

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

Tonia Haddix, an individual,

Respondent.

AWA-D Docket No. 24-J-0071

**DECISION AND ORDER GRANTING
COMPLAINANT'S MOTION FOR SUMMARY JUDGMENT
AND DENYING RESPONDENT'S MOTION TO STAY**

Appearances:

Bianca Ricketts, Esq., with the Office of the General Counsel, United States Department of Agriculture, Washington, DC, for the Complainant, the Administrator for the Animal and Plant Health Inspection Service ("APHIS"); and

William C. White, Esq., of Boles Holmes White LLC, Birmingham, AL, for Respondent Tonia Haddix.

Case Background and Summary of Decision

This proceeding, AWA-D Docket No. 24-J-0071, regarding Respondent Tonia Haddix, was initiated via Order to Show Cause Why Animal Welfare Act License 43-B-3839 Should Not be Terminated ("Order to Show Cause") filed on July 1, 2024, by Complainant, the Administrator, Animal and Plant Health Inspection Service ("APHIS"), stating that Respondent holds AWA Class B "Dealer" License No. 43-B-3839, alleging that Respondent is unfit to be licensed as her continued licensure would be contrary to the Act's purpose of ensuring the humane care and treatment of animals, and requesting that her license be terminated pursuant to 9 C.F.R. §§ 2.11(a)(7) and 2.12 based on her conduct before the United States District Court for the Eastern District of Missouri. This action is initiated pursuant to the Animal Welfare Act, as amended (7 U.S.C. § 2131 *et seq.*) ("AWA"), the regulations (9 C.F.R. pts. 2 and 3) ("Regulations"), and the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary, 7 C.F.R. pt. 1, subpart H (7 C.F.R. §§ 1.130-.151) ("The

Rules of Practice”).

On August 1, 2024, Respondent timely filed an Answer admitting in part and denying in part the allegations, and raising several defenses including affirmative equitable doctrines of laches, waiver, and estoppel; general denial of material allegations and demand of strict proof thereof; statute of limitations; affirmative defense of compliance and substantial compliance with all statutes and regulations; affirmative defense of force majeure; affirmative defense of failure of required notice; affirmative defense of good faith; right to trial by jury; right to an independent judiciary and other protections contained in violation of Article III and the Due Process Clause of the Fifth Amendment to the United States Constitution; unclean hands; duress; necessity and justification; and reserves the right to amend her Answer to allege additional affirmative defenses.

The Order Setting Deadlines for Submissions (“Submissions Order”) was issued August 2, 2024, directing the parties to file lists of witnesses and exhibits with the Hearing Clerk’s Office, and exchange exhibits, by September 2, 2024, and October 2, 2024, for Complainant and Respondent, respectively. Both parties complied. On October 21, 2024, I held a virtual conference call and set hearing for February 18-20, 2025, and a deadline to file motions by January 13, 2025.

On January 13, 2025, Respondent filed a Motion for Dismissal and/or Jury Trial with attachments. On January 14, 2024, Respondent filed a Motion to Stay Administrative Proceedings (“Respondent’s Motion to Stay”) due to ongoing, “interrelated” criminal proceedings against Respondent, with Exhibits A-H.

Complainant timely filed a Motion for Summary Judgment (“Complainant’s MSJ”) and

Response to Respondent's Motion for Dismissal and/or Jury Trial on January 21, 2025.¹ On January 23, 2025, the parties filed a Joint Motion for Continuance, requesting a continuance of the scheduled hearing in this matter until March 25-28, 2025.

On February 3, 2025, I issued an Order granting the continuance in part by cancelling the hearing to be rescheduled on an as-needed bases considering the pending motions before me. On the same day Complainant filed a Response to Respondent's Motion to Stay ("Complainant's Response to Motion to Stay").

On February 21, 2025, Respondent timely filed her Response to Complainant's Motion for Summary Judgment and Response to Motion for Dismissal and/or Jury Trial ("Respondent's Response to MSJ") with attachments: RX-1, RX-2, and RX-3.² On March 6, 2025, Complainant filed Objection to Respondent's Reply to Response to Motion for Dismissal and/or Jury Trial.

On March 12, 2025, I issued an Order Denying Respondent's Motion for Dismissal and/or for Jury Trial.

Based on a careful review of the record before me, most importantly the lack of genuine issues of material fact upon which to hold a hearing, Complainant's motion for summary judgment is GRANTED. As further explained below, I find that Respondent is unfit to be licensed under the AWA, and Respondent's AWA license 43-B-3839 shall be terminated without a hearing and for a disqualification period of not less than two (2) years. Further, as I have determined that a hearing is not necessary, Respondent's Motion to Stay is DENIED as moot.

¹ See January 13, 2025 Order Granting Complainant's Request for Extension of Time, Through January 21, 2025, To File Motions Combined With Complainant's Response to Respondent's Motion for Dismissal and/or For Jury Trial.

² See February 7, 2025 Order Granting Respondent's Request for Extension of Time to Respond to Complainant's Motion for Summary Judgment.

Jurisdiction

Congress provided for enforcement of the AWA by the Secretary of Agriculture, USDA, and authorized the Secretary of Agriculture “to insure that animals intended for . . . exhibition purposes or for use as pets are provided humane care and treatment.”³ Accordingly, the Secretary of Agriculture has promulgated the regulations (9 C.F.R. pt. 2) (“Regulations”), and standards (9 C.F.R. pt. 3) (“Standards”) thereunder.

The AWA provides persons alleged to have violated the Act with the right to “notice and the opportunity for a hearing.”⁴ The Secretary delegates authority to ALJs, pursuant to 5 U.S.C. § 556(b)(3), to hold hearings and perform related duties in proceedings under the AWA.⁵

Discussion

This case was initiated by Order to Show Cause filed on July 1, 2024, alleging that Respondent is unfit to be licensed and her license should be terminated pursuant to 9 C.F.R. §§ 2.11(a)(7) and 2.12 based on her conduct before the United States District Court for the Eastern District of Missouri (“the Court”).

Complainant seeks summary judgment of this matter, contending that there are no issues of material fact upon which to hold a hearing.⁶ The jurisdictional allegations are not disputed.⁷ Complainant states that, in her Answer, Respondent either admits explicitly or implicitly to, or the record shows and supports, all allegations in the Complaint and, therefore, no issue of fact

³ 7 U.S.C. §§ 2131-59.

⁴ 7 U.S.C. § 2149.

⁵ *See also* 7 C.F.R. §§ 2.3, 2.27, 1.131.

⁶ Complainant’s MSJ at 12-19.

⁷ Answer at 1, ¶¶ 1-3.

remains for which a hearing should be held.⁸

Although summary judgment is not expressly provided for nor excluded by the Rules of Practice, the Department has “consistently ruled that hearings are futile and summary judgment is appropriate where there is no factual dispute of substance.”⁹ Here, summary judgment is appropriate.

I. Complainant has met its burden by demonstrating that no genuine issue of fact exists on which a hearing is needed.

As the movant for summary judgment, the initial burden is on Complainant to demonstrate an “absence of evidence to support the nonmoving party’s case.”¹⁰ Complainant has met its burden. Complainant has proved by a preponderance of the evidence¹¹ that Respondent’s conduct before the Court makes Respondent unfit to be licensed.

Respondent admitted in her answer to the following facts:

⁸ Complainant’s MSJ at 7-12.

⁹ *Agri-Sales, Inc.*, 73 Agric. Dec. 327, 328-30 (U.S.D.A. 2014), *aff’d* by the Judicial Officer and adopted as the final order in the proceeding, 73 Agric. Dec. 612 (U.S.D.A. 2014) (citing *Animals of Montana, Inc.*, 68 Agric. Dec. 92, 104 (U.S.D.A. 2009); *Bauck*, 868 Agric. Dec. 853, 858-59 (U.S.D.A. 2009); *Veg-Mix, Inc. v. U.S. Dep’t of Agric.*, 832 F.2d 601, 607 (D.C. Cir. 1987)). See also Complainant’s Response to Motion to Dismiss at 4-5 (stating “The Judicial Officer has held that motions for summary judgment are appropriate in the Department’s proceedings where there is no material factual dispute, including in cases involving termination of an AWA license.”) (citing *Hope Knaust, et al.*, 2014 WL 4311047, at *4 (U.S.D.A. April 9, 2014) (internal citations omitted); *Bauck*, 68 Agric. Dec. 853, 858 (U.S.D.A. 2009); *Animals of Mont.*, 68 Agric. Dec. 92, 104 (U.S.D.A. 2009); *Amarillo Wildlife Refuge, Inc.*, 68 Agric. Dec. 77, 81 (U.S.D.A. 2009); *Vigne*, 67 Agric. Dec. 1060 (U.S.D.A. 2008); *Levinson*, 65 Agric. Dec. 1026, 1028 (U.S.D.A. 2006)).

¹⁰ Complainant’s MSJ at 10 (internal quotations omitted) (quoting *Celotex Corp. v. Catrett*, 477 U.S. 317, 325, (1986)).

¹¹ See *Herman & Maclean v. Huddleston*, 459 U.S. 375, 387-91 (1983) (holding the standard of proof in administrative proceedings is the preponderance of the evidence); see also *Davenport*, 57 Agric. Dec. 189, 223 (U.S.D.A. 1998) (“The burden of proof in disciplinary proceedings under the Animal Welfare Act is preponderance of the evidence[.]”).

Respondent is an individual who resides in the State of Missouri and holds AWA Class B “Dealer” License No. 43-B-3839.¹² On or about October 2, 2020, Respondent owned seven chimpanzees and the Court issued a Consent Decree ordering Respondent to transfer four of those chimpanzees to a sanctuary, allowing Respondent to retain ownership of three chimpanzees.¹³ On or about April 8, 2021, the Court issued an Order of Civil Contempt due to the Respondent’s failure to meet the terms of the Consent Decree.¹⁴ On or about June 1, 2021, the Court issued a Second Order of Civil Contempt due to the Respondent’s continued failure to meet the terms of the Consent Decree.¹⁵ On or about July 28, 2021, six chimpanzees were transferred to a sanctuary.¹⁶ On or about August 16, 2021, Respondent submitted a sworn declaration stating that the seventh chimpanzee, known as Tonka, died on May 30, 2021, and was cremated.¹⁷ On or about January 5, 2022, the Court held a Contempt Hearing during which the Respondent provided detailed statements about the death of Tonka while under oath.¹⁸ On or about June 2, 2022, the U.S. Marshals Service served Respondent with a Temporary Restraining Order and found Tonka alive at Respondent’s property.¹⁹

¹² Answer at 1, ¶¶ 1-3, CX-01.

¹³ Answer at 1, ¶ 5, 1-2, ¶ 6; CX-01, CX-02, CX-03.

¹⁴ Answer at 2, ¶ 7; CX-05.

¹⁵ Answer at 2, ¶ 8; CX-06.

¹⁶ Answer at 3, ¶ 10; CX-08.

¹⁷ CX-08 (Haddix Declaration). In her Answer, Respondent states that she denies submitting the sworn statement to the Court and believed she was submitting the sworn statement to PETA. *See* Order to Show Case at 3, ¶ 11; Answer at 3, ¶ 11. Respondent does not deny submitting a sworn statement and the record shows, as further discussed herein, that the statement was, in-fact, submitted to the Court.

¹⁸ Answer at 3, ¶ 12; CX-04, CX-09 at 5-66.

¹⁹ Answer at 3, ¶ 14; CX-04 at 1-2.

Respondent's admissions in her Answer to the facts alleged in the Complaint alone justify termination of Respondent's license. The Regulations (2.12) provide that:

(a) A license will not be issued to any applicant who:

(7) Has made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, or has pled *nolo contendere* (no contest) or has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act.

9 C.F.R. § 2.11(a)(7) (emphasis added). And:

A license may be terminated at any time for any reason that a license application may be denied pursuant to § 2.11 after a hearing in accordance with the applicable rules of practice in 7 CFR part 1.

9 C.F.R. § 2.12.

Here, Respondent admits to submitting a sworn declaration, as well as testimony under oath at the contempt hearing, stating that the chimpanzee known as Tonka died on May 30, 2021 and that his body was cremated,²⁰ when it was later discovered that Tonka was, in fact, alive.²¹ Respondent's admission to making a "false or fraudulent statement[]" to the Court (a government agency) is sufficient under the Regulations to determine Respondent is unfit to be licensed under the AWA and justifies termination of her license.

In her Response to MSJ, Respondent raises three constitutional arguments and contends that several genuine issues of material fact exist for which a hearing is necessary. I reject those contentions.

²⁰ Answer at 3, ¶¶ 11-12; CX-04 at 1-2, CX-09 at 5-66.

²¹ Answer at 3, ¶ 14; CX-04 at 1-2.

II. Respondent’s constitutional contentions have already been addressed and are preserved for appeal should she wish to properly perfect such appeal.

Respondent raises three constitutional arguments: 1) that “she is entitled to a Jury Trial on the issues presented in the Show Cause based on the Seventh Amendment to the United States Constitution[;]” 2) that “the residual clause contained in 9 C.F.R. § 2.11(a)(7), which is the very provision under which Complainant seeks to terminate Respondent’s license is unconstitutionally vague in violation of the Due Process Clause[;]” and 3) that the Judicial Officer is improperly appointed and the ALJ’s protection from removal by the President is unconstitutional.

Respondent previously raised these contentions in her Motion for Dismissal and/or for Jury Trial, filed on January 13, 2025. I addressed these contentions and denied Respondent’s Motion for Dismissal and/or for Jury Trial on March 12, 2025. In my March 12, 2025 Order Denying Respondent’s Motion for Dismissal and/or for Jury Trial, I acknowledged, and here acknowledge, that Respondent has timely raised and preserved these issues for appeal to the JO and/or the courts, should she at some point otherwise properly perfect such appeal. However, I will not further address these contentions.

III. Respondent fails to raise any genuine issues of material fact for which a hearing is necessary.

Respondent first argues that USDA was aware of the case before the Missouri Court when she applied for a renewal of her license and that this contested fact is relevant to her defenses of laches, waiver, estoppel and, “potentially unclean hands.”²² This issue of fact is not material to the present matter.

Whether the USDA inspector was aware of Respondent’s Missouri case at the time of

²² Respondent’s Response to MSJ at 4-5 (citing RX-1).

inspection and whether Complainant was aware of Respondent's Missouri case at the time Respondent's license was renewed are irrelevant to the undisputed facts on which Complainant bases the termination of Respondent's license.²³

Respondent's contention that this issue of fact is material to her defenses is incorrect. The defenses Respondent raises in her Answer—laches, waiver, estoppel, and “potentially unclean hands”—are not applicable here. It has long been held that equitable defenses such as laches, waiver and estoppel are not applicable to actions of the government.²⁴ Further, although it is unclear what Respondent intends by “potentially” raising the defense of unclean hands, I cannot see any valid application for this equitable defense in this matter. “The general powers held by courts of law and equity are not automatically held by administrative law judges, and the equitable maxim of ‘clean hands’ has not been made applicable to these proceedings.”²⁵

²³ See Complaint; 9 C.F.R. §§ 2.11(a)(7), 2.12.

²⁴ Regarding laches see *Rader*, 70 Agric. Dec. 995, 1002 (U.S.D.A. 2011) (citing *United States v. Mack*, 295 U.S. 480, 489 (1935); *United States v. Verdier*, 164 U.S. 213, 219 (1896); *German Bank v. United States*, 148 U.S. 573, 579-80 (1893); *Gausson v. United States*, 97 U.S. 584, 590 (1878); *Cooke v. United States*, 91 U.S. 389, 398 (1875); *United States v. Kirkpatrick*, 22 U.S. (9 Wheat.) 720, 735-36 (1824)); *Raymond Black*, 66 Agric. Dec. 1217, 1226 (U.S.D.A. 2007) (finding that “[t]he ALJ correctly held the defense of laches does not apply” and describing laches as “a defense based upon undue delay in asserting a legal right or privilege” that “has long been held to be inapplicable to actions of the government.”) (citation omitted); *Becknell*, 54 Agric. Dec. 335, 335 (U.S.D.A. 1995) (finding “laches does not apply to the Government acting in its sovereign capacity”) (citations omitted)). The Department has determined that the “general rule is that the federal government may not be equitably estopped from enforcing public laws, even though private parties may suffer hardship as a result in particular cases.” (*Lacy*, 65 Agric. Dec. 1157, 1158–59 (U.S.D.A. 2006) (citing *Office of Personnel Management v. Richmond*, 496 U.S. 414 (1990); *Heckler v. Community Health Services of Crawford County, Inc.*, 467 U.S. 51 (1984); *INS v. Miranda*, 459 U.S. 14 (1982); *Schweiker v. Hansen*, 450 U.S. 785 (1981); *Federal Crop Insurance Corporation v. Merrill*, 332 U.S. 380 (1947))). Waiver is similarly inapplicable (See *Lacy*, 65 Agric. Dec. at 1159 (citing *McConnell, et al.*, 64 Agric. Dec. 436 (2005), *petition for review denied sub nom. McConnell v. U.S. Department of Agriculture*, WL 2430314 (6th Cir. 2006) (unpublished) (not to be cited except pursuant to Rule 28(g))).

²⁵ *Stimson Lumber Co.*, 54 Agric. Dec. 155, 162 (U.S.D.A. 1995). See also *Michigan Pork*

Respondent next argues that, because it is Complainant's burden to show Respondent is unfit to hold an AWA license, she intends to call two USDA inspectors to testify to the good condition of Respondent's facility and her animals in the multiple inspections they have conducted.²⁶ However, the condition of Respondent's facility and her animals is not material to the present matter. Complainant does not base its contention that Respondent is unfit to hold a license on the condition of Respondent's facility and animals, but on her conduct before the Court.²⁷

Lastly, Respondent contends that Complainant "prosecute[s] this case under the residual clause" of 9 C.F.R. § 2.11(a)(7) which states "or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act." Respondent contends that Complainant must be using the "residual clause" because "none of Respondent's actions in the Federal Case violate the specific conduct listed in 9 C.F.R. §2.11(a)(1-7)." Respondent also contends that her admission that two contempt orders were entered against her "without any context, are insufficient to meet Complainant's burden for a Summary Judgment."

I disagree with Respondent's interpretation of Complainant's contentions, her reading of the applicable regulation, and that the context provided raises any issue of material fact upon

Producers, et al., 61 Agric. Dec. 710, 724 (U.S.D.A. 2002) (speaking with regards to the doctrine of unclean hands, "[t]his doctrine provides, generally, that a party seeking equity cannot obtain relief when the party is guilty of unconscionable conduct directly related to the matter of litigation.") (citing *Performance Unlimited v. Questar Publishers, Inc.*, 52 F.3d 1373, 1383 (6th Cir.1995); *Ben Jean Prevot*, 59 F.3d 556, 561 (6th Cir.1995)) (the current matter is an enforcement action under the AWA, a remedial statute, not a suit for equitable relief).

²⁶Respondent's Response to MSJ at 6.

²⁷ See Complaint; 9 C.F.R. §§ 2.11(a)(7), 2.12.

which to hold a hearing. If Complainant can show via the record, as it has, that no genuine issue of material fact exists on which to hold a hearing, and Respondent cannot rebut such showing, entry of summary judgment is appropriate.

First, by way of providing context, Respondent states that she was unable to meet the terms of the Consent Decree, the reason the Court issued the first Contempt Order, because she was unrepresented by counsel and, due to covid and winter, she could not perform the terms of the Consent Decree. This information is irrelevant and does not raise any issue of material fact. Respondent chose to proceed with entering the Consent Decree without retaining counsel even though the presiding Judge advised her to do so.²⁸ Moreover, the Court found Respondent in contempt of court for a number of reasons other than performance of the terms (i.e. constructing a new enclosure for three of the chimpanzees) that would not be affected by covid or winter, including failing to file updates to the opposing party and sending false information regarding her performance to the opposing party.²⁹

Respondent also claims that she didn't anticipate having to "continue to shoulder the burden of caring for PETA's 4 chimpanzees" that PETA "refused to retrieve per the Consent Decree."³⁰ Based on the record, this is simply untrue. The terms of the Consent Decree recognized that it was uncertain as to when the sanctuary would be able to take possession of the

²⁸ See CX-05 (April 26, 2021 Order of Civil Contempt) at 3 (stating "Moreover, I have previously cautioned Ms. Haddix that her "unfamiliarity with the Federal Rules of Civil Procedure does not insulate her from the consequences of her procedural failures," ECF 269 at pg. 4 fn. 2, and I have repeatedly admonished her to retain counsel due to the complexities of this case.").

²⁹ See *id.* at 2-3 ¶¶ 1, 3-4.

³⁰ Respondent's Response to MSJ at 8.

four chimpanzees and specifically provided that PETA was responsible for reimbursing costs associated with the four chimpanzees' care (up to \$3,000 a month) from the date of the Consent Decree to the transfer date.³¹

Finally, by way of context, Respondent admits to submitting a false declaration stating that Tonka the chimpanzee had died but attempts to justify her actions by explaining that she thought that she was submitting the declaration to PETA. Respondent's explanation is unsupported by the record and is, effectually, irrelevant. A review of Respondent's declaration submitted to the Court contradicts Respondent's claim that she thought she was submitting the declaration to PETA instead of the Court.³² Respondent's declaration is captioned with the Court's title and the title of the federal case; is entitled

DECLARATION OF TONIA HADDIX IN SUPPORT OF COUNTERCLAIM
DEFENDANT TONIA HADDIX'S OPPOSITION TO: (1) COUNTERCLAIM
PLAINTIFFS' FOURTH MOTION FOR AN ORDER TO SHOW CAUSE WHY
COUNTERCLAIM DEFENDANT TONIA HADDIX SHOULD NOT BE HELD
IN CONTEMPT FOR FAILING TO TRANSFER CHIMPANZEE TONKA AS
REQUIRED BY COURT ORDER (ECF NO. 333); AND (2) COUNTERCLAIM
PLAINTIFFS' SUPPLEMENT THERETO (ECF NO. 337)[;]

and states "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct of my own knowledge."³³ Respondent's claim that she thought she was submitting the declaration to PETA is further negated by her admitted and documented false testimony, under oath, regarding her claim that the chimpanzee Tonka had

³¹ CX-02 (Consent Decree signed September 16, 2020) at 2-3, ¶¶ 1.5, 1.5.1-1.5.3. (¶ 1.5.1 stating "PETA shall reimburse Haddix for actual, reasonable, and appropriate out-of-pocket expenditures for each of the Four Chimpanzees, upon submission of receipts, from the time of the entry of this order to the time of his or her transfer to the Sanctuary").

³² CX-08 (Haddix Declaration).

³³ *Id.*

died and was cremated during her January 5, 2022 contempt hearing.³⁴ Thus, Respondent has admitted to, and the record is clear, that Respondent submitted “false or fraudulent statements [and] provided [] false or fraudulent records to” a government agency – the Court.

Respondent contends that her “admissions to various allegations of the Show Cause do not tell the whole story and do not establish her to be unfit to hold an AWA license or prove she has failed to provide humane care for her animals.”³⁵ While I agree that Respondent’s admissions do not “prove” she “failed to provide humane care for her animals,” Respondent misconstrues the applicable Regulations and statute. Respondent’s conduct before the Court, particularly her “false or fraudulent statements” made to the Court claiming that Tonka the chimpanzee (an animal under her care) had died and was cremated, establishes that she is unfit to hold an AWA license under the Regulations, 9 C.F.R. §§ 2.11(a)(7), 2.12.

Respondent has failed to rebut Complainant’s evidence of Respondent’s conduct before the U.S. District Court and to raise any genuine issue of material fact for which a hearing would be needed. Respondent’s admitted conduct before the Court is sufficient, in and of itself, to support the Administrator’s finding that Respondent is unfit to be licensed and to justify termination of her AWA license under the Regulations, 9 C.F.R. §§ 2.11(a)(7), 2.12.³⁶ Therefore, because the facts in this case are not in dispute, a hearing is not necessary.

Based upon the foregoing, I find that the record is sufficiently developed to conclude that entry of summary judgment in Complainant’s favor is appropriate. Accordingly, the below

³⁴ CX-09 (Transcripts of Contempt Hearing) at 18:17-20:3; 25:15-26:14; 46:12-48:13; 54:4-55:22; 122:6-23.

³⁵ Respondent’s Response to MSJ at 10.

³⁶ *See also* 7 U.S.C. § 2133.

undisputed facts³⁷ are accepted and the below Order is issued.

IV. Immediate Termination of Respondent's License is Warranted

In the MSJ at 19-21, Complainant contends that the immediate termination of Respondents AWA license is warranted. I agree. As previously mentioned, the Regulations provide that "A license may be terminated at any time for any reason that a license application may be denied pursuant to § 2.11 after a hearing in accordance with the applicable rules of practice in 7 CFR part 1." 9 C.F.R. § 2.12.

As Complainant states, Complainant's MSJ at 16-17:³⁸

Through his delegated authority, the Administrator of APHIS has determined that, based on the facts above, the Respondent is unfit to be licensed, and her continued licensure would be contrary to the purposes of the AWA.

First, Respondent failed to comply with the conditions and duties related to the care of the animals in the Consent Decision, routinely ignoring the agreed upon deadlines and providing misleading and false information about the status of the animals and their enclosures. Respondent's noncompliance with the provisions relating to the care of the animals that she was entrusted to retain were so blatant that the Court concluded that she was unwilling or unable to provide the level of care agreed upon and ordered by the Court.

Second, Respondent routinely made false statements to the Court. She submitted a sworn declaration and sworn testimony with details about the death and cremation of "Tonka," who was later found to be alive and in her possession.

Finally, Respondent disobeyed a court order prohibiting the moving, transferring, or relocating of the chimpanzees in her possession by moving a chimpanzee, "Tonka," and concealing him for nearly a year. "Tonka" was only located and transferred because the counterclaim plaintiff provided evidence that he was alive and the Court issued a Temporary Restraining Order.

Also as discussed, Respondent's conduct before the Court, particularly submitting "false or fraudulent statements," is sufficient to find her unfit to hold a license and for denial of a

³⁷ See Complainant's MSJ at 7-9. With the addition of facts shown undisputed in the record.

³⁸ Citing CX-06 at 4; CX-04 at 1-2. See also Complainant's MSJ at 17-18 (citing CX-12, Declaration of Dr. Andrew Jones, explaining APHIS's determination that Respondent is unfit to hold a license based on her behavior before the Court).

license under 9 C.F.R. § 2.11(a)(7) and therefore are sufficient to terminate her license under 9 C.F.R. § 2.12.

V. Because no genuine issue of material fact exists upon which to hold a hearing, Respondent's Motion to Stay Administrative Proceedings must be denied as moot.

On January 14, 2025, Respondent filed a Motion to Stay Administrative Proceedings requesting that “this Court to stay the administrative proceedings pending resolution of the federal criminal investigation of Haddix in the United States District Court for the Eastern District of Missouri” and contending that³⁹

[t]he administrative and criminal proceedings are so interrelated that Haddix cannot defend herself in the administrative matter by selectively invoking her Fifth Amendment privilege and the overlap is such that simultaneous effective defense is simply not possible.

Specifically, Respondent argues that ⁴⁰

Given the complete overlap in the subject matter and factual allegations in the administrative and criminal matters, all allegations raised in the administrative matter will invariably touch on matters that are directly at issue in the criminal proceedings. Consequently, any statements by Haddix in the administrative proceeding will directly implicate her constitutional rights to due process and to be free from self-incrimination under the Fifth Amendment to the United States Constitution.

However, as Complainant points out in its Response to Motion to Stay at 2:⁴¹

Respondent has already admitted to all factual allegations through her Answer and her Motion to Stay. Respondent has further offered many public statements pertaining to the factual allegations in the Order to Show Cause. As such, Respondent has already waived her Fifth Amendment privilege in the current proceedings.

³⁹ Respondent's Motion to Stay at 1.

⁴⁰ *Id.* at 4.

⁴¹ Citing Answer.

Further, as I find above that no issue of material fact exists on which to hold a hearing, Respondent's Motion to Stay is moot and must be denied.

Statement of Facts

1. Respondent Tonia Haddix is an individual who resides in the State of Missouri.
2. Respondent holds AWA Class B "Dealer" License No. 43-B-3839.
3. On or about October 2, 2020, the Respondent owned seven (7) chimpanzees.
4. On or about October 2, 2020, the United States District Court for the Eastern District of Missouri issued a Consent Decree ordering the Respondent to transfer four (4) chimpanzees to a sanctuary and allowing the Respondent to retain ownership of three (3) chimpanzees.
5. On or about April 8, 2021, the United States District Court for the Eastern District of Missouri issued an Order of Civil Contempt due to the Respondent's failure to meet the terms of the Consent Decree.
6. On or about June 1, 2021, the United States District Court for the Eastern District of Missouri issued a Second Order of Civil Contempt due to the Respondent's failure to meet the terms of the Consent Decree.
7. On or about July 28, 2021, six (6) chimpanzees were transferred to a sanctuary.
8. On or about August 16, 2021, Respondent submitted a sworn declaration to the United States District Court for the Eastern District of Missouri stating that the seventh chimpanzee known as "Tonka" died on May 30, 2021 and that the chimpanzee's body had been cremated.
9. On or about January 5, 2022, the United States District Court for the Eastern District of

Missouri held a Contempt Hearing during which the Respondent provided detailed statements about the death of “Tonka” while under oath.

10. On or about June 1, 2022, after receiving evidence that “Tonka” was alive, the United States District Court for the Eastern District of Missouri issued a Temporary Restraining Order against the Respondent.
11. On or about June 2, 2022, the United States Marshals Service served the Respondent with the Temporary Restraining Order and found “Tonka” alive at the Respondent’s property.
12. On or about June 5, 2022, “Tonka” was transferred to a sanctuary.

Conclusions of Law

1. The Secretary of Agriculture has jurisdiction in this matter.
2. Respondent has failed to raise any issue of material fact upon which to hold a hearing.
3. The following Order is authorized by the AWA and warranted under the circumstances as follows:
 - a. Respondent’s conduct before the United States District Court for the Eastern District of Missouri, in *Missouri Primate Found. v. People for the Ethical Treatment of Animals*, Case No. 4:16CV02163, makes her unfit to be licensed, as her continued licensure would be contrary to the purpose of ensuring the humane care and treatment of animals.
 - b. Pursuant to 9 C.F.R. §§ 2.11(a)(7) and 2.12, the Administrator is authorized to terminate a license when a licensee is found to be unfit and continued licensure would be contrary to the purposes of the Act, as in the present case.
4. Because no hearing is needed in this case, Respondent’s Motion to Stay is moot.

Order

1. Complainant's Motion for Summary Judgment and Motion is hereby GRANTED.
2. Respondent's Motion to Stay is hereby DENIED.
3. Respondent Tonia Haddix AWA License 43-B-3839 is hereby TERMINATED and Respondent shall be disqualified from applying for an AWA license for a period of not less than two (2) years from the day this Order becomes effective.

This Order shall have the same force and effect as if entered after a full hearing. The provisions of this Order shall be final and effective thirty-five (35) days after service of this Decision and Order upon the Respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.145).

Copies of his Decision and Order shall be served by the Hearing Clerk to each of the parties with courtesy copies provided by email where provided.

Issued this 13th day of March 2025 in Washington, D.C.

Tierney Carlos

Tierney Carlos
Administrative Law Judge

Hearing Clerk
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