

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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In re:)	AWA Docket No. 12-0 <u>233</u>
)	
LAWRENCE C. WALLACH, also known as)	
LARRY WALLACH, an individual,)	
)	
Respondent.)	COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the “Act” or “AWA”), and the regulations issued pursuant thereto (9 C.F.R. § 1.1 et seq.) (the “Regulations”). Therefore, the Administrator of the Animal and Plant Health Inspection Service (“APHIS”), issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Lawrence D. Wallach, also known as Larry Wallach (“Wallach”), is an individual whose mailing address is 61 Seawane Road, East Rockaway, New York. At all times mentioned herein, respondent Wallach was operating as an exhibitor, as that term is used in the Act and the Regulations, and held Animal Welfare Act license 21-C-0069.

2. Respondent operates a business exhibiting wild and exotic animals to the public, and offering to the public photo opportunities wherein customers may have their picture taken with a wild or exotic animal for a fee. As of May 2010, respondent reported holding 12 wild or exotic animals. Respondent has received an official warning letter from APHIS (NY06018). The gravity of the violations herein is great, and include repeated failures to handle animals in accordance with the applicable Regulations. Respondent has not shown good faith. Respondent has repeatedly failed to notify APHIS as to the itinerary of his traveling animal exhibitions, thereby thwarting APHIS’s ability to conduct inspections in furtherance of the Act.

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ALLEGED VIOLATIONS

3. APHIS conducted unannounced inspections of respondent's facilities, records and animals on May 13, May 27, August 4-5, and November 5, 2008, March 3, March 30, August 28, and December 14, 2009, May 11 and September 28, 2010, and August 31, 2011. APHIS documented noncompliance with the Regulations and Standards on each of these occasions.

4. On or about May 13, 2008, at Murrell's Inlet, South Carolina, respondent failed to provide adequate veterinary care to animals and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; specifically, respondent failed to obtain a diagnosis of the cause of a tiger's hair loss and ataxia, failed to maintain records of vaccinations of tigers that respondent exhibited to the public, failed to have written program of veterinary care available, and failed to provide an adequate diet, as directed by respondent's attending veterinarian, to infant and juvenile felids, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

5. On or about May 13, 2008, at Murrell's Inlet, South Carolina, respondent failed to make, keep and maintain records of the acquisition of a tiger, as required, in willful violation of the Regulations. 9 C.F.R. § 2.75(b)(1).

6. On or about May 13, 2008, at Murrell's Inlet, South Carolina, respondent failed to handle a juvenile tiger as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, and handled the tiger during public exhibition without minimal risk of harm to the animal and to the public; and specifically, respondent exhibited the tiger in an open-top unlocked enclosure, tethered the tiger, and permitted the public to lean into the cage and over the back of the tiger's head and to handle the tiger's head and neck, while their photographs

were taken; and respondent permitted the public to put their fingers through the chain-link sides of the tiger's cage, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1), 2.131(d)(1).

7. On or about May 27, 2008, respondent failed to provide adequate veterinary care to animals and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; specifically, respondent failed to have written program of veterinary care available for inspection, in willful violation of the Regulations. 9 C.F.R. § 2.40.

8. On or about August 5, 2008, respondent failed to provide adequate veterinary care to animals and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; and specifically, respondent failed to have maintain records of the administration of antifungal medication prescribed for a tiger, in willful violation of the Regulations. 9 C.F.R. § 2.40(a).

9. On or about August 5, 2008, respondent failed to meet the minimum Standards in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent housed an exotic felid in a Vari-Kennel transport enclosure in an open garage, and failed to keep such premises free of accumulations of trash, equipment, and miscellaneous household items. 9 C.F.R. §§ 3.125(a), 3.131(c).

b. Respondent's perimeter fence was inadequate. 9 C.F.R. § 3.127(d).

10. On or about November 5, 2008, respondent failed to meet the minimum Standards in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent housed an exotic felid in a Vari-Kennel transport enclosure in an

open garage, and failed to keep such premises free of accumulations of trash, equipment, and miscellaneous household items. 9 C.F.R. §§ 3.125(a), 3.131(c).

b. Respondent's perimeter fence was inadequate. 9 C.F.R. § 3.127(d).

c. Respondent housed a wallaby in an unsecured enclosure. 9 C.F.R. § 3.125(a).

11. On or about March 3, 2009, at Daytona Beach, Florida, respondent failed to provide adequate veterinary care to animals and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; and specifically, respondent failed to maintain records of the administration of medication to treat an erythematic injury visible on the nose of a tiger, in willful violation of the Regulations. 9 C.F.R. § 2.40(a).

12. On or about March 3, 2009, at Daytona Beach, Florida, respondent failed to make, keep and maintain records of the acquisition/disposition of a tiger and a bear, as required, in willful violation of the Regulations. 9 C.F.R. § 2.75(b)(1).

13. On or about March 3, 2009, at Daytona Beach, Florida, respondent failed to handle a wallaby during public exhibition with minimal risk of harm to the animal and to the public; and specifically, the enclosure for the wallaby did not have a barrier fence to prevent the public from contacting the animal and/or entering its enclosure, in willful violation of the Regulations. 9 C.F.R. § 2.131(c)(1).

14. On or about March 3, 2009, at Daytona Beach, Florida, respondent failed to meet the minimum Standards in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent housed a wallaby in an enclosure that did not have sufficient space. 9 C.F.R. § 3.128.

b. Respondent fed a juvenile tiger a diet lacking in nutritive value. 9 C.F.R. §

3.129.

15. On or about March 30, 2009, respondent failed to promptly notify APHIS of his change of an additional site, as required, in willful violation of the Regulations. 9 C.F.R. § 2.8.

16. On or about March 30, 2009, respondent failed to provide adequate veterinary care to animals and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; and specifically, respondent failed to maintain records of the administration of medication to treat an injury to a tiger, in willful violation of the Regulations. 9 C.F.R. § 2.40(a).

17. On or about March 30, 2009, respondent failed to make, keep and maintain records of the acquisition/disposition of a wallaby and a bear, as required, in willful violation of the Regulations. 9 C.F.R. § 2.75(b)(1).

18. On or about August 28, 2009, at Rhinebeck, New York, respondent failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries; specifically, respondent failed to have written program of veterinary care available, in willful violation of the Regulations. 9 C.F.R. § 2.40(b)(2).

19. On or about May 11, 2010, respondent failed to handle a juvenile tiger as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, and handled the tiger during public exhibition without minimal risk of harm to the animal and to the public; and specifically, respondent permitted customers to enter the tiger's enclosure and to have contact with the tiger, without any distance and/or barriers between the public and the tiger, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1).

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20. On or about May 11, 2010, respondent failed to handle a juvenile tiger as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort; and specifically, respondent has continued to house the young tiger in a canine pen, the tiger was observed to be visibly upset and exhibited stress and discomfort by crying, and rubbing its body against the cage's sides, and the tiger was observed to continue to have lesions on its nose from abrading against the enclosure wire, and respondent has not addressed or sought to alleviate the underlying cause of the animal's stress, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

21. On or about August 31, 2011, respondent failed to promptly notify APHIS that his address had changed as of July 28, 2011, and that he no longer operated at his facility at 61 Seawane Road, East Rockaway, New York, as required, in willful violation of the Regulations. 9 C.F.R. § 2.8.

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are

authorized by the Act and warranted under the circumstances, including an order that respondent cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against respondent in accordance with section 19 of the Act (7 U.S.C. § 2149), and suspending or revoking AWA license 21-C-0069.

Done at Washington, D.C.
this 31 day of January 2012

Acting


Administrator
Animal and Plant Health Inspection Service

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