

December 13, 2021

Submitted via email

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Dear District Attorney Galligan and Sheriff Schiff,

On behalf of Animal Outlook, I write to inform you of the ongoing violation of New York's animal cruelty law, N.Y. Agr. & M. § 353, by two separate corporations¹ operating in Sullivan County—Hudson Valley Foie Gras ("HVFG") and La Belle Farm ("LBF"). We respectfully urge the Sullivan County District Attorney's Office and the Sullivan County Sheriff's Office to initiate criminal prosecution against these two corporations as well as their owners and officers.

HVFG is located at 80 Brooks Road, Ferndale, New York 12734.² The company sells raw and ready to eat duck and chicken products, most notably, foie gras.³ HVFG is operated by owner Michael Ginor,⁴ Vice President and General Manager Izzy Yanay,⁵ and Vice President Marcus Henley.⁶

¹ "HVFG LLC" and "La Belle Farm", NEW YORK SECRETARY OF STATE, <https://apps.dos.ny.gov/publicInquiry/EntityDisplay> (last visited Dec. 3, 2021).

² *Home Page*, HUDSON VALLEY FOIE GRAS, <https://www.hudsonvalleyfoiegras.com/> (last visited Nov. 10, 2021).

³ *Ibid.*

⁴ *About Hudson Valley Foie Gras - Michael Aeyal Ginor*, HUDSON VALLEY FOIE GRAS, <https://www.hudsonvalleyfoiegras.com/index.php/michael-aeyal-ginor> (last visited Nov. 11, 2021).

⁵ *About Hudson Valley Foie Gras - Izzy Yanay*, HUDSON VALLEY FOIE GRAS, <https://www.hudsonvalleyfoiegras.com/index.php/izzy-yanay> (last visited Nov. 11, 2021).

⁶ *A Luxury Dish is Banned, and a Rural County Reels*, NEW YORK TIMES, <https://www.nytimes.com/2020/01/17/nyregion/foie-gras-farmers.html> (last visited Nov. 11, 2021).

LBF is located at 504 Stanton Corner Road, Ferndale, New York 12734.⁷ The company advertises “high-quality Foie Gras and other superior duck meat products.”⁸ LBF is operated by co-owner Herman Lee,⁹ President Sergio Saravia,¹⁰ and co-founder Hector Saravia.¹¹

I. THE PRODUCTION OF FOIE GRAS—AS PRACTICED BY HVFG AND LBF—ENTAILS RAMMING A TUBE DOWN A BIRD’S THROAT AND GORGING HIM ON FEED UNTIL HIS LIVER BECOMES DISEASED.

The production of foie gras consists of “force-feeding ducks and geese by placing a long tube down the birds’ esophagi and pumping an unnatural quantity of food directly into their stomachs.”¹² The birds are fed between 2-3 times daily for a period of up to 21 days.¹³ Force-feeding induces a pathological condition known as hepatic lipidosis and causes the birds’ livers to become diseased and enlarged.¹⁴ After the period of force-feeding, the birds are slaughtered and their livers are used for foie gras.¹⁵ Both HVFG and LBF have openly acknowledged force-feeding birds, a practice that violates New York’s animal cruelty law.

A. Hudson Valley Foie Gras (“HVFG”)

In 2019, Marcus Henley openly admitted that HVFG “use[s] a rubber tube about six inches long” to force-feed birds “for a period of 20 days” each.¹⁶ Several undercover investigations at HVFG have documented this brutal force-feeding firsthand:

⁷ *La Belle Farms*, MAPQUEST, <https://www.mapquest.com/us/new-york/labelle-farms-inc-351926359> (last visited Nov. 11, 2021).

⁸ *Home*, LA BELLE FARM, <https://labellefarms.com/> (last visited Nov. 11, 2021).

⁹ *A look into foie gras production*, SULLIVAN COUNTY DEMOCRAT, <https://www.scdemocratonline.com/stories/a-look-into-foie-gras-production,12937> (last visited Nov. 11, 2021).

¹⁰ *Home*, LA BELLE FARM, <https://labellefarms.com/> (last visited Nov. 11, 2021).

¹¹ *A look into foie gras production*, SULLIVAN COUNTY DEMOCRAT, <https://www.scdemocratonline.com/stories/a-look-into-foie-gras-production,12937> (last visited Nov. 11, 2021).

¹² *An HSUS Report: The Welfare of Animals in the Foie Gras Industry*, THE HUMANE SOCIETY OF THE UNITED STATES, <https://www.humanesociety.org/sites/default/files/docs/hsus-report-welfare-foie-gras-industry.pdf> (last visited Nov. 11, 2021).

¹³ *A look into foie gras production*, SULLIVAN COUNTY DEMOCRAT, <https://www.scdemocratonline.com/stories/a-look-into-foie-gras-production,12937>

(last visited Nov. 11, 2021); *An HSUS Report: The Welfare of Animals in the Foie Gras Industry*, THE HUMANE SOCIETY OF THE UNITED STATES, <https://www.humanesociety.org/sites/default/files/docs/hsus-report-welfare-foie-gras-industry.pdf> (last visited Nov. 11, 2021).

¹⁴ *Ibid.*

¹⁵ *A look into foie gras production*, SULLIVAN COUNTY DEMOCRAT, <https://www.scdemocratonline.com/stories/a-look-into-foie-gras-production,12937> (last visited Nov. 11, 2021).

¹⁶ *Hudson Valley Foie Gras Farm on Edge After Proposed NYC Ban*, SPECTRUM NEWS 1 (Sep. 4, 2019), <https://spectrumlocalnews.com/nys/udson-valley/news/2019/09/05/udson-valley-foie-gras-farm-on-edge-after-proposed-nyc-ban> (last visited Nov. 16, 2021).

- In 2014, Mercy for Animals (“MFA”) documented workers grabbing birds by their wings and necks and forcibly shoving a metal tube down their throats.¹⁷ In the footage, a worker states that ducks often die during the force-feeding process and indicates there have been times when up to 20 ducks died.¹⁸
- In 2013, PETA footage captured during a “white glove tour” documented workers ramming steel tubes down the birds’ throats and injecting grain.¹⁹
- In 2008, Animal Outlook documented birds crowding into corners and vocalizing in distress as workers approached them with feeding tubes.²⁰ A worker can then be seen forcing a metal tube down a bird’s throat and pumping in food.²¹

B. La Belle Farm (“LBF”)

LaBelle’s force-feeding of birds is well-documented. In 2019, a reporter writing about a tour of LBF observed that “[t]he worker then grabs the duck by the beak and plunges a six-inch plastic tube down its throat. Within seconds, a compressor shoots down the feed, making the process last seconds. The worker repeats the process with all the ducks in pen.”²² A separate article on a food industry page confirms LBF’s practice of force-feeding birds with a plastic tube.²³

II. NEW YORK’S ANIMAL CRUELTY LAW PROTECTS FARMED ANIMALS—INCLUDING GEESE AND DUCKS—FROM A BROAD RANGE OF CRUEL ACTS.

New York’s animal cruelty law is broad in scope, prohibiting a wide range of conduct committed against an equally wide range of animal species. In New York, animal cruelty is regarded as a serious issue, as evidenced by the Attorney General’s creation of an “Animal Protection Initiative”²⁴ and the recent passage of numerous laws intended to protect animals from a variety of abuses.²⁵

¹⁷ *Foie Gras Hudson Valley Duck Cruelty Undercover MFA*, MERCY FOR ANIMALS YOUTUBE, <https://www.youtube.com/watch?v=CYbbzBtFr6w> (last visited Nov. 11, 2021).

¹⁸ *Ibid.*

¹⁹ *Ducks Cruelly Force-Fed for Foie Gras*, PETA YouTube, https://www.youtube.com/watch?v=uW2uiw-p_js (last visited Nov. 11, 2021).

²⁰ *Animal Outlook Goes Undercover Inside Hudson Valley Foie Gras*, ANIMAL OUTLOOK, <https://www.youtube.com/watch?v=XNJDZm1bgVA> (last visited Nov. 11, 2021).

²¹ *Ibid.*

²² *A look into foie gras production*, SULLIVAN COUNTY DEMOCRAT, <https://www.scdemocratonline.com/stories/a-look-into-foie-gras-production,12937> (last visited Nov. 11, 2021);

²³ *The Story Behind La Belle Farms and Bella Bella Gourmet Foods*, BELLA BELLA GOURMET FOODS, <https://bellabellagourmet.com/blogs/news/the-story-behind-la-belle-farms-and-bella-bella-gourmet-foods> (last visited Nov. 16, 2021).

²⁴ *Animal Protection Initiative*, NEW YORK OFFICE OF THE ATTORNEY GENERAL, <https://ag.ny.gov/animals> (last visited Nov. 30, 2021)

²⁵ *New laws meant to crack down on animal cruelty approved*, SPECTRUM NEWS 1, <https://spectrumlocalnews.com/nys/central-ny/ny-state-of-politics/2021/11/01/new-laws-meant-to-crack-down-on-animal-cruelty-approved> (last visited Nov. 30, 2021); *NYS Senate Passes Bill to Shut Down the Puppy Mill Pipeline*,

1. Animals used in agriculture are protected from cruelty under New York law.

The cruelty law protects animals used in agriculture just as it does companion animals. As used in the cruelty statute, the term “animal,” includes “every living creature except a human being.”²⁶ The sweeping breadth of the cruelty law is best exemplified in *People v. Carr* where the court held that the cruelty law “makes no distinction between acts committed not only against farm animals and pets, but also against insects or even unicellular protozoa.”²⁷

Moreover, unlike several other states, New York’s cruelty law is devoid of any exemption for common agricultural practices.²⁸ Therefore, under the law, following industry standards does not shield a corporation from liability for mistreating or neglecting farmed animals under its care. Legally, a duck in a New York foie gras facility is no different from a pet cat or dog and accordingly, any act or omission that would be criminal if committed against a cat or a dog is equally criminal if committed against a duck.

Attesting to this point, numerous cases document prosecutions against individuals for cruelty or neglect committed against animals used in agriculture. For instance, in *People v. Gigliuto*, the court affirmed a cruelty conviction against a farmer for killing of 53 cows on his dairy farm during a dispute over child support.²⁹ Both *Montgomery County SPCA v. Bennett-Blue*³⁰ and *City of Albany v. Am. Society for Prevention of Cruelty to Animals*³¹ discussed convictions for neglect of farmed animals.

2. The cruelty law prohibits “unjustifiable” physical pain, suffering or death.

The cruelty law provides that:

A person who overdrives, overloads, tortures or cruelly beats or unjustifiably injures, maims, mutilates or kills any animal, whether wild or tame, and whether belonging to himself or to another, or deprives any animal of necessary sustenance, food or drink, or neglects or refuses to furnish it such sustenance or drink, or causes, procures or permits any animal to be overdriven, overloaded, tortured, cruelly beaten, or unjustifiably injured, maimed, mutilated or killed, or to be deprived of necessary food or drink, or who wilfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal, or any act tending to produce such cruelty.³²

PR NEWSWIRE, <https://www.prnewswire.com/news-releases/nys-senate-passes-bill-to-shut-down-the-puppy-mill-pipeline-301284872.html> (last visited Nov. 30, 2021).

²⁶ N.Y. Agr. & M. § 350(1).

²⁷ *People v. Carr*, 183 Misc. 2d 94, n. 2 (N.Y. Just. Ct. 1999).

²⁸ Compare to N.C.G.S. § 14-360(c) (exempting “Lawful activities conducted for the primary purpose of providing food for human or animal consumption.”); 18 Pa.C.S. § 5560 (stating that the cruelty and neglect statutes “shall not apply to activity undertaken in a normal agricultural operation.”); Va. Code Section 3.2-6570(C) (stating that “Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.”)

²⁹ *People v. Gigliuto*, 2005 NY Slip Op 7745 (N.Y. App. Div. 2005).

³⁰ *Montgomery Cty. SPCA v. Bennett-Blue*, 255 A.D.2d 705 (N.Y. App. Div. 1998)

³¹ *Cty. of Albany v. Am. Soc’y for Prevention of Cruelty to Animals*, 112 Misc. 2d 829 (N.Y. App. Div. 1982)

³² N.Y. Agr. & M. § 353.

Most relevant here, the term “torture” includes “every act, omission, or neglect, whereby unjustifiable physical pain, suffering or death is caused or permitted.”³³ Thus, “[t]he test of cruelty is the justifiability of the act or omission.”³⁴

Under the state’s penal code, conduct that would otherwise be criminal is “justifiable” when:

Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue.³⁵

More specifically, the lower courts have opined on the meaning of “justifiable” in the context of animal cruelty cases.

- In one case, the court held that “the justification for killing or torturing . . . animals must be of the type necessary to preserve the safety of property or to overcome danger or injury or the type of legal justification specifically authorized by statute.”³⁶
- Another court found that “what is ‘unjustifiable’ in the context of anticruelty statutes is what is not reasonable, defensible, right, unavoidable or excusable.”³⁷
- A third court found that “an act is considered justifiable “where its purpose or object is reasonable and adequate, and the pain and suffering caused is not disproportionate to the end sought to be attained.”³⁸

In addition, courts have consistently held that the determination of whether an act is “justifiable” hinges on the prevailing moral standards. Most notably, the Appellate Division held that “[t]he question of what is and what is not justifiable is a question of morals, on which men’s minds may reasonably differ, and do, in fact, differ.”³⁹

These holdings can be summarized to provide that a person violates New York’s animal cruelty statute if (1) they inflict pain, suffering, or death on an animal (2) that is unnecessary

³³ N.Y. Agr. & M. § 350.

³⁴ *People v. O'Rourke*, 83 Misc. 2d 175 (Crim. Ct. of N.Y. Cty. 1975).

³⁵ N.Y. Penal § 35.05.

³⁶ *People v. Voelker*, 172 Misc. 2d 564, 568 (Crim. Ct. of Kings Cnty. 1997).

³⁷ *People v. Arroyo*, 3 Misc. 3d 668, 678 (Crim. Ct. of Kings Cnty. 2004).

³⁸ *Id.* (citing Am Jur 2d, Animals § 29, at 370).

³⁹ *People ex rel. State Board of Charities v. New York Soc. for Prevention of Cruelty to Children*, 42 A.D. 83, 87 (NY App. Div. 1899); see also *People v. Bunt*, 118 Misc. 2d 904, 909 (N.Y. Just. Ct. 1983) (“The question of fact as to whether the act of cruelty and infliction of pain was justified or whether the injury, maiming, etc., was unjustified is a question to be determined by the trier of facts and based upon the moral standards of the community.” The court also found that within the perimeters of the animal cruelty statute, “there is room for the expression of community standards and morals.”); *Arroyo*, 3 Misc. 3d at 678 (Holding that what is “justifiable” can be tied to “current practice or the moral standards of our community.”).

and unreasonable (3) considering (a) the ends sought—which generally consist of the prevention of injury or the preservation of property, and (b) society’s moral standards.

III. FORCE-FEEDING BIRDS CONSTITUTES ANIMAL CRUELTY.

The forced feeding of ducks and geese to produce foie gras constitutes animal cruelty under New York law. Without question, geese and ducks subjected to cruel force-feeding suffer pain and often death from the process. This pain and death is unnecessary and unreasonable considering the ends sought and prevailing moral standards.

A. Force-feeding birds causes severe pain and, in many cases, death.

HVFG and LBF’s routine practice of forcibly ramming a pipe down a bird’s throat several times a day for weeks and gorging them on food until their bodies begin to deteriorate and their livers become diseased undoubtedly causes pain, suffering, and in many instances, death. One scientific study examining the animal welfare impacts of force-feeding concluded that: “[f]orce-feeding overrides animal preference”⁴⁰ and stated:

[T]he available evidence shows that the current feeding and management practices represent risks to animal health and welfare. The practice of force-feeding, the resultant adverse effects on liver function and bird health along with restrictive housing are unacceptable to the veterinary profession and other animal welfare advocates.⁴¹

Professor Ian Duncan, a world renowned expert on poultry welfare stated that “[T]he practices used to produce foie gras seriously compromise the welfare of the ducks and geese.”⁴² These practices result in damage to the throat, liver failure, and mortality, each discussed individually below.

1. *Throat Damage*

Veterinary experts have repeatedly criticized the practice of force-feeding for the damage it causes to the bird’s throat. One veterinarian concluded that the repeated thrusting of a pipe down a bird’s throat causes “trauma and injuries to the esophagus.”⁴³ Another stated that “[d]ucks are highly capable of feeling pain especially in the throat area. They have a gag reflex that would be overcome by the tube insertion, and this would cause distress in the bird.”⁴⁴

Dr. Duncan concluded that “In birds, the oropharyngeal area at the entrance to the esophagus is particularly sensitive and is adapted to perform a gag reflex” and “[f]orce-feeding overcomes this

⁴⁰ W. Skippon, *The animal health and welfare consequences of foie gras production*, 54 Can. Vet. J. 403 (2013).

⁴¹ *Ibid.*

⁴² I. Duncan, *The Scientific Case Against Foie Gras*, <https://spca.bc.ca/wp-content/uploads/foie-gras-scientific-report.pdf> (last visited Nov. 16, 2021).

⁴³ *Scientists and Experts Statements on Force-Feeding for Foie Gras Production and Animal Welfare, Statement of Dr. Sara Shields, PhD*, NYC FOIE GRAS, <https://www.nycfoiegras.com/blog/scientists-and-experts-statements> (last visited Nov. 11, 2021).

⁴⁴ *Scientists and Experts Statements on Force-Feeding for Foie Gras Production and Animal Welfare, Statement of Dr. Debra Teachout, VMD*, NYC FOIE GRAS, <https://www.nycfoiegras.com/blog/scientists-and-experts-statements> (last visited Nov. 11, 2021).

reflex likely causing considerable discomfort.”⁴⁵ He observed that force feeding can cause “pain, injury and heat stress” and “inflammation” in throat walls.⁴⁶

2. *Liver Issues*

As force-feeding is done to enlarge the bird’s liver, it comes as no surprise that such repetitive engorgement on food brings a host of medical issues. By the end of the force-feeding period, the bird’s liver is 7 to 10 times the size of a normal liver⁴⁷ and makes up almost 10% of the duck’s body weight.⁴⁸ “The liver of a healthy duck or goose is approximately 5% fat, while the liver of a force-fed bird is approximately 50-60% fat.”⁴⁹

“Severe liver impairment can lead to conditions like enlargement of the liver, fluid in the abdomen and eventually death.”⁵⁰ In addition, force feeding makes birds feel very ill.⁵¹ Undercover videos shows the effect of this force feeding and depict birds panting heavily because their enlarged livers are pressed against their lungs.⁵²

3. *Mortalities*

A scientific study of foie gras production concluded that “[d]uring the force-feeding phase, mortality rates are four to 20 times higher than on normal duck farms.”⁵³ The study found that “[t]hese high rates are due to injuries to the throat, liver failure or rupture and to heat stress — all of which are directly linked to the forcefeeding practice.”⁵⁴ A separate study found that “[t]he mortality rate in force-fed birds varies from 2% to 4% during this period compared with approximately 0.2% in age-matched non-force-fed drakes.”⁵⁵

LBF has publicly admitted a 1% mortality rate; thus, even if their self-reported rate is accepted as true, this means that force-fed birds at LBF die at a rate five times higher than the non-force-

⁴⁵ I. Duncan, *The Scientific Case Against Foie Gras*, <https://spca.bc.ca/wp-content/uploads/foie-gras-scientific-report.pdf> (last visited Nov. 16, 2021).

⁴⁶ *Ibid.*

⁴⁷ W. Skippon, *The animal health and welfare consequences of foie gras production*, 54 *Can. Vet. J.* 403 (2013)

⁴⁸ *The Physiology of Foie Gras: Why Foie Gras is Not Unethical*, BELLA BELLA GOURMET FOODS, <https://bellabellagourmet.com/blogs/news/the-physiology-of-foie-why-foie-gras-is-not-unethical> (last visited Nov. 11, 2021).

⁴⁹ *An HSUS Report: The Welfare of Animals in the Foie Gras Industry*, THE HUMANE SOCIETY OF THE UNITED STATES, p.2, <https://www.humanesociety.org/sites/default/files/docs/hsus-report-welfare-foie-gras-industry.pdf> (last visited Nov. 11, 2021).

⁵⁰ *Scientists and Experts Statements on Force-Feeding for Foie Gras Production and Animal Welfare, Statement of Dr. Lorelei Wakefield, VMD*, NYC FOIE GRAS, <https://www.nycfoiegras.com/blog/scientists-and-experts-statements> (last visited Nov. 11, 2021).

⁵¹ *An HSUS Report: The Welfare of Animals in the Foie Gras Industry*, THE HUMANE SOCIETY OF THE UNITED STATES, p.2, <https://www.humanesociety.org/sites/default/files/docs/hsus-report-welfare-foie-gras-industry.pdf> (last visited Nov. 11, 2021).

⁵² *Foie Gras Hudson Valley Duck Cruelty Undercover MFA*, MERCY FOR ANIMALS YOUTUBE, <https://www.youtube.com/watch?v=CYbbzBtFr6w> (last visited Nov. 11, 2021).

⁵³ I. Duncan, *The Scientific Case Against Foie Gras*, <https://spca.bc.ca/wp-content/uploads/foie-gras-scientific-report.pdf> (last visited Nov. 16, 2021).

⁵⁴ *Ibid.*

⁵⁵ W. Skippon, *The animal health and welfare consequences of foie gras production*, 54 *Can. Vet. J.* 403 (2013)

fed birds according to the aforementioned study.⁵⁶ Given that LBF purportedly processes 2,500 birds per week,⁵⁷ this amounts to 25 birds killed each and every week as a direct result of force-feeding.

B. The pain, suffering, and death inflicted by force-feeding is unnecessary and unreasonable considering the ends sought and prevailing moral standards.

Brutally force-feeding thousands of birds each year until their livers become grotesquely bloated for the sole purpose of producing a luxury food item consumed by a tiny fraction of the population is not “justifiable” under the precedent of any New York court.

Such force-feeding is plainly not done to “preserve the safety of property or to overcome any danger or injury.”⁵⁸ Moreover, subjecting thousands of birds each year to a tortured existence of repeated throat injuries, panting, disease, constant feelings of sickness, and in many cases, death, is wholly unnecessary, unreasonable, and “disproportionate to the end sought to be attained”⁵⁹—a morsel of luxury food for a very small number⁶⁰ of wealthy diners.⁶¹

In addition, the practice of force-feeding birds contravenes the basic moral standards of society. For instance, New York City residents deemed the practice so repugnant—a 2019 survey found that a staggering 81% of New York City residents favored a ban on foie gras⁶²—that the sale of foie gras was banned by City Council in 2019. But New York City is far from alone in finding the practice incompatible with society’s morals. A separate, national poll found that 80% of Americans supported a ban on the force-feeding of birds⁶³ and another poll in Minnesota found that 74% favored a ban on foie gras.⁶⁴ Thus, the vast majority of Americans all across the country find force-feeding birds immoral.

⁵⁶ *The Physiology of Foie Gras: Why Foie Gras is Not Unethical*, BELLA BELLA GOURMET FOODS, (last visited Nov. 11, 2021).

⁵⁷ *Ibid.*

⁵⁸ *People v. Voelker*, 172 Misc. 2d 564, 568 (Crim. Ct. of Kings Cnty. 1997).

⁵⁹ *Arroyo*, 3 Misc. 3d at 676 (citing Am Jur 2d, Animals § 29, at 370).

⁶⁰ Foie gras sales in the United States total \$140 million per year compared to \$30.3 million for beef, for example. *See New York City votes to ban foie gras*, THE COUNTER (Oct. 30, 2019), <https://thecounter.org/new-york-city-votes-ban-foie-gras/> (last visited Dec. 2, 2021); *Americans red meat obsession is growing stronger, with beef sales skyrocketing to \$30 billion as a ‘meat war’ looms*, INSIDER (May 3, 2021), <https://www.businessinsider.com/americans-more-beef-as-a-meat-war-looms-2021-5> (last visited Dec. 3, 2021).

⁶¹ 90 grams of foie gras can sell for \$125; *See Foie Gras, Served in 1,000 Restaurants in New York City, is Banned*, THE NEW YORK TIMES (July 17, 2021), <https://www.nytimes.com/2019/10/30/nyregion/foie-gras-ban-nyc.html>

⁶² *Foie Gras Survey*, MASON-DIXON POLLING & STRATEGY (Feb. 2019), <https://static1.squarespace.com/static/5c5711b1da50d32f334c8116/t/5c7413b1652deae98e4da818/1551111089835/VFARNewYorkCity219Poll.pdf> (last visited Nov. 29, 2021); note that a separate poll published by the foie gras industry has been discredited as unreliable in methodology and conducted by a political group (*See Foie Gras Industry’s “Poll” Discredited*, NYC FOIE GRAS, <https://www.nycfoiegras.com/blog/2019/7/31/foie-gras-industrys-poll-discredited> (last visited Nov. 29, 2021)).

⁶³ *Hell to the Sound of Trumpets: Why Chicago’s Ban on Foie Gras was Constitutional and What it Means for Future Animal Welfare Laws*, 2 Stanford J. Animal L. & Pol’y 66 (2009), <https://law.stanford.edu/wp-content/uploads/2018/05/grant.pdf> (last visited Dec. 2, 2021).

⁶⁴ *Twin Cities on Foie Gras Survey*, FAUNALYTICS (Mar. 2012), <https://faunalytics.org/twin-cities-dining-survey/> (last visited Nov. 29, 2021).

HVFG and LBF's practice of force-feeding birds to produce foie gras is a crime under New York law. Scientific studies and the veterinary community have confirmed that the practice causes pain, suffering, and death. The practice is not done to prevent injury or preserve property. The practice is done solely to produce a luxury food item for select clientele, an end grossly disproportionate to the suffering inflicted and one severely incompatible with the morals of society. Accordingly, this practice constitutes animal cruelty under New York law and the Sullivan County District Attorney should criminally charge HVFG and LBF.

IV. HVFG AND LBF ARE CRIMINALLY LIABLE AS CORPORATIONS, AS ARE THE OWNERS AND OFFICERS.

New York law allows the Sullivan County District Attorney to criminally charge HVFG and LBF as corporations, alongside their owners and officers. As to the criminal liability of corporations, New York law states that a corporation is guilty of a criminal offense when:

The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or recklessly tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and in behalf of the corporation.⁶⁵

Corporate owners and officers are also subject to criminal liability:

A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or in behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.⁶⁶

Here, both HVFG and LBF force-feed birds as a matter of standard business operations and, as discussed above, both have openly admitted to doing so. As these practices are a routine component of the operating practices of the corporation, they are plainly "authorized" and "tolerated" by the board of directors and high managerial agents of HVFG and LBF. Moreover, HVFG and LBF's owners and officers "cause" force-feeding "to be performed" on behalf of the corporation as a part of business operations. Thus, the District Attorney Sheriff should criminally charge both the corporations and the individuals involved.

V. THE SULLIVAN COUNTY DISTRICT ATTORNEY AND SHERIFF MUST TAKE ACTION TO END THE CRUEL PRACTICE OF FORCE-FEEDING BIRDS TO PRODUCE FOIE GRAS.

HVFG and LBF are flouting New York's animal cruelty laws and making a mockery of the state's criminal justice system. Not only does force-feeding birds cause tremendous pain, suffering, and death to thousands of animals each year, it is resoundingly condemned by the public who views such a practice as immoral and unacceptable in a civilized society.

The Sullivan County District Attorney and Sheriff should pursue criminal charges against HVFG and LBF, including the corporate entities as well as the owners and officers. Violation of New York's animal cruelty law constitutes a Class A misdemeanor punishable by up to 364 days in

⁶⁵ N.Y. Penal § 20.20(b).

⁶⁶ N.Y. Penal § 20.25.

jail per count.⁶⁷ While HVFG and LBF are technically subject to thousands of criminal charges, we urge your offices to pursue at least a single count against each entity and individual to act as a deterrent against future wrongful conduct.

If you have any questions regarding this request, please contact me at (804) 307-4102 or wlowrey@animaloutlook.org. We appreciate your attention to this matter and look forward to your response.

Sincerely,

A handwritten signature in black ink that reads "Will Lowrey". The signature is written in a cursive style with a long, sweeping tail on the "y".

Will Lowrey
Counsel
Animal Outlook

cc:

Letitia James, New York State Attorney General
letitia.james@ag.ny.gov

⁶⁷ N.Y. Penal § 70.15; N.Y. Agr. & M. § 353.