

UNITED STATES DEPARTMENT OF AGRICULTURE

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BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:)	AWA Docket No. 05-0015
)	
CAROLYN D. ATCHISON, an individual;)	
THOMAS W. ATCHISON, an individual;)	
ANIMAL HOUSE ZOOLOGICAL PARK,)	
a partnership or unincorporated association;)	
and ANIMAL HOUSE ZOOLOGICAL)	Consent Decision and Order
SOCIETY, INC. an Alabama corporation,)	as to Thomas W. Atchison,
)	Animal House Zoological Park, and
Respondents.)	Animal House Zoological Society, Inc.

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 respondent 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).

Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., admit the allegations in the complaint as modified and set forth herein as findings of fact and conclusions of law, waive oral hearing and further procedure, and consent and agree 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 Thomas W. Atchison is an individual whose mailing address is 5730 Highway 26, Columbiana, Alabama 35051. At all times mentioned in the complaint, said respondent was an exhibitor as that term is defined in the Act and the Regulations, and was a partner in

respondent Animal House Zoological Park, was the President, director and principal of respondent Animal House Zoological Society, Inc., and held Animal Welfare Act license No. 64-C-0115. Respondent Thomas W. Atchison vacated the premises of respondents Animal House Zoological Park and Animal House Zoological Society, Inc., in Moulton, Alabama, in June 2004.

2. Respondent Animal House Zoological Park is an Alabama general partnership whose business mailing address is Post Office Box 161 Moulton, Alabama 35650-0161, and whose partners are respondents Carolyn D. Atchison and Thomas W. Atchison.

3. Respondent Animal House Zoological Society, Inc., is an Alabama corporation whose President and agent for service of process is respondent Thomas W. Atchison, and, at all times mentioned in the complaint, was an exhibitor as that term is defined in the Act and the Regulations.

4. For at least 60 days, from October 13, 2004, through December 12, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a male tiger with (1) a necrotic, ulcerative growth approximately the size of a grapefruit, encircling his tail near the base of the tail, with a three-to-four inch major necrotic center, as well as smaller abrasions and fistulas.

5. For at least 60 days, from October 13, 2004, through December 12, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a male tiger with (1) a half-dollar size abrasion on the right side of its back, (2) a hydroma on its right elbow, (3) a grey growth on its left foreleg, and (4) a grey growth on its felt rear lateral foot.

6. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents

Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a llama with overgrown rear hooves which caused the animal's digits to deviate medially, caused the llama to walk abnormally, and caused the llama to experience discomfort.

7. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to animals, specifically, to provide vaccinations to, and deworm bears, felids, primates, and a capybara, to test primates for tuberculosis, and to test for, or establish a program to prevent *dirofilaria immitis* in foxes and wolves.

8. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 and regularly scheduled visits to the facility.

9. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate facilities, including adequate enclosures, secure perimeter fences, and facilities to allow animals to be shifted during cleaning and for other purposes.

10. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association,

Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, including an attending veterinarian, or on-site personnel capable of discerning when an animal is in need of veterinary care.

11. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate services, including the services of a veterinarian, and specifically, respondents Animal House Zoological Park, and Animal House Zoological Association, Inc., misrepresented to APHIS officials that they had an attending veterinarian, and provided APHIS inspectors with a false document, dated August 26, 2004, which respondents claimed was evidence that they had employed an attending veterinarian.

12. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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, (1) failed to retain the services of an attending or any other veterinarian to care for the animals in their custody; (2) failed to keep any medical records of the condition of the animals in their custody; (3) failed to vaccinate any animals; (4) failed to deworm any animals; (5) failed to test foxes and wolves for *dirofilaria immitis*, or to administer preventive medication to them; (6) and failed to treat animals, specifically a male tiger, for injuries.

13. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents

Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 a mechanism of direct and frequent communication to convey timely and accurate information about problems and the availability of appropriate services, including the services of a veterinarian, and specifically, respondents Animal House Zoological Park, and Animal House Zoological Association, Inc., misrepresented to APHIS officials that they had an attending veterinarian, and provided APHIS inspectors with a false document, dated August 26, 2004, which respondents Animal House Zoological Park and Animal House Zoological Association, Inc., claimed was evidence that they had employed an attending veterinarian, in willful violation of section 2.40(b)(3) of the Regulations (9 C.F.R. § 2.40(b)(3)).

14. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 and euthanasia.

15. On November 30 and December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to identify all live dogs and cats under their control or on their premises by any authorized means, and specifically failed to identify a dog and kitten housed in respondents' primate building.

16. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondents' control, or disposed of by respondents, and specifically failed to identify the

species of three animals that respondents transferred.

17. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondents' control, or disposed of by respondents, and specifically failed to record all information required for four primates that respondents sold.

18. On November 30 and December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondents' control, or disposed of by respondents, and specifically failed to record all information required for a dog and a kitten housed in respondents' primate buildings.

19. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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, and specifically exhibited a male tiger carelessly.

20. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 a binturong to the public without sufficient barrier or distance between the animal and the public to prevent the public from contacting the

animal.

21. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to meet the minimum facilities and operating standards and animal health and husbandry standards for nonhuman primates (9 C.F.R. §§ 3.75-3.85), as follows:

a. October 13-14, 2004. Respondents 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 torn, damaged edges of the outdoor pen housing three lemurs

b. October 13-14, 2004. Respondents failed to light indoor housing facilities so as to permit routine inspection and cleaning, and specifically, there was no lighting illuminating the right side of the baboon enclosure, which precluded the inspectors from seeing the animals contained therein.

c. October 13-14, 2004. Respondents failed to enclose outdoor housing facilities for lemurs and a howler monkey by a six-foot high fence, or approved equivalent.

d. October 13-14, 2004. Respondents failed to construct an adequate barrier between their fixed public exhibit for lemurs (left side) and the public that restricts physical contact between the animals and the public.

e. October 13-14, 2004. Respondents failed to construct any barrier between their fixed public exhibit for lemurs (right side) and the public that restricts physical contact between the animals and the public.

f. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents

failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and specifically, respondents proffered a written document to APHIS inspectors that respondents represented was respondents' "plan" that had been reviewed and approved by respondents' attending veterinarian, but said document was vague and incomplete and had in fact been neither reviewed nor approved by a veterinarian.

g. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature, and specifically, there was no evidence of any program to address the needs of a singly-housed lemur.

h. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature, and specifically, there was no evidence of any program to address the needs of a singly-housed howler monkey.

i. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature,

and specifically, there was no evidence of any program to address the needs of a singly-housed male vervet.

j. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical activities, and specifically, there was no evidence of any program to address the needs of lemurs.

k. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical activities, and specifically, there was no evidence of any program to address the needs of a male vervet.

l. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical activities, and specifically, there was no evidence of any program to address the needs of two baboons.

m. October 13-14, 2004. Respondents failed to remove excreta from inside primary enclosures daily, and specifically, failed to remove accumulated excreta from inside

enclosure housing two brown lemurs.

n. October 13-14, 2004. Respondents failed to have enough employees to carry out the required husbandry practices and care, and specifically, there were insufficient employees to clean animal areas adequately.

22. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to meet the minimum facilities and operating standards and animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals, as follows:

a. October 13-14, 2004; November 30; December 1, 2004. Respondents 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 wooden den box in the enclosure housing a liger and a tiger.

b. October 13-14, 2004; November 30; December 1, 2004. Respondents 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 wooden den box in the enclosure housing two wolves.

c. October 13-14, 2004. Respondents 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 resting platform in the enclosure housing the large tiger.

d. October 13-14, 2004. Respondents 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 wooden den box in the enclosure (near the bears) housing leopards.

e. October 13-14, 2004. Respondents 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 wooden resting area in the enclosure housing two Persian leopards.

f. October 13-14, 2004. Respondents 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 enclosure housing spotted leopards, which had protruding wire with sharp points.

g. November 30-December 1, 2004. Respondents 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 den box in an enclosure housing a tiger named Rambo, which had protruding wire with sharp points.

h. November 30-December 1, 2004. Respondents 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 den box in an enclosure housing a fox.

i. November 30-December 1, 2004. Respondents failed to provide for the removal and disposal of animal and food wastes from the enclosure housing a tiger (Rambo), which contained old bones and accumulated feces.

j. October 13-14, 2004. Respondents failed to provide a suitable method to

rapidly eliminate excess water, and specifically, failed to eliminate standing water in the tiger enclosure.

k. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' white tiger enclosure so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it.

l. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing three tigers so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

m. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing one sloth bear so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it.

n. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing one Asian bear so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

o. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two lions so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

p. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two wolves so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

q. November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing six wolves so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

r. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing leopards so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

s. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two black bears so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

t. November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing one cougar so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it.

u. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing dingos so

that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

v. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing racoons so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

w. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing bobcats so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it.

x. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing a hyena so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it.

y. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing a fox so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it.

z. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to provide wholesome, palatable and uncontaminated food of sufficient quantity and nutritive value to maintain all animals in good repair, and specifically, respondents failed to feed large felids and small canids a balanced diet, and instead fed these animals a diet comprised

mainly of chicken without any supplemental vitamins or minerals.

aa. November 30-December 1, 2004. Respondents failed to remove excreta from the primary enclosure of a tiger (Rambo) as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors.

Conclusions of Law

1. For at least 60 days, from October 13, 2004, through December 12, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a male tiger with (1) a necrotic, ulcerative growth approximately the size of a grapefruit, encircling his tail near the base of the tail, with a three-to-four inch major necrotic center, as well as smaller abrasions and fistulas, in willful violation of section 2.40(a) of the Regulations (9 C.F.R. § 2.40(a)).

2. For at least 60 days, from October 13, 2004, through December 12, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a male tiger with (1) a half-dollar size abrasion on the right side of its back, (2) a hydroma on its right elbow, (3) a grey growth on its left foreleg, and (4) a grey growth on its felt rear lateral foot, in willful violation of section 2.40(a) of the Regulations (9 C.F.R. § 2.40(a)).

3. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to a llama with overgrown rear hooves which caused the animal's digits to deviate medially, caused the llama to walk abnormally, and caused the llama to experience discomfort, in willful violation of section

2.40(a) of the Regulations (9 C.F.R. § 2.40(a)).

4. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., continuously failed to have a veterinarian provide adequate veterinary care to animals, specifically, to provide vaccinations to, and deworm bears, felids, primates, and a capybara, to test primates for tuberculosis, and to test for, or establish a program to prevent *dirofilaria immitis* in foxes and wolves, in willful violation of section 2.40(a) of the Regulations (9 C.F.R. § 2.40(a)).

5. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 and regularly scheduled visits to the facility, in willful violation of section 2.40(a)(1) of the Regulations (9 C.F.R. § 2.40(a)(1)).

6. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate facilities, including adequate enclosures, secure perimeter fences, and facilities to allow animals to be shifted during cleaning and for other purposes, in willful violation of section 2.40(b)(1) of the Regulations. 9 C.F.R. § 2.40(b)(1).

7. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate personnel, including an attending veterinarian, or on-site personnel

capable of discerning when an animal is in need of veterinary care, in willful violation of section 2.40(b)(1) of the Regulations (9 C.F.R. § 2.40(b)(1)).

8. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Animal House Zoological Park and Animal House Zoological Association, Inc., failed to establish and maintain a program of adequate veterinary care that included the availability of appropriate services, including the services of a veterinarian, and specifically, respondents misrepresented to APHIS officials that they had an attending veterinarian, and provided APHIS inspectors with a false document, dated August 26, 2004, which respondents claimed was evidence that they had employed an attending veterinarian, in willful violation of section 2.40(b)(1) of the Regulations (9 C.F.R. § 2.40(b)(1)).

9. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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, (1) failed to retain the services of an attending or any other veterinarian to care for the animals in their custody; (2) failed to keep any medical records of the condition of the animals in their custody; (3) failed to vaccinate any animals; (4) failed to deworm any animals; (5) failed to test foxes and wolves for *dirofilaria immitis*, or to administer preventive medication to them; (6) and failed to treat animals, specifically a male tiger, for injuries, in willful violation of section 2.40(b)(2) of the Regulations (9 C.F.R. § 2.40(b)(2)).

10. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Animal House Zoological Park and Animal House Zoological Association, Inc., 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 a mechanism of direct and frequent communication to convey timely and accurate information about problems and the availability of appropriate services, including the services of a veterinarian, and specifically, respondents misrepresented to APHIS officials that they had an attending veterinarian, and provided APHIS inspectors with a false document, dated August 26, 2004, which respondents claimed was evidence that they had employed an attending veterinarian, in willful violation of section 2.40(b)(3) of the Regulations (9 C.F.R. § 2.40(b)(3)).

11. For at least 96 days, from August 27, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 and euthanasia, in willful violation of section 2.40(b)(4) of the Regulations (9 C.F.R. § 2.40(b)(4)).

12. On November 30 and December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to identify all live dogs and cats under their control or on their premises by any authorized means, and specifically failed to identify a dog and kitten housed in respondents' primate building, in willful violation of section 2.50(c) of the Regulations (9 C.F.R. § 2.50(c)).

13. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondents' control, or disposed of by respondents, and specifically failed to identify the

species of three animals that respondents transferred, in willful violation of section 2.75(b)(1)(vi) of the Regulations, 9 C.F.R. § 2.75(b)(1)(vi).

14. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondent's possession or under respondents' control, or disposed of by respondents, and specifically failed to record all information required for four primates that respondents sold, in willful violation of section 2.75(b)(1) of the Regulations, 9 C.F.R. § 2.75(b)(1).

15. On November 30 and December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., failed to make, keep, and maintain records that fully and correctly disclose information concerning animals in respondents' possession or under respondents' control, or disposed of by respondents, and specifically failed to record all information required for a dog and a kitten housed in respondents' primate buildings, in willful violation of section 2.75(a)(1) of the Regulations, 9 C.F.R. § 2.75(a)(1).

16. For at least 49 days, from October 13, 2004, through December 1, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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, and specifically exhibited a male tiger carelessly, in willful violation of the handling regulations. 9 C.F.R. § 2.131(b)(1).

17. On October 13-14, 2004, respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 a binturong to the public without sufficient barrier or distance between the animal and the public to prevent the public from contacting the animal. 9 C.F.R. § 2.131(c)(1).

18. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards and animal health and husbandry standards for nonhuman primates (9 C.F.R. §§ 3.75-3.85), as follows:

a. October 13-14, 2004. Respondents 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 torn, damaged edges of the outdoor pen housing three lemurs. 9 C.F.R. § 3.75(a).

b. October 13-14, 2004. Respondents failed to light indoor housing facilities so as to permit routine inspection and cleaning, and specifically, there was no lighting illuminating the right side of the baboon enclosure, which precluded the inspectors from seeing the animals contained therein. 9 C.F.R. § 3.76(c).

c. October 13-14, 2004. Respondents failed to enclose outdoor housing facilities for lemurs and a howler monkey by a six-foot high fence, or approved equivalent. 9 C.F.R. § 3.78(d).

d. October 13-14, 2004. Respondents failed to construct an adequate barrier between their fixed public exhibit for lemurs (left side) and the public that restricts physical contact between the animals and the public. 9 C.F.R. § 3.78(e).

e. October 13-14, 2004. Respondents failed to construct any barrier between their fixed public exhibit for lemurs (right side) and the public that restricts physical contact between the animals and the public. 9 C.F.R. § 3.78(e).

f. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and specifically, respondents proffered a written document to APHIS inspectors that respondents represented was respondents' "plan" that had been reviewed and approved by respondents' attending veterinarian, but said document was vague and incomplete and had in fact been neither reviewed nor approved by a veterinarian. 9 C.F.R. § 3.81.

g. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature, and specifically, there was no evidence of any program to address the needs of a singly-housed lemur. 9 C.F.R. § 3.81(a).

h. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature, and specifically, there was no evidence of any program to address the needs of a singly-housed howler monkey. 9 C.F.R. § 3.81(a).

i. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and that addresses the social needs of nonhuman primates of species known to exist in social groups in nature, and specifically, there was no evidence of any program to address the needs of a singly-housed male vervet. 9 C.F.R. § 3.81(a).

j. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical activities, and specifically, there was no evidence of any program to address the needs of lemurs. 9 C.F.R. § 3.81(b).

k. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical activities, and specifically, there was no evidence of any program to address the needs of a male vervet. 9 C.F.R. § 3.81(b).

l. October 13-14, 2004; November 30, 2004; December 1, 2004. Respondents failed to develop, document, and follow an appropriate plan for environmental enhancement adequate to promote the psychological well-being of nonhuman primates, and to enrich the animals' physical environment with means of expressing noninjurious species-typical

activities, and specifically, there was no evidence of any program to address the needs of two baboons. 9 C.F.R. § 3.81(b).

m. October 13-14, 2004. Respondents failed to remove excreta from inside primary enclosures daily, and specifically, failed to remove accumulated excreta from inside enclosure housing two brown lemurs. 9 C.F.R. § 3.84(a).

n. October 13-14, 2004. Respondents failed to have enough employees to carry out the required husbandry practices and care, and specifically, there were insufficient employees to clean animal areas adequately. 9 C.F.R. § 3.85.

19. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., willfully violated section 2.100(a) of the Regulations by failing to meet the minimum facilities and operating standards and animal health and husbandry standards for animals other than dogs, cats, rabbits, hamsters, guinea pigs, nonhuman primates and marine mammals (9 C.F.R. §§ 3.125-3.133), as follows:

a. October 13-14, 2004; November 30; December 1, 2004. Respondents 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 wooden den box in the enclosure housing a liger and a tiger. 9 C.F.R. § 3.125(a).

b. October 13-14, 2004; November 30; December 1, 2004. Respondents 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 wooden den box in the enclosure housing two wolves. 9 C.F.R. § 3.125(a).

c. October 13-14, 2004. Respondents 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 resting platform in the enclosure housing the large tiger. 9 C.F.R. § 3.125(a).

d. October 13-14, 2004. Respondents 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 wooden den box in the enclosure (near the bears) housing leopards. 9 C.F.R. § 3.125(a).

e. October 13-14, 2004. Respondents 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 wooden resting area in the enclosure housing two Persian leopards. 9 C.F.R. § 3.125(a).

f. October 13-14, 2004. Respondents 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 enclosure housing spotted leopards, which had protruding wire with sharp points. 9 C.F.R. § 3.125(a).

g. November 30-December 1, 2004. Respondents 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 den box in an enclosure housing a tiger named Rambo, which had protruding wire with sharp points. 9 C.F.R. § 3.125(a).

h. November 30-December 1, 2004. Respondents 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 den box in an enclosure housing a fox. 9 C.F.R. § 3.125(a).

i. November 30-December 1, 2004. Respondents failed to provide for the removal and disposal of animal and food wastes from the enclosure housing a tiger (Rambo), which contained old bones and accumulated feces. 9 C.F.R. § 3.125(d).

j. October 13-14, 2004. Respondents failed to provide a suitable method to rapidly eliminate excess water, and specifically, failed to eliminate standing water in the tiger enclosure. 9 C.F.R. § 3.127(c).

k. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' white tiger enclosure so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

l. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing three tigers so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

m. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing one sloth bear so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

n. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure

housing one Asian bear so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

o. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two lions so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

p. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two wolves so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

q. November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing six wolves so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

r. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing leopards so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

s. October 13-14, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing two black bears so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

t. November 30-December 1, 2004. Respondents failed to construct an adequate (8 foot high) perimeter fence around the respondents' enclosure housing one cougar so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

u. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing dingos so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

v. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing racoons so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

w. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing bobcats so that it protects the animals in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

x. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing a hyena so that it protects the animal in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

y. November 30-December 1, 2004. Respondents failed to construct an adequate (6 foot high) perimeter fence around the respondents' enclosure housing a fox so

that it protects the animal in the facility by restricting animals and unauthorized persons from going through it. 9 C.F.R. § 3.127(d).

z. October 13-14, 2004; November 30-December 1, 2004. Respondents failed to provide wholesome, palatable and uncontaminated food of sufficient quantity and nutritive value to maintain all animals in good repair, and specifically, respondents failed to feed large felids and small canids a balanced diet, and instead fed these animals a diet comprised mainly of chicken without any supplemental vitamins or minerals. 9 C.F.R. § 3.129(a).

aa. November 30-December 1, 2004. Respondents failed to remove excreta from the primary enclosure of a tiger (Rambo) as often as necessary to prevent contamination of the animals contained therein and to minimize disease hazards and reduce odors. 9 C.F.R. § 3.131(a).

20. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., have admitted the above facts, the parties have agreed to the entry of this decision, and therefore such decision will be entered.

Order

1. Respondents Thomas W. Atchison, Animal House Zoological Park, and Animal House Zoological Association, Inc., 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 64-C-0115 is hereby revoked.

3. Respondent Thomas W. Atchison agrees to appear and testify at the oral hearing of this matter, as to, *inter alia*, (1) the admissions made herein, (2) the participation of respondent

Carolyn D. Atchison in the activities that are the subject of the complaint in this matter, and (3) the validity of certain documents, including license renewal forms and written programs of veterinary care, provided to the complainant by respondent Carolyn D. Atchison.

This order shall become effective on September 1, 2005. Copies of this decision shall be served upon the parties.


Thomas W. Atchison *5 Aug 05*
Respondent

ANIMAL HOUSE ZOOLOGICAL PARK,
a partnership or unincorporated association
Respondent


Thomas W. Atchison *5 Aug 05*
Partner

ANIMAL HOUSE ZOOLOGICAL
SOCIETY, INC., an Alabama corporation
Respondent

By 
Thomas W. Atchison *5 Aug 05*
Its President


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 16th day of August, 2005


Administrative Law Judge
PETER M. DAVENPORT