

1 SUPERIOR COURT OF WASHINGTON, KING COUNTY

2

3 MARTHA SCUDDER, a single)

individual,)

4)

Plaintiff,)

5) No.

vs.) 04-2-04721-8SEA

6)

LARRY GALLOVA, a married)

7 individual,)

)

8 Defendant.)

9

10 DEPOSITION UPON ORAL EXAMINATION OF

11 MARTHA JEAN SCUDDER

12 VOLUME 2

13

14 9:06 A.M.

15 JANUARY 13, 2005

16 1524 ALASKAN WAY, SUITE 100

17 SEATTLE, WASHINGTON

18

19

20

21

22

23

24

25 REPORTED BY: CONNIE L. HOLTON, CCR No. 2975

1 A P P E A R A N C E S

2

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8

9 FOR THE DEFENDANT:

10 MELISSA A. MacDOUGALL

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14
15 ALSO PRESENT: None
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I N D E X	
3	EXAMINATION BY:
4	MS. MacDOUGALL
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1 SEATTLE, WASHINGTON; JANUARY 12, 2005
2 9:06 A.M.
3 --oOo--
4 MARTHA JEAN SCUDDER,

5 having been previously sworn as a witness by
6 The Notary Public, was reminded of her
7 Oath and testified as follows:

8

9 EXAMINATION RESUMED

10 BY MS. MacDOUGALL:

11 (Exhibit No. 9 was marked for identification.)

12 Q. I want to remind you, Mrs. Scudder, that you
13 are still under oath. Which I'm sure you have
14 remembered.

15 I'm going to hand you what has been marked as
16 Exhibit No. 9. And have you look at that and tell me
17 if you know what that is?

18 A. I got new glasses ordered so I don't just have
19 reading glasses. That will be nice when I don't have
20 to take them on and off.

21 Yes, I remember this.

22 Q. And what is Exhibit No. 9?

23 A. It is a letter from the humane society.

24 "Received a fax letter from Tracy Bennett."

25 And says that the observations and

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1 recommendations are explicit. The recommendations
2 cover a wide spectrum including improvements in bird
3 housing, diet, medical care, water, and to fewer than
4 100 birds.

5 Q. So recommended that you reduce your flock at
6 that time?

7 A. Yes.

8 Q. And what is the date of that letter? I think
9 it is across the top here.

10 A. March the 12th. That was about the second
11 time that she came. Somewhere -- no. No. She came in
12 -- this was as a result of the first -- this is the
13 first letter after she came in January. But she did
14 not do it until March the 12th.

15 Q. She did not do the letter; is that what you
16 mean?

17 A. I had nothing at all until I received the
18 letter from Wally Hall.

19 Q. And just to be clear, the March 12th, that is
20 in 2003; is that correct?

21 A. Correct. But she came in January for the
22 inspection.

23 Q. Okay. All right. Let me ask you a couple of

24 questions about this letter. First of all, you did
25 receive a copy of this letter; correct?

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1 A. From Wally Hall. Yes.

2 Q. And you did receive a copy of Dr. Bennett's
3 report which Mr. Hall enclosed in with this letter; is
4 that correct?

5 A. Yes.

6 Q. And what was the response that you made to
7 this letter from Mr. Hall noting the recommendations
8 and enclosing Dr. Bennett's letter to you?

9 A. Well, by the time before we ever got this
10 letter in March the watering system was repaired.

11 Q. So you repaired the water system?

12 A. Yes.

13 Q. Any other response that you made to this
14 letter?

15 A. I didn't make any responses to the letter. I
16 followed through. We put all new perches in again, but
17 by the time they came for the second inspection some of
18 them had been chewed through already. Like I said,
19 they can go through a perch in a week. The Amazons and
20 Macaws can do it in a day.

21 Q. Is it your testimony that the only areas that
22 required improvement or fixing were the perches or the
23 water system?

24 A. Those were the only thing that were a benefit
25 -- that she thought was a benefit to the bird. I did

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1 not change my diet. I did not change the watering
2 system. We just repaired the watering system. That
3 was broken that evening, that night before she came for
4 the first visit in January.

5 Q. And I believe yesterday, if I recall
6 correctly, you noted you disagreed also with the
7 cleaning or changing of cage sizes as well. So that
8 would have been another recommendation of Dr. Bennett's
9 that you disagreed with and thus did not implement?

10 A. That's because she is comparing me as a flock
11 management versus a pet parrot in a home.

12 And our cages by law are with a bird they can
13 open their wings and not touch the sides of the cage
14 anyway around. And all of our cages are that large or
15 larger.

16 Q. The last paragraph of Exhibit No. 9 indicates
17 a time line for you to establish the conditions. Do
18 you see that?

19 A. Yes.

20 Q. Did you work with the humane society in any
21 manner to meet that time line of --

22 A. We met the time line, March 31.

23 Q. Is it May 31st?

24 A. May 31st. Everything was done before that
25 time. It was done before March.

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1 Q. By everything, just to be clear, you mean the
2 perches and the water system?

3 A. Right. And the dishes are cleaned daily or as
4 needed. If they poop in their dish that day, they get
5 a clean dish when we feed. That's done on a regular
6 maintenance basis.

7 (Exhibit No. 10 was marked for
8 identification.)

9 Q. (By Ms. MacDougall) Let me hand you what has
10 been marked as Exhibit No. 10. Which is a two-page
11 document.

12 Can you look at that and tell me what that is?
13 What is that?

14 A. This is a letter that Mr. Vincent and I put
15 together.

16 Q. And what was the purpose?

17 A. In response to the letter, Mr. Hall's letter.

18 Q. So would you amend your earlier testimony when
19 I asked you what response, and you said you made no
20 response to the letter. Would this be a response to
21 this letter?

22 A. Yes. But I totally forgot about this.

23 Q. That's okay.

24 A. Because it wasn't in front of me.

25 Q. So what was the purpose of putting this letter

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1 together?

2 A. Because we wanted to know about the humane
3 society, and Pierce County, and the administrative
4 agency. You know. We wanted to know what they -- if
5 mandatory, then under what and whose law? The
6 constitutional law? The common law? The equity law?
7 The statutory law? All of these. And we are under

8 agricultural law.

9 Q. Did you have the assistance of any legal
10 personnel, attorney, paralegal, or anything to draft
11 that letter; or is that something the two of you
12 drafted on your own?

13 A. I don't recall asking someone else to do a
14 letter.

15 Q. Can I have this just for one moment? Thank
16 you.

17 Where did you come up with the U.S.C.
18 citations and Administrators Procedure Act quotes that
19 you have throughout the letter?

20 A. Bob did a couple of years of voluntary work
21 for, prior to coming to me, with the legislature in
22 Washington. And he looked these laws up, I would
23 assume.

24 There was a person that was a friend of mine
25 that wanted to type up a letter. And I don't remember

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1 if he helped us or not.

2 Q. Okay. What is the name of the friend?

3 A. I don't know because I don't know the man.

4 Q. Oh, I see. So, I'm sorry, I misunderstood. I
5 thought you said it was a friend of --

6 A. It was a friend of a friend of ours who does
7 --

8 Q. Got you.

9 A. He is not an attorney but he teaches this type
10 of thing at one of the colleges here.

11 Q. And you don't recall that person's name?

12 A. No. Because I have never talked to him since.

13 Q. And he may or may not have helped prepare
14 this?

15 A. Correct. He may have given Bob some other
16 viewpoints to go over.

17 Q. I see in this letter you indicate in the
18 second sentence that you will be instituting several of
19 the recommendations; is that correct?

20 A. Yes, we did. She recommended that we put
21 water bottles on over and above the drip system, and we
22 did that at the cost of several hundred dollars. But
23 we did it because that's what she wanted.

24 Q. Do you have receipts for the several hundred
25 dollars worth of water bottles?

1 A. Well, it is not water bottles, it's what you
2 have to order. No, I don't necessarily have current
3 receipts because, like I said earlier, we don't buy
4 just one.

5 Q. Sure.

6 A. We keep a stock like of the brass nipples for
7 the watering system. We always keep 50 to 75 on hand.
8 And when that gets down to 20, we order another
9 hundred, or so. Because we have to have replacements
10 when they would go bad.

11 Q. Do you keep the receipts when you order the
12 large number, like the 50 brass nipples?

13 A. Yeah. But it is not specific because they
14 come from hardware stores. The brass nipples come from
15 a different manufacturer. Because we order from the
16 manufacturer a lot of times.

17 But, you know, it is like the PVC pipe in
18 10-foot length. We don't go buy just one. We will buy
19 ten of them at a time so that could last us a year.

20 Q. At the point in time that you're writing your
21 letter, your response which is dated March 24, 2003,
22 were you intending to institute any of the other
23 recommendations made by Dr. Bennett, the ones you told
24 me you don't agree with? At that point in time,
25 March 24, 2004, were you intending to institute any of

1 those other recommendations by Dr. Bennett?

2 A. Could I see the letter again, Dr. Bennett's
3 letter again?

4 Q. Sure.

5 MS. CABALO: It is seven.

6 MS. MacDOUGALL: While Ms. Scudder is looking
7 at that document let's go off the record.

8 (Discussion off the record.)

9 Q. (By Ms. MacDougall) Are you ready?

10 A. Enclosures inside the home too small for the
11 size of bird.

12 No. I did not change that because they are
13 not too small.

14 Q. And so at the writing of this letter, that was
15 one of the conditions, the enclosure size that you
16 would not have intended to make?

17 A. Not that I have not intended to make. It is
18 that they are an appropriate size for the bird.

19 Q. So at the point of writing this letter,
20 because you disagreed with, at least, the cage size by
21 Dr. Bennett; for all the reasons that we have already
22 talked about why you disagree with that, that's one of
23 the recommendations that you would not have been
24 making; correct?
25 A. I did not change. No. Because many times

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1 also these babies are out on a playpen and climbing
2 area where they are not always in a cage.
3 Q. Of the recommendations that you've told me
4 yesterday, and we started talking about today, that you
5 disagreed with in Dr. Bennett's letter, did you speak
6 with Mr. Hall or anyone else at the humane society and
7 say, Look I disagree with the cage size. I disagree
8 with the fact that I have to clean these this often?
9 A. I --
10 Q. Hang on, let me finish. And I am not going to
11 be instituting those because I don't think it is
12 required. Did you have such a conversation?
13 A. Not a conversation that I will not be
14 instituting them.
15 Q. Okay.
16 A. But I did I have a conversation. I'm pretty
17 sure I did because prior to this we've been on good
18 terms with the humane society for the last 20 years.
19 Q. Did you work with Mr. Hall during that 20-year
20 good-term relationship with the humane society?
21 A. Did I work with him?
22 Q. Did you have contact with him? Is he a person
23 at the humane society that --
24 A. No.
25 Q. Is this situation, where these letters are

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1 written back and forth about conditions that Dr.
2 Bennett observed and Dr. -- or Mr. Hall asking that you
3 make the recommendations and institute changes, is that
4 the first time you had any involvement with Mr. Hall?
5 A. On the birds, yes. However, Mr. Hall told me
6 that this is not his expertise, and he has to go by
7 what Dr. Bennett says. Because he has never found any
8 reason to come out and make changes. They have never
9 found any.

[Ed.— Later, the assertion was made that Mr. Hall , in fact, tipped off Martha Scudder in advance whenever the Humane Society was going to come out and make an inspection, thereby allowing her time to correct or hide any deficiencies. See Editor's Note in Deposition of Kathy Scudder, Vol 2, Page/Section 47 Line 14-18 and following, and Pages/Sections 93-94, 116, and 121-123]

10 Q. When did Mr. Hall tell you that?

11 A. The day of the inspection. It could have been
12 the day of the first inspection. I'm not positive
13 which time it was.

14 As for -- do you want me to go with the rest
15 of these or --

16 Q. No. I think we covered what you disagree with
17 and why. And I just wanted to get a sense of whether
18 or not you had talked to the humane society or let them
19 know in any manner as to whether you would not be
20 instituting certain changes, and your reasons for
21 disagreement. And it sounds like you didn't let -- you
22 didn't have a conversation about that?

23 A. Well, I did not -- I have never told them no,
24 they can't come.

25 Q. Okay.

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1 A. And that I would refuse to make changes. I
2 have never told them that.

3 Q. Okay. Let's keep this out.

4 A. I did tell them at one of the inspections that
5 the rest of the recommendations were not conducive to
6 flock management.

7 Q. When did you tell them that?

8 A. Probably the same day. You know, the perches,
9 again, like I said, are regular maintenance things.
10 And clean dishes, those are regular maintenance done
11 daily with the birds.

12 Q. All right.

13 MS. CABALO: Allow me just for clarification
14 purposes.

15 MS. MacDOUGALL: Sure.

16 MS. CABALO: When you say you told Wally the
17 same day that those recommendations did not apply --

18 THE WITNESS: When I got the letter.

19 MS. CABALO: So March 12, or whatever the
20 date.

21 THE WITNESS: Right. Because, you know, he
22 honestly said he didn't know what the rules were.

23 MS. MacDOUGALL: Let's mark this.
24 (Exhibit No. 11 was marked for
25 identification.)

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1 Q. (By Ms. MacDougall) Handing you what has been
2 marked as Exhibit No. 11. Can you take a moment and
3 look at that and tell me if you know what that is?

4 A. This is Mr. Hall's response to the questions
5 of what ordinance, who they report to, to my knowledge.

6 Q. And did you receive a copy of that letter?

7 A. I probably -- yeah, I must have because it is
8 here.

9 Q. And do you see in the second large paragraph
10 where he references the complaint? And then some of
11 the areas that we believe would -- we would consider
12 cruel under the law, and he lists a number of
13 conditions or a number of areas that he believes, on
14 behalf of the humane society, would be cruel.

15 A. I see that. And number 1 is outdoor housing
16 is inadequate to keep tropical birds. Again, being an
17 avian veterinarian she should know the difference
18 between tropical and neotropical birds.

19 Q. So that's number 1?

20 A. She says sanitation is extremely poor. Again,
21 that's flock management versus the pet bird management
22 of bird cage cleaning every day.

23 Q. And then number 3, 4, and 5, I take it, you
24 disagree with those as well?

25 A. Yes. My birds are not housed in cages too

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1 small indoors to allow natural flapping behavior. And,
2 again, like I said, the babies are out so many hours a
3 day, and rotated out of their cages to learn to walk
4 and judge distance on playpens with no -- nothing
5 around them where they can flap all they want to or
6 climb up on a perch. And for that -- that's for the
7 exercise.

8 Birds do not receive medical care. Again,
9 when you run a farm, when you run a flock management,
10 you can not be handling these outdoor birds on a
11 regular basis.

12 And the water available to all birds at all
13 times. The law states that an animal, any animal must
14 have sufficient water to rehydrate. But that doesn't

15 necessarily mean that they have water 24/7. However,
16 our birds do have water 24/7 because most of them are
17 on an automatic watering system.

18 Q. Did you explain to Dr. Bennett during any of
19 her visits, or to Mr. Hall, the program you had? And I
20 know you didn't call it a program -- for the exercise
21 of the birds, how they are allowed out of their cages
22 --

23 A. They saw that.

24 Q. -- for so many hours?

25 A. They saw it in the house when they were

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1 inspecting babies.

2 Q. So your testimony is they saw that in the
3 house, the babies out of their cage and allowed to
4 roam, and still this letter was written about the
5 insufficient exercise?

6 A. That's because she is comparing me with flock
7 management to a single, or people that have maybe just
8 two or three birds, pet birds.

9 Q. Okay.

10 A. And again, on the watering system, PVC pipe
11 does not rust. The nipples do not rust because they
12 are brass with a stainless steel part of the nipple.
13 And stainless steel does not rust.

14 Water dishes were provided where they were
15 contaminated with feces and algae. Algae can grow
16 overnight.

17 And like I said, those birds that had water
18 dishes, those are the birds that bathe every day. And
19 they are changed daily with clean dishes.

20 Q. In response to this particular letter, March
21 31, 2003, Exhibit No. 11, did you speak with Dr.
22 Bennett or the humane society and dispute these
23 recommendations or disagree in any way with these
24 recommendations 1 through 5?

25 A. What date did you say ?

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1 Q. March 31, 2003.

2 A. Oh, okay. Because I was looking at the letter
3 dated March 24, 2003.

4 Q. Basically, did you make any response about
5 your disagreement with these conditions that are set
6 out, numbers 1 through 5 on Exhibit No. 11?

7 A. We made the changes that needed to be made.
8 We prepared the water pipes. We put new perches in.
9 And we cleaned some of the cages because it was just
10 beginning the pre-season breeding. And you do not
11 enter the cage and disrupt anything for the three to
12 four months that they are in a breeding session.

13 Q. Upon receiving this letter, Exhibit No. 11,
14 where the humane society has written that they believe
15 the area set forth in 1 through 5 were considered cruel
16 under the law, did you understand that to mean that you
17 had any sort of an option at that point to not
18 institute those recommendations?

19 A. There is no cruelty here.

20 Q. So my question is: Did you understand that
21 you had an option to not institute and make the
22 decision based on, let's say, your experience in
23 raising these birds?

24 A. Did I say something to them or --

25 Q. No. Did you, based on getting that letter

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1 where they have set forth conditions 1 through 5, and
2 they have stated they believe it is cruel under the
3 law, did you believe that you had an option as to
4 whether or not you needed to institute or correct the
5 conditions set forth in 1 through 5?

6 A. You can bring any -- and I mean avian
7 specialists, not Dr. Bennett -- in, and other
8 specialists in flock management, and they would agree
9 with mine that these birds are not treated inhumanely.
10 That they do have sufficient water, sufficient room,
11 sufficient cages -- perches, and that they should not
12 be disturbed.

13 Q. So your answer would be, yes, you do believe
14 you had an option?

15 A. Yes.

16 (Exhibit No. 12 was marked for
17 identification.)

18 Q. (By Ms. MacDougall) I am handing you what has
19 been marked as Exhibit No. 12. And that appears to be
20 a letter from your attorney to the humane society.
21 Have you seen that letter before?

22 A. Yes.

23 Q. And do you see where, in the first paragraph,
24 it references the currently scheduled December 8, 2003
25 inspection by the humane society would not be

1 permitted? Do you see that?

2 A. Yes.

3 Q. So. Does that change your testimony about
4 that you never refused an inspection to take place by
5 the humane society?

[Ed.— This would seem to belie Mr. Vincent's statement on the current Parrot Depot website about the Scudder Farm being routinely made open to inspection]

6 A. This was brought by Mr. Brandt not me.

7 Q. Is Mr. Brandt your attorney?

8 A. Yes.

9 Q. Would he have done that if he was not directed
10 to do so? Would he have written a letter if he was not
11 directed to do so?

12 MS. CABALO: Objection. Calls for
13 speculation.

14 Q. (By Ms. MacDougall) Did you direct your
15 attorney to write this letter?

16 A. No.

17 Q. Who did?

18 A. It was in response to the -- that would be
19 another interruption in the breeding. Because December
20 is when we start another series of breeding. And it

21 would put another disruption on the flock for that
22 year.

23 Q. Would you have allowed the inspection to have
24 occurred if a warrant was secured?

25 A. If a warrant was secured, yes, we would have.

1 But it was not.

2 Q. Previously had you required the humane society
3 to seek a warrant?

4 A. No.

5 Q. Why at this point --

6 A. Because --

7 Q. -- let me get the date clear. December 5th,
8 2003, the date of this letter, why were you at this
9 point requiring a warrant?

10 A. Because by this time with the e-mails being
11 put out by Mr. Gallowa, or Mr. Gallowa, I'm not sure
12 how he pronounces it.

13 Q. I think it is Gallowa.
14 A. One of his intents was to disrupt the breeding
15 cycles as often as he could.
16 Q. And how do you know that was his intent?
17 A. Because it was in some of the e-mails in the
18 chat rooms that he was on.
19 Q. So if you did not direct your attorney to
20 write this letter, do you know why this letter was
21 written?
22 A. I'm not sure I'm understanding. Because we
23 explained to Mr. Brandt because of the interruptions,
24 and we already had several interruptions during that
25 year. That's why my production was so low for 2003, is

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1 because of every interruption disrupts the birds when
2 you bring strangers onto the facility.
3 Q. Let me ask you if this letter references the
4 disruption of the breeding as a reason for the humane
5 society not being permitted for the December 2003
6 inspection?
7 A. It says -- Did you read this?
8 MS. CABALO: I have.
9 A. Okay. In addition to having Bob having a
10 relative that was very ill, it was our belief that the
11 reasons for seeking this additional inspections are not
12 well founded. And are actually being sought as a
13 result of political pressure being exerted as a result
14 of complaints from the animal rights activists, Larry
15 Gallowa.
16 Q. And my question was, does it reference the
17 interruption of the breeding in that letter?
18 A. In this letter?
19 Q. Yes.
20 A. No.
21 Q. That is a no?
22 A. I guess it would be no.
23 Q. Well, does it spell it out there?
24 A. No, it does not spell it out in this letter.
25 (Exhibit No. 13 was marked for

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1 identification.)
2 Q. (By Ms. MacDougall) I am going to hand you
3 what has been marked as Exhibit No. 13 and ask you to
4 take a moment to read it. And then I will have you

5 tell me if you have ever seen that.
6 A. No, I have never seen this. Just let me
7 finish it.
8 Q. Sure.
9 A. I don't know the Advocacy Department at
10 Progressive Animal Welfare Society in Lynnwood. I'm
11 not in depth or familiar. I have heard of these
12 things. But let me finish reading this.
13 Q. Certainly.
14 A. I'm fairly sure I did not say it was closed
15 for the winter because we do have a closed aviary. But
16 again, she came under the pretense of purchasing
17 umbrella cockatoos.
18 Q. Let me ask you some questions.
19 You already said you have not seen that
20 document, that letter, prior to this. But by your
21 statement, she came under the pretext of purchasing, I
22 assume, you either recognize the names of these people
23 or --
24 A. I don't.
25 Q. Do you recall a circumstance, at least, where

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1 somebody came out?
2 A. No, I don't recall a circumstance. I am
3 reading here.
4 Q. I see. Okay. Do you see the two names listed
5 below on that document? I think one is a Stephanie?
6 A. And they are not familiar to me.
7 Q. Do you recall an occasion where two women came
8 out to visit the aviary?
9 A. I have people -- they did not get in the
10 aviary. The aviary is closed. People are allowed to
11 come in the house. And when they come under the
12 pretense of purchasing, looking for a breeding pair of
13 umbrella cockatoos, we tell people, We do not have
14 adult breeding pairs for sale.
15 Q. So would you have allowed these two people
16 into the house area?
17 A. Yes.
18 Q. And if I understand you correctly, you don't
19 specifically recall these two women coming?
20 A. No.
21 Q. Let me get that back from you because I think
22 we can probably shortcut this a little bit.
23 A. Well --

24 Q. Because I think I only have one question for
25 you on this letter.

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1 MS. CABALO: If she only has one question, and
2 if you need it back to read it, she will --

3 MS. MacDOUGALL: Yes. I will let you read it
4 fully.

5 Q. (By Ms. MacDougall) Do you see in the last
6 statement where, the last sentence where they state
7 that they witnessed Mrs. Scudder hit a bird with her
8 hand? Have you ever hit a bird?

9 A. No. You don't hit them. That makes them
10 afraid. That makes them afraid of your hands. I swat
11 their tail feathers. But you can't hurt them when you
12 swat their tail feathers.

13 And they have to be disciplined when they, you
14 know, are aggressive. That's a thing they have to
15 learn, what they can do and what they can't do. Just
16 like a human child. They have to learn what they can
17 touch and what they can't touch.

18 Q. So the part of the discipline includes
19 swatting their tail feathers?

20 A. It can, yes.

21 Q. Other than swatting the tail feathers, do you
22 strike them in any other area of their body?

23 A. No.

24 Q. I told you I would let you have a chance to
25 read through that. And then I actually have one last

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1 question on that one.

2 A. Can we go outside and discuss this?

3 MS. MacDOUGALL: Sure. There is no question
4 pending so I don't have a problem with that.

5 MS. CABALO: Also know we will get copies from
6 all of the exhibits.

7 (Recess taken.)

8 (Exhibit Nos. 14 through 18 were marked for
9 identification.)

10 Q. (By Ms. MacDougall) Back on the record.

11 The only other question I wanted to ask you
12 about this letter, document number -- or Exhibit No.
13 13, Mrs. Scudder, was: Now that you have had a chance
14 to read it, can you tell me if these conditions existed
15 at your facility at this time, January 13th, 2003? The

16 conditions that were set forth in this letter?
17 A. Were they as this states?
18 Q. Correct. Is that document accurate?
19 A. No, it is not accurate.
20 Q. So you disagree with what these two ladies,
21 Donna Diduch, D-I-D-U-C-H, and Stephanie Beecroft state
22 in this letter? You disagree? Yes?
23 A. (Shaking head.)
24 Q. You have to answer out loud for the court
25 reporter.

223

1 A. Yes.
2 Q. Sorry. Let me hand you what has been marked
3 as Exhibit No. 14. And I will represent to you that I
4 located this on the internet. And I believe I have
5 already asked you if you have heard of the Happy Birds
6 Aviary, and I believe you already told me no; is that
7 correct?
8 A. I don't know them, no.
9 Q. And do you see that this is a second page for
10 them? We have already talked about the prior one in a
11 previous exhibit where they have a link to Scudder's
12 Parrot Depot. Do you at least see that?
13 A. But I don't know who the Nesting Box Aviary is
14 either. Could I see this again?
15 Q. Oh, sure.
16 A. This is just -- I don't know why they have
17 mentioned this.
18 Q. And you are not linked with them in any
19 business venture?
20 A. No. I am a separate entity of my own.
21 Q. Let me hand what you has been marked as
22 Exhibit No. 15. And ask you to take a look at that. I
23 will represent to you that I located that or rather,
24 let's be truthful, my handy assistant located that
25 online at the eBay site. Do you recognize that

224

1 advertisement?
2 A. I have seen it. But this is Bob's business
3 and I normally don't interfere. He owns this.
4 Q. Do you see down in the bottom there the
5 business name is Parrot's Depot? Do you see that right
6 here?
7 A. Our name is not Parrot's Depot.

8 Q. Okay. What is the name?
9 A. It is Scudder's Parrot Depot.
10 Q. So this is not for you?
11 A. I wouldn't -- Parrot's Depot is not ours, no.
12 MS. CABALO: Counsel, are these both?
13 MS. MacDOUGALL: It is. It is a two-page
14 document.
15 MS. CABALO: Or a two-packet document.
16 Q. (By Ms. MacDougall) Let me hand you back
17 Exhibit No. 5 to look at. Do you see that is Parrot
18 Depot? Is that your website?
19 A. Our website is Scudder's Parrot Depot.
20 Q. So this is not you?
21 A. That is not me, that one you just handed me.
22 Q. Is this Exhibit No. 5 you, your business?
23 A. Yes.
24 Q. Does that say Parrot Depot?
25 A. Yes.

225

1 Q. Let me take a moment just to put these back in
2 order so we don't get messed up. I think I am done
3 with these exhibits.
4 All right. I am going to hand what you has
5 been marked as Exhibit No. 16.
6 A. I know what this is.
7 Q. What I want to clarify, just on that first
8 page, and I believe it is probably a typo. Do you have
9 a business address in Hawaii?
10 A. No.
11 Q. Because they have listed you twice at two
12 addresses?
13 A. No. This is where the bird went.
14 Q. Got you. So...
15 A. And this is a private person who purchased a
16 bird from me.
17 Q. So just to be clear, them listing your name in
18 both places with two different addresses --
19 A. This is incorrect. This is correct. The name
20 should be Dan Fossio, I think is who we sent that bird
21 to. And this is an export permit. This is the
22 Department of Agriculture State of Hawaii import
23 permit.
24 MS. CABALO: Let the record reflect that the
25 deponent has referred to item 4 name as being

1 incorrect.

2 MS. MacDOUGALL: Thank you for clarifying
3 that.

4 Q. (By Ms. MacDougall) And I will represent to
5 you that these were -- this permit was located within
6 Dr. Jerry Brown's records. And Exhibit No. 16 is a
7 four page set of documents.

8 A. These are Dr. Brown's records that, you
9 know...

10 Q. Well. I have a question on the Bates stamp of
11 Exhibit No. 16 as JBDBM.

12 A. I don't know what Jerry's middle initial is.

13 Q. And it's 0000023. And do you see the date
14 referenced for 12/26/01?

15 A. '01?

16 Q. Yes.

17 A. Yes.

18 Q. Do you recall the circumstances of the sick
19 bird that died during examination? Do you recall that?

20 A. This was back in '01.

21 Q. I know.

22 A. And I'm positive it is there, but I don't
23 specifically remember that bird.

24 Q. That's okay. Do you recall being told that
25 the bird had no body fat?

1 A. I see that written there.

2 Q. You don't recall specifically, as you sit here
3 today, this circumstance though?

4 A. Correct.

5 Q. And that's okay. Because it is a couple years
6 ago. And I am handing you what has been marked as
7 Exhibit No. 17. And I am going to ask you if you have
8 ever seen that e-mail?

9 A. I have never seen this.

10 Q. The name on the e-mail referencing the bird
11 cage and Miss Flanahan. Do you recall the
12 circumstances that that e-mail is talking about?

13 A. Her name is Flanagan not Flanahan.

14 Q. I'm sorry.

15 A. Do I know the circumstances she is talking
16 about?

17 Q. Yes.

18 A. Yes.

19 Q. And is that the instance that we talked about
20 yesterday with the psittacosis in which you told me
21 that her statements were not true? Is this the same
22 circumstance?

23 A. She doesn't mention in this letter that she
24 had four birds die of psittacosis. Two of hers and two
25 of mine.

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1 Q. So her statements --

2 A. And --

3 Q. Let me finish my question.

4 So her statement that she got a bird back from
5 her, meaning you, Martha Scudder, in September that
6 died from psittacosis, that is incorrect in that you
7 don't believe the psittacosis came from your flock, is
8 that true?

9 A. Yes. I know it didn't come from my flock.

10 Q. Exhibit No. 18 is the records that I have
11 obtained and which your counsel has copies of from Dr.
12 Dhillon at the Washington State University Avian Health
13 and Food Safety lab. I have made Exhibit 18 the entire
14 collection. And I am not going to ask you every single
15 page, but I have several questions about them.

16 On Exhibit No. 18, which I am going to hand
17 you the face page for, and I am going to keep the bulk
18 of this exhibit to hand it to you just for efficiency.
19 But I am going to let you see that that is coming from
20 him and that is signed from Dr. Dhillon.

21 A. Yes.

22 Q. All right. On the third page of Dr. Dhillon's
23 records which is a letter dated May 21st, 2004. And do
24 you see at the bottom under comments where it
25 references the carcass was severely decomposed and

229

1 tissues were not suitable for testing?

2 A. Yes.

3 Q. Why wait so long to bring in a carcass for
4 testing?

5 A. A carcass starts decomposing the minute the
6 bird dies.

7 Q. Is there a time period in which you need to
8 get a carcass to this lab for testing?

9 A. I would imagine being, if you look at the date
10 that I took the bird in, on a Monday, and the bird

11 probably died on a Friday night or after they have
12 closed, and they are not opened on a weekend. That
13 seems to be when they die, and I have to put them in
14 the refrigerator until Dr. Dhillon sees them on Monday.

15 And I am there early in the morning on Monday.
16 Or early the next day after the birds die. Because
17 they close early as far as I am concerned. 4:30 is the
18 middle of the day to me.

19 Q. So your testimony is that the subject, the
20 macaw that was submitted on the 18th was not dead when
21 it was submitted?

22 A. Oh, no, they are always dead. He does not see
23 live birds.

24 Q. Right. That's what I understood your
25 testimony. So if it is submitted on the 18th, at that

230

1 point it has been decomposed; correct?

2 A. Well, I need to know what day of the week the
3 18th -- May 18th, was.

4 Q. Okay. When you have a bird die, do you submit
5 it immediately absent if it is at night or in --

6 A. Immediately the next morning.

7 Q. -- or in the morning? And if it is a weekend,
8 I assume you have to wait?

9 A. It has to wait until Monday.

10 Q. With my horrible little calendar, I'm not sure
11 if you will be able to see, but May 18, 2004 appears to
12 be -- is that a Tuesday?

13 A. Yes.

14 Q. If that bird would have died at night on the
15 17th, and you submitted it the next morning, is it your
16 testimony, based on your knowledge and experience with
17 these birds, and in having necropsies performed over
18 the years, that by the time the 18th rolled around that
19 carcass would have been decomposed?

20 A. Not completely. It would have begun the
21 decomposing process. A lot depends on the heat, the
22 time of day. The hotter it is the quicker they
23 decompose. All of these are also a factor. But the
24 minute they start dying -- the minute they die they
25 start decomposing.

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1 Q. So if you had taken that bird in as soon as
2 the next morning of the 18th, let's say, for example,

3 that it died -- strike that. Let me make this clear.
4 If that bird died on the night of the 17th and
5 you took it in as early as the morning of the 18th,
6 would the carcass have been severely decomposed based
7 on your experience with having birds die and sending
8 them over for necropsies?

9 A. No. But --

10 MS. CABALO: I will object to that on the
11 basis that it calls for expert opinion. But go ahead
12 and answer the question.

13 A. Maybe Dr. Dhillon didn't get to the necropsy
14 that day. He might have been over at the college in
15 Pullman. Because there are times I take the bird in
16 that he is not there, and they have to refrigerate the
17 bird and it continues to decompose.

[Ed.— There obviously would appear to be at least one other factor contributing to the severe deterioration of the corpse]

18 Q. Handing you the fourth page of Dr. Dhillon's
19 records and where it lists the number of -- total
20 number of -- total on farm/in house, which for you is
21 birds; correct?

22 A. Right.

23 Q. Do you see the number of 350?

24 A. Yes.

25 Q. And that is in April of 2004; is that correct?

232

1 A. That's correct.

2 Q. Now, is that 350 pair or 350 birds located in
3 the house that you previously described and drew for me
4 on Exhibit No. 1?

5 A. There is no way I could put 350 birds in that
6 house. Absolutely no way.

7 Q. So is this 350 birds total or pairs?

8 A. I would assume that he is doing -- see, Dr.
9 Dhillon does not know at any one time how many birds I
10 do have.

11 Q. Where does he get that information?

12 A. He gets it from me. But we average between
13 three and depending on what goes on and what has come
14 available. Between three and 400 birds.

15 Q. And those are all located in various areas on
16 Exhibit 1 that you have drawn for me?

17 A. Yes.

18 Q. So we have already talked about you disputed
19 and were not going to reduce your flock based on the
20 recommendations of Dr. Bennett and the humane society.
21 We have already talked about that; correct?
22 A. Yes. Because they have no right to tell me
23 that I do not have the means. They don't know my
24 income. They don't know how I handle things.
25 That's like me telling you that you can't --

233

1 you are not qualified, you carry too many loads and you
2 need to cutback.

3 Q. Does the Pierce County Humane Society, as a
4 county organization presenting you with a letter
5 stating that they believe there were certain
6 circumstances that were cruel under the law, and you
7 were required to reduce your flock based on
8 recommendations made by their avian vet, does that in
9 your opinion require you to reduce your flock?

10 A. No.

11 Q. All right. Let me turn to the next --

12 THE WITNESS: Can I finish?

13 MS. CABALO: You should answer as completely
14 as you want, Martha.

15 Q. (By Ms. MacDougall) Go ahead.

16 A. Dr. Bennett was brought to the Pierce County
17 Humane Society via Larry Gallowa. They should have
18 brought an independent veterinarian not associated with
19 Larry Gallowa.

20 Q. So are you saying -- I'm sorry.

21 A. And she, again, has no business telling me how
22 to run my business when it is not cruelty. There's no
23 cruelty shown on that property.

24 Q. So do I understand you to be alleging bias on
25 the part of Dr. Bennett?

234

1 A. Certainly. I don't think any person has a
2 right to tell another person they can't do something
3 and they must reduce. If you have a kennel, you have
4 to reduce your dogs. You have got too many.

5 Q. I am going to hand you --

6 A. Especially when the humane society, prior to
7 this with Mr. Gallowa, never had a complaint about the
8 birds.

9 Q. Okay. Let me hand you page number 8, and I

10 just wanted to verify for you that -- from you that as
11 of February 12, 2004, Dr. Dhillon gained the
12 information which you previously told me comes from
13 you. That there's 500 birds on the aviary property; is
14 that correct?

15 A. Yes.

16 Q. Okay.

17 A. But this is information from me.

18 Q. Okay. That's fine.

19 A. What is the difference between having 350 and
20 500? I could tell him I had 200 if I wanted.

21 Q. Let me hand you page number 10 of Dr.

22 Dhillon's records. And underneath the comments

23 section, do you see where he references, "serious

24 atrophy of fat is evidence of a long-standing negative

25 energy balance"?

235

1 MS. CABALO: Give us a moment.

2 MS. MacDOUGALL: Sure.

3 A. I have to find out what...

4 Q. (By Ms. MacDougall) Are you ready for my
5 question?

6 A. Yes.

7 Q. Does that indicate, does that statement

8 referencing the atrophy of fat and negative energy

9 balance, does that indicate to you that the bird was

10 not getting enough food?

11 A. No.

12 Q. Does that indicate that the bird was

13 malnourished?

14 MS. CABALO: Objection. Calls for expert
15 opinion. It is interpreting his pathology report.

16 But go ahead and answer the question.

17 A. Birds are as different as you and I. Some

18 birds overeat. Some birds eat what they should. Some

19 birds pick out all the goodies first. By goodies, what

20 they like best in the diet. Each bird utilizes the

21 food differently.

22 Q. So your answer is that you don't believe that

23 the bird was malnourished; is that correct?

24 A. No.

25 Q. Have you ever had a bird starve to death on

236

1 your property?

2 A. Not at my fault.

3 Q. But you have had that occasion where it has
4 died because of starvation, although not at the fault
5 of you?

6 A. Because the bird won't let its mate eat.

7 Q. Okay. How long does it take for, let's say, a
8 parrot? How long does it take for a parrot to die of
9 starvation if its mate is not letting it eat?

10 A. Normally I would catch that before it happens.

11 Q. But it has happened? I mean --

12 A. I have never -- it happens.

13 Q. Do you know how long it would take for a
14 parrot to starve to death?

15 A. The metabolism of a bird is very, very quick.
16 As for as a time line, no, I don't know. And I don't
17 think a veterinarian could answer that either.

18 MS. MacDOUGALL: Let me put on the record,
19 just based on your objection, Counsel, if you want to
20 have a standing objection to the line of questions that
21 --

22 MS. CABALO: Anything that requires my client
23 to interpret the comments of Dr. Dhillon's reports, a
24 standing objection as to calls for expert opinion.

25 THE WITNESS: And this is what he is doing

237

1 here.

2 MS. CABALO: If she asks you any questions as
3 to whether you opine certain comments.

4 MS. MacDOUGALL: Just to be very clear, Mrs.
5 Scudder has already testified to her long-standing
6 experience, and to her -- based on that experience her
7 reasons for disputing veterinary comments and stuff.
8 So, I mean, obviously, if we get into a point that this
9 is my standing response to your standing objection.

10 MS. CABALO: She has not spoken anything as to
11 her ability to interpret reports. She does have
12 general knowledge as to flock management as to what
13 care is required of her for her birds.

14 MS. MacDOUGALL: And so, basically, I will
15 understand, if you don't speak up, during this entire
16 exhibit that you are not waiving any objections.

17 MS. CABALO: Correct. But go ahead and answer
18 any questions she asks. Unless there is another
19 objection.

20 MS. MacDOUGALL: Unless you can't or there is

21 a different objection or you need me to clarify.
22 Q. (By Ms. MacDougall) I am going to hand you
23 page number 18. And the date from Dr. Dhillon's office
24 is December 2, 2003. And if you can read to me, for
25 the record, what the diagnosis of that submission was

238

1 after you have had a chance to look at that document.

2 A. What do you want me to answer?

3 Q. What was the diagnosis on that document or
4 that bird?

5 A. There are two birds here.

6 Q. What was the diagnosis? What does the
7 diagnosis state?

8 A. Macaw wasting disease in bird B. Bird A had
9 moderate epicarditis.

10 Q. Can you explain to me, based on your
11 experience and knowledge, what is macaw wasting
12 disease?

13 A. It is a virus. It can hit one bird and not
14 another.

15 Q. Is it communicable between the birds?

16 A. It is a virus.

17 Q. So it can be passed on?

18 A. It can be. Some birds will get it and some
19 birds won't.

20 Q. If you have one bird die of macaw wasting
21 disease, do you need to perform any testing on other
22 birds that were close to that bird?

23 A. As I stated previously, there is no testing
24 for macaw wasting unless the bird is dead.

25 Q. If you've been notified that there is a bird

239

1 who has died of this, do you take any precautions other
2 than testing, which you told me there isn't one
3 available. Do you take any other precautions to make
4 sure it doesn't get spread any further than the one
5 bird that died from it?

6 A. It is an airborne virus.

7 Q. There are no precautions?

8 A. Well, we spray the cages with Nolvasan because
9 Nolvasan does not harm the breeding capability of the
10 bird -- of the other birds in the aviary.

11 You can also spray the birds with Nolvasan,
12 its mate, you know. Those are the precautions we take.

[Ed.— Such “precautions” are inadequate. The cornerstone of approach would be appropriate isolation procedures and disinfection]

13 Q. Okay.

14 A. Nolvasan is N-O-L-V-A-S-A-N, I think.

15 Q. I am going to hand you document number 24
16 Bates stamp. And I want you to take a look at it and
17 focus on the comment section.

18 A. Yes.

19 Q. Do you see that under the comments that bird
20 is noted to be emaciated?

21 A. It says, "The cause of emaciation and death is
22 not histologically apparent."

23 Q. Right. So this bird was emaciated? Despite
24 the fact that we don't know the cause, it was
25 emaciated?

240

1 A. Like I said, birds cover their illnesses and
2 their actions. And you have to very thoroughly watch
3 -- can I see that date again?

4 Q. Certainly. The date here of 1/7/04.

5 A. Okay.

6 Q. You were -- I didn't mean to cut you off by
7 taking the document. You said --

8 MS. MacDOUGALL: Can you read back?

9 (The Reporter read back as requested.)

10 Q. (By Ms. MacDougall) Do you remember what you
11 were going to say?

12 A. Watch their actions as you are feeding.

13 Q. Do you do that as a breeder?

14 A. Yes. We look at these birds every day when we
15 feed. We look at how they sit on the perch. What
16 their eyes look like. What feather condition looks
17 like. But a sick bird will lose weight.

18 Q. How quickly do they lose weight?

19 A. You can't tell.

20 Q. So it is your testimony that even if you are
21 looking at these birds every day, they can still become
22 emaciated?

23 A. Yes. But so can a pet bird.

24 Q. I am handing you number 27, and take a minute
25 to look at that. Do you see the diagnosis on this one

241

1 is emaciation?

2 A. Yes. But that does not mean the bird starved
3 to death. I mean, that I starved the bird to death.

4 Q. I am going to hand you number 28 of Exhibit
5 No. 18, just to make the record clear. And it looks
6 like at the bottom that that's been written by Dr.

7 Jennifer L. Johnson. Do you see that?

8 A. Yes.

9 Q. Do you know who that person is?

10 A. I don't know everybody in Dr. Dhillon's lab.

11 Q. So to your recollection you have not spoken
12 with Dr. Johnson?

13 A. No. I only speak with Dr. Dhillon.

14 Q. Take a minute to take a look at the comment
15 section after you have had a chance to look at the
16 entire document, which is dated 10/23 -- 10/20/03.
17 Excuse me.

18 Do you see where she recommends an evaluation
19 of the diet and housing conditions of this flock?

20 A. Yes.

21 Q. Did anyone ever evaluate the diet or the
22 housing conditions at that time in October of 2003?

23 A. No. Dr. Dhillon does my evaluations of my
24 diet. And he did not request one.

[Ed.— Dr. Dhillon did, in fact, make several specific dietary suggestions throughout the necropsies]

25 Q. Did Dr. Dhillon ever talk to you about the

242

1 recommendation made by Dr. Jennifer Johnson?

2 A. No.

3 Q. I am going to hand you document number 29.
4 And dated October 9, 2003. I believe this is
5 referencing the same bird, a Muller? Is that how you
6 pronounce it?

7 A. A Muller parrot. What is the accession number
8 on it? Yes.

9 Q. So this references the same bird as document
10 number 28 that we just previously spoke about.

11 Do you see the area where the bird had not
12 eaten for several days? Right here.

13 A. Yes.

14 Q. Where does the information on this portion of
15 the report come from?

16 A. It comes from what they find in the stomach or
17 in the crop or in the gizzard or in the digestive
18 system of the bird.

19 Q. So you don't provide the information saying
20 here --

21 A. No. This comes from the doctor. From the
22 lab.

23 Q. Okay. How do you make certain, when the birds
24 are in breeding pairs, that one bird isn't starving
25 another one and preventing another one from eating?

243

1 A. If I think there is a problem, if I see a
2 problem, I physically handle that bird to see what it
3 feels like. But the bird died of a head injury.

4 And when a bird is injured, they go off their
5 feet often. It is like when we don't feel good, we
6 don't eat when we know we should.

7 Q. So explain to me, if you're handling the birds
8 -- and I believe your prior testimony was that you were
9 looking at these birds daily -- how is it that they can
10 then become emaciated if you are watching them daily to
11 try to make sure that they are actually getting enough
12 food?

13 A. We look at the food dish. How much food is --
14 residue is left. How much crumbs is left in the bottom
15 of the dish. And we estimate. We look at both birds
16 in -- both birds in the cage. And, again, like I said,
17 these birds mask their illnesses.

18 Q. Let me hand you document number 37. Again,
19 another report written by Dr. Johnson. And I will let
20 you take a moment to look at that.

21 Do you see across the bottom that it states
22 that bird was in a negative energy balance and a loss
23 of fat stores around the heart?

24 A. Yes.

25 Q. All right. Document number 40. This is from

244

1 Dr. Dhillon dated March 17, 2003. And when you have
2 had a moment, could you note for me what the diagnosis
3 was as printed on that form?

4 A. Diagnosis of macaw wasting. May I make one
5 more comment?

6 Q. Certainly. Please do.

7 A. In these reports that you are pointing out to

8 me with Dr. Dhillon, any farm, whether it be birds,
9 dogs, horses, cows, goats, sheep; when you have a
10 number of birds or animals, you have to expect some
11 losses. And, again, macaw wasting is a hit and miss
12 with them.

13 MS. MacDOUGALL: I am very sorry but I need to
14 take a very quick break.

15 (Recess taken.)

16 Q. (By Ms. MacDougall) Mrs. Scudder, I am going
17 to hand you document 83. And have you look at that and
18 it is a several page document. I am just handing you
19 the first page to have you look at it.

20 Do you see where there are 27 birds that have
21 died?

22 A. Yes.

23 Q. Do you remember this incident with the rodent
24 toxicity?

25 Here, I can give you the rest of it. I just

245

1 wanted you to --

2 A. I don't see anything where it says about
3 rodents.

4 Q. Let's see. History of rodent toxicity.
5 Rodenticide. Excuse me.

6 A. Yes.

7 Q. Do you remember having the birds -- this many
8 birds die February 15, 2002?

9 A. Yes.

10 Q. Can you explain to me what happened?

11 A. It wasn't because of the rodents. It was
12 because Dr. Bennett had -- no, this was before that.

13 My caretakers at that time took on their own,
14 not as per instructions from me, to spray the aviary.
15 And sprays are very, very toxic to birds. And I had no
16 control of that because they did it on their own and
17 told me about it after they did it.

18 Q. So this was a spray rat poison or mouse
19 poison, rodent poison?

20 A. It was a spray they used for, I would assume
21 -- they didn't say anything about the mice and so
22 forth. That's what we have our dachshunds for.
23 Because it is very hard. You have -- we have to be
24 very careful because of their lungs with anything that
25 is sprayed around them. Even the germicide.

- 1 Q. For cleaning the cages you mean?
 2 A. Yes. And they took it upon themselves to
 3 spray under the cages. And they sprayed way too much
 4 and it affected the birds.
 5 Q. So the details of the compound, the capital
 6 JT Eaton, T-E-A-T-O-N, one word, was that information
 7 provided by you as to what the spray was?

[Ed.— The accession diagnosis for all these birds was *presumed* rodenticide toxicity. However, it was not confirmed. Not only were the characteristic hemorrhagic lesions of rodent poison absent, but assays were run for the specific active ingredient in JT Eaton Formula 90 (Chlorophacinone) and it was not found. Thus this cluster of deaths is unexplained.]

- 8 A. No. This was a toxic report. That's what it
 9 came back as. Because at the time that these birds
 10 died we didn't know what it was.
 11 Q. Okay.
 12 A. And I would be very neglectful if I did not
 13 have these birds necropsied when they passed away.
 14 That's why we go to the extent of the necropsies.
 15 Q. This is document number 170. And the date of
 16 June 23, 1999. And it is addressed to both you and
 17 your husband John at the time.
 18 Do you see it references severe emaciation and
 19 possible starvation?
 20 A. At this time in 1999, and in the early '90s we
 21 were getting -- we were purchasing birds. And this
 22 possibly could have been a bird that was in quarantine.
 23 Q. Possibly, but you are not sure?
 24 A. No. I don't remember back to 1999.
 25 Q. When you buy birds, are they generally

- 1 emaciated?
 2 A. No.
 3 Q. Does --
 4 A. Well, not that -- we put them in quarantine.
 5 And we don't handle them because we specifically dress
 6 and clothe and gown and glove in our quarantine area,
 7 so we don't track anything from the birds that are
 8 being quarantined that we just purchased into our
 9 flock.
 10 Q. So --
 11 A. Does that make sense?

12 Q. It does, but I have a follow-up so I
13 understand. So if the birds are in quarantine, is
14 there something about the quarantine that can somehow
15 make them possibly become emaciated?

16 A. Yes. Any change in a bird's life can bring on
17 the stress to do this.

18 Q. I am going to hand you document number 264.
19 And just to save time, I am going to shortcut and
20 indicate for the record that that's talking about the
21 **death due to the smoke inhalation**. Do you see that?

22 Is that the incident we were talking about
23 yesterday where you explained to me how the neighbor
24 was burning? And I believe his name was --

25 A. Yes.

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1 Q. Lynn Hagen?

2 A. Lyle Hagen.

3 Q. And so that's what this document is
4 referencing?

5 A. Yes. And --

6 Q. Go ahead.

7 A. The burning was not malicious. It was
8 strictly an accident. Where what Mr. Gallowa has done
9 to me is malicious. In my thoughts.

[Ed.— The "logic" here provides interesting insights into the rationalization at Scudder's Parrot Depot. A neighbor lets a fire smolder for a week; the smoke drifts into a Scudder building housing rare parrots, many of whom are allowed to slowly choke to death because moving them would have put them off their breeding, potentially affecting profits. (see Pages/Sections 114-115 of Martha Scudder Deposition Vol 1). That is not malicious behavior, according to Mrs. Scudder, whereas reporting on sub-standard conditions attested to by both the county Humane Society and a Board Certified Avian Veterinarian *is* malicious.]

10 Q. And why do you think that?

11 A. Because he takes things out of context and
12 puts them over the internet from the letter from Dr.
13 Bennett.

14 Q. And you consider Dr. Bennett to be bias in her
15 reporting about the aviary; is that correct?

16 A. Yes.

17 Q. Do you recall when I was asking about Dr.
18 Jennifer Johnson's recommendation to have the flock
19 diet and housing conditions evaluated. Do you consider
20 that recommendation to be valid?

21 A. Was Dr. Johnson one of Dr. Dhillon's
22 employees?
23 Q. That was the document I referred to you
24 earlier.
25 A. Because that name is not familiar to me.

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1 Q. Right. But do you consider it necessary that
2 --
3 A. If it is brought to my attention that it is
4 necessary that I at least know of it. And if it was
5 from doctor -- Dr. Johnson is one of Dr. Dhillon's
6 employees. It was never brought to my attention.
7 Q. Your attorney handed me several pages. I am
8 going to call them spreadsheet analysis. Can you
9 explain to me what that set of documents is?
10 A. You will note the cage numbers. You will note
11 the number.
12 MS. CABALO: The deponent is referring to the
13 document that is titled "Year-to-date averages."
14 Go ahead.
15 A. You will note the number of clutches. And
16 that's what is called -- a clutch is called a number of
17 eggs laid at a time.
18 Q. (By Ms. MacDougall) Let me back up so we can
19 make it really clear. Who compiled this? Who drafted
20 this document?
21 A. Bob.
22 Q. Bob did. Did you have any input, whatsoever,
23 in the drafting or putting together of the series of
24 documents that are in front of you?
25 A. Well, yes, because we -- he collects the eggs

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1 and I write on them what cage they come from. And the
2 date that we bring them in.
3 Q. And for my purposes, is that series of
4 documents that I have been handed, is it your intention
5 that that is to somehow explain to me the losses that
6 you're claiming the aviary suffered due to my client's
7 actions?
8 A. This is a record of hatches.
9 Q. So it will not show the losses for me that
10 you're claiming; is that true?
11 A. I don't know. Because I have not seen -- I
12 don't read his work that he does. I know that he

13 collects the eggs and gives them to me. And I write
14 the bird cage number on them. And the specie, and the
15 date that we brought the egg in. So that we know when
16 this egg, if it is fertile, when it should be hatching.

17 Q. Is there anything in these pages that you can
18 look at and tell me what losses you have actually
19 suffered?

20 A. Well, this top page says, "Average price per
21 bird is \$550. Actual loss of 203 is 93. Financial
22 impact is \$51,150. For 2004, 58 losses."

23 And you see the big difference because we did
24 not have the interruptions in 2004 like we had in 2003
25 with the mate killing and the egg crushing and eggs not

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1 being laid. With the financial impact of \$31,900 it
2 says.

3 Q. And who drafted that document?

4 A. This is Bob. This is from his records.

5 Q. And did you participate in the compilation of
6 information that went into making that and creating
7 that document?

8 A. I was in on the price of the average bird,
9 yes.

10 Q. And what is the most expensive bird that you
11 sell in your facility?

12 A. What is the highest price? Wholesale or
13 retail?

14 Q. Let's start with retail.

15 A. They average -- the highest priced birds run
16 about \$1,500 that I sell.

17 Q. And what is the highest price wholesale bird?

18 A. 950.

19 Q. And the lowest price retail?

20 A. Retail 150.

21 Q. And the lowest price wholesale?

22 A. 50.

23 Q. Does this average represent wholesale or
24 retail or a combination of both?

25 A. I don't know.

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1 Q. And where it says, "actual loss," what does
2 that figure represent? Birds or eggs or both?

3 A. I don't know. I think it is both, but I don't
4 know.

5 Q. Mrs. Scudder, is it fair to say that in
6 directing my questions regarding where the majority of
7 this information came from and how it was compiled and
8 what these numbers represent, is it fair to say that
9 Mr. Vincent is the better person to seek my answer to
10 my questions?

11 A. Yes.

12 Q. Then I won't ask you any more questions and
13 take up any more of your time about any more of these
14 documents. Is that fair to you?

15 A. Yes.

16 Q. I don't want to ask you questions that you
17 don't know.

18 MS. MacDOUGALL: And I don't have any more
19 questions, then. And I am not going to make this an
20 exhibit. Is this my copy?

21 MS. CABALO: That is your copy. You should
22 also have this in your fax machine when you get to the
23 office.

24 (Deposition concluded at 11:00 a.m.)

25 (Signature reserved.)

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1 CORRECTION & SIGNATURE PAGE
2 RE: SCUDDER vs. GALLOWA
KING COUNTY; 04-2-04721-8SEA
3 MARTHA JEAN SCUDDER; TAKEN JANUARY 13, 2005
REPORTED BY: CONNIE L. HOLTON

4
5 I, MARTHA SCUDDER, have read the within
6 transcript taken JANUARY 13, 2005, and the same is true
7 and accurate except for any changes and/or corrections,
8 if any, as follows:

7 PAGE/LINE	CORRECTION	REASON
8	_____	_____
9	_____	_____
10	_____	_____
11	_____	_____
12	_____	_____
13	_____	_____
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Signed at _____, Washington,
on this date: _____

MARTHA JEAN SCUDDER

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REPORTER'S CERTIFICATE

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I, CONNIE L. HOLTON, the undersigned Certified Court Reporter and Notary Public, do hereby certify:

That the testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that any and/or all witness(es) were by me duly sworn to tell the truth; that the sworn testimony and/or proceedings were by me stenographically recorded and transcribed under my supervision, to the best of my ability; that the foregoing transcript contains a full, true, and accurate record of all the sworn testimony and/or proceedings given and occurring at the time and place stated in the transcript; that I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND AND SEAL this 25th day of January 2005.

CONNIE L. HOLTON

Certified Court Reporter
CCR No. 2975

Notary Public in and for the
State of Washington, residing
in King County. Commission
expires 11/29/07.