, 2003, respondents willfully violated section 2.131(b)(1) of the Regulations. 9 C.F.R. \_ 2.131(b)(1).

12. On December 1, 2003, and December 9, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.1(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.1(a).

13. On December 28, 2001, August 15, 2002, April 1, 2003, and August 28, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.11(a) Standards. 9 C.F.R. §§ 2.100(a), 3.11(a).

14. On October 25, 2001, and August 28, 2003, respondents willfully section 2.100(a) of the Regulations and section 3.10 of the Standards. 9 C.F.R. §§ 2.100(a), 3.10.

15. On August 15, 2002, respondents willfully section 2.100(a) of the Regulations and section 3.6(a)(2)(xi) of the Standards. 9 C.F.R. §§ 2.100(a), 3.6(a)(2)(xi).

16. On April 1, 2003, respondents willfully section 2.100(a) of the Regulations and section 3.9(a) Standards. 9 C.F.R. §§ 2.100(a), 3.9(a).

17. On December 28, 2001, April 1, 2003, November 25, 2003, November 28, 2003 through December 5, 2003, December 9, 2003, December 11, 2003, December 12, 2003, and December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.125(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.125(a)).

18. On December 28, 2001, June 20, 2002, and November 25, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.125(c) of the Standards. 9 C.F.R. §§ 2.100(a), 3.125(c).

19. On December 28, 2001, and June 20, 2002, respondents willfully violated section 2.100(a) of the Regulations and section 3.125(d) of the Standards. 9 C.F.R. §§ 2.100(a), 3.125(d).

20. On August 28, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.127(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.127(a).

21. On November 25, 2003, November 28, 2003, December 5, 2003, December 11, 2003, and December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.127(b) of the Standards. 9 C.F.R. §§ 2.100(a), 3.127(b).

22. On June 20, 2002, August 15, 2002, April 1, 2003, December 5, 2003, and December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.127(c) of the Standards. 9 C.F.R. §§ 2.100(a), 3.127(c).

23. On or about April 1, 2003, through on or about December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and 3.127(d) of the Standards. 9 C.F.R. §§ 2.100(a), 3.127(d).

24. On December 28, 2001, and June 20, 2002, respondents willfully violated section 2.100(a) of the Regulations and section 3.128 of the Standards. 9 C.F.R. §§ 2.100(a), 3.128.

25. On November 25, 2003, November 26, 2003, and December 11, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.129(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.129(a).

26. On October 25, 2001, June 20, 2002, August 15, 2002, November 25, 2003, November 28, 2003, December 11, 2003, and December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section§ 3.130 of the Standards. 9 C.F.R. §§ 2.100(a), 3.130.

27. On April 1, 2003, August 28, 2003, November 25, 2003, December 11, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.131(a) of the Standards. 9 C.F.R. §§ 2.100(a), 3.131(a).

28. On June 20, 2002, August 15, 2002, April 1, 2003, August 28, 2003, November 25, 2003, December 1, 2003, December 11, 2003, and December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.131(c) of the Standards. 9 C.F.R. §§ 2.100(a), 3.131(c).

29. On December 30, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.131(d) of the Standards. 9 C.F.R. §§ 2.100(a), 3.131(d).

30. On December 9, 2003, and December 12, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.132 of the Standards. 9 C.F.R. §§ 2.100(a), 3.132.

31. On July 18, 2003, respondents willfully violated section 2.100(a) of the Regulations

and section 3.137(a)(1) of the Standards. 9 C.F.R. §§ 2.100(a), 3.137(a)(1).

32. On July 18, 2003, respondents willfully violated section 2.100(a) of the Regulations and section 3.138(f) of the Standards. 9 C.F.R. §§ 2.100(a), 3.138(f).

**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. Respondents are jointly and severally assessed a \$ 14,905 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

Respondents shall state on the certified check or money order that the payment is in reference to AWA Docket No. 03-0012.

3. Respondent Donia McDonald's Animal Welfare Act license (Animal Welfare Act license number 48-C-0126) 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 4<sup>th</sup> day of January, 2005**

**Marc R. Hillson  
Administrative Law Judge**