

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:

ELENA MIKIRTICHEVA,
an individual, and

ANDREY MIKIRTICHEV,
an individual,

Respondents.

AWA Docket No. 23-J-0089
23-J-0090

COMPLAINT

REC'D- USDA/OALJ/HCO
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There is reason to believe that the respondents named herein have violated the regulations (9 C.F.R. §§ 1.1-2.153) (“Regulations”) and the standards (9 C.F.R. §§ 3.1-3.168) (“Standards”) promulgated under the Animal Welfare Act, as amended (7 U.S.C. §§ 2131-2159) (“Act” or “AWA”). Therefore, the Administrator of the Animal and Plant Health Inspection Service (“APHIS”) (“Complainant”) issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Respondent Elena Mikirticheva is an individual whose address is in the Commonwealth of Virginia. Respondent Elena Mikirticheva’s address will not be provided in this complaint, to protect her personal privacy, but will be provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of this complaint and future documents in this proceeding.

2. Respondent Andrey Mikirtichev is an individual whose address is in the Commonwealth of Virginia. Respondent Andrey Mikirtichev’s address will not be provided in this complaint, to protect his personal privacy, but will be provided to the Hearing Clerk, United States Department of Agriculture, for the purpose of service of this complaint and future documents in this proceeding.

3. At all times material herein, Respondent Elena Mikirticheva was a “dealer,” as that term is defined in the Act and the Regulations and held AWA Class B “Dealer” License No. 52-B-0175.

4. At all times material herein, Respondent Andrey Mikirtichev was a “dealer,” as that term is defined in the Act and the Regulations and held AWA Class B “Dealer” License No. 52-B-0175.

ALLEGED VIOLATIONS

5. On or about June 14, 2021, Respondents violated the Regulations (9 C.F.R. § 2.126) by failing to provide APHIS officials access to their place of business and to their records during business hours and failing to make a responsible adult available to accompany APHIS officials during the inspection process.

6. On or about July 8, 2021, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to assure that the attending veterinarian has appropriate authority to provide adequate veterinary care and/or (ii) failing to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, as follows –

- a. securing unauthorized medications for animals from an unknown source, with descriptions in a language that the attending veterinarian does not understand (9 C.F.R. § 2.40(a)(2));
- b. limiting the attending veterinarian to administering and/or overseeing only a rabies vaccination for the cats despite the program of veterinary care specifying a range of recommended vaccinations for both the dogs and cats at the facility (9 C.F.R. § 2.40(a)(2));

- c. maintaining vaccination records for vaccines administered to the cats on site by use of stickers from the vaccine vial which are in a language that the attending veterinarian does not understand (9 C.F.R. § 2.40(a)(2)); and
- d. a cat (microchip #900215000814886) had an eye issue (9 C.F.R. § 2.40(b)(2)), a medical condition for which Respondents did not provide follow-up care as directed by the attending veterinarian (9 C.F.R. § 2.40(a)(2)).

7. On or about January 27, 2022, Respondents violated the Regulations (9 C.F.R. § 2.126) by failing to provide APHIS officials access to their place of business and to their records during business hours and failing to make a responsible adult available to accompany APHIS officials during the inspection process.

8. On or about April 8, 2022, Respondents violated the Regulations (9 C.F.R. § 2.75(a)(1)) by failing to make, keep, and/or maintain records or forms that fully and correctly disclose prescribed information concerning animals.

9. On or about April 8, 2022, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows:

- a. surfaces of housing facilities for cats, to include walls and air conditioning units, had an accumulation of hair, and the ground of dog runs had an accumulation of chair stuffing material and debris (9 C.F.R. § 3.1(c)(3));
- b. primary enclosures had sharp points and/or edges (9 C.F.R. § 3.6(a)(2)(i));
- c. surfaces of primary enclosures, to include windowsills and/or molding, were scratched, chewed, and/or damaged (9 C.F.R. § 3.6(a)(2)(ix)); and
- d. the premises, to include an area adjacent to primary enclosures, had accumulated trash, junk, and/or discarded matter or hazardous materials (9 C.F.R. § 3.11(c)).

10. On or about July 20, 2022, Respondents violated the Regulations (9 C.F.R. § 2.126) by failing to provide APHIS officials access to their place of business and to their records during business hours and failing to make a responsible adult available to accompany APHIS officials during the inspection process.

11. On or about August 16, 2022, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows: hard surfaces with which cats come in contact (i.e., cat door flaps and the surrounding frame) had accumulated brown debris (9 C.F.R. § 3.1(c)(3)).

12. On or about December 8, 2022, Respondents violated the Regulations (9 C.F.R. § 2.126) by failing to provide APHIS officials access to their place of business and to their records during business hours and failing to make a responsible adult available to accompany APHIS officials during the inspection process.

13. On or about March 16, 2023, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to assure that the attending veterinarian has appropriate authority to provide adequate veterinary care; (ii) failing to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries; and/or (iii) failing to establish and maintain a program of adequate veterinary care that includes daily observation of all animals to assess their health and well-being or a mechanism of direct and frequent communication of information on problems of animal health, behavior, and well-being to the attending veterinarian, as follows –

- a. securing unauthorized medications for animals from an unknown source, with descriptions in a language that the attending veterinarian does not understand (9 C.F.R. § 2.40(a)(2));

- b. seeking medical care for the animals from an unknown source, and not providing records from such care to the attending veterinarian, to ensure the attending veterinarian's treatment plans are being followed (9 C.F.R. § 2.40(a)(2));
 - c. a cat (without individual identification at the time of inspection) had an abdominal mass or hernia, lameness, dehydration, and was thin and unkempt in appearance, a medical condition that was not communicated to the attending veterinarian and for which Respondents' stated intent was to seek unauthorized medical treatment from an unknown source, outside of the United States, approximately six weeks from this date of inspection (9 C.F.R. § 2.40(b)(2)); and
 - d. a dog had a wound on its neck, a medical condition identified and being treated by Respondents several weeks prior to inspection, but not communicated to the attending veterinarian or covered under the program of veterinary care (9 C.F.R. § 2.40(b)(3)).
14. On or about March 16, 2023, Respondents violated the Regulations (9 C.F.R. § 2.50(b)(1)) by failing to identify a cat on the premises.
15. On or about March 16, 2023, Respondents violated the Regulations (9 C.F.R. § 2.126(a)(2)) by failing to provide APHIS officials access to their records during business hours and/or inspection.
16. On or about March 16, 2023, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows:
- a. a bag of dry food was left open/exposed, additional bags of food were being stored directly on the floor and/or against walls of the facility, and a mop bucket

of dirty bleach water that is toxic to animals was observed directly on the floor of a primary enclosure, within easy access (9 C.F.R. § 3.1(e));

- b. outdoor housing facilities lacked adequate shelter structures (9 C.F.R. § 3.4(b));
- c. same primary enclosure housed cats that were incompatible, to include the cat (without individual identification at the time of inspection) that had an abdominal mass or hernia, lameness, dehydration, and appeared thin and unkempt, which prevented this cat from access to water (9 C.F.R. § 3.6(b)(2));
- d. a primary enclosure had an excessive accumulation of feces (9 C.F.R. § 3.11(a)); and
- e. the premises, to include the main yard and outdoor housing facilities, had accumulated trash, junk, and/or discarded matter or hazardous materials (9 C.F.R. § 3.11(c)).

17. On or about March 20, 2023, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to assure that the attending veterinarian has appropriate authority to provide adequate veterinary care and/or (ii) failing to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries, as follows –

- a. a dog (microchip #900113000387375) had multiple fractured teeth, inflamed gums, and black and yellow debris covering an exposed surface in its mouth (9 C.F.R. § 2.40(b)(2)), a medical condition for which Respondents did not provide follow-up care as directed by the attending veterinarian (9 C.F.R. § 2.40(a)(2)).

18. On or about April 3, 2023, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to follow the program of veterinary care; (ii) failing to assure that the

attending veterinarian has appropriate authority to provide adequate veterinary care; and/or (iii) failing to establish and maintain a program of adequate veterinary care that includes daily observation of all animals to assess their health and well-being or a mechanism of direct and frequent communication of information on problems of animal health, behavior, and well-being to the attending veterinarian, as follows –

- a. not completing regularly scheduled visits by the attending veterinarian as prescribed in the program of veterinary care (9 C.F.R. § 2.40(a)(1));
- b. not providing follow-up care as directed by the attending veterinarian for a dog (microchip #992001000364968) that was previously diagnosed heartworm positive (9 C.F.R. § 2.40(a)(2));
- c. a cat (microchip #900215000825306) had severely reddened and swollen gums, and several teeth missing, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3));
- d. a cat (microchip #900215001896851) had moderately reddened and swollen gums, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3));
- e. a cat (microchip #900215000885627) had moderately reddened and swollen gums, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3)); and
- f. a cat (microchip #900215000825313) had missing fur and superficial scratch wounds at the back of its neck, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3)).

19. On or about April 3, 2023, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows:
- a. housing facilities had painted wooden trim with large areas of flaking paint, and windowsills that were scratched and/or chewed exposing raw, unsealed wood; additionally, outdoor housing facilities had walls made of several different materials including plastic lattice, unsealed wood, and wire, the latter of which had multiple sharp points caused by broken or bent wire (9 C.F.R. § 3.1(c)(1));
 - b. a bag of dry food was being stored directly on the floor, and additional bags of food were being stored on a bed in the same area housing an animal (9 C.F.R. § 3.1(e));
 - c. the floors, walls, and perches of the outdoor portion of sheltered housing facilities were constructed of permeable, unstained, and unsealed wood (9 C.F.R. § 3.3(e)(1));
 - d. several French Bulldogs (i.e., a short-nosed and short-haired breed) were being kept in outdoor housing facilities without specific approval by the attending veterinarian (9 C.F.R. § 3.4(a)(1)(ii));
 - e. primary enclosures did not contain animals securely, specifically, it was discovered that two dogs (microchip #643094800023001 and #900215000815035) escaped from their enclosures on or about November 15, 2022 and July 13, 2022, respectively, and neither were recovered; additionally, a male dog (microchip #900215000885840) was observed out of its enclosure during inspection and in an adjacent enclosure with an intact female dog (microchip #900113000387375) (9 C.F.R. § 3.6(a)(2)(iii));

- f. cats, including groupings of one adult cat and kittens, were housed in primary enclosures that did not meet minimum vertical space requirements (9 C.F.R. § 3.6(b)(1)(i));
- g. same primary enclosure housed cats that were incompatible, specifically, one male cat (microchip #900215000825313), observed with missing fur and superficial scratch wounds at the back of its neck, was believed to have been injured by another male cat in the enclosure (9 C.F.R. § 3.6(b)(2));
- h. several primary enclosures housing cats did not contain an elevated resting surface (9 C.F.R. § 3.6(b)(4));
- i. the premises, to include the main yard and a kitchen area, had accumulated trash, junk, and/or discarded matter or hazardous materials (9 C.F.R. § 3.11(c));
- j. an insufficient number of trained personnel were employed to maintain the professionally accepted level of animal husbandry for the number and/or types of animals at Respondents' facility (9 C.F.R. § 3.12); and
- k. medical records for dogs did not include prescribed information, such as the names of all vaccines and treatments administered and the dates of administration (9 C.F.R. § 3.13(b)).

20. On or about April 19, 2023, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to assure that the attending veterinarian has appropriate authority to provide adequate veterinary care and/or (ii) failing to establish and maintain a program of adequate veterinary care that includes daily observation of all animals to assess their health and well-being or a mechanism of direct and frequent communication of information on problems of animal health, behavior, and well-being to the attending veterinarian, as follows –

- a. not providing follow-up care as directed by the attending veterinarian for a dog (microchip #992001000364968) previously diagnosed as heartworm positive (9 C.F.R. § 2.40(a)(2));
- b. a kitten previously diagnosed with an upper respiratory infection by the attending veterinarian, was observed with inflamed tissue and pale discharge around its eyes at the time of inspection, a worsening medical condition that was not communicated to the attending veterinarian (9 C.F.R. § 2.40(b)(3)) and for which Respondents did not provide follow-up care as directed by the attending veterinarian (9 C.F.R. § 2.40(a)(2)); and
- c. a cat (microchip #900215000825306), previously observed with missing teeth and severely reddened and swollen gums, was released from the facility to a new owner prior to inspection, without communication of its condition to the attending veterinarian beforehand (9 C.F.R. § 2.40(b)(3)).

21. On or about April 19, 2023, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows:

- a. primary enclosures did not contain animals securely, specifically, one dog had escaped its enclosure and was observed running around a yard outside its enclosure; Respondents placed this dog back in its enclosure during inspection and the dog had escaped again (9 C.F.R. § 3.6(a)(2)(iii)).

22. On or about July 24, 2023, Respondents violated the Regulations (9 C.F.R. § 2.40) by: (i) failing to establish and maintain a program of adequate veterinary care that includes the use of appropriate methods to prevent, control, diagnose, and treat diseases and injuries and/or (ii) failing to establish and maintain a program of adequate veterinary care that includes

daily observation of all animals to assess their health and well-being or a mechanism of direct and frequent communication of information on problems of animal health, behavior, and well-being to the attending veterinarian, as follows –

- a. a kitten had a chest malformation and was struggling to breathe, a medical condition that was not communicated to the attending veterinarian and which Respondents attempted to self-treat without success (9 C.F.R. § 2.40(b)(2));
- b. a cat (microchip #900215001896851) had inflamed gums, a medical condition for which Respondents did not provide follow-up care as directed by the attending veterinarian (9 C.F.R. § 2.40(b)(2));
- c. a cat (microchip #643094800118623) had a large area of hair loss with thickened, inflamed skin and a superficial abrasion on the back of its neck, which Respondent stated resulted from breeding, and was extremely thin in appearance, the latter medical condition for which there was no plan of evaluation or treatment prior to rebreeding (9 C.F.R. § 2.40(b)(3));
- d. a female cat (microchip #990000002718714), co-housed with a male cat for breeding, appeared thin with minimal muscle mass, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3));
- e. a cat (microchip #900215001896849) had eye discharge, nasal discharge, and inflamed gums, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3)); and

- f. several kittens had eye and/or nasal discharge, a medical condition not identified or communicated to the attending veterinarian prior to inspection (9 C.F.R. § 2.40(b)(3)).
23. On or about July 24, 2023, Respondents violated the Regulations (9 C.F.R. § 2.75(a)(1)) by failing to make, keep, and/or maintain records or forms that fully and correctly disclose prescribed information concerning animals.
24. On or about July 24, 2023, Respondents violated the Regulations (9 C.F.R. § 2.126(a)(2)) by failing to provide APHIS officials access to their records during business hours and/or inspection.
25. On or about July 24, 2023, Respondents violated the Regulations (9 C.F.R. § 2.100(a)) by failing to meet the Standards, as follows:
- a. elevated resting surfaces/scratching posts in group-housed primary enclosures for cats were worn and soiled needing replacement (9 C.F.R. § 3.1(c)(2));
 - b. bags of food were being stored against walls and/or being stored in the same room housing cats (9 C.F.R. § 3.1(e));
 - c. several indoor housing facilities had surfaces, to include scratched, chewed and/or damaged walls, floors, and/or door frames, permeable to moisture (9 C.F.R. § 3.2(d));
 - d. a sheltered housing facility for cats, managed at the time of inspection as outdoor access only, lacked adequate shelter structures (9 C.F.R. § 3.3(d));
 - e. several surfaces in sheltered housing facilities for cats had areas of permeable, unstained, and unsealed material (9 C.F.R. § 3.3(e)(1));

- f. groupings of cats, including nursing cats, and kittens, weaned and unweaned, were housed in primary enclosures that did not meet minimum vertical space and/or floor space requirements (9 C.F.R. § 3.6(b)(1));
- g. several primary enclosures housing cats did not contain an elevated resting surface or contained an elevated resting surface that was insufficient for the number of animals housed in the enclosure (9 C.F.R. § 3.6(b)(4));
- h. dogs were housed in primary enclosures (i.e., wire-type crates) that did not meet minimum floor space and/or interior height requirements (9 C.F.R. § 3.6(c)(1));
- i. dogs, housed in wire-type crates, had no access to potable water (9 C.F.R. § 3.10(a));
- j. primary enclosures made of wire, housing dogs and cats, including nursing cats and their kittens, had an accumulation of debris, dust and/or hair, and walls, particularly in areas frequented by cats (e.g., around litter boxes and climbing trees), had an accumulation of debris, all of which was being sanitized on a monthly basis instead of a bi-weekly minimum (9 C.F.R. § 3.11(b)(2));
- k. the premises, to include the main yard and a kitchen area, had accumulated trash, junk, and/or discarded matter or hazardous materials (9 C.F.R. § 3.11(c)); and
- l. medical records for dogs did not include prescribed information, such as the names of all vaccines and treatments administered and the dates of administration; for an identified problem, a description of the problem, full examination findings, or test results; and/or the findings/results of all routine exams and diagnostic tests performed (9 C.F.R. § 3.13(b)).

WHEREFORE, it is hereby ordered that, for the purpose of determining whether Respondents have in fact violated the Regulations and the Standards promulgated under the Act, this complaint shall be served upon Respondents. Respondents shall have twenty (20) days after service of this complaint in which to file an answer with the Hearing Clerk's Office, United States Department of Agriculture, 1400 Independence Avenue, S.W., South Building, Room 1031, Washington, D.C. 20250, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. §§ 1.130-1.151) ("Rules of Practice"). Failure to deny or otherwise respond to any allegation in this complaint shall constitute an admission of the allegation. Failure to file an answer within the prescribed time per the applicable rule (7 C.F.R. § 1.136) shall constitute an admission of the allegations in this complaint and a waiver of hearing. APHIS requests that this matter proceed in accordance with the Rules of Practice, and that such order or orders be issued, as are authorized by the Act (7 U.S.C. § 2149) and warranted under the circumstances, including revocation of AWA License No. 52-B-0175 and appropriate civil penalties.

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Done at Washington, D.C.

this _____ day of _____, 2023

**MICHAEL
WATSON**

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WATSON

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Dr. Michael Watson, Acting Administrator
Animal and Plant Health Inspection Service

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