

August 12, 2024

The Honorable Phil Sorrells
Tarrant County Criminal District Attorney
401 West Belknap
Fort Worth, Texas 76196

Via email

Re: Request to Investigate SeaQuest Fort Worth for Cruelty to Animals

Dear District Attorney Sorrells:

I am writing on behalf of PETA to request that your office in connection with the proper law enforcement agency investigate and file appropriate charges against SeaQuest Fort Worth (SeaQuest) (located at 1974 Green Oaks Road, inside the Ridgmar Mall) for cruelty to animals.

Three former employees witnessed and documented SeaQuest's egregious and chronic failure to provide animals with basic care, which resulted in widespread suffering, neglect, and death. These whistleblowers described a top-down organizational structure, where SeaQuest management consistently failed to address issues with animal enclosures that were negatively affecting animal health.

As detailed in the attached appendix, the whistleblowers documented animals who suffered and died due to SeaQuest's intentional failure to provide them with necessary care. Animals like Icarus and Achilles, two nurse sharks who likely starved to death after extreme stress from inappropriate environmental conditions impacted these animals so severely that they stopped eating. Dozens of marine animals died in plastic bags, likely suffocating to death, when shipped inappropriately to Fort Worth in a U-Haul after SeaQuest abruptly shut down its Littleton Colorado location earlier this year. The level of chronic neglect and unnecessary suffering at SeaQuest Fort Worth is criminal.

PETA contacted Fort Worth Animal Control (Animal Control) two months ago, on June 12, 2024, requesting an immediate investigation into these serious concerns and had all three whistleblowers contact an Animal Control officer directly. To date, Animal Control has refused to act, taking the absurd and patently false position that the state's cruelty to animal laws do not apply to the animals at SeaQuest because those animals are owned by the Federal Drug Administration (FDA). The state's cruelty to animal laws protect *all* the

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animals confined at SeaQuest Fort Worth. SeaQuest—a private, for-profit company with a federal license from the United States Department of Agriculture to exhibit animals at the Ridgmar Mall—is legally responsible for the care and treatment of the animals it exploits. Contrary to Animal Control’s unfounded claim, the FDA is not running a roadside zoo in a shopping mall in Fort Worth Texas. There is no legal basis for Animal Control to turn a blind eye to the animal suffering at SeaQuest Fort Worth.

PETA respectfully requests that your office immediately investigate this matter and bring appropriate charges. PETA stands ready to assist your office, including by referring you to appropriate experts in the species at issue in this complaint.

Thank you for your attention to this important matter. I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michelle Sinnott".

Michelle Sinnott, Esq.
Director, Captive Animal Law Enforcement



Appendix

I. The Whistleblowers

PETA was contacted by three former SeaQuest Fort Worth employees who, throughout the course of their employment, witnessed and documented egregious and repeated failures to provide animals with necessary care.

██████████ worked at SeaQuest Fort Worth as ██████████
██████████. Ex. A ¶ 2 (██████████ Declaration and Photo Sheet, July
10, 2024).

██████████ worked at SeaQuest Fort Worth on the Marine Team ██████████
██████████. Ex. B ¶ 2 (██████████ Declaration and Photo Sheet, July
9, 2024). ██████████
██████████

██████████ *Id.*

██████████ worked at SeaQuest Fort Worth on the Marine Team from ██████████
██████████. Ex. C ¶ 2 (██████████ Declaration, July 11, 2024).

As part of the Marine Team, the whistleblowers were responsible for all the aquatic species at the facility, including maintaining the marine tanks. Following the whistleblowers departure from SeaQuest Fort Worth in June, there was almost no one left at the facility who was taking care of the marine species.¹

While the whistleblowers were part of the team responsible for the day-to-day care of the marine animals, all decisions regarding animal care reportedly had to be approved by the National Husbandry Director, Katie Hastings.² “Katie had no experience or background with marine animals and despite the Marine Team’s expertise [they] were frequently ignored, and [their] concerns were dismissed.”³ According to the whistleblowers, Katie Hastings inexperience resulted in the deaths of dozens of marine animals. The deaths of the nurse sharks, Icarus and Achilles, were the final straw for these whistleblowers.

¹ Ex. C ¶ 17 (“Almost everyone on the Marine Team has been fired or quit . . . [t]here is only one person left on the Marine Team, an 18-year old kid. One person cannot take care of all the aquarium tanks at SeaQuest.”); Ex. A ¶ 8 (“As of June 18, 2024, the entire marine team at SeaQuest Fort Worth is gone.”).

² Ex. A ¶ 12; Ex. B ¶ 19 (“As the National Husbandry Director, Katie Hastings, oversees everything related to animal care at all SeaQuest locations across the country . . . we were not allowed to make basic decisions about animal care. Katie had to be consulted about everything and she was the ultimate decision maker.”); Ex. C ¶ 7 (“The Marine Team could not independently make decisions about the care of the animals without getting approval from Katie Hastings. We couldn’t change tank parameters, move animals off exhibit, or move animals from one tank to another without approval from Katie Hastings.”).

³ Ex. C ¶ 7; *see also* Ex. A ¶ 12 (Hastings “frequently dismissed concerns I raised about environmental conditions impacting the animals’ welfare.”); Ex. B ¶ 19 (“Katie has no experience with aquatic species and it was very clear to anyone with any aquarium experience that she did not know what she was doing.”).

████████████████████ have signed declarations attesting to their experience at SeaQuest Fort Worth, and as detailed below there is ample evidence to warrant a criminal investigation into apparent cruelty to animals.

II. Alleged Cruelty to Animals

A person commits felony cruelty to animals if they “intentionally, knowingly, or recklessly . . . torture[] an animal or in a cruel manner kill[] or cause[] serious bodily injury to an animal.”⁴ Torture is defined to include “any act that causes unjustifiable pain or suffering.”⁵ Cruel manner is defined to include “a manner that causes or permits unjustified or unwarranted pain or suffering.”⁶

A person commits misdemeanor cruelty to animals if they “intentionally, knowingly, or recklessly” fail “to provide necessary food, water, care, or shelter for an animal in the person’s custody” or “transports or confines an animal in a cruel manner.”⁷ Necessary food, water, care, or shelter is defined as the food, water, care, or shelter “required to maintain the animal in a state of good health.”⁸

Fort Worth Animal Control claimed that it “can not do anything for these animals [do] to the FDA owning them.”⁹ This is categorically false. SeaQuest Fort Worth is owned by an Idaho-based private company: SeaQuest Interactive Aquarium Fort Worth LLC.¹⁰ The Federal Drug Administration (FDA) is not listed anywhere as an owner of SeaQuest Fort Worth.¹¹ SeaQuest Fort Worth exhibits federally regulated animals to the public under an Animal Welfare Act license from the United States Department of Agriculture, which is issued to SeaQuest Interactive Aquarium Fort Worth LLC—not the FDA.¹² There is no logical or evidentiary basis for Animal Control’s statement. The criminal cruelty to animal laws in Texas apply to the treatment of animals confined at SeaQuest Fort Worth.¹³

According to the whistleblowers, dozens of animals died horrifically because SeaQuest failed to provide them with necessary care. SeaQuest’s failure to provide necessary care to the following animals resulted in prolonged suffering and in many cases death, which warrants a criminal investigation and appropriate cruelty charges.

⁴ Tex. Penal Code § 42.092(b)(1); Tex. Penal Code § 42.092(c-1) (classifying an offense under (b)(1) as a third degree felony).

⁵ Tex. Penal Code § 42.092(a)(8).

⁶ Tex. Penal Code § 42.092(a)(3).

⁷ Tex. Penal Code § 42.092(b)(3), (5); Tex. Penal Code § 42.092(c) (classifying an offense under (b)(3), (4), and (5) as a class A misdemeanor).

⁸ Tex. Penal Code § 42.092 (a)(7).

⁹ Ex. D (Fort Worth Animal Care & Control Case Report, Case No. C0008595366, June 10, 2024).

¹⁰ Ex. E (SeaQuest Interactive Aquarium Fort Worth LLC Annual Report, June 20, 2024).

¹¹ *Id.* (listing the only owner as SeaQuest Holdings LLC); *see also* Ex. F (SeaQuest Holdings LLC Annual Report, Dec. 18, 2023) (listing the owners as Vince Covino, David J Rowe, Joseph Verska, Mountain West IRA for Joseph Verska, Noveen Capital INC, Shimmer Holdings LLC, Adam Ellison, and Aaron Neilsen).

¹² Ex. G (USDA Inspection Report, SeaQuest Interactive Aquarium Fort Worth LLC, License No. 74-C-1147, Jan. 4, 2024).

¹³ Tex. Penal Code § 42.092 (a)(2) (the term “animal” is defined to include any “domesticated living creature” and “a wild living creature previously captured”).

A. SeaQuest knowingly failed to provide necessary care to two nurse sharks, Icarus and Achilles, who both died horrifically.

According to the whistleblowers, Icarus and Achilles were housed in a 10,000 gallon tank that SeaQuest refers to as the “China Tank.”¹⁴ This tank confined three nurse sharks (Icarus, Achilles, and Zeus), two (2) blacktip reef sharks (Zelko and Alexis), and seven (7) green moray eels.¹⁵ “This tank is too small to accommodate all of these animals and that lack of space is directly impacting their health and wellbeing.”¹⁶

The whistleblowers documented that in March 2024, the nurse sharks stopped eating normally, “[t]hey were only eating about 10-15% of their normal diet.”¹⁷ The nurse sharks were also “visibly stressed and would often panic, freak out, or pace the enclosure.”¹⁸ The whistleblowers reported that there was aggression among the eels in the tank, which made an already too small, stressful environment even worse.¹⁹ “The Marine Team could not independently make decisions about the care of the animals without getting approval from Katie Hastings [the National Husbandry Director].”²⁰ The whistleblowers reported the issue to Hastings, expressing concern that the size of the tank was causing the sharks’ stress and that aggression between the eels over territory was a contributing factor.²¹ The whistleblowers “repeatedly asked home office if [they] could address the issue by moving the nurse sharks or eels to a different tank” but they were “told no every single time.”²² Hastings dismissed these concerns, telling the whistleblowers that the eels were just exhibiting normal breeding behavior, which would fade.²³ It didn’t fade, and when the whistleblowers reported the continued issue to Hastings she directed them to add a massive eel hide to the tank, which didn’t address the eel aggression and reduced the already limited space in the tank even further.²⁴ “Adding the eel hide was particularly stressful for the sharks, and they all refused to eat for two weeks after this hide was added.”²⁵

By May, the nurse sharks had stopped eating and were acting erratic, one of whom “was flipping upside down and swimming mindlessly into the tank walls.”²⁶ The whistleblowers again reported their concerns to Hastings, who claimed the sharks’ behavior was likely a neurological disorder and instructed them to supplement their food with thiamin.²⁷ According to one of the whistleblowers:

¹⁴ Ex. B ¶ 3; Ex. C ¶ 4.

¹⁵ *Id.*

¹⁶ Ex. A ¶ 9; *see also* Ex. B ¶ 3; Ex. C ¶¶ 4-5 (“Not only was the China Tank too small, but it had cement blocks peppered all over the bottom of it, which reduced the usable space for the sharks even further.”).

¹⁷ Ex. B ¶ 5.

¹⁸ *Id.*

¹⁹ Ex. A ¶ 10.

²⁰ Ex. C ¶ 7; Ex. A ¶ 12.

²¹ Ex. B ¶ 5.

²² Ex. A ¶ 12; Ex. C ¶ 9 (“Because we felt the tank size was creating stress, which caused him to stop eating, we repeatedly asked if we could move Icarus to another tank or rehome him. Katie kept saying no.”).

²³ Ex. B ¶ 5.

²⁴ *Id.* ¶ 6.

²⁵ *Id.*

²⁶ *Id.* ¶ 8.

²⁷ *Id.*

Every time we tried to tell Katie Hastings what was happening, she dismissed it and just told us to give the sharks more vitamins and Thiamine E. Not only was this a dismissive response to a serious problem, but because the sharks weren't eating at all, adding vitamins to their diet was not going to make a difference.²⁸

On May 18, 2024, Icarus died.²⁹ Two of the whistleblowers performed the necropsy on Icarus and determined that he starved to death: “[t]here was nothing in Icarus’ digestive tract and all of his organs were super pale.”³⁰

After Icarus died, Hastings still refused to listen to the whistleblowers concerns. The whistleblowers set up a camera to document the nurse sharks’ behavior and began taking detailed notes of the feedings, behaviors, and tank water quality.³¹ “Similar to Icarus, Achilles and Zeus were hardly eating anything. When they did eat what was offered, it was only one or two bites.”³² Achilles was also exhibiting “odd, frantic behavior” in May and early June.³³ The whistleblowers documented this frantic behavior on video.³⁴ The water quality in the tank was also off. The whistleblowers “fought with Katie Hastings over the salinity in the China Tank for months.”³⁵ SeaQuest required the tanks to be kept at 29-30 parts per million (ppm) salinity, when sharks require between 32-35 ppm salinity.³⁶ The pH hovered around 7.9, the ammonia was usually around 0.1-0.3, and the phosphate fluctuated between 4.5-5.1.³⁷

Achilles died on June 7. On the night he died, “his behavior became more erratic and abnormal.”³⁸ The whistleblowers documented Achilles flipped upside down and bent in an awkward position in

²⁸ Ex. C ¶ 9.

²⁹ See Ex. B ¶ 9 (citing to Video 1, Video 2, Video 3, Video 4, and Video 5, showing Icarus dead in the tank); Ex. B Photo Sheet at Photos 6-11 (Photos of Icarus dead); Ex. A ¶ 13.

³⁰ Ex. B ¶ 10; Ex. B Photo Sheet at Photos 12-23 (Necropsy photos); Ex. A ¶ 13.

³¹ Ex. B ¶ 11 (citing to the following videos of shark feedings, Video 6 (May 20, 2024 feeding); Video 7 (May 20, 2024 feeding); Video 8 (May 21, 2024 feeding); Video 9 (May 22, 2024 feeding); Video 10 (May 24, 2024 feeding); Video 11 (May 25, 2024 feeding); Video 12 (May 26, 2024 feeding); Video 13 (May 27, 2024 feeding); Video 14 (May 29, 2024 feeding); Video 15 (May 30, 2024 feeding); Video 16 (June 3, 2024 feeding); Video 17 (June 4, 2024 feeding); and Video 18 (June 7, 2024 feeding); Ex. B Photo Sheet at Photos 24-27 (Feeding logs); Ex. A ¶ 14 (“Since the National Husbandry Director was ignoring our concerns about the tank size, we documented everything in order to create a clear record of the issues.”); Ex. C ¶ 10.

³² Ex. B ¶ 11.

³³ *Id.* ¶ 12.

³⁴ *Id.* ¶ 12 (citing to the following videos, Video 19 (May 1, 2024, Achilles had flipped upside down and then swam around bumping into the tank walls); Video 20, Video 21 (May 1, 2024, Achilles was swimmingly around the tank oddly); Video 22, Video 23 (Achilles freaked out and was swimming around the tank frantically, and slammed into one of the eel hides); Video 24 (May 1, 2024, Achilles panting on the bottom of the tank after he freaked out); Video 25 (June 1, 2024, Achilles freaking out and swimming into tank wall); Video 26 (June 2, 2023, Achilles is on his side before laying on the bottom of the tank with Zeus); Video 27 (June 3, 2024, Achilles briefly panicking); Video 28 (June 4, 2024, Achilles and Zeus panicking and swimming into the tank wall); Video 29 (June 5, 2024, Achilles panicking and swimming into the tank wall); and Video 30 (June 5, 2024, Achilles panicking and swimming into the tank walls)).

³⁵ Ex. C ¶ 11.

³⁶ *Id.*

³⁷ Ex. B Photo Sheet at Photo 34.

³⁸ Ex. B ¶ 13 (citing to the following videos, Video 31 (June 7, 2024, Achilles flipped upside down and stayed that way for a while. This was the third time he flipped upside down); Video 32 (June 7, 2024, Achilles still flipped upside down and bent in an awkward position); Video 33 (June 7, 2024, Achilles still flipped upside down in the

the corner of the tank (*see* Video 32), Achilles convulsing (*see* Video 34) and Achilles thrashing side to side (*see* Video 37). Before he died, Hastings instructed the whistleblowers to remove Achilles from the exhibit tank and put him in a quarantine (QT) tank.³⁹ Hastings reportedly contacted the vet, who said that “if we moved Achilles into a QT tank, he would be able to give him an injection in *the morning*.”⁴⁰ “Despite Achilles exhibiting concerning behavior for at least a month, similar to Icarus before his death, the only time SeaQuest contacted the veterinarian was at 11:00pm the night Achilles died.”⁴¹ SeaQuest did not have a QT tank large enough for Achilles.⁴² Staff acquired a plastic pool large enough for him, but it would not fit in the back of house area of the facility and Katie Vail would not give them approval to set it up anywhere else.⁴³ Because of these restrictions, the whistleblowers were not able to pull Achilles from the tank and he died while on exhibit. Achilles was removed from the tank and shipped off site for a necropsy.⁴⁴ The whistleblowers were not told the results of the necropsy, but they suspect that Achilles died from starvation.⁴⁵ While “[a]n average healthy nurse shark should weight around 150 to 180 pounds,” Achilles was only 90 pounds when he died.⁴⁶

The last remaining nurse shark in the China Tank, Zeus, “was exhibiting the same pattern of not eating and behaving erratically that preceded Icarus and Achilles death.”⁴⁷ Hastings wanted to move Zeus into a QT tank in back of house that was too small for him because “SeaQuest did not want Zeus to die on exhibit, visible to guests.”⁴⁸ Zeus’ current condition is unknown, but according to the whistleblowers, he will almost certainly suffer the same grisly fate as Icarus and Achilles.⁴⁹ One whistleblower stated: “SeaQuest refuses to believe that the tank is too small and that stress from the inappropriate environmental conditions impacted these animals so severely that they stopped eating.”⁵⁰

corner of the tank); Video 34 (June 7, 2024, Achilles seizing in the corner of the tank, on top of Zeus); Video 35 (June 7, 2024, Achilles flipped upside down); Video 36 (June 7, 2024, Achilles flipped upside down, seizing); and Video 37 (June 7, 2024, Achilles thrashing side to side, while seizing in the corner of the tank)).

³⁹ Ex. B ¶ 14; Ex. C ¶ 12.

⁴⁰ Ex. C ¶ 13.

⁴¹ *Id.*

⁴² Ex. B ¶ 14; Ex. C ¶ 12.

⁴³ *Id.*

⁴⁴ Ex. B ¶ 15.

⁴⁵ Ex. B ¶ 15; Ex. C ¶ 14.

⁴⁶ Ex. C ¶ 14.

⁴⁷ Ex. B ¶ 16; Ex. A ¶ 18 (“The third and final nurse shark (Zeus) has been refusing to eat and was stressed out”).

⁴⁸ Ex. B ¶ 17.

⁴⁹ Ex. B ¶ 18 (“I am concerned that SeaQuest Fort Worth moved Zeus into this tank and that he will die imminently due to stress and starvation”); Ex. A ¶ 18 (“I am concerned that now that no one is left on the marine team, SeaQuest will move Zeus to this kiddie pool behind the scenes and they will just let him die.”); Ex. C ¶ 16 (“The third and final nurse shark (Zeus) has been refusing to eat and is stressed out. Before I quit, he was exhibiting the same behavior that Achilles did before he died. I believe that he will die in the same way that Icarus and Achilles did.”).

⁵⁰ Ex. A ¶ 17; Ex. C ¶ 6 (“The Marine Team repeatedly tried to convey to the National Husbandry Director, Katie Hastings, that this tank was too small for five (5) sharks and seven (7) eels, but she would not listen. We documented eels wrapping themselves around the sharks, sharks freaking out and running into tank walls, and the nurse sharks not eating. We provided all this evidence to Katie Hastings and she refused to accept that the size of this tank was negatively impacting the welfare of these animals. Katie insisted that all of these problems were caused by staff – not the size of the tank.”).

According to wildlife veterinarian Dr. Mason Payne, the main issue and source of stress/illness for these animals was overcrowding. Nurse sharks can reach **9-10 feet long** and should have between a 5,000-10,000-gallon tank **for one shark**. Moray eels and blacktip reef sharks also require large amounts of space for each individual animal. A 10,000-gallon tank is not large enough for three (3) nurse sharks, two (2) blacktip reef sharks, and seven (7) green moray eels. The addition of the hides for the eels just restricted the space even further and caused even more stress for the sharks who were already space restricted. Blacktip reef sharks and nurse sharks are both high maintenance sharks that are prone to stress in captivity. These species also see each other as competition for food. In a small space like this, these sharks cannot spread out and thus they'd feel in constant competition or defense, which causes significant stress. Anorexia or decreased eating is common and often one of the first clinical signs seen in animals experiencing high stress.

Dr. Payne further advised that the necropsy photos for Icarus show a pale liver, which could indicate low fat stores. Sharks can go for quite a while without eating, suggesting that either Icarus had not been eating adequately for longer than a month or the stress of overcrowding, poor water quality, and not eating lead to immunosuppression, resulting in a death from various possible causes. Death by starvation is a prolonged process that allows many opportunities for diagnostic and treatment intervention if the animal is being properly monitored. For anorexia to occur in the first place, some degree of suffering is present, and anorexia often resolves if the suffering is alleviated. The resulting process of starvation can be painful, adds to the degree of suffering, and can last for long periods of time, especially in species such as sharks. Vitamin E and selenium—which is what Hastings recommended—is a very generalized treatment for neurological disorders and given the circumstances was almost certainly a prophylactic treatment rather than treatment for a specific diagnosed condition.

Water quality parameters are the most important thing to monitor and maintain when keeping aquatic animals. According to Dr. Payne, the parameters present in the China Tank were poor and should have been addressed as the first line of treatment, as with any aquatic animal. Dr. Payne advised that pH should ideally be in the low 8 range; whereas the pH documented in the China Tank was 7.9, which is too acidic. Improper pH levels can affect the ability of the animal to oxygenate, affect metabolism and behavior, and cause issues with the system's biofilter. The ammonia levels in the China Tank were documented between 0.1-0.3 ppm, which would be toxic enough to potentially cause pain and distress to the animals and affect the ability of the gills to oxygenate as well. Phosphate levels should be 0.2 ppm or less, but the levels documented in the China Tank were between 4.5 and 5.1 ppm, which could lead to significant overgrowth of algae that in turn could cause reductions in dissolved oxygen content of the water.

Icarus and Achilles were intentionally kept in a tank that was too small, with poor water quality parameters and the stress from the inappropriate environmental conditions impacted these animals so severely that they stopped eating, resulting in them most likely starving to death. The whistleblowers repeatedly told SeaQuest that the environmental conditions for these sharks was negatively impacting their wellbeing, but management refused to listen. Instead of addressing the poor environmental conditions, SeaQuest did next to nothing while these sharks suffered for months before dying horrifically. Based on Dr. Payne's assessment, the maltreatment of Icarus and Achilles lead to a slow and painful death, undoubtedly resulting in unjustifiable pain and

suffering, which appears to amount to felony cruelty to animals. Tex. Penal Code § 42.092(b)(1); *id.* § 42.092(c-1).

B. Dozens of fish transferred from the now defunct SeaQuest Littleton arrived dead because they were shipped inappropriately.

SeaQuest permanently closed its Littleton, Colorado location on February 4, 2024.⁵¹ The whistleblowers were told that they would “receive a bunch of fish from Colorado” and “needed to make it work.”⁵² They were not told how many fish or what species, “which made preparing impossible.”⁵³ Two employees from SeaQuest Fort Worth—a maintenance employee and someone on the team responsible for guest interactions—drove a “U-Haul truck from Fort Worth to Colorado to pick up the fish.”⁵⁴ “The animals arrived on February 8, 2024” and almost all of them died in transit “because they were not shipped appropriately.”⁵⁵ According to the whistleblower who assessed the fish on arrival:

The fish were shipped in black trash bags or other coolers. There was no effort made to ensure the fish were shipped within the right parameters for the species. No heat packs were provided. Water temperatures were as high as 62 degrees and as low as 54 degrees in bags for tropical warm water species, which is unheard of. Three (3) grey smooth hound sharks shipped in black trash bags died. The bags were so small their bodies were curved. Very little water was put in each bag. They all suffocated to death. All the rays were shipped in black trash bags and all but two (2) died. About fifty (50) other fish were shipped and all but eight (8) died.⁵⁶

The whistleblowers documented the dead fish on arrival, including dead stingrays shipped inside black trash bags (Video 41) and a dead grey smooth hound shark (Video 45).⁵⁷ It was the whistleblowers understanding that “Katie Hastings and other members of the national management team were in Colorado packing and preparing animals for transport.”⁵⁸ After the fact, Katie Hastings reportedly “apologized for how these animals were shipped and said they were going to put in place SOPs for animal transport so that this did not happen again.”⁵⁹ As one whistleblower noted, “Katie Hastings is the person in charge of making decisions about all the marine animals at all SeaQuest locations across the country, and she has no clue what these species need or how to care for them appropriately and they are suffering and dying as a result.”⁶⁰ Another whistleblower

⁵¹ Ex. A ¶ 20.

⁵² *Id.*

⁵³ *Id.*

⁵⁴ *Id.*; Ex. B ¶ 20 (“Two people from the Fort Worth location, a maintenance employee with marine experience and someone on our Safari Team—which is the team that handles guest interactions—were told to drive a U-Haul truck from Fort Worth to Colorado to pick up the fish.”)

⁵⁵ Ex. A ¶ 20.

⁵⁶ *Id.*

⁵⁷ Ex. B ¶ 20 (citing to the following videos, Video 41 (February 8, 2024, dead stingray shipped inside a black trash bag); Video 42 (February 8, 2024, dead bat ray shipped inside a black trash bag); Video 43 (February 8, 2024, dead smooth hound shark); Video 44 (February 8, 2024, inventory of a few fish that were barely hanging on and 1 dead fish); and Video 45 (February 8, 2024, inventory of dead and barely alive fish)); *see also* Ex. A ¶ 20.

⁵⁸ Ex. B ¶ 20.

⁵⁹ *Id.* ¶ 21.

⁶⁰ Ex. A ¶ 21.

remarked, “SeaQuest Fort Worth has been open since 2017. Basic SOPs about proper animal transport should have been in place already, and the National Husbandry Director who is responsible for making decisions about all the animals at all SeaQuest locations across the country should know how to properly transport animals.”⁶¹

According to Dr. Payne, appropriate shipping procedures for aquatic animals involve careful temperature control and water oxygenation parameters. Inadequate temperature control and water oxygenation are among the most common causes of death when shipping aquatic species. Water temperature directly affects the dissolved oxygen content of the water and can also affect the oxygen consumption of the animals themselves. Most of the animals in this shipment require water temperatures at least in the low 70s, with many preferring warmer temperatures in the higher 70s or low 80s. The water temperature on arrival of between 54 and 62 degrees indicates poor temperature control during shipment and likely contributed to the animals’ deaths. It is only recommended to keep small fish in bags of water for a few hours as longer than that poses a significant risk for low oxygen concentrations and asphyxiation. Animals such as rays and sharks require shipping in larger enclosures with more water, since they consume more oxygen than the smaller species.

In Dr. Payne’s expert opinion, these conditions would illicit an innate stress response in the animals due to declining oxygen availability and water temperatures. Aquatic species require slow and gradual adjustments to temperature, but the temperature change experienced here were likely more abrupt and would have resulted in shock to the animals. These animals would have become gradually more lethargic and would have possibly experienced other common side effects of asphyxiation, such as seizures, dizziness, or feelings of suffocation, before finally dying. Anyone who has experience with aquatic species should know that water temperature and oxygen content are the most important parameters to consider when shipping animals. Based on the lack of any sort of portable oxygenation or temperature control devices, or the use of a temperature-controlled truck, those parameters were obviously not regulated by the staff in charge of shipment and resulted in the death of many animals.

Based on Dr. Payne’s assessment, the way SeaQuest shipped these fish was cruel and led to dozens of deaths, undoubtedly resulting in unjustifiable pain and suffering for those who died, which appears to amount to felony cruelty to animals. Tex. Penal Code § 42.092(b)(1); *id.* § 42.092(c-1). Moreover, intentionally “confin[ing] an animal in a cruel manner” constitutes misdemeanor cruelty to animals.⁶² “Cruel manner” is defined as any “manner that causes or permits *unjustified* or *unwarranted* pain or suffering.”⁶³ Based on Dr. Payne’s assessment, these fish were cruelly confined when transported from Colorado to Texas, which even for the survivors resulted in unjustified and unwarranted pain and suffering, which appears to amount to misdemeanor cruelty to animals.⁶⁴

⁶¹ Ex. B ¶ 21.

⁶² Tex. Penal Code § 42.092(b)(5).

⁶³ Tex. Penal Code § 42.092(a)(3) (emphasis added).

⁶⁴ Tex. Penal Code § 42.092(b)(5), (c).

C. Zelco, a blacktip reef shark, has a curved spine, which has deteriorated due to SeaQuest’s failure to provide necessary care.

Zelco is one of the two blacktip reef sharks housed in the China Tank.⁶⁵ In April 2024, her spine was “slightly curved.”⁶⁶ According to the whistleblowers, over the past several months, “it has gotten significantly worse” to the point where she struggles to swim.⁶⁷ “The size and shape of the tank have made her condition worse. Shark tanks should not have sharp turns, they should be curved, which makes it easier for this species to swim.”⁶⁸ According to the whistleblower, “Zelco’s behavior changed as the curve in her spine worsened. She will eat some, but will go a long time between feedings.”⁶⁹ The whistleblowers documented Zelco’s condition and reported it to Katie Hastings multiple times, specifically asking if SeaQuest would “be willing to rehome the blacktip sharks because the China Tank can’t meet their basic needs.”⁷⁰ Katie Hastings said no because she felt Zelco had meningitis, even though a veterinarian has never “come out and diagnosed Zelco with meningitis.”⁷¹

According to Dr. Payne, spinal deformities in captive sharks are not uncommon and are often related to small enclosure size and consistently swimming in loops, which can weaken the spine and lead to injury. Poor diet and lack of enrichment programs that encourage sharks to maintain various swimming patterns are also thought to contribute to the high incidence of spinal deformities seen in captivity. Once a spinal deformity or injury has occurred, it is likely to only worsen, especially if the causal environmental conditions are not addressed. Meningitis can cause abnormal postures in some species, but it is typically not a common sign seen in sharks. Even if that were the case here, it would likely be accompanied by other clinical signs such as loss of equilibrium, abnormal swimming patterns, or lying upside down—none of which appear to be present. Meningitis is a serious medical condition that can result in death and if suspected, should be thoroughly diagnosed and treated. If SeaQuest truly felt Zelco had meningitis, it should have sought medical intervention immediately, but, according to the whistleblower, it didn’t. Zelco is most likely affected by a deformity or injury to the spine, which can be among the most painful conditions known. The complete lack of veterinary diagnostics or treatment for such a condition is cruel and is undoubtedly resulting in the suffering of this animal.

Based on Dr. Payne’s assessment, Zelco is being cruelly confined in the China Tank and is not being provided necessary care, which has resulted in unjustified and unwarranted pain and suffering, which appears to amount to misdemeanor cruelty to animals.⁷²

⁶⁵ Ex. C ¶ 18.

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.* ¶ 19.

⁷¹ *Id.*

⁷² Tex. Penal Code §§ 42.092(b)(5), (c).

D. Koi fish were left to suffer in a tank after a filtration pump failure led to an ammonia spike, resulting in the death of four individuals.

According to the whistleblowers, in March 2024, a filtration pump for the koi pond failed and the ammonia levels in the tank spiked to 11 ppm.⁷³ “Anything over 0.25 ppm is toxic to fish,” which means this was a life-or-death situation for the 45-50 koi fish in that tank.⁷⁴ The whistleblowers explained that “[h]igh concentrations of ammonia make it difficult for fish to breathe and if left unchecked can cause external burns and organ damage, eventually leading to death.”⁷⁵ The Marine Team was not authorized to remove animals from an exhibit without approval from Katie Hastings, which means the whistleblowers “had to get approval” to pull these fish from the tank.⁷⁶ The whistleblowers immediately alerted Katie to the problem and requested approval to pull the fish from the tank and move them into quarantine.⁷⁷ According to a whistleblower:

[Katie Hastings] would not give us approval right away and we spent four (4) hours going back and forth with her to get a decision, all while these fish were still in the tank struggling to breathe. After four (4) hours, Katie finally gave us approval to pull about 10 fish from the exhibit. About four (4) fish died as a result of this incident.⁷⁸

The whistleblower took video of these koi fish suffering from being left in the toxic tank for four hours, including koi struggling to breath (Video 46) and koi with ammonia burns (Video 50).⁷⁹

According to Dr. Payne, ammonia is the second most important water parameter after oxygen content, and any ammonia concentration above 0 is an indication of a problem with the system. Concentrations of anything over 0.1 ppm should be addressed quickly, since that can start to damage the gills and lead to further complications. Concentrations around 1 ppm or above can also cause chemical burns on the skin, fins, and eyes, lead to organ damage, and eventually death. Concentrations of 11 ppm in the water is extremely high and can cause significant pain, stress, suffering, and risk of death to any fish contained within that system during that time. Most fish likely experienced a sensation of their skin, eyes, and respiratory tract being burned, without being able to find any relief or escape.

Dr. Payne further advised that ammonia concentrations of 11 ppm would warrant immediate aggressive water changes as well as the use of ammonia binding agents in the short term. In a large pond with a broken pump, water changes would be difficult to perform quickly, so immediately removing the fish and placing them in a new tank with about 60-70% new water, and then 30-50% daily water changes should have been performed after the fact until ammonia levels reach 0. Long term control would include maintaining an adequate biofilter for the size of the tank, regularly

⁷³ Ex. A ¶ 23; Ex. B ¶ 24.

⁷⁴ *Id.*

⁷⁵ Ex. B ¶ 24.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.* (citing to the following videos, Video 46 (Koi struggling in exhibit tank, March 17, 2024); Video 47 (Lethargic koi in exhibit tank, March 17, 2024); Video 48 (Koi removed from exhibit tank, March 17, 2024); Video 50 (Koi removed from exhibit tank with ammonia burns, March 17, 2024); Video 51 (Koi removed from exhibit tank, March 21, 2024); Video 52 (Koi moved back into exhibit tank with ammonia burns, March 21, 2024)).

monitoring water quality parameters, not overfeeding, and ensuring that the tank is not overcrowded.

Based on Dr. Payne's assessment, these fish were cruelly confined to a tank with toxic levels of ammonia for hours, which resulted in unjustified and unwarranted pain and suffering, which appears to amount to misdemeanor cruelty to animals.⁸⁰

E. Several gourami fish died after being kept in a tank that was too cold.

SeaQuest required one of the whistleblowers to put several gourami fish in the sturgeon tank.⁸¹ The whistleblower pushed back on this decision, telling SeaQuest management that "these fish should not be housed together because of their different temperature requirements."⁸² According to the whistleblower, "[s]turgeon require water temperatures that range between 70 to 62 degrees F" whereas "[g]ouramis, being from the Amazon, prefer water in the high 70's to 84 degrees F."⁸³ SeaQuest did not listen and insisted that the gourami be moved into the sturgeon tank. The gourami fish "were stressed because they were living in cold water" and in March 2024 they developed a fungus.⁸⁴ "Several gouramis died."⁸⁵

According to Dr. Payne, living in water temperatures too cold for a species can lead to lethargy, decreased appetite, and immunosuppression. These signs are the direct result of the stress response elicited when fish are kept at improper temperatures and immunosuppression likely contributed to these fish developing a fungal infection and dying. Immunosuppression predisposes an animal to both obtaining infections as well as not being able to properly fight them, which often leads to death. Fish are particularly susceptible to fungal infections, especially when being kept in unsanitary or improper environmental conditions. Infections are often painful and would have caused the fish to suffer before dying.

Based on Dr. Payne's assessment, these fish were cruelly confined to a tank that was too cold, which resulted in unjustified and unwarranted pain and suffering, which appears to amount to misdemeanor cruelty to animals.⁸⁶

⁸⁰ Tex. Penal Code §§ 42.092(b)(5), (c).

⁸¹ Ex. A ¶ 26.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*; see also Ex. A Photo Sheet at Photos 9-10.

⁸⁶ Tex. Penal Code §§ 42.092(b)(5), (c).