

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

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AWA Docket No. 08-0031

In re:)	
)	
BRECK F. WAKEFIELD and DEREK J.)	
WERNER, individuals doing business as)	
BRANSON WEST REPTILE GARDENS and)	
PREDATOR WORLD ZOO & AQUARIUM;)	
GUANTLET AMUSEMENT & HOLDINGS,)	
INC., a Missouri corporation; and BRANSON)	
WEST ENTERTAINMENT, INC., a Missouri)	
corporation,)	
)	CONSENT DECISION
Respondents.)	AND ORDER

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, and amended, alleging that the respondents willfully violated the regulations and standards issued pursuant to the Act (9 C.F.R. § 1.1 et seq.). This decision is entered pursuant to the consent decision provisions of the Rules of Practice applicable to this proceeding (7 C.F.R. § 1.138).

Respondents admit the jurisdictional allegations in the complaint and specifically admit that the Secretary has jurisdiction in this matter, neither admit nor deny the remaining allegations, waive oral hearing and further procedure, and consent and agree, for the purpose of settling this proceeding, to the entry of this decision. The complainant agrees to the entry of this decision.

Respondents further agree to the filing of the second amended complaint which was the subject of, and attached to, "Complainant's Motion for Leave to File Second Amended Complaint," filed on January 29, 2010, in the instant proceeding.

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Findings of Fact

1. Respondent Breck F. Wakefield (“Wakefield”) is an individual whose mailing address is 18400 State Highway 13, Branson, Missouri 65737. Respondent Wakefield does business as Branson West Reptile Gardens, a joint venture or general partnership, and “Predator World Zoo & Aquarium,” and holds Animal Welfare Act license number 43-C-0198, issued under the name “DEREK WERNER & BRECK WAKEFIELD D.B.A: BRANSON WEST REPTILE GARDENS.” Said respondent is or was an officer and director of respondent Guantlet Amusement & Holdings, Inc.,

2. Respondent Derek J. Werner (“Werner”) is an individual whose mailing address is 18400 State Highway 13, Branson, Missouri 65737. Respondent Werner does business as Branson West Reptile Gardens, a joint venture or general partnership, and “Predator World Zoo & Aquarium,” and holds Animal Welfare Act license number 43-C-0198, issued under the name “DEREK WERNER & BRECK WAKEFIELD D.B.A: BRANSON WEST REPTILE GARDENS.” Said respondent is or was an officer and director of respondent Guantlet Amusement & Holdings, Inc.

3. Respondent Guantlet Amusement & Holdings, Inc. (“Guantlet”), is a Missouri corporation whose address is 18400 State Highway 13, Branson, Missouri 65737, and whose agent for service of process is respondent Wakefield. At all times mentioned herein, respondent Guantlet operated as a dealer and an exhibitor as those terms are defined in the Act. On December 5, 2005, the Missouri Secretary of State administratively dissolved Guantlet. To date, that dissolution has not been rescinded.

4. Respondent Branson West Entertainment, Inc. (“Branson West”), is a Missouri

corporation whose address is 236 Predator Lane, Branson West, Missouri 65737, and whose agent for service of process is Mike Tobar (or Tovar), at the same address. At all times mentioned herein, respondent Branson West operated as a dealer and an exhibitor as those terms are defined in the Act. On July 25, 2007, the Missouri Secretary of State administratively dissolved Branson West. To date, that dissolution has not been rescinded.

Conclusion

The respondents having admitted the jurisdictional facts and the parties having agreed to the entry of this decision, such decision will be entered.

Order

1. Respondents, their agents and employees, successors and assigns, directly or through any corporate or other device, shall cease and desist from violating the Act and the regulations and standards issued thereunder.
2. Animal Welfare Act license number 43-C-0198 is hereby revoked.
3. For the purposes of this consent decision and order, the 2-year period of time between April 1, 2010, and March 31, 2012, shall be referred to as the "probation period." Respondents agree that during the probation period, they will not engage in any activity for which an AWA license is required. Respondents further agree that if during the probation period APHIS notifies them that it has documented a failure to comply with section 2.1 of the Regulations (9 C.F.R. § 2.1), upon receipt of such notice and supporting documentation, respondents shall jointly and severally be assessed a civil penalty of \$10,000, without further procedure, due and payable without 60 days of receipt of such notice. Respondents further agree to a prospective waiver of their right to notice and opportunity for an oral hearing pursuant to section 19 of the Act (7 U.S.C. § 2149) as to any such

failure to comply with said Regulation described in this paragraph, and the parties agree that respondents may seek further may seek further review or injunctive, declaratory or other appropriate relief in the district court in the district where respondents reside or have their principal place of business, pursuant to section 2146(c) of the Act (7 U.S.C. § 2146(c)), within 60 days of receipt of such notice.

The provisions of this order shall become effective on March 31, 2010. Copies of this decision shall be served upon the parties.


Breck F. Wakefield,
Respondent


Derek J. Werner
Respondent

GUANTLET AMUSEMENT
& HOLDINGS, INC.
Respondent

BRANSON WEST ENTERTAINMENT, INC.
Respondent

By 
Its CPCL

By 
Its ackg dnt


Colleen A. Carroll
Attorney for Complainant

Done at Washington, D.C.
this 16 day of February, 2010


Jill S. Clifton
Administrative Law Judge