

ONTARIO COURT OF JUSTICE

B E T W E E N :

HER MAJESTY THE QUEEN

— AND —

MAPLE LODGE FARMS

Before Justice N.S. Kastner
Heard on March 26 and 27, 2014

Reasons for Sentence released on April 24, 2014

Damien Frost and Daniel Libman for the Crown
Ron E. Folkes for the defendant Maple Lodge Farms

KASTNER J.:

[1] Much can be ascertained about a civilized country by the way its animals are treated. *The Health of Animals Act* is a federal public welfare statute which governs, *inter alia*, the way in which animals are treated in Canada, the protection of animals, the importation and export of animals, control of disease, and various regulations for safe food production involving the slaughter of animals.

[2] Compliance with *The Health of Animals Act* is regulated by the *Health of Animals Regulations*, and monitored by the Canadian Food Inspection Agency, and its agents and veterinarians. Compliance is essential to the humane treatment of animals being transported for slaughter, and for safe food production.

[3] This case is about non-compliance with the *Act* by Maple Lodge Farms over a significant period of time; in particular, the failure to prevent undue suffering by undue exposure to weather of a large number of chickens, both broiler birds (which are young

males used in the meat industry) and spent hens (which are female birds at the end of their useful laying cycle). A few of the counts relate to inadequate ventilation within the loads.

[4] The evidence and submissions in this case on two of the counts were heard on sixteen days over the course of two years. The detailed judgment on those counts of violating section 143(1)(d) of the *Health of Animals Regulations*, made pursuant to the *Health of Animals Act*, thereby committing an offence under section 65(1) of the *Act*, was delivered on Sept.27, 2013, and is reported.¹

[5] A sentence hearing was held on March 26 and 27, 2014. Prior to the hearing, over the course of several months, counsel had met and on March 26th wished to present a joint submission to the Court, which also involved pleas of guilt to a further eighteen counts of similar charges. Thus the corporation would be sentenced on a total of twenty counts of *Health of Animals Act* violations, and the Crown would withdraw the remaining forty counts.

[6] Sentence was imposed on March 27, 2014 with brief reasons to follow. These are my reasons.

1. The Charges

[7] Maple Lodge Farms was found guilty on Sept. 27, 2013 of two charges under the *Health of Animals Act* and its regulations² involving the conditions of the transportation of two types of fowl to Maple Lodge Farms for slaughter. On March 27, 2014, the corporation also plead guilty to a further eighteen counts under that statute and regulations.

[8] Maple Lodge Farms is a registered company in the Province of Ontario, as Ontario Corporation 92480. Ms. Carol Gardin appeared as the corporate representative at this sentencing and entered pleas on behalf of Maple Lodge Farms. Ms. Gardin's title is Manager Corporate Affairs for Maple Lodge Farms.

[9] The corporation was initially charged on two separate informations with a total of 60 counts averred. It was agreed between counsel and the judge presiding over the Judicial Pre-Trial that two representative counts would first be tried together, in order to assist the process of adjudicating or resolving the other 58 counts. The two representative counts are counts 7 and 34 on the first Information, and resulted in findings of guilt in

¹ *R. v. Maple Lodge Farms*, [2013] O.J. No. 4582.

² *Health of Animals Regulations*, C.R.C., c. 296, s.143 (1)(d).

September 2013.

[10] The Court found in Count 7 that Maple Lodge Farms, on or about the 30th and 31st days of December, 2008, transported 9,576 chickens between Clifford, Ontario and Brampton, Ontario on trailer T-07, including 711 chickens found “dead on arrival” at unloading, where injury or undue suffering was likely to be caused to the animal by reason of undue exposure to the weather, contrary to the *Health of Animals Regulations*, and did thereby commit an offence under section 65(1) of the *Health of Animals Act*.

[11] In Count 34, the Court found that Maple Lodge Farms, on or about the 23rd day of February, 2009, transported 10,944 chickens between Moorefield, Ontario and Brampton, Ontario, on trailer T-23, including 1,181 chickens found “dead on arrival” at unloading, where injury or undue suffering was likely to be caused to the animal by reason of undue exposure to the weather, contrary to the same legislative provisions.

[12] The company entered guilty pleas on the date for the sentence hearing of those first counts to a further 18 counts. The facts admitted on the pleas follow as Appendix “A” to this decision.

[13] In summary, for those offences Maple Lodge Farms was found guilty or admitted responsibility that between December 2008 and April, 2010, twenty-five thousand four hundred and fifty chickens (25,450) died inhumanely by undue exposure to weather or inadequate ventilation during transport.

[14] The Court is indebted to the hard work of both counsel and their respective clients in very thorough and thoughtful negotiations in resolving the remaining 58 counts with selected pleas to eighteen further counts to arrive at a total of twenty counts for which Maple Lodge Farms has been found guilty. These pleas represent an acceptance of responsibility on the part of Maple Lodge Farms, and have obviated the need to further call evidence and try these counts.

2. Maple Lodge Farms

[15] The Maple Lodge Farms facility in Brampton Ontario is a registered meat processing facility under the federal *Meat Inspection Act* and *Regulations*. All such facilities that receive live animals must also comply with the provisions of the *Health of Animals Act* and *Regulations*, including provisions governing the humane transportation of animals, including chickens, being transported for processing.

[16] The evidence heard in this case places Maple Lodge Farms as one of the preeminent industries in Canada for chicken production, transportation, slaughter, and marketing. The corporation is involved in the business of chicken feed, chicken hatcheries, and meat production. Maple Lodge Farms accounts for approximately twenty-

four to thirty percent (24% to 30%) of the Ontario broiler processing market, and ninety-eight or ninety-nine (98 or 99%) of the fowl processing market in Ontario. Clearly, Maple Lodge Farms should be a leader and innovator in the industry, and not be complacent with inadequate equipment or out-dated methodology.

[17] The Canadian Food Inspection Agency already maintains a contingent of inspectors and veterinarians who conduct inspections at that facility to ensure compliance with the *Health of Animals Act* and its Regulations, and were in place during the time of the offences as well. The probation order, *infra*, will serve an important function in assisting and supervising compliance with the law, and cooperation with the Canadian Food Inspection Agency.

[18] The *Health of Animals Act* and its regulations provide for another means to regulate companies through the Administrative Monetary Penalties (AMP) regime. Such offences are absolute liability, where due diligence is not a defence. The AMP imposed by the Canadian Food Inspection Agency are an alternative to criminal prosecution under the *Health of Animals Act*, and it is hoped that such fines would ensure compliance with the law, and inspire change where change is needed for compliance.

[19] The Administrative Monetary Penalties imposed on Maple Lodge Farms regarding their transportation of birds do not appear to have achieved that goal³. Appendix “B” to these Reasons outlines the AMP history of the company regarding regulation compliance.

[20] To summarize, a number of offences occurred, twenty-eight (28) between May 2006 and April 2008, before any *Health of Animals Act* charges. Post-charge and before conviction, a startling further thirty-nine (39) offences occurred, and even after the convictions in Sept. 2013, the Canadian Food Inspection Agency issued six further penalties for offences which occurred in May to August of 2013. In total, seventy three (73) penalties were imposed on Maple Lodge Farms between May 2006 and August 2013. Of those, forty seven (47) were for non-compliance with Regulation 143(1)(d) for undue exposure to weather. Twenty-two (22) were for non-compliance with Regulation 143(1)(e) for inadequate ventilation for the load.

[21] Unfortunately, such penalties did not change the culture, did not deter further non-compliance, and effected very little change by themselves. It may be that they were seen as part of the cost of doing business; notwithstanding the fact the penalties amounted to thousands of dollars⁴. Lesser administrative penalties did not appear to motivate Maple Lodge Farms to make changes to ensure future compliance.

³ Appendix “B” is the History of Poultry Transport Administrative Monetary Penalties, for Maple Lodge Farms.

⁴ The fines are based on the “total gravity value” of violations; and based on prior violations, the degree of intention or negligence, and the harm done or could be done.

[22] The company now accepts responsibility and has made some changes since and during the time period of the offences to improve conditions for chickens during transportation from farm to facility, and at the holding barns.

[23] Mr. Folkes submitted that the company has taken the charges seriously, as a “wake up call” for needed action to prevent these problems in transporting chickens, and has made the following changes:

- (i) changes in personnel at the company for supervision and monitoring compliance;
- (ii) adoption of solid roof trailers to eliminate chickens getting wet on loading;
- (iii) a dolly system for hauling fowl, so that spent hens are not taken from cages and handled again to be placed into crates. The cages are stacked and loaded directly onto the truck, eliminating two stages of handling. They are then put to sleep before being handled again at the facility;
- (iv) the company is rewriting its animal welfare programme and Standard Operating Procedures, with the objective to eliminate problems in extreme weather;
- (v) the company participates in industry committees regarding the care and handling of both broilers and fowl, and anticipates becoming an industry leader in this area;
- (vi) improved fan ventilation for cold weather and misting for hot weather in holding barns, and improved trailer rotation to prevent trailers sitting in barns not monitored, or delayed in slaughter;
- (vii) attempts to reducing holding times in barns;
- (viii) an “attitude change” and total staff change for more accountability in senior management and daily meetings to address animal welfare concerns and any situations which arise. The company espouses a high priority to effect cultural change;
- (ix) improved documentation of all loads and processing data collection, to tighten control in the area and enhance the investigation of problematic loads;

- (x) a programme for all third party transporters, catchers and others to undertake following the SOP and animal welfare requirements of the company. The training will be by an independent third party certified animal transporter, and include an animal welfare component;
- (xi) engineering studies to improve conditions and expand or replace holding barns;
- (xii) testing regarding reliable temperature and humidity devices for trucks;
- (xiii) development of mechanical ventilation devices;
- (xiv) extreme weather protocol developed cross-departmentally⁵;
- (xv) enhanced accountability for animal welfare regarding third parties in advance of loading⁶;
- (xvi) attempts to adopt the dolly modular system for broilers as well as fowl;
- (xvii) general reorganizing and retraining all employees involved in live haul for a better understanding of welfare requirements and accountability;
- (xviii) ongoing testing of different load configurations, densities and handling of trailers to lower the impact on birds. This would include potentially empty crates on the top or bottom; and
- (xix) substantial improvements are contemplated to comply with this probation order, and those costs will exceed the minimum contemplated in this order of one million dollars.

3. Joint submission

[24] The proposed joint submission compromised pleas to eighteen more counts, significant monetary penalties for the two tried offences, and a suspended sentence and a three year probation order for the remaining eighteen counts. The probation order is very detailed, and designed by all parties and the Court to be rehabilitative, compliant, and forward thinking. The remaining forty counts were then withdrawn.

⁵ Counsel reported Maple Lodge Farms shut down processing in January 2014 because of extreme temperatures.

⁶ This would include flock inspection in advance, and barn temperature and humidity checks.

[25] Both counsel for the Government of Canada and for Maple Lodge Farms have spent countless hours trying to craft a proposed sentence which reflects on the fundamental principles of sentence, but balances with that the need to move cooperatively to achieving full compliance with the *Act*. The sentence imposes public transparency and accountability, improvements to equipment and methods to advance humane treatment of animals, supervision and training, the development and implementation of new policies and Standard Operating Procedures, imbedded Canadian Food Inspection Agency representatives, an independent expert to assess modifications of transport systems and compliance, and quarterly reports by that expert to the Canadian Food Inspection Agency and the Court with respect to all matters related to compliance with this order.

[26] The Court ought to seriously consider such a joint submission and accept it if it reflects the appropriate range of penalty for such an offender in like circumstances, and adequately addresses sentencing principles. The amount of time and care all affected parties took is apparent. Most importantly, in crafting conditions for compliance, both the company and the government agency involved are intimately familiar with the transportation guidelines for birds, the needs of the industry and the abilities of the company.

4. Corporate Sentencing in General

[27] General principles and the purpose of sentencing corporations has been set out by the Ontario Court of Appeal in *R. v. Cotton Felts Limited* (1982), 2 C.C.C. (3d) 287⁷:

In our complex interdependent modern society such regulatory statutes are accepted as essential in the public interest. They ensure standards of conduct, performance and reliability by various economic groups and make life tolerable for all. To a very large extent the enforcement of such statutes is achieved by fines imposed on offending corporations. The amount of the fine will be determined by a complex of considerations, including the size of the company involved, the scope of the economic activity in issue, the extent of actual and potential harm to the public, and the maximum penalty prescribed by statute. Above all, the amount of the fine will be determined by the need to enforce regulatory standards by deterrence: see *R. v. Ford Motor Company of Canada Limited* (1979), 49 C.C.C. (2d) 1, per MacKinnon A.C.J.O at p. 26; Nadin-Davis, *Sentencing in Canada*, p. 368 and cases therein cited.

The paramount importance of deterrence in this type of case has been recognized by this Court in a number of recent decisions. An example is provided by *R. v. Hoffman-LaRoche Limited (No.2)* (1980), 30 O.R. (2d) 461. In that case Mr. Justice

⁷ *R. v. Cotton Felts Limited* (1982), 2 C.C.C. (3d) 287 (O.C.A.), at paragraphs 19 to 23.

Linden imposed a fine of \$50,000 for an offence under the *Combines Investigation Act*, R.S.C. 1970, c. C-23, and stated the principles governing the amount of a fine as follows:

In conclusion, I feel that a fine that is more than nominal, but which is not harsh, would be appropriate in this case. The amount must be substantial and significant so that it will not be viewed as merely a licence for illegality, nor as a mere slap on the wrist. The amount must be one that would be felt by this defendant. It should also serve as a warning to others who might be minded to engage in similar criminal activity that it will be costly for them to do so even if they do not succeed in their illegal aims.

The sentence was upheld by this Court, (1981), 62 C.C.C. (2d) 1, where my brother Martin said at pp. 160-161:

A careful examination of those reasons satisfies me that he considered that general deterrence was the paramount factor to be considered in arriving at an appropriate sentence.

Another example is provided by this Court's decision in *R. v. K-Mart Canada Limited* (1982), 66 C.C.C. (2d) 329. In that case the Court increased a fine of \$25,000 to \$100,000 for a company convicted of conspiring to interfere with the formation and operation of a trade union, contrary to the *Labour Relations Act*, R.S.O. 1970, c. 232, now R.S.O. 1980, c. 228. In so doing Chief Justice Howland had this to say at p. 332:

In our opinion, the fine imposed did not adequately reflect the gravity of the offence and was an error in principle. The fine must not be tantamount to a licence fee to commit illegal activity, but must be sufficiently substantial to warn others that such illegal activity will not be tolerated.

The main factors in the computation of a fine expressed in these decisions are the same as those expressed by Judge Dnieper. Without being harsh, the fine must be substantial enough to warn others that the offence will not be tolerated. It must not appear to be a mere licence fee for illegal activity.

With reference to these offences, deterrence is not to be taken only in its usual negative connotation of achieving compliance by threat of punishment. Recently my brother Zuber in *R. v. Ramdass*, a judgment pronounced on November 17, 1982, referred to deterrence in a more positive aspect. There he was dealing with a driving offence and he quoted an earlier unreported decision of this Court in *R. v. Roussy*, [1977] O.J. No. 1208 (released December 15, 1977), where the Court stated:

But in a crime of this type the deterrent quality of the sentence must be given paramount consideration, and here I am using the term deterrent in its widest sense. A sentence by emphasizing community disapproval of an act, and branding it as reprehensible has a moral or educative effect, and thereby affects the attitude of the public. One then hopes that a

person with an attitude thus conditioned to regard conduct as reprehensible will not likely commit such an act.

This aspect of deterrence is particularly applicable to public welfare offences where it is essential for the proper functioning of our society for citizens at large to expect that basic rules are established and enforced to protect the physical, economic and social welfare of the public.

[28] Fines ought not to be a “mere license”. Sanctions do tend to increase with the need for deterrence. Specific deterrence is required here in addition to general deterrence. In a recent text on Regulatory and Corporate Liability, the authors⁸ suggest that “if people are able to adapt to monetary loss, this will weaken specific deterrence but not general deterrence, as others will not tend to take adaptive behaviours into account in their assessment of risk”. Thus, the message of these fines may in itself generally deter other corporations.

[29] Recent amendments to the *Criminal Code*⁹ are guides to the Court that imposes a sentence on an organization to take into consideration a number of aggravating and mitigating factors. Some of those factors are any advantage realized by the organization as a result of the offence; the degree of planning involved in carrying out the offence and the duration and complexity of the offence; the impact that the sentence would have on the economic viability of the organization; the cost to public authorities of the investigation and prosecution of the offence; any regulatory penalty imposed on the organization in respect of conduct that formed the basis of the offence; whether the organization or any of its representatives were convicted of a similar offence or sanctioned by a regulatory body for similar conduct; and any measure that the organization has taken to reduce the likelihood of committing a subsequent offence.

[30] Particularly applicable in this case are the factors enunciated in both s.718.21(g) whether the organization or any of its representatives were convicted of a similar offence or sanctioned by a regulatory body for similar conduct; and s.718.21(j) any measure that the organization has taken to reduce the likelihood of committing a subsequent offence.

[31] These amendments in the new s.718.21 and s.732.1(3.1) recognize the difference in sentencing an organization rather than an individual offender

[32] The sentence of a fine is the “primary mechanism¹⁰ used in corporate and regulatory offences”.

[33] It is proposed that Maple Lodge Farms be fined \$40,000 per count for the two

⁸ See footnote 13, at p.12-29.

⁹ *Criminal Code*, R.S.C. 2003, c.21, s.14 now in Section. 718.21.

¹⁰ Archibald et. al., see footnote 13, at p.12-33.

counts it was found guilty of on Sept.27, 2013. The total fine is thus \$80,000, in addition to fifteen (15%) percent victim fine surcharge.

[34] The substantial fine imposed on Maple Lodge Farms on the two representative counts tried in this Court reflects all of the above principles, particularly to denounce certain previous conduct of the company, and to ensure the basic regulations are enforced. Notwithstanding that these are the first offences under the *Health of Animals Act* for the company; the failure of the AMP system to specifically deter regulatory noncompliance is a factor in elevating the fines imposed.¹¹

[35] Animal welfare is paramount. Such a sentence serves to deter the company and others from committing such offences.

[36] The fine is somewhat attenuated by the remedial measures the company is now taking to reduce the likelihood of committing a subsequent offence, although many of those measures occurred years after the initiation of charges. The present efforts of the company play a large role in the probation order contemplated for the remaining eighteen counts.

5. Probation

[37] Federal regulatory offences are enforced with the procedural sections of the *Criminal Code*.¹²

[38] Recent amendments to the *Criminal Code* permit a probationary disposition for corporations which violate Federal public welfare offences.

[39] Section 732.1 (3.1) reads as follows:

- (3.1) The court may prescribe, as additional conditions of a probation order made in respect of an organization, that the offender do one or more of the following:
- (a) make restitution to a person for any loss or damage that they suffered as a result of the offence;
 - (b) establish policies, standards and procedures to reduce the likelihood of the organization committing a subsequent offence;
 - (c) communicate those policies, standards and procedures to its representatives;
 - (d) report to the court on the implementation of those policies, standards and procedures;
 - (e) identify the senior officer who is responsible for compliance with those policies, standards and procedures;

¹¹ The maximum fine per count is \$50,000, since the Crown proceeded summarily.

¹² *Interpretation Act*, R.S.C. 1985, c. I-21, s. 34(2).

- (f) provide, in the manner specified by the court, the following information to the public, namely,
 - (i) the offence of which the organization was convicted,
 - (ii) the sentence imposed by the court, and
 - (iii) any measures that the organization is taking – including any policies, standards and procedures established under paragraph (b) – to reduce the likelihood of it committing a subsequent offence; and
- (g) comply with any other reasonable conditions that the court considers desirable to prevent the organization from committing subsequent offences or to remedy the harm caused by the offence.

(3.2) Before making an order under paragraph (3.1) (b), a court shall consider whether it would be more appropriate for another regulatory body to supervise the development or implementation of the policies, standards and procedures referred to in that paragraph.

[40] These probation orders can be used to attempt to change organizational behaviour so as to prevent a recurrence of the harm of the offence.¹³ They are a creative sentencing option.

[41] Counsel have drafted a proposed Probation Order in compliance with s.732.1 (3.1), and then reviewed the proposed conditions with the Court. Counsel propose that they agree upon an Independent Expert (IE) in the industry to be in a supervisory role as to the development and implementation of the policies, standards and procedures to reduce the likelihood of Maple Lodge Farms committing a subsequent offence¹⁴.

[42] Between the role of the IE and the Canadian Food Inspection Agency, appropriate supervision beyond the expertise of the Court and reporting to the Court suffice to comply with s.732.1 (3.2).

[43] Although unusual, both counsel agree to reporting for this probation order directly to the Court. Both lawyers agree that it makes sense because of the knowledge the Court now possesses about the industry after a lengthy trial. I am willing to receive the reports from the IE directly.

[44] In this especially complex order, its effectiveness depends on cooperation of the parties involved. They have spent many hours to refine the wording of this order, which was slightly modified by the Court.

¹³ See “Sentencing in Corporate and Regulatory Offences”, *Regulatory and Corporate Liability: From Due Diligence to Risk Management*, by Todd L. Archibald, Kenneth E. Jull and Kent W. Roach, Aurora: Canada Law Book, 2005.

¹⁴ This IE role is very similar to the concept of the “imbedded auditor”. The text above applauds such an approach to enhance day-to-day compliance (see p.12-47). The IE, however in this case, will be specifically expert in the area of humane standards in the agriculture, food and rural affairs arena, as well as monitoring compliance and improvements.

[45] The company is prepared to make improvements. On behalf of Maple Lodge Farms, its representative Ms. Gardin stated before sentence was imposed:

On behalf of Maple Lodge Farms, we take the charges seriously and have put a lot of effort into improving systems and we are more than prepared to do so in the future. We would love to fix the problems overnight, but there are complexities, and we have a long way to go. We are prepared to put in efforts for the welfare of birds in our charge.

[46] This now enlightened position of Maple Lodge Farms bodes well for the future welfare of the birds they transport. This is the more positive aspect of deterrence per *R. v. Roussy, infra*: “One then hopes that a person with an attitude thus conditioned to regard conduct as reprehensible will not likely commit such an act”.

6. Conclusion

[47] Transportation of animals is regulated in Canada for animal protection. Overcrowding is prohibited. The containers must be adequately constructed and maintained. Ventilation is addressed. One cannot transport animals if injury or undue suffering is likely to be caused by undue exposure to weather, inadequate ventilation, or insecure fittings.

[48] The corporation Maple Lodge Farms has been found guilty of a number of offences, twenty (20) counts in total, involving the death of over twenty-five thousand birds during transport or upon arrival to Maple Lodge Farms, which, during direct transportation to the facility or while in holding barns, unduly suffered by undue exposure to weather or by improper ventilation, which led to their deaths.

[49] The gravity of the offences cannot be understated. Thousands of birds died and many more likely suffered through undue exposure to weather and inadequate ventilation in tarped trailers over a significant period of time. Very little or nothing was done to improve conditions to prevent recurrence at that time. Equipment remained stagnant. Training was inadequate. Review was perfunctory. Complacency infected the environment. Economic imperatives trumped animal welfare.

[50] This vulnerable sector of animals is meant to be protected under the *Health of Animals Act* and its regulations. It is essential that the company comply with those regulations, even when it requires changes to their training, equipment and monitoring, and even industry demands.

[51] Since the charges were laid, Maple Lodge Farms has made many personnel changes, ostensibly changing the cultural climate. They have already started replacing out-dated equipment and ensuring better monitoring of loads of chicken arriving at their

facility. Training is improved, both at the facility and with third parties involved in the transportation of birds. These changes bode well for ameliorating conditions during transport in the future.

[52] The fines and victim fine surcharge imposed on agreement, and this very detailed and structured Probation Order, together serve to reflect all of the principles of sentence.

[53] I commend both counsel and their respective clients for arriving at a joint submission to not only deter Maple Lodge Farms from any noncompliance with the *Health of Animals Act*, but also serve as a model to redress some of the difficulties in the poultry industry which have tended to compromise the humane treatment of animals. The joint submission is appropriate and I will impose it.

[54] Maple Lodge Farms is fined \$40,000 each on count 7 and count 34 for a total of an \$80,000 fine. The maximum fine per count was \$50,000, and these fines imposed are both significant and reflect the gravity of the wrongful conduct on the part of Maple Lodge Farms in causing almost two thousand live birds¹⁵ to suffer unduly when transported to their facility in adverse weather, by undue exposure to weather.

[55] The fines are denunciatory and recognize the failure of the Administrative Monetary Penalties previously assessed to Maple Lodge Farms to instigate change and compliance.

[56] Maple Lodge Farms agrees to a victim fine surcharge of fifteen percent on those two fines, and one hundred dollars per count on the counts where sentence is suspended. There will be 30 days time to pay.

[57] On the remaining 18 counts, I am suspending the passage of sentence and placing Maple Lodge Farms on probation for three (3) years on terms¹⁶, which laudably aims to bring the corporation into compliance with the *Health of Animals Act* and regulations, and to oversee and monitor compliance. In addition, these conditions will set the model for the industry to be innovative to alleviate any potential undue suffering to the live birds during their transportation. It will require substantial change to existing vehicles and facilities to achieve that end, and will require the expenditure of at least One Million Dollars (\$1,000,000.00) over the period of probation to make such improvements.

[58] All of the above will be overseen by an independent expert, who will monitor compliance and report to the Canadian Food Inspection Agency and the Court on a scheduled basis.

¹⁵ Counts 7 and 34 only refer to the deaths of 1,892 birds. The other counts involve another 23,558 birds which died and suffered unduly by exposure to weather or inadequate ventilation.

¹⁶ See Appendix “C” for the Probation Order terms.

[59] Although much has been done by Maple Lodge Farms to ameliorate conditions for humane transportation of the chickens coming to their Brampton facility by their trailers, and other carriers, much is yet to be accomplished.

[60] The expenditure for improvements is over and above any existing upgrading and improvements which predate March 27, 2014, and are in addition to those required in the usual course of business, and are subject to audit.

[61] Full transparency and accountability is contemplated by the probation order. By this sentence, the public and the regulators will each be able to assure themselves that the likelihood of repetition or subsequent offences will be substantially reduced or perhaps eliminated.

[62] The courts must enforce the *Health of Animals Act* to protect a vulnerable segment of animals which are routinely transported as part of the food industry at all times of year. Full compliance with legislated regulations is imperative. This sentence is designed to bring about compliance in an open transparent way, working cooperatively to make changes in culture, equipment and methods to advance humane transportation of both broiler birds and spent hens.

[63] The Court will receive all quarterly reports of the Independent Expert and the annual Compliance Audit.

Original Signed by The Honourable Justice Nancy S. Kastner

April 24, 2014

Honourable Justice N.S. Kastner

Appendix “A”

HER MAJESTY THE QUEEN

and

MAPLE LODGE FARMS

THE FACTS IN SUPPORT OF GUILTY PLEAS

Information One (1):

Count 2:

On December 10, 2008 a load of spent hens was transported by Maple Lodge Farms (MLF) from the Marcel Bourdon Ltd. farm in Maxville, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 12,380 live birds. The trailer was identified as T-31. Loading commenced at 9:30 pm. and finished at 12:20 am.

The weather forecast that morning for the area of the farm was for temperatures of -13 C overnight and -7 C for the morning of December 11, 2008. Temperatures in the vicinity of MLF in Brampton were forecast to be from a low of -11 C overnight on December 10, 2008, to a high of -2 C on December 11, 2008.

The actual weather conditions during loading were between -13 C and -16 C with a wind chill values as low as -24 C. The driver indicated a temperature on route of -18 C. The actual temperature on arrival at MLF in Brampton, Ontario was -9 C.

The load arrived at MLF in Brampton, Ontario at 6:59 am. The trailer was kept in the holding barn and was monitored on four occasions between 7:12 am and 10:18 am on December 11, 2008. An employee of MLF recorded “over 40 deads reported to dispatch at 7:15 am”.

Slaughtering of the birds commenced at 12:55 pm on December 11, 2008. Trailer T-31 was determined to have a total of 1508 dead birds or 12.1% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the

high mortality rate might be due to inadequate protection against adverse weather conditions.

It is admitted that birds transported on trailer T-31 died or suffered unduly by reason of undue exposure to the weather.

Count 4:

On December 22, 2008 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from the Speksnijder farm in Cobourg, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 10,920 live birds. The trailer was identified as T-15. Loading commenced at 1:40 am and finished at 4:00 am.

The weather forecast that morning for the area of the farm was for blowing snow and temperatures of -14 C overnight and -11 C for the morning of December 22, 2008. Conditions in the vicinity of MLF in Brampton were forecast a 30% chance of flurries with gusting winds and a high of -6 C on December 22, 2008.

The actual weather conditions during loading were between -9 C and -13 C with a wind chill values as low as -19 C. The driver described the weather as “cold” and indicated a temperature on route of -15 C. The actual temperature on arrival at MLF in Brampton, Ontario was -12 C and a wind chill value of -22 C.

The load arrived at MLF in Brampton, Ontario at 6:01 am. The trailer was kept in the holding barn and was monitored on three occasions between 6:47 am and 9:31 am on December 22, 2008. An employee of MLF recorded “birds look wet and cold”.

Slaughtering of the birds commenced at 10:10 am on December 22, 2008. Trailer T-15 was determined to have a total of 1237 dead birds or 11.3% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds died as a result of being exposed to inclement weather.

It is admitted that birds transported on trailer T-15 died or suffered unduly by reason of undue exposure to the weather.

Count 11:

On January 14, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Oak Range Farms Ltd. in St. Paul's Station, Ontario to the

MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 11,208 live birds. The trailer was identified as T-14. Loading commenced at 2:30 am and finished at 4:55 am.

The weather forecast the day before for the area of the farm included a 40% chance of flurries and temperatures ranging from a low of -20 C to a high of -12 C for January 14, 2009. Temperatures in the vicinity of MLF in Brampton were forecast to be from a low of -20 C to a high of -15 C on January 14, 2009.

The actual weather conditions during loading were between -16 C and -20 C. The catching/loading report describes the weather as “snow”. The driver indicated a temperature on route of -25 C. The actual temperature on arrival at MLF in Brampton, Ontario was -20 C with a wind chill value of -31 C.

The load arrived at MLF in Brampton, Ontario at 6:45 am. The trailer was kept in the holding barn and was monitored once at 7:30 am on January 14, 2009. An employee of MLF recorded “load is wet & 10 visible dead”.

Slaughtering of the birds commenced at 9:08 am on January 14, 2009. Trailer T-14 was determined to have a total of 625 dead birds or 5.6% of that load DOA.

A sample of nine (9) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds were subject to undue suffering through exposure to adverse weather conditions.

It is admitted that birds transported on trailer T-14 died or suffered unduly by reason of undue exposure to the weather.

Count 13:

On January 14, 2009 another load of broiler chickens was transported by Maple Lodge Farms (MLF) from Oak Range Farms Ltd. in St. Paul’s Station, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 9,576 live birds. The trailer was identified as T-09. Loading commenced at 5:30 am and finished at 7:40 am.

The weather forecast and actual weather conditions were as set out above in relation to count 11.

The load arrived at MLF in Brampton, Ontario at 9:43 am. The trailer was kept in the holding barn and was monitored once at 10:25 am on January 14, 2009. An employee of MLF recorded “10 visible dead”.

Slaughtering of the birds commenced at 11:33 am on January 14, 2009. Trailer T-09 was determined to have a total of 664 dead birds or 6.9% of that load DOA.

It is admitted that birds transported on trailer T-09 died or suffered unduly by reason of undue exposure to the weather.

Count 14:

On January 16, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Borderline Poultry in Niagara on the Lake, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 6,760 live birds. The trailer was identified as T-02. Loading commenced at 4:30 am and finished at 7:30 am.

The weather forecast the day before for the area of the farm predicted overnight temperatures ranging from a low of -17 C to a high of -14 C for January 16, 2009. Wind chill factors were estimated as -25 C and -29 C. Temperatures in the vicinity of MLF in Brampton were forecast to include a high of -12 C and a wind chill of -27 C, along with a 40% chance of flurries for January 16, 2009.

The actual weather conditions during loading were between -11 C and -13 C with wind chill values of -20 C to -23 C. The catching/loading report describes the weather as “snow”. The driver indicated a temperature on route of -25 C. The actual temperature on arrival at MLF in Brampton, Ontario between -15 C and -18 C with a wind chill value as low as -30 C.

The load arrived at MLF in Brampton, Ontario at 9:30 am. The trailer was kept in the holding barn and was monitored a total of eight times between 10:20 am and 5:05 pm on January 16, 2009. An employee of MLF recorded “30 visible dead report to dispatch”, and “10 visible deads report to dispatch 1:15 pm”.

Slaughtering of the birds commenced at 6:09 pm on January 16, 2009. Trailer T-02 was determined to have a total of 541 dead birds or 8.1% of that load DOA.

It is admitted that birds transported on trailer T-02 died or suffered unduly by reason of undue exposure to the weather.

Count 17:

On January 16, 2009 a load of chickens (mixed) was transported by Maple Lodge Farms (MLF) from Hi-Vistra Farms in Atwood, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 8,876 live birds. The trailer was identified as T-34. Loading commenced at 10:30 am and finished at 12:00 (noon).

The weather forecast the day before for the area of the farm included a flurries and temperatures ranging from an overnight low of -20 C and a wind chill of -29 C to a high of -15 C and a wind chill of -28 C for January 16, 2009. Temperatures in the vicinity of MLF in Brampton were forecast to be a high of -12 C and a wind chill of -27 C with a 40% chance of flurries on January 16, 2009.

The actual weather conditions during loading were between -15 C and -16 C. The driver indicated a temperature on route of -10 C and snow. The actual temperature on arrival at MLF in Brampton, Ontario was between -13 C and -18 C with a wind chill value of -30 C.

The load arrived at MLF in Brampton, Ontario at 1:15 pm. Slaughtering of the birds commenced at 3:10 pm on January 16, 2009. Trailer T-34 was determined to have a total of 659 dead birds or 7.4% of that load DOA.

It is admitted that birds transported on trailer T-34 died or suffered unduly by reason of undue exposure to the weather.

Count 20:

On January 20 and 21, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Leo and Sarah Beliak's farm in St. Ann's, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 10,444 live birds. The trailer was identified as T-31. Loading commenced at 11:00 pm on January 20, 2009 and finished at 1:15 am on January 21, 2009.

The weather forecast the day before for the area of the farm included a 70% chance of flurries and an overnight low of -19 C. That forecast predicted a high of -8 C with a wind chill of -26 C for January 21, 2009. Temperatures in the vicinity of MLF in Brampton were forecast to be a high of -7 C and a 40% chance of flurries on January 21, 2009.

The actual weather conditions during loading were between -13 C and -16 C. The driver indicated a temperature on route of -14 C. The actual temperature on arrival at MLF in Brampton, Ontario was between -15 C and -18 C with a wind chill value of -25 C.

The load arrived at MLF in Brampton, Ontario at 3:00 am. The trailer was kept in the holding barn and was monitored twice between 4:00 am and 5:33 am on January 21, 2009. An employee of MLF recorded "more than 50 birds dead" and "40 visible dead report to dispatch".

Slaughtering of the birds commenced at 6:42 am on January 21, 2009. Trailer T-31 was determined to have a total of 925 dead birds or 8.9% of that load DOA.

The CFIA veterinarian noted that during the antemortem inspection of T-31 some of the live birds were observed to be cold, blue and listless.

It is admitted that birds transported on trailer T-31 died or suffered unduly by reason of undue exposure to the weather.

Count 21:

On January 21, 2009 another load of broiler chickens was transported by Maple Lodge Farms (MLF) from Leo and Sarah Beliak's farm in St. Ann's, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 8,876 live birds. The trailer was identified as T-12. Loading commenced at 2:00 am on January 21, 2009 and finished at 3:49 am on January 21, 2009.

The weather forecast and the actual weather conditions were as set out above in relation to Count 20.

The load arrived at MLF in Brampton, Ontario at 5:41 am. There was no record of any monitoring of trailer T-12 after its arrival at the MLF facility in Brampton, Ontario.

Slaughtering of the birds commenced at 7:26 am on January 21, 2009. Trailer T-12 was determined to have a total of 542 dead birds or 6.1% of that load DOA.

It is admitted that birds transported on trailer T-12 died or suffered unduly by reason of undue exposure to the weather.

Count 22:

On January 21, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Kees Dykstra farm in Clinton, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 8,736 live birds. The trailer was identified as T-08. Loading commenced at 3:00 am and finished at 4:45 am.

The weather forecast the day before for the area of the farm included an overnight low of -19 C and a wind chill of -28 C. followed by a high of -6 C and flurries for January 21, 2009. Temperatures in the vicinity of MLF in Brampton were predicted to be a high of -7 C with wind and a 40% chance of flurries on January 21, 2009.

The actual weather conditions during loading were between -8 C and -10 C. with a wind chill value of -16 C to -17 C. The driver indicated a temperature on route of -15 C. The actual temperature on arrival at MLF in Brampton, Ontario was between -11 C and -15 C with a wind chill value of -24 C.

The load arrived at MLF in Brampton, Ontario at 6:45 am. The trailer was kept in the holding barn and was monitored six (6) times between 8:23 am and 1:10 pm January 21, 2009. An employee of MLF recorded “30 visible dead report to dispatch” and “10 visible deads reported to dispatch”.

Slaughtering of the birds commenced at 1:47 pm on January 21, 2009. Trailer T-08 was determined to have a total of 700 dead birds or 8.0% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. The inspector noted that the sample chickens felt wet. The Veterinarian concluded that the birds most likely died as a result of being exposed to cold weather.

It is admitted that birds transported on trailer T-08 died or suffered unduly by reason of undue exposure to the weather.

Count 25:

On January 27, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Frelene Poultry (Van Maar Farms) in Goderich, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 9,968 live birds. The trailer was identified as T-13. Loading commenced at 5:20 am and finished at 7:48 am.

The weather forecast the day before for the area of the farm predicted an overnight low of -14 C and a 30% chance of flurries. Temperatures in the vicinity of MLF in Brampton were forecast to be a high of -7 C on January 27, 2009.

The actual weather conditions during loading were between -10 C and -20 C. The driver described the weather as “cold” and indicated a temperature on route of -25 C. The driver also recorded his observations on arrival at MLF that “very cold birds, don’t look good, lots of dead”. The actual temperature on arrival at MLF in Brampton, Ontario was between -6 C and -8 C.

The load arrived at MLF in Brampton, Ontario at 11:50 am. The trailer was kept in the holding barn and was monitored once at 12:30 pm on January 27, 2009. An employee of MLF recorded “40 visible dead report to dispatch”.

Slaughtering of the birds commenced at 1:12 pm on January 27, 2009. Trailer T-13 was determined to have a total of 714 dead birds or 7.2% of that load DOA.

The CFIA Veterinarian observed this load of birds prior to slaughter and noted that the birds were cold, hypothermic, wet and listless with many dead birds visible on the driver's side.

MLF was unable to produce a Live Transportation Investigation Report for this load as was required by their Standard Operating Procedures.

It is admitted that birds transported on trailer T-13 died or suffered unduly by reason of undue exposure to the weather.

Count 28:

On February 05, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Donkers Poultry Farm in Elora, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 10,920 live birds. The trailer was identified as T-31. Loading commenced at 1:14 am and finished at 3:55 am.

The weather forecast the day before for the area of the farm predicted an overnight low of -22 C and a wind chill of -27 C. for February 05, 2009. Temperatures in the vicinity of MLF in Brampton were forecast to be a high of -10 C with a wind chill of -27 C.

The actual weather conditions during loading were between -21 C and -27 C. The driver indicated a temperature on route of -20 C. He also noted "very cold on way to farm and at farm". The actual temperature on arrival at MLF in Brampton, Ontario was -20 C with a wind chill value of -28 C.

The load arrived at MLF in Brampton, Ontario at 5:12 am. The trailer was kept in the holding barn and was monitored four (4) times between 5:43 am and 8:12 am on February 05, 2009. An employee of MLF recorded "10 visible dead".

Slaughtering of the birds commenced at 10:20 am on February 05, 2009. Trailer T-31 was determined to have a total of 428 dead birds or 3.9% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds were subject to undue suffering by inadequate protection from adverse conditions of weather.

It is admitted that birds transported on trailer T-31 died or suffered unduly by reason of undue exposure to the weather.

Count 32:

On February 23, 2009 a load of spent hens was transported by Maple Lodge Farms (MLF) from Grey Ridge Egg Farm in Moorefield, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 11,296 live birds. The trailer was identified as T-24. Loading commenced at 9:10 am and finished at 12:55 pm.

The weather forecast the day before for the area of the farm predicted gusting winds, blowing snow, and an overnight low of -13 C. and a high of -7 C for February 23, 2009. Similar conditions were forecast for the vicinity of MLF in Brampton, Ontario.

The actual weather conditions during loading were between -10 C and -14 C with wind chill values between -18 C and -24 C. The driver indicated a temperature on route of -11 C. The actual temperature on arrival at MLF in Brampton, Ontario was between -6 C and -10 C with wind chill values of between -16 C and -20 C.

The load arrived at MLF in Brampton, Ontario at 2:30 pm. The trailer was kept in the holding barn and was monitored four (4) times between 3:15 pm and 6:06 pm. An employee of MLF recorded “over 20 dead birds”.

Slaughtering of the birds commenced at 7:04 pm on February 23, 2009. Trailer T-24 was determined to have a total of 2019 dead birds or 17.9% of that load DOA.

It is admitted that birds transported on trailer T-24 died or suffered unduly by reason of undue exposure to the weather.

Information Two (2):

Count 7:

On December 10 and 11, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from the poultry farm of Henry and Tina Valkenburg in Blackstock, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 9,360 live birds. The trailer was identified as T-29. Loading commenced at 9:20 pm and finished at 11:30 pm on December 10, 2009.

The weather conditions during loading were between -6.5 C and -11.5 C. The driver indicated a temperature on route of -10 C. The actual temperature on arrival at MLF in Brampton, Ontario was between -9 C and -10 C with a wind chill values as low as -31 C.

The load arrived at MLF in Brampton, Ontario at 1:40 am on December 11, 2009. The trailer was kept in the holding barn and was monitored on an hourly basis without any noted observations.

Slaughtering of the birds commenced at 9:08 am on December 11, 2009. Trailer T-29 was determined to have a total of 526 dead birds or 5.6% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that exposure to inclement weather conditions likely led to the high level of DOA.

The MLF Live Transportation Investigation Report stated that the driver observed that the crates were wetter than normal prior to loading.

It is admitted that birds transported on trailer T-29 died or suffered unduly by reason of undue exposure to the weather.

Count 9:

On December 29 and 30, 2009 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Laplante Poultry Farms in L'Epiphanie, Quebec to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 6,040 live birds. The trailer was identified as DEL-10L. Loading commenced at 5:15 pm and finished at 7:30 pm on December 29, 2009.

The weather conditions during loading were between -16 C and -18 C with wind chill values of -23 C to -28 C. The driver indicated a temperature on loading of -20 C. He also described the weather as "very cold" and observed that "chicken wet". The actual temperature on arrival at MLF in Brampton, Ontario was between -5 C and -8 C with a wind chill values as low as -14 C.

The load arrived at MLF in Brampton, Ontario at 3:46 am on December 30, 2009. The trailer was kept in the holding barn and was monitored five (5) times between 5:24 am and 9:12 am. A MLF employee recorded these comments – "over 58 visible dead", "the birds are wet", "unlock crates", and "reported to dispatch at 6:40am".

Slaughtering of the birds commenced at 10:02 am on December 30, 2009. The birds had been transported for approximately 18 hours. Trailer DEL-10L was determined to have a total of 852 dead birds or 14.1% of that load DOA.

It is admitted that birds transported on trailer DEL-10L died or suffered unduly by reason of undue exposure to the weather.

Count 14:

On January 27, 2010 a load of spent hens was transported by Maple Lodge Farms (MLF) from Burnbrae Farms Ltd. in Lyn, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 7,490 live birds. The trailer was identified as T-01. Loading commenced at 5:00 am and finished at 10:00 am on January 27, 2010.

The weather conditions during loading were between -1 C and -2 C with wind chill values of -5 C to -7 C. The driver indicated a temperature on route of -5 C. The actual temperature on arrival at MLF in Brampton, Ontario was approximately -4 C with wind chill values as low as -13 C. Snow showers were reported.

The load arrived at MLF in Brampton, Ontario at 3:00 pm on January 27, 2010. The trailer was kept in the holding barn and was monitored twice at 3:25 pm and 4:20 pm. The MLF employee monitoring the load recorded “visible dead birds over 100” and “reported to dispatch & Jose C. and he notified John Ventura to process load right away”.

Slaughtering of the birds commenced at 5:49 pm on January 27, 2010. Trailer T-01 was determined to have a total of 4362 dead birds or 58.2% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds probably died as a result of exposure to cold weather.

The MLF Live Transportation Investigation Report stated it took too long to load the birds. The corrective action suggested included not loading in cold weather.

It is admitted that birds transported on trailer T-01 died or suffered unduly by reason of undue exposure to the weather.

Count 15:

On January 29, 2010 a load of broiler chickens was transported by Maple Lodge Farms (MLF) from Megga Farms in Goderich, Ontario to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 7,360 live birds. The trailer was identified as T-28. Loading commenced at 5:30 am and finished at 7:30 am on January 29, 2010.

The weather conditions during loading were between -9.6 C and -13.1 C with wind chill values of -18 C to -21 C. The driver indicated a temperature on route of -14 C. The actual temperature on arrival at MLF in Brampton, Ontario was between -13 C and -14 C with a wind chill values as low as -21 C.

The load arrived at MLF in Brampton, Ontario at 10:15 am on January 29, 2010. The trailer was sent directly to slaughter.

Slaughtering of the birds commenced at 11:10 am on January 29, 2010. Trailer T-28 was determined to have a total of 876 dead birds or 11.9% of that load DOA.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds had been subjected to undue suffering from adverse conditions of weather.

The MLF Live Transportation Investigation Report stated that the driver was responsible for exposing the birds to the weather by failing to properly strap the top tarp and failing to make stops on route to warm the birds.

It is admitted that birds transported on trailer T-28 died or suffered unduly by reason of undue exposure to the weather.

Count 19:

On February 17 and 18, 2010 a load of spent hens was transported by Maple Lodge Farms (MLF) from Ohio Fresh Eggs Farm in Mount Victory, Ohio, U.S.A. to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 10,440 live birds. The trailer was identified as DEL-37C. Loading commenced at 8:15 am and finished at 11:00 am on February 17, 2010.

The weather conditions during loading were between -6 C and -1 C. The driver indicated a temperature between 0 C and -5 C during loading. This load entered Canada at Sarnia, Ontario. The actual temperature on arrival at MLF in Brampton, Ontario was approximately -1 C with wind chills as low as -8 C. Similar conditions

persisted into the early morning hours of February 18, as the load sat overnight awaiting processing.

The load arrived at MLF in Brampton, Ontario at 8:10 pm on February 17, 2010. The trailer was kept in the holding barn and was monitored seven times between 9:02 pm on February 17th and 3:05 am on February 18, 2010. The only recorded observation was “over 10 dead birds, reported to dispatch”.

Slaughtering of the birds commenced at 3:40 am on February 18, 2010. Trailer DEL-37C was determined to have a total of 4377 dead birds or 41.9% of that load DOA.

A CFIA Veterinarian performed the antemortem screening inspection of this load. He noted, “Many dead fowls on the sides of the trailer. Some crates full of dead birds (no single birds is alive)”.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that his findings were consistent with chronic hypoxia situations which could be due to overcrowding, transport, cold weather, and reduced airflow throughout the different parts of the trailer.

It is admitted that birds transported on trailer DEL-37C died or suffered unduly by reason of inadequate ventilation.

Count 21:

On April 10, 11 and 12, 2010 a load of spent hens was transported by Maple Lodge Farms (MLF) from Nature Pure in West Mansfield, Ohio, U.S.A., to the MLF in Brampton, Ontario for the purpose of slaughter. That load consisted of 9,536 live birds. The trailer was identified as DEL-14E. Loading commenced at 9:00 pm on April 10, 2010 and finished at 12:15 am on April 11, 2010.

The weather conditions during loading were between 1 C and 9 C. The temperature increased as the load made its way from Ohio to Ontario. The actual temperature on arrival at MLF in Brampton, Ontario was between 4 C and 17 C as the load sat from approximately noon on April 11, 2010 until it was processed at 3:40 am on April 12, 2010.

The trailer was kept in the holding barn and was monitored a total of fifteen (15) times between 12:00 pm on April 11 and 2:13 am on April 12, 2010. MLF employees noted, “over 85 visible dead, unlock crates”, “NB – fan turned off @ 10:30 pm, most birds without feathers, over 93 DOAs”, “reported to dispatch at 8:22 pm”.

Slaughtering of the birds commenced at 3:40 am on April 12, 2010. Trailer DEL-14E was determined to have a total of 2003 dead birds or 21% of that load DOA. In total, the birds were subjected to the transportation process for nearly 32 hours.

A sample of ten (10) dead birds from that load were collected by the CFIA inspector and submitted to a CFIA veterinarian for further testing. He concluded that the birds may have died due to suffocation.

The MLF Live Transportation Investigation Report found that the drivers had followed all procedures properly and did not suggest any possible corrective actions.

It is admitted that birds transported on trailer DEL-14E died or suffered unduly by reason of inadequate ventilation.

Appendix "B"

Maple Lodge Farms Ltd.

History of Poultry Transport Administrative Monetary Penalties

TRANSPORTED or CAUSED to be TRANSPORTED

Current: March 24, 2014

	<i>CFIA File Number</i>	<i>HA Reg Section</i>	<i>Status</i>	<i>Occurrence Date</i>
1	0607ON0083	143(1)(d)	PAID \$2000	May 2006
2	0607ON0087	143(1)(d)	PAID \$2000	May 2006
3	0607ON0088	143(1)(d)	PAID \$2000	Jan. 2007
4	0607ON0089	143(1)(d)	PAID \$2000	Jan. 2007
5	0607ON0122	143(1)(d)	PAID \$1000	Feb. 2007
6	0607ON0129	143(1)(d)	PAID \$1000	Jan. 2007
7	0607ON0130	143(1)(d)	PAID \$1000	Jan. 2007
8	0607ON0134	143(1)(d)	PAID \$1000	Feb. 2007
9	0708ON0006	139(2)	PAID \$2000	May 2007
10	0708ON0027	143(1)(d)	PAID \$2600	Jun. 2007
11	0708ON300301	143(1)(d)	PAID \$2200	Jun. 2007
12	0708ON300302	143(1)(d)	PAID \$2200	Jun. 2007
13	0708ON300501	148(1)(a)	PAID \$1100	Jul. 2007
14	0708ON300502	148(1)(a)	PAID \$1100	Jul. 2007
15	0708ON300601	143(1)(d)	Request Compliance Agreement	Jul. 2007
16	0708ON300602	143(1)(d)	Request Compliance Agreement	Jul. 2007
17	0708ON300701	143(1)(d)	PAID \$2200	Jul. 2007
18	0708ON301201	143(1)(e)	PAID \$1500	Aug. 2007
19	0708ON301901	143(1)(e)	PAID \$1500	Sept. 2007
20	0708ON302101	143(1)(d)	PAID \$3000	Oct. 2007
21	0708ON302801	148(1)(a)	PAID \$1500	Nov. 2007
22	0708ON303801	143(1)(e)	PAID \$1300	Jan. 2008
23	0708ON303802	143(1)(e)	PAID \$1300	Jan. 2008
24	0809ON020001	143(1)(d)	PAID \$1300	Apr. 2008
25	0809ON020002	143(1)(d)	PAID \$1300	Apr. 2008

2014 ONCJ 212 (CanLII)

26	0809ON020003	143(1)(d)	PAID \$1300	Apr. 2008
27	0809ON020004	143(1)(d)	PAID \$1300	Apr. 2008
28	0809ON020005	143(1)(d)	PAID \$1300	Apr. 2008
***	***** *	***** *	ABOVE ISSUED PRE-CHARGE	*****
***	***** *	***** *	BELOW ISSUED POST-CHARGE	*****
	<i>CFIA File Number</i>	<i>HA Reg Section</i>	<i>Status</i>	<i>Occurrence Date</i>
29	1011ON353201	143(1)(d)	PAID \$1300	Mar. 2010
30	1011ON3544	143(1)(e)	PAID \$1300	Jul. 2010
31	1011ON3545	143(1)(e)	PAID \$1300	Jul. 2010
32	1011ON2626	143(1)(e)	PAID \$3900	Dec. 2010
33	1011ON2636	143(1)(d)	PAID \$3900	Jan. 2011
34	1011ON2637	143(1)(d)	PAID \$3900	Jan. 2011
35	1011ON2646	143(1)(d)	PAID \$3900	Jan. 2011
36	1011ON2651	143(1)(d)	PAID \$3900	Jan. 2011
37	1011ON2652	143(1)(d)	PAID \$3900	Jan. 2011
38	1011ON2657	143(1)(d)	WARNING	Feb. 2011
39	1011ON2659	143(1)(d)	PAID \$3900	Jan. 2011
40	1011ON2662	143(1)(d)	PAID \$3900	Feb. 2011
41	1011ON2664	143(1)(d)	PAID \$3900	Feb. 2011
42	1112ON051601	143(1)(d)	PAID \$3900	May 2011
43	1112ON0517	143(1)(e)	PAID \$3900	May 2011
44	1112ON0540	143(1)(e)	PAID \$3900	Jun. 2011
45	1112ON0542	143(1)(e)	PAID \$3900	Jul. 2011
46	1112ON0543	143(1)(e)	PAID \$3900	Jul. 2011
47	1112ON0545	143(1)(e)	WARNING	Jul. 2011
48	1112ON0549	143(1)(e)	PAID \$3900	Jul. 2011
49	1112ON0553	143(1)(e)	PAID \$3900	Aug. 2011
50	1112ON030001	143(1)(d)	PAID \$3900	Dec. 2011
51	1213ON0501	143(1)(d)	PAID \$3900	Dec. 2011
52	1213ON0526	143(1)(e)	PAID \$3900	Mar. 2012
53	1213ON0533	143(1)(d)	PAID \$3900	Apr. 2012

2014 ONCJ 212 (CanLII)

54	1213ON0536	143(1)(e)	PAID \$3900	Apr. 2012
55	1213ON0309	143(1)(e)	PAID \$3900	Jun. 2012
56	1213ON0312	143(1)(e)	PAID \$3900	Jul. 2012
57	1213ON0315	143(1)(e)	PAID \$3900	Jul. 2012
58	1213ON0318	143(1)(e)	PAID \$3900	Jul. 2012
59	1213ON0322	143(1)(e)	PAID \$3900	Aug. 2012
	<i>CFIA File Number</i>	<i>HA Reg Section</i>	<i>Status</i>	<i>Occurrence Date</i>
60	1213ON037201	143(1)(d)	AMP \$7800 appeal pending	Sept.2012
61	1213ON0393	143(1)(d)	PAID \$3900	Oct. 2012
62	1213ON0386	143(1)(d)	PAID \$3900	Dec. 2012
63	1213ON0387	143(1)(d)	AMP \$7800 appeal pending	Jan. 2013
64	1314ON050301	143(1)(d)	AMP \$7800 withdrew appeal	Jan. 2013
65	1314ON0504	143(1)(d)	PAID \$3900	Jan. 2013
66	1314ON050601	143(1)(d)	AMP \$7800 withdrew appeal	Jan. 2013
67	1314ON050701	143(1)(d)	AMP \$7800 withdrew appeal	Jan. 2013
***	***** *	***** *	BELOW ISSUED POST-CONVICTION	*****
68	1314ON0609	143(1)(d)	AMP \$7800 issued Mar.24/14	May 2013
69	1314ON0660	143(1)(d)	AMP \$7800 issued Mar.24/14	May 2013
70	1314ON0633	143(1)(d)	AMP \$7800 issued Mar.24/14	Jun. 2013
71	1314ON0624	143(1)(d)	AMP \$7800 issued Mar.24/14	Jul. 2013
72	1314ON0638	143(1)(e)	AMP \$7800 issued Mar.24/14	Jul. 2013
73	1314ON0662	143(1)(d)	AMP \$7800 issued Mar.24/14	Aug. 2013

2014 ONCJ 212 (CanLII)

**Appendix “C”
HER MAJESTY THE QUEEN**

and

MAPLE LODGE FARMS

PROBATION ORDER

(Pursuant to 732.1 (3.1) Criminal Code of Canada)

WHEREAS:

1. Maple Lodge Farms (MLF) is an Organization within the meaning of Section 732.1 (3.1) of the Criminal Code of Canada.
2. MLF has been convicted of a total of 20 charges of failing to transport chickens humanely pursuant to section 65(1) of the Health of Animals Act.
3. MLF has been sentenced to pay a fine and directed to comply with the conditions prescribed in a Probation Order. That Probation Order will be for a period of three years. The maximum fine upon conviction for a single offence pursuant to section 65(1) of the Health of Animals Act where the Crown has proceeded by summary conviction is \$50,000.00.
4. MLF has been sentenced to pay a fine of \$40,000.00 on each of the two counts upon which Justice N. Kastner tried MLF for a total fine of \$80,000.00.
5. The sentencing of MLF in relation to the additional 18 charges has been suspended for a period of 3 years during which MLF will be subject to this Probation Order.
6. MLF has agreed that in addition to any further conditions prescribed by the court it will comply with the following conditions which will also be prescribed by the court and will be subject to enforcement as part of the court's Probation Order.
7. MLF will expend no less than \$1,000,000.00 over the period of this probation order in the manner prescribed and according to the schedule for expenditures where provided for to modify its fleet of trailers used to transport broiler and spent hens and to make changes to its facilities as well as transportation policies, methods and procedures.
8. MLF hereby acknowledges that it remains subject to the provisions of all extant laws including the Health of Animals Act and the Agriculture and Agri-Food Administrative Monetary Penalties Act and Regulations.

9. The conditions of this Probation Order are intended to ensure compliance with the Health of Animals Act and Regulations.

IT IS AGREED BY THE PARTIES AND ORDERED BY THE COURT:

GENERAL

10. MLF will establish policies, standards and procedures to reduce the likelihood of that organization committing a subsequent offence.
11. MLF will report to the court on the implementation of those policies, standards and procedures as set out herein.
12. MLF has identified the Senior Animal Welfare Officer as the senior officer (SO) who is responsible for compliance with those policies, standards and procedures.
13. MLF will provide, in the manner specified herein, the following information to the public, namely,
- (i) the offence(s) of which the organization was convicted,
 - (ii) the sentence imposed by the court
 - (iii) any measures that the organization is taking – including any policies, standards and procedures established by this Order – to reduce the likelihood of it committing a subsequent offence.
14. MLF or the prosecutor may, at any time, apply to the court to:
- (i) make changes to any additional conditions;
 - (ii) relieve MLF from compliance with any additional conditions completely or in part, or
 - (iii) decrease the period for which this Order is in force.

TRANSPARENCY

15. MLF will ensure that the convictions, a summary of the facts supporting those convictions, the sentence imposed and the terms of the probation order are published in a prominent place on its website. That publication must include a summary of the reported decision of Justice Kastner including relevant excerpts from the Reasons for Decision and/or Sentence. That publication is subject to approval in writing as to form and content by the Canadian Food Inspection Agency (CFIA) within three (3) weeks

of the date that sentence is imposed and its approval may be withheld at its discretion. The above noted information, as approved by the CFIA must be posted on MLF's website within a week of approval by the CFIA.

16. In addition, MLF will ensure that proof of implementation of the conditions herein be provided to the CFIA on a quarterly basis and as certified by the SO of MLF. Failure to meet a schedule for compliance as set out in this order must be published on the MLF website and is subject to approval in writing as to form and content by the CFIA and its approval may be withheld at its discretion.
17. In addition, while on probation, MLF will publish on its website, in a manner approved of in advance by the CFIA, a summary of Dead on Arrivals (DOA) on a quarterly basis indicating the number of loads that exceed the 1% and 4% DOA thresholds for broiler birds and spent hens that trigger a more in-depth CFIA inspection.
18. The parties have agreed that Penny Lawlis will assume the position of an independent expert (IE) for the duration of this Order to oversee and report to the Court in relation to both expenditures and compliance with this Probation Order and the above noted Act and Regulations. Ms. Lawlis is currently the Humane Standards Officer for the Ontario Ministry of Agriculture, Food and Rural Affairs.

POLICIES, STANDARDS AND PROCEDURES:

19. MLF will create and abide by specific standard operating procedures (SOPs) that make all decision making on loading and transporting broilers and spent hens transparent and traceable including:
 - 19.1 SOPs must be in writing and approved by the IE and made available to the CFIA and court if requested. Those SOPs must be adhered to and form part of this Probation Order. They must be posted in a conspicuous place in the workplace available to all employees. They must also include a prominent declaration that adherence to the SOPs is by court order. They must include the following:
 - a. Guidance documents for employees and dispatchers, including contingency plans;
 - b. Specifications and undertakings by third parties involved in transport that they will follow MLF procedures, and certifications that procedures have been followed;
 - c. Reduce SOPs to writing and have all employees involved in the

transportation process and supervisory personnel certify they have been trained and read the SOPs and are aware of the requirement to follow them;

- d. Requirement that drivers must report weather conditions to MLF dispatchers at the time of loading. Written records of these reports shall be kept and maintained by MLF for three (3) years;
- e. Requirement that drivers must take, and MLF shall preserve time and date stamped, digital photos of the trailer being loaded in a way that accurately depicts the animals and current weather conditions at the following times:
 - i. the beginning of loading;
 - ii. the approximate halfway point of loading; and
 - iii. the completion of loading

19.2. This provision is subject to any regulations or laws prohibiting the photographing of any farms or property where loading takes place. In the event that photographing the trailer is prohibited by law or by the producer, the driver shall still take digital photographs in accordance with the above time requirements of the weather conditions immediately adjacent to the farm.

- f. Requirement that the holding barns be manned by an employee fully acquainted with holding barn procedures.
- g. Requirement that holding barn procedures be in writing and include monitoring of all loads to standards agreed upon with the IE. Compliance is to be confirmed in writing within a log kept by MLF for the duration of this order.
- h. SOPs shall include procedures to be followed for internal investigations. Investigations are to be conducted by an identifiable person who will:
 - i. Certify facts and review all relevant documents;
 - ii. speak to all relevant witnesses/parties;
 - iii. identify the most likely cause of the deficiency and include all of this information in an investigation report that is certified true by that person, and
 - iv. recommend corrective action
- i. Clear and effective contingency plans in writing including but not limited to the following events:
 - i. severe weather;

- ii. equipment failures;
- iii. delays in processing;
- iv. compromised loads

19.3 Severe weather has the same meaning for any type of chicken and includes actual and forecast weather. Severe weather must include conditions during which the actual or forecast temperature are affected by humidity or wind chill. The Ontario Farm Animal Counsel (OFAC) Poultry Handbook chart and graph contained on page twenty-six (26) provides guidance for whether or not to transport chickens during the summertime based on temperature and humidity combined. Standards for the transportation in cold weather shall take the wind chill into account in any related SOPs and procedures, and MLF shall maintain their records indicating the temperature and wind chill on days when chickens are transported in the winter. These decisions relating to transporting chickens in severe weather shall be documented and maintained for the duration of this probation order, and shall be made available to the IE and CFIA for the purpose of assessing compliance with this order.

19.4 Requirement that MLF provides semi-annual reports to CFIA and the IE on compliance with appropriate standards within six (6) months of this order. MLF must also provide in their report proof of implementation of new SOPs that have been certified by all MLF employees and third parties involved in the transport process of chickens, which shall be confirmed by the IE. Thereafter, reports must confirm that SOPs are being followed and outline any circumstances where SOPs were not followed, including details of any corrective action taken.

19.5 MLF will include SOP Industry/Government guidelines as the minimum for the loading process including “Should this bird be loaded” and the Transportation Code of Practice.

EQUIPMENT, FACILITIES AND IMPLEMENTATION OF TRANSPORT SOPs:

- 20. MLF will modify the equipment and facilities associated with the transportation, handling and receipt of live chickens to improve the conditions that live chickens (broilers and spent hens) are transported to its processing facilities in Brampton, Ontario.
- 21. MLF will spend a minimum of \$1,000,000.00 on capital improvements to that equipment and those facilities, as well as the transportation SOPs during the period of this Probation Order.

22. That expenditure will take place in a manner and at the rate set out below, and must include improvements to trailers, holding facilities, modular transportation systems, and the SOPs for their use.
23. That expenditure must be supported by receipts and records provided to the IE as described below. MLF must provide the IE with proof to the satisfaction of the IE that changes made in accordance with this Probation Order has brought MLF into compliance with the *Health of Animals Act* and the regulations thereto in so far as the transportation of live chickens is concerned.
24. Specifically, MLF must ensure that modifications are made to all or some of the following as they see fit, while ensuring that the outcome is compliance with the above noted Act and Regulations. The IE shall assess whether the modifications made are substantial and demonstrable improvements consistent with ensuring compliance with the Act and Regulations.
25. The modification of equipment and facilities be made to all or some of the following, as MLF sees fit, are:
 1. Climate controlled and/or mechanically ventilated trailers for transporting all broilers and spent hens;
 2. Temperature and humidity monitoring devices for all trailers;
 3. Modular transportation of broilers and spent hens; and
 4. Climate controlled and/or mechanically ventilated barns for broilers and spent hens with sufficient capacity to service all arriving trailers.
26. MLF will provide unfettered access to all of its facilities, equipment and any data collected pursuant to this Probation Order to the CFIA and IE and establish a reasonable time frame for any exchange of documents required. The confidentiality of intellectual property rights will be respected. Access to confidential corporate financial information shall be limited to the IE.
27. The IE will report on a quarterly basis to the designated CFIA person (CFIA Regional Director, Central Region, or their designate) and Court with respect to all matters related to compliance with this Probation Order.
28. MLF's expenditures pursuant to this Probation Order will be at a rate of no less than \$80,000 per quarter, which may be varied with the consent of the IE. Those expenditures will be reported to the IE in sufficient detail to identify and quantify

those expenditures. Those expenditures will be supported by third party receipts or otherwise in accordance with generally accepted audit standards. Where scientific research and/or experimental research are undertaken any expenditure must be identified in accordance with Canada Revenue Agency (CRA) requirements. All expenditures are to be excluded from the calculation of expenditures required by this Order unless the IE is satisfied that the expenditure, including internal expenditures is not in the usual and ordinary course of business prior to this Order.

29. MLF will collect data relating to research and development with respect to the modification of equipment, as well as transport policies, methods and procedures, and make that data available to the IE when requested for the purpose of the IE's reports.
30. MLF must produce a Compliance Audit written by the IE on a yearly basis to report on MLF's compliance with the requirements above. The yearly Compliance Audit shall be published on MLF's website, in a manner to be approved of by the CFIA, and shall be provided to the parties and the Court. The annual Compliance Audit may be combined with the fourth quarterly report, in each year of the Order.