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THE ETHICAL
TREATMENT
OF ANIMALS
FOUNDATION

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April 17, 2019

Attorney General Dana Nessel
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Joseph Potchen, Division Chief, Corporate Oversight
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Michelle Brya, Division Chief, Licensing Regulation
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Charitable Trust Section
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Via electronic submission

**Re: Request to investigate Oswald's Bear Ranch and Dean Oswald for
apparent violations of the Charitable Solicitations Act**

Dear Attorney General Nessel, Division Chief Potchen, and Division Chief Brya,

I am writing on behalf of PETA and its more than 6.5 million members and supporters worldwide, including 150,000 in Michigan, to request that the Michigan Attorney General's office investigate Oswald's Bear Ranch, LLC (Oswald's) and Dean Oswald for soliciting donations in violation of Michigan's Charitable Organizations and Solicitations Act.

Oswald's exhibits captive bears in Newberry, Michigan. The company, owned and operated by Dean Oswald and incorporated in Michigan as an LLC, began charging an entrance fee for visitors to view the bear exhibition in 1997. While Oswald's recently (November, 2018) formed a Michigan nonprofit corporation (Oswald's Bear Ranch Foundation) neither Oswald's nor the new foundation are registered with the Attorney General's office as a charitable organization, nor has the IRS designated either entity as a tax-exempt, 501(c)(3) organization.

As detailed in the appendix below, Oswald's has—for years—solicited and accepted donations to and memberships in the corporation via its website and multiple social media channels. Oswald's and Dean Oswald have solicited and received thousands of dollars in donations, have done so openly and repeatedly, and have made representations that would lead Michigan residents to believe their donations are benefitting a nonprofit entity, rather than a for-profit corporation. As a for-profit corporation, and as an entity unregistered with the Attorney General's office as a charitable organization, these misrepresentations and Oswald's solicitations for donations and memberships appear to constitute clear violations of the Charitable Organizations and Solicitations Act.

PETA FOUNDATION IS AN
OPERATING NAME OF FOUNDATION
TO SUPPORT ANIMAL PROTECTION.

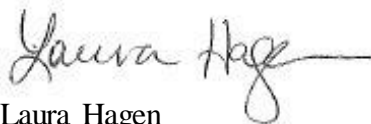
AFFILIATES:

- PETA U.S.
- PETA Asia
- PETA India
- PETA France
- PETA Australia
- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

PETA respectfully requests that your office investigate these apparent violations of Michigan law, seek all available civil and criminal penalties for these violations, and require Oswald's to immediately cease and desist any illegal activity.

I welcome the opportunity to discuss this matter with you. May we contact your office to schedule a meeting at your offices at your earliest convenience?

Very truly yours,

A handwritten signature in cursive script that reads "Laura Hagen". The signature is written in black ink and includes a horizontal flourish at the end.

Laura Hagen
Counsel, Captive Animal Law Enforcement
617-262-2773 | LauraH@petaf.org

APPENDIX

Michigan’s Charitable Organizations and Solicitations Act (the Act) regulates the activities of persons and charitable organizations that engage in solicitation of donations.¹ The Act requires charitable organizations to register with the attorney general’s (AG’s) office prior to soliciting, receiving, or intending to receive contributions by any means, and imposes civil and criminal penalties for noncompliance.² In addition, the Act establishes prohibitions on solicitation activities, including, in relevant part:

- 1) soliciting contributions, conducting a charitable sales promotion, or otherwise operating in Michigan as a charitable organization except in compliance with the Act;³
- 2) soliciting or receiving contributions, conducting a charitable sales promotion for, or selling memberships in, an unregistered charitable organization;⁴
- 3) making a misrepresentation by any manner that would lead a person to believe that all or any part of the proceeds of a solicitation effort are for charitable purposes;⁵ and
- 4) employing any device, scheme, or artifice to defraud or obtain money by means of a false, deceptive, or misleading pretense or representation.⁶

Oswald’s Bear Ranch (Oswald’s), owned by Dean Oswald, exhibits captive bears at its Newberry, Michigan facility. Oswald’s began exhibiting bears in 1997 and incorporated as a Michigan LLC in January 2014.⁷ In November, 2018—nearly five years after formally incorporating as a for-profit entity, and after more than twenty years operating as one—Dean Oswald incorporated a Michigan nonprofit entity, Oswald’s Bear Ranch Foundation (Oswald’s Foundation).⁸ Notably, Dean Oswald did not dissolve the LLC following creation of the nonprofit corporation. Neither Oswald’s LLC, nor the Oswald’s Foundation has registered with the AG as a charitable organization.⁹ And, neither the LLC nor the foundation have received recognition from the Internal Revenue Service as a tax-exempt, 501(c)(3) organization.¹⁰

Despite its operation and legal organization as an LLC—and its failure to register with the AG’s office as a charitable organization—Oswald’s openly solicits donations and sells memberships on its website (www.oswaldsbearranch.com) and via multiple social media channels, in apparent violation of the Act.

¹ Mich. Comp. Laws § 400.271 *et seq.* (Michigan Charitable Solicitations Act (the Act)); a “person” is an individual, organization, group, partnership, corporation, LLC, or other legal entity. Mich. Comp. Laws § 400.272. A “charitable organization” is defined as “a benevolent, educational, philanthropic, [or] humane . . . organization of persons that solicits or obtains contributions solicited from the public for charitable purposes.” *Id.* § 400.272(a).

² *Id.* §§ 400.273(1) (registration mandate), 400.290 (civil penalties), 400.293 (criminal penalties).

³ *Id.* § 400.288(p).

⁴ *Id.* § 400.288(t).

⁵ *Id.* § 400.288(f).

⁶ *Id.* § 400.288(n).

⁷ Oswald’s Bear Ranch, Bear Ranch, http://www.oswaldsbearranch.com/index.php?page=Bear_Ranch (accessed March 22, 2019) (open for exhibition in May 1997); MI Dept. of Lic. and Reg. Affairs Filing Endorsement, Oswald’s Bear Ranch, ID No. E36954, Jan. 28, 2014, (attached as Exhibit 1).

⁸ Attached as Exhibit 2.

⁹ Office of the Attny. Gen., Charitable Trust Section Database Search, charity or public safety organization name search (search terms “Oswald” and “bear”); charity or public safety organization city name search (search term, “Newberry”), <http://www.ag.state.mi.us/CharitableTrust/firmDefault.aspx> (searched Apr. 4, 2019); Attny. Gen., 8245 Licensed Charities as of 3/11/2019, https://www.michigan.gov/documents/lic_chrtty1_40579_7.pdf (accessed Apr. 4, 2019) (neither entity listed).

¹⁰ Internal Revenue Svc., Tax Exempt Organization Search, search all databases for organization name search (search terms “Oswald” and “Oswald’s”) <https://apps.irs.gov/app/eos/> (searched Apr. 4, 2019).

Oswald's uses—and has historically used—its website to solicit donations and sell memberships marketed as benefitting a charitable organization, but which actually benefit a for-profit corporation. Oswald's solicits donations via a dedicated donation page on its website. This page is linked from Oswald's home page where the text "donate" is prominently featured on the website's fixed-navigation bar (which remains stationary as you scroll throughout the website).¹¹ The donation page includes a "donate" button and the ability to make a payment via credit card.¹² This page informs visitors that they can "Make A Donation and Help Rescued Bears [*sic*]," and

When you Make A Donation and Help Rescued Bears, you are helping abandoned and abused bears . . . Your donation will help with the health and well-being of all the bears (and new arrivals), along with general upkeep and maintenance of the property. By making your donation, you will receive the Bear Ranch Club certificate and book, 'Bear Man' [*sic*].¹³

Oswald's use of its website to solicit donations is not new—prior to a website update last year (which added the fixed-navigation bar), Oswald's home page featured a "donate" button from as early as July 2011 until at least May 2018.¹⁴

The website also features a second donation-solicitation page focused on promoting sales of "bear club" memberships.¹⁵ On the bear club page (which is also linked from the home page's fixed-navigation bar) Oswald's encourages visitors to "[p]lease join our Bear Club and help continue this [rescue] effort by making a donation."¹⁶ Oswald's uses language that would easily lead a reasonable person to believe that a donation secures a membership in a charitable organization, rather than a business organized as a for-profit corporation. The page informs visitors:

By becoming a Bear Club Member, you are helping us reach these new goals that we see happening very soon and we appreciate your contribution. . . . Your donation will help with the health and well-being of all the bears (and new arrivals), along with general upkeep and maintenance of the property.¹⁷

The page also prominently features a "mission" statement: "The Oswald Family and Friends strive to advance the care of rescued or abandoned bears. Bears are cared for at the Oswald's Bear Ranch via private funds and donations," further reinforcing the message that Oswald's is a charitable organization.¹⁸ These misrepresentations—apparently designed to lead someone to believe their donation serves a charitable purpose—are clear violations of the Act's prohibition on exactly that practice.¹⁹

¹¹ Oswald's Bear Ranch, www.oswaldsbearranch.com (accessed Apr. 3, 2019) (attached as Exhibit 3).

¹² Oswald's Bear Ranch, "Donation" www.oswaldsbearranch.com/index.php?page=Donate (accessed Mar. 13, 2019) (attached as Exhibit 4).

¹³ *Id.*

¹⁴ Attached as Exhibit 5 (includes wayback.com captures of Oswald's home page annually from July 2011 through May 2018; relevant capture date from Wayback.com is in top right hand corner of each page).

¹⁵ Oswald's Bear Ranch, "Bear Club," http://www.oswaldsbearranch.com/index.php?page=Bear_Club (accessed Mar. 13, 2019) (attached as Exhibit 6).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Mich. Comp. Laws § 400.288(f) (prohibiting misrepresentation *by any manner* that *would lead* a person to believe that *all or any part* of the proceeds of a solicitation effort are for charitable purposes)(emphasis added).

In addition to using multiple entry-points on its website to solicit donations, Oswald's and Dean Oswald also frequently utilize social media channels to solicit bear club memberships and donations. The "Oswald's Bear Ranch" Facebook page, Dean Oswald's personal Facebook page, and the "Oswald's Bear Ranch/Dean Oswald" Instagram feed are rife with posts—dating back at least seven years—encouraging followers to join the bear club and donate, and thanking individuals for monthly donations and for joining the bear club "with a donation."²⁰ In fact, in 2018, **68% of posts** to the "Oswald's Bear Ranch" Facebook page, and **40% of posts** to the Dean Oswald/Oswald's Bear Ranch Instagram feed included a solicitation for followers to join the bear club.²¹

Donations and memberships are not only solicited via posts to the Facebook pages; the Oswald's Facebook profile also includes a dedicated "donations" link and page. The Facebook donation page features a "donate" button and a single post—a scrolling list of 177 bear club memberships, dating from April 2012 through August 2018.²² The post details **contributions totaling at least \$7982.50** as well as donor names, "amount donated," and "donation date."²³ Notably, this level of illegal fundraising exceeds the threshold required to trigger felony-level penalties under the Act.²⁴

Yet another Facebook page, entitled "We Support Oswald's Bear Ranch," also actively solicits donations for Oswald's. The page, created in October 2017, does not disclose its owners or administrators and a link to Oswald's home page is the only information provided in the "contact info" section.²⁵ We Support Oswald's Bear Ranch is not registered as a Michigan charitable organization and has not received recognition from the IRS as a tax-exempt 501(c)(3) organization.²⁶ The page promoted fundraisers for Oswald's, including:

²⁰ Attached as Exhibit 7 (including only a fractional sampling of similar posts).

²¹ Oswald's Bear Ranch, Facebook, <https://www.facebook.com/Oswalds-Bear-Ranch-118140314881923/app/190322544333196/> (accessed Mar. 15, 2019) (104 total posts in 2018 (including 1 duplicate); 70 of 103 posts (67.9%) included either (1) a solicitation to join the bear club and donate (65 of 70 posts) or (2) sharing a post from Dean Oswald's personal Facebook page encouraging bear club membership (5 of 70 posts)); @Oswalds_Bear_Ranch, Instagram, https://www.instagram.com/oswalds_bear_ranch/ (accessed Apr 2, 2019) (15 of 35 posts in 2018 mentioned and included a link to the bear club).

²² Oswald's Bear Ranch, Facebook, at "Donations," <https://www.facebook.com/Oswalds-Bear-Ranch-118140314881923/app/190322544333196/> (attached as Exhibit 8) (accessed Mar. 15, 2019).

²³ *Id.* \$7982.50 total calculated by adding all donations included in image. For donations designated as monthly, but for which the end date was not discernable, calculated as a single donation. Only one monthly donation, from Emily Darin, included an end date and was calculated to include multiple contributions.

²⁴ The Act provides felony-level penalties when more than \$1,000 is collected by knowingly misrepresenting or misleading anyone to believe that the proceeds of a solicitation effort are for charitable purposes, or for employing any artifice to obtain money from a person via a false, deceptive, or misleading pretense, representation, or promise. Mich. Comp. Laws § 400.293(1)(a), (1)(e), (2)(a). The Act also provides felony-level penalties when more than \$5,000 is collected by knowingly soliciting or receiving a contribution, or selling memberships on behalf of an unregistered charitable organization. *Id.* § 400.293(1)(g)(viii), (2)(b).

²⁵ We Support Oswald's Bear Ranch, Facebook, at "About," https://www.facebook.com/pg/WeSupportOswaldsBearRanch/about/?ref=page_internal (accessed Mar. 15, 2019) (attached as Exhibit 9).

²⁶ *Supra* n. 9.

- a “fundraiser sweatshirt” sale: “Our goal is to raise 1,000 to be donated directly to Oswald’s Bear Ranch [text linked to Oswald’s Facebook page]” and “Thanks to your generous donations and purchases we have reached almost \$500 in raised funds to go to the ranch!”;²⁷
- sharing Oswald’s website and encouraging donations: “You can HELP the Oswald’s Bear Ranch [text linked to Oswald’s Facebook page] anytime of the year by going onto their website. Here you can DONATE (via Paypal) . . . [link to Oswald’s website included as part of post]”;²⁸ and
- promoting Oswald’s bear club membership: “For as little as \$10 you get a membership & a book signed by Dean Oswald. Larger donations are encouraged as Oswald’s Bear Ranch [text linked to Oswald’s Facebook page] is funded solely by donations.”²⁹

Oswald’s and Dean Oswald’s promotion and sale of bear club memberships and their solicitations of donations are apparent violations of the Act. We Support Oswald’s Bear Ranch has engaged in similar activities that are also apparent violations of the Act. Oswald’s and We Support Oswald’s Bear Ranch are not charitable organizations. Further, even if they were charitable organizations, they have not been registered as such with the Michigan AG’s office, as is required by the Act.

PETA respectfully requests that the AG’s office expeditiously investigate Oswald’s Bear Ranch, Dean Oswald, and We Support Oswald’s Bear Ranch for historic and ongoing violations of the Act.³⁰ PETA further requests that the AG’s office seek all available remedies for these violations, including enjoining any ongoing fundraising activities from these organizations, restitution where appropriate, and any available civil or criminal penalties.³¹

²⁷ We Support Oswald’s Bear Ranch, Facebook, Oct. 16, 2017 and Oct. 18, 2017 posts (attached as exhibit 10, images A and B).

²⁸ Attached as Exhibit 10, image C.

²⁹ Attached as Exhibit 10, image D.

³⁰ Mich. Comp. Laws § 400.291(1) (the attorney general may investigate a complaint from any person, or on her own initiative).

³¹ The attorney general may seek equitable relief as well as civil and criminal penalties for violations of the Act. *Id.* §§ 400.290(1), (3) (AG may bring an action to enjoin prohibited conduct); 400.290(4) (AG may issue a cease and desist order, a notice of intended action, or take other action in the public interest); 400.290(1) (court may issue an injunction, order restitution, award reasonable attorney’s fees and costs, and impose a civil fine of up to \$10,000 for each violation); 400.293(1) (misdemeanor penalties); 400.293(2) (felony penalties).