



Animal Welfare Institute

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December 16, 2021

Kevin Shea, Administrator
Animal and Plant Health Inspection Service
U.S. Department of Agriculture
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RE: Profound Concerns Regarding Daniel J. Moulton/Moulton Chinchilla Ranch

Dear Mr. Shea:

We are profoundly disturbed by recent developments in the Moulton Chinchilla case.

On October 26 – less than three weeks after Judge Clifton revoked his license while eviscerating his contemptible record and attitude – Daniel Moulton requested an extension of time to file an appeal, citing health issues. (As the USDA knows, an appeal can take years, particularly for a fabulist like Mr. Moulton, an attorney whose law license has been repeatedly suspended.) Just eight days later, on November 3, the USDA documented appalling yet completely predictable chinchilla suffering, finding three more direct citations (adding to his already-historic total). These included failures to provide adequate veterinary care and staffing that the department has repeatedly documented since at least 2014.

It would be incomprehensible if the USDA did not then immediately determine, as mandated by Section 2159 of the Animal Welfare Act, that Mr. Moulton was placing the chinchillas' health "in serious danger" in violation of the Act, and refer to the Department of Justice for injunctive relief. For years, the USDA failed to comply with this AWA mandate, or even confiscate a single chinchilla, despite Mr. Moulton having, since 2014, the most direct citations of any of the over 10,000 licensees and registrants regulated under the AWA.

And, to make matters worse, on December 7 – one day before the December 8 filing deadline from his first appeal extension – Mr. Moulton (or, more accurately, his secretary) filed a request for yet another extension, again citing health reasons. Without giving the USDA attorneys an opportunity to respond, the next day the Judicial Officer granted him another extension – this time for three months. Incredibly, the new deadline is March 8, 2022.

What makes this situation so infuriating is that it was utterly predictable. For years, Mr. Moulton demonstrated his intent to violate the AWA with impunity, and the USDA has repeatedly failed to act. His intent, and lack of good faith, were in stark relief during the 18-day hearing. Judge Clifton's exasperated, at times outraged, responses to Mr. Moulton's record and attitude spoke

volumes. She found that the gravity of his 213 “willful” violations was great, and that he was unfit to hold a license. She called his 213 violations “absolutely astounding,” found his attitude about inspections “particularly shock[ing],” and said “As I’ve already indicated, I think there’s something wrong with your perceptions and your judgment. I think you had a propensity that was wrong-headed even before your strokes, but I don’t think your strokes and your hea[r]t attack and your diabetes have made your situation better.”

Indeed, Mr. Moulton has repeatedly used health issue claims to delay this case, and consequently his accountability for violating the Act. All told, these health claims – cited in three separate extension requests – have, so far, delayed this case for nine months. His lack of good faith has also been evident in these extension requests ⁱ. Mr. Moulton has repeatedly attacked the department, the media, and animal protection organizations in a failed attempt to blame everyone but himself for his “willful” and “grav[e]” violations of the AWA. His health status simply cannot excuse his longstanding violations of the AWA, or – most importantly – the continued suffering of the almost 700 chinchillas currently housed there. In fact, Mr. Moulton has attempted to use his health as an excuse for his violations of the AWA and failure to provide minimal care to chinchillas ⁱⁱ.

AWI roundly criticized the USDA for its incomprehensible delay in making the Section 2159 “serious danger” determination and DOJ referral regarding Iowa dog breeder Daniel Gingerich, as well as the department’s failure to confiscate a single animal ⁱⁱⁱ. We are particularly disturbed given that the USDA is quite familiar with such a Section 2159 action given the very recent situation – and attendant publicity – regarding Daniel Gingerich. Consequently, we have profound concerns about the department’s actions – or inactions – regarding the high-profile case of Mr. Moulton, especially in light of your public statement that “enforcement delayed is enforcement denied.”

We therefore request that the USDA provide us a letter, no later than December 23, 2021, documenting the date of the department’s 2159 “serious danger” determination and DOJ referral regarding Mr. Moulton. If the USDA has not already done this, we strongly advise immediate action.

Thank you for your consideration.

Sincerely,



Cathy Liss
President

cc:

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ⁱ The USDA filed its complaint on November 20, 2018. Mr. Moulton's response was due within 20 days of service. USDA waited over three months (February 27, 2019) to obtain an order to show cause as to why a default decision should not be issued, as Mr. Moulton had failed to file an answer. Only after this did Mr. Moulton claim he had a stroke and ask for an extension (March 11, 2019), which was granted. This ended up delaying his answer to the complaint (filed April 19, 2019) by five months. With the four extra months to file an appeal, Mr. Moulton has delayed this case for nine months – so far.

ⁱⁱ Excerpt from USDA hearing, July 29, 2021:

Q [Mr. Moulton] Okay. And if I was extremely ill and unable to provide treatment on those days of April 4 and April 5, do you consider that a violation of the AWA by myself?

A [Inspector Scott Welch, DVM] Yes.

Q Why?

A A facility, when they get a license, agrees that there are Animal Welfare Act regulations and standards that they will follow, they agree that they will follow them, and they weren't followed.

JUDGE CLIFTON: -- Mr. Moulton, I don't know what evidence you're going to have about your physical incapacity on the days that the medications [for chinchillas] were missed, and I don't know what your testimony is going to be about the support staff that you hire, and I don't know what your testimony is going to be about backup people who fill in for you when you're in court or medical appointments or whatever. I don't know what your testimony is going to be. I think this witness did very, very well by pointing you to the section by which you agreed to abide by these regulations and standards.

ⁱⁱⁱ See, e.g., Rachel Fobar, *USDA accused of ignoring animal welfare in favor of business interests*, National Geographic, Oct. 13, 2021, available at <https://www.nationalgeographic.com/animals/article/usda-accused-of-ignoring-animal-welfare-for-business-interests>; Animal Welfare Institute, *Daniel Moulton, Dealer of Chinchillas for Research, Has License Revoked*, AWI Quarterly, Winter 2021 (in press), Volume 70, Number 4, pp.11-13