

August 11, 2005

The Honorable Steven J. Tucker, Esq.  
Spokane County Prosecuting Attorney  
Public Safety Building, 1<sup>st</sup> Fl.  
1100 W. Mallon  
Spokane, WA 999260

Re: Request for investigation of violations of Wash. Rev. Code Ann.  
§ 16.52.205 prohibiting cruelty to animals

Dear Mr. Tucker:

People for the Ethical Treatment of Animals (PETA) is submitting this complaint and request for an investigation of (1) Law Enforcement Military Ammunition Sales (Le Mas Ltd.), a bullet distributor located in Little Rock, Ark.; (2) John Hamilton, president, Le Mas Ltd.; (3) Stan Bulmer, president of sales and manufacturing, Le Mas Ltd. and a resident of Spokane; and (4) Gibby Media Group (located in Spokane), the producer of the CD-ROM that is the subject of this complaint, for violations of Washington's cruelty-to-animals statute, Wash. Rev. Code Ann. § 16.52.205.

On information and belief, the parties named above intentionally participated in the cruel treatment of 10 pigs, resulting in the pain, suffering, and deaths of the animals—in complete disregard of Washington law and for the sole purpose of commercial gain.<sup>1</sup> The cruelty occurred in the course of making a CD-ROM, copyrighted in 2004, the sole purpose of which was to promote sales of a bullet that is designed by Le Mas Ltd. to inflict such serious injury that it is marketed only to the U.S. military and to law enforcement agencies for use in urban and land "warfare." The incidents discussed herein are depicted in the enclosed video.<sup>2</sup>

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<sup>1</sup> Le Mas Ltd., Hamilton, and Bulmer are the subject of a recent investigation by the U.S. Department of Agriculture (USDA) for alleged violations of the Animal Welfare Act (AWA), 7 U.S.C. §2131 *et seq.*, and associated regulations because they failed to register with the USDA as a research facility, as required of people, institutions, or organizations that use animals in research, tests, or experiments, and because, in contravention of the AWA's substantive provisions at 7 U.S.C §2143(a)(3)(A)-(C), they failed to take steps to minimize the animals' pain and distress; failed to make appropriate use of anesthetic, analgesic, or tranquilizing drugs or euthanasia; failed to consider alternatives to procedures likely to cause pain and distress; and failed to consult with a veterinarian in the planning of procedures that could cause pain to the test animals. The USDA has concluded an investigation into this matter, and a decision regarding enforcement action is pending.

<sup>2</sup> The video was copied from the original unedited CD-ROM, which is available upon request.



**PETA**

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AN INTERNATIONAL  
ORGANIZATION DEDICATED  
TO PROTECTING  
THE RIGHTS OF ALL ANIMALS

Please note that it has not been possible for PETA to confirm the location at which the cruelty was perpetrated.<sup>3</sup> However, at least one of the individuals and one of the entities named above is based in Spokane, and a member of the Spokane Police Department can be seen in one of the frames in the CD-ROM, making it very likely that the conduct occurred in Spokane.

## I. Background

Le Mas Ltd. is a bullet distributor located in Little Rock, Ark., which injured and caused substantial pain to 10 fully conscious, unanesthetized pigs and killed the pigs in a way that caused undue suffering, solely in order to create a promotional CD-ROM for a bullet that “effectively explodes inside a body, ravaging tissue in all directions creating untreatable wounds.”<sup>4</sup> In fact, Le Mas Ltd. specifically obtained these animals “for the purpose of demonstrating the lethality of BMT technology,” i.e., the bullets used in the video to maim and kill the pigs.<sup>5</sup>

The Gibby Media Group is both acknowledged in the “credits” and identified as the owner of the copyright for the CD-ROM. PETA therefore believes that this respondent videotaped the cruel incidents in question and produced the CD-ROM. Gibby Media Group’s agreement to serve as the production agent for Le Mas Ltd.’s CD-ROM: (1) set the illegal events in motion, since the Le Mas Ltd. respondents would not have maimed and killed these 10 pigs if they could not have memorialized the incidents for commercial profit; and (2) places Gibby at the scene of the slaughter.

The pigs were tethered tightly, in most instances by both a rear leg and the snout. The video shows a shooter firing on the animals individually, as the animals scream in pain and struggle in vain to escape their tethers.<sup>6</sup> The video, at different junctures, describes the bullets used to kill the pigs as “land warfare bullets” that create “large permanent wound channels and greater depth of penetration.” Each bullet “deploys with dramatic dimensions of fragmentation” and “provides both armor penetration capability and traumatic live tissue destructions.” These effects are displayed at the expense of the tortured pigs, at times in graphic slow motion and with prominent background “Muzak.”

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<sup>3</sup> On September 20, 2004, PETA submitted a similar complaint to The Honorable Frank Parrish, Esq., District Attorney, Camden County, North Carolina, who determined that the cruelty had not been perpetrated in the state of North Carolina (the location of Blackwater Lodge Training Facility, discussed *infra*.) Mr. George Ryan, who conducted the investigation for Mr. Parrish, can be reached at 252-331-4743.

<sup>4</sup> Chris Floyd, “Global Eye—US New, Deadliest Bullet Tested,” *The Moscow Times*, 12 Dec., 2003.

<sup>5</sup> See enclosed video.

<sup>6</sup> One gravely injured pig did successfully escape the tether, and as the video cuts to the next scene, voices off screen yell to “just grab it.” The animal was presumably brought down by yet more bullets.

The respondents named herein intentionally inflicted substantial pain on the pigs; caused physical injury to the pigs; and killed the pigs in a manner causing undue suffering within the meaning of the Washington statute that prohibits cruelty to animals. The video footage plainly evidences that the pigs were injured and that they did not die instantaneously upon being shot but experienced extreme pain and unwarranted suffering. This is further reinforced in the video's postmortem examinations, in which the ravaging effects of the bullets on the injured animals are discussed.

Experts in animal behavior and pathology have reviewed the video and independently and unanimously agree that the maiming and killing were not only intentional and unjustified, but constitute deliberate cruel acts, in that alternatives to both the use and abuse of the 10 live animals existed.<sup>7</sup>

If it is determined that the cruelty was perpetrated in the state of Washington, the parties named above and further identified below should all be subjected to aggressive prosecution and the stiffest possible penalties under the Washington cruelty-to-animals statute, a law that is formulated to address the kind of misconduct brought to your attention in this complaint.

## II. Respondents

Le Mas Ltd. is a bullet distributor located in Little Rock, Ark., and John Hamilton and Stan Bulmer appear to be Le Mas Ltd.'s sole employees. On information and belief, Mr. Bulmer resides in Spokane. These respondents actively sought to promote the bullet depicted in the video by demonstrating the lethal effects of their product on live animals and entering a contract for the same to be videotaped and produced as a CD-ROM.

Gibby Media Group produces corporate, industrial, government, and mainstream videos. Gibby Media Group also provides CD-ROM and Internet media services to its clients. On information and belief, Gibby Media Group videotaped the cruelty that is the subject of this complaint and produced the CD-ROM in Spokane.

Blackwater Lodge Training Facility is credited on the CD-ROM for its participation in the production of the video that is the subject of this complaint. However, please note that officials of Blackwater Lodge Training Facility have represented to PETA that the facility had no involvement in the pain and suffering inflicted on the pigs.

An investigation may reveal additional culpable parties. For example, the identity of the actual shooter or shooters remains unknown.

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<sup>7</sup> See Section IV.

Contact information for Le Mas Ltd. is as follows:

John Hamilton, President  
501-960-5847  
501-961-1826 (fax)  
[www.LeMasLtd.com](http://www.LeMasLtd.com)

Stan Bulmer, President of Sales and Manufacturing  
509-951-4968

We have been unable to find a physical address for the company.

Contact information for Gibby Media Group is as follows:

Lon Gibby, President and CEO  
Gibby Media Group  
113 E. Magnesium  
Spokane, WA 99208  
509-467-1113  
1-800-200-1113

Contact information for the Blackwater Lodge Training Facility is as follows:

Gary Jackson, President  
Blackwater U.S.A.  
850 Puddin Ridge Rd.  
Moyock, NC 27958  
1-877-425-5886 (primary number/toll-free)  
252-435-2488 (alternate number)  
252-435-6388 (fax)

### III. Statutory Provisions

Washington has established a felony offense for cruelty to animals, as set forth below:<sup>8</sup>

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<sup>8</sup> Washington has also established a misdemeanor offense for cruelty to animals:

16.52.207. Animal cruelty in the second degree

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable

16.52.205. Animal cruelty in the first degree

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) A person is guilty of animal cruelty in the first degree when, except as authorized by law, he or she, with criminal negligence, starves, dehydrates, or suffocates an animal and as a result causes: (a) Substantial and unjustifiable physical pain that extends for a period sufficient to cause considerable suffering; or (b) death.

(3) Animal cruelty in the first degree is a class C felony.<sup>9</sup>

IV. Argument

A. Le Mas Ltd., John Hamilton, Stan Bulmer, and Gibby Media Group Acted Intentionally Within the Meaning of Wash. Rev. Code Ann. § 16.52.205 and Should Be Charged With Felony Cruelty to Animals

As evidenced below, the conduct of Le Mas Ltd., John Hamilton, Stan Bulmer, and Gibby Media Group subjects them to the felony provision of the cruelty-to-animals statute because they acted intentionally when they inflicted substantial pain on, caused physical injury to, and killed 10 pigs by a means causing undue suffering.<sup>10, 11, 12</sup>

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physical pain as a result of the failure; or  
(b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.

(4) In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

<sup>9</sup> Paragraph 2 is a recent amendment to Wash. Rev. Code Ann. § 16.52.205 which became effective July 24, 2005.

<sup>10</sup> Wash. Rev. Code Ann. § 9A.08.030 provides for corporate liability where "The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and on behalf of the corporation."

<sup>11</sup> PETA believes that an investigation will conclude that Gibby Media Group possessed the requisite intent and behaved in a manner that will subject it to liability for felony cruelty to animals. However, in the alternative and at a minimum, Gibby is guilty of complicity as defined by Wash. Rev. Code Ann. § 9A.08.020 ("A person is an accomplice of another person in the commission of a crime if: (a) With knowledge that it will promote or facilitate the commission of the crime, he (i) solicits, commands, encourages, or requests such other person to commit it; or (ii) aids or agrees to aid such other person in planning or committing it.").

<sup>12</sup> PETA believes that an investigation may reveal that the respondents are also guilty of criminal solicitation as defined by Wash. Rev. Code Ann. § 9A.28.030 ("A person is guilty of criminal

Pursuant to Wash. Rev. Code Ann. § 9A.08.010 “a person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a crime.” There is no doubt that the respondents acted “intentionally” in light of their undeniable authorization of, and/or participation in, the shootings as the distributor of the bullet and the promotional CD-ROM and, in the case of Gibby Media Group, the producer of the CD-ROM and the owner of the copyright.

Nor is there any doubt that the respondents’ acts are not “authorized in law.” First, there is no exemption in the statute that applies to the respondents’ acts.<sup>13</sup> Nor do any of the recognized principles of exculpation apply, e.g., self defense, defense of others, necessity, or mistake of fact. Further, public policy dictates, without question, that activity conducted solely for commercial gain cannot provide justification for criminal behavior such as that prohibited by the cruelty-to-animals statute. Thus, having acted both intentionally and without authorization in law, the respondents are guilty of felonies pursuant to Wash. Rev. Code Ann. § 16.52.205.

Le Mas Ltd.’s graphic promotional CD-ROM<sup>14</sup> constitutes the primary evidence of the physical injuries, substantial pain, and undue suffering inflicted on the pigs at the hands of the respondents. The video was reviewed by four renowned experts in the fields of domestic animal behavior and pathology. A brief summary of the expert opinions, (which are attached in full) follows.

The respondents clearly caused physical injury to the pigs in violation of Rev. Code Ann. § 16.52.205. This is self-evident in the images depicted in the CD-ROM. However, the experts agree that the respondents also inflicted substantial pain on the animals and killed them in a manner that caused undue suffering—additional violations of Rev. Code Ann. § 16.52.205. (The experts also join PETA in condemning the lack of any effort, even the most minimal, on the part of the respondents to minimize the pain and suffering inflicted on the pigs, such as the administration of analgesics to the animals.)

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solicitation when, with intent to promote or facilitate the commission of a crime, he offers to give or gives money or other thing of value to another to engage in specific conduct which would constitute such crime or which would establish complicity of such other person in its commission or attempted commission had such crime been attempted or committed.”).

<sup>13</sup> Wash. Rev. Code Ann. § 16.52.180 provides that the cruelty-to-animals statute shall not be deemed “to interfere with ... any properly conducted scientific experiments or investigations” provided that such “experiments or investigations shall be performed only under the authority of the faculty of some regularly incorporated college or university of the state of Washington or a research facility registered with the United States department of agriculture and regulated by [the federal Animal Welfare Act].” The actions of Le Mas do not fall within this exception. In fact, the USDA has investigated Le Mas for failure to register as a research facility pursuant to the AWA and a decision by the USDA regarding enforcement action is pending (see n. 1).

<sup>14</sup> The adjective “graphic” is used by the respondents themselves to describe the content of the promotional video. See enclosed video.

Dr. Peggy Larson, who has a master's degree in animal pathology and extensive experience in the field, declares that it is "obvious" that "there were no pain medications given to these animals before they were shot." Dr. Larson further notes that the wounds are of a nature that caused great suffering to the animals, including lung damage revealed on autopsy "that would have resulted in the animal literally drowning in its own blood (suffocating to death)."<sup>15</sup>

Dr. Richard Joseph, a veterinarian who specializes in neurology, declares that at a minimum, the respondents "should have rendered [the animals] unconscious before shooting them," pointing out that the U.S. military anesthetizes the animals it uses to train medics. Dr. Joseph concludes that all the pigs maimed and shot in this video for the benefit of the respondents' bullet promotion experienced significant pain and distress.<sup>16</sup>

Dr. Nicholas H. Dodman, who is director of the Animal Behavior Clinic at Tufts University School of Veterinary Medicine and an expert in veterinary anesthesiology, observes that "[o]nly about two of the pigs died reasonably quickly, sinking to their haunches and then rolling into lateral recumbency within a matter of 5 or 10 seconds. ... The remainder thrashed, screamed and/or tried to escape. ... Death for them was by no means immediate and was accompanied by what ... would be excruciating pain and inconceivable stress."<sup>17</sup>

Dr. Wendy Jensen, a veterinarian with 17 years of experience, which includes treatment of gunshot wounds, opines that "these animals suffer immensely before they die, vocalizing their intense fear and pain before finally drowning from massive internal bleeding." Like the other experts, she observes that the pigs "demonstrate normal behaviors of fully awake and conscious animals." She reinforces her point by stating, "These animals clearly suffered excruciating pain and intense fear before dying, struggling desperately to free themselves."<sup>18</sup>

PETA believes that this case is particularly deserving of prosecution because: (1) feasible and more humane alternatives to the use of live, fully conscious pigs—such as the use of body armor or ballistic gelatin—were both known and available to the respondents, yet they chose to ignore these alternatives; and (2) the respondents failed to take any steps to minimize the pain and suffering inflicted on the pigs, such as the administration of analgesics to the animals.<sup>19</sup>

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<sup>15</sup> Letter from Dr. Peggy W. Larson, DVM, to Peter Wood, Research Associate, PETA, dated June 1, 2004, attached.

<sup>16</sup> Letter from Dr. Richard Joseph, DVM, DACVIM, to Peter Wood, Research Associate, PETA, dated May 17, 2004, attached..

<sup>17</sup> Letter from Dr. Nicholas H. Dodman, Tufts University School of Veterinary Medicine, to Peter Wood, Research Associate, PETA, dated May 14, 2004, attached.

<sup>18</sup> Letter from Dr. Wendy Jensen, DVM, to Peter Wood, Research Associate, PETA, dated May 17, 2004, attached.

<sup>19</sup> For example, Dr. Richard Joseph, a veterinarian who specializes in neurology, finds the video "nothing more than a gratuitous exercise in cruelty ... because the destructive force of the bullets ... was effectively demonstrated on armor siding, body armor, bulletproof glass and ballistic

Simply stated, the only possible explanation for the respondents' behavior is that they intentionally inflicted the cruelty for its own sake—because they believed that a more graphic account, i.e., a video depicting fully conscious pigs as they writhe in pain (at times in slow motion) would sell more bullets. In fact, Le Mas Ltd. has expressly stated that it procured the pigs “for the purpose of demonstrating the lethality of BMT technology.”<sup>20</sup> Clearly, the respondents' motivation to create the video was financial; their intent was to cruelly kill the pigs and, in the course of those killings, demonstrate to prospective customers the injury, pain, and suffering that can be inflicted on animals (and thus humans) by their product. This very graphic, powerful imagery equates, in the respondents' world, with a persuasive advertisement for their bullet and thus a generous profit. It also equates with the legal definition of animal cruelty in the first degree.

C. Blackwater Lodge Training Facility's Actions Related to the Making of the Video Require Further Investigation

Although the precise role of Blackwater Lodge Training Facility in the cruelty that is the subject of this complaint is unknown, its involvement is evidenced by the fact that the facility is acknowledged in the credits for the CD-ROM. As discussed above, the facility has represented to PETA that it played no role in the cruelty inflicted on the pigs. However, further investigation may prove that this respondent participated directly in the cruelty in a manner that falls within the meaning of the misdemeanor or felony cruelty statutes, Wash. Rev. Code Ann. §§ 16.52.207 and 16.52.20r, and/or engaged in criminal solicitation or complicity with regard to the cruelty.<sup>21</sup>

V. Conclusion

To be rendered meaningful and effective, Washington's cruelty-to-animals statute must be applied strictly to *all* persons who violate the law, including those who do so in order to “better” advertise a product. Otherwise, any person who markets any type of product (e.g., a weapon, an animal poison, a medicine, or even a safety apparatus) would be able to follow the example of these respondents and harm animals merely in order to increase profits. Clearly, Le Mas Ltd. and the

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gelatin/clay.” Dr. Joseph also suggests an additional alternative: the use of live but *unconscious* animals. This alternative would have verified the destructive nature of the bullet as effectively as the respondents' use of conscious, unanesthetized animals (and any of the non-animal alternatives, of course). Joseph letter, *supra* note 16. Like Dr. Joseph, Dr. Nicholas H. Dodman, who is director of the Animal Behavior Clinic at Tufts University School of Veterinary Medicine and an expert in veterinary anesthesiology, also confirms that ballistic gel is a “perfectly satisfactory alternative for testing projectiles.” Dodman letter, *supra* note 17. Indeed, an editorial printed in the December 2003 *Armed Forces Journal* notes that ballistic ordnance gelatin is the standard method for ammunition testing.

<sup>20</sup> See enclosed video.

<sup>21</sup> If this respondent's actions otherwise bring it within the felony cruelty provision, the intentional nature of the respondent's acts would be evident for the same reasons as set forth above for the Le Mas Ltd. and Gibby Media Group respondents.

other respondents named herein cannot be allowed to establish such a precedent.

The evidence in this case—the video and the statements of expert witnesses who have reviewed the video—clearly indicates that Le Mas Ltd., John Hamilton, Stan Bulmer, and Gibby Media Group acted in violation of Rev. Code Ann. § 16.52.205 and, therefore, must be charged with multiple felony counts of cruelty to animals, one for each pig maimed and killed, if it is proved that the cruelty was perpetrated in the state of Washington. PETA also that Blackwater Lodge Training Facility be charged to the fullest extent of the law as dictated by the results of further investigation.

If PETA can be of assistance to you in any way as you investigate this matter, please do not hesitate to contact me at 757-962-8329.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori Kettler', with a stylized flourish at the end.

Lori Kettler  
Counsel  
Research & Investigations Department