

November 6, 2013

Elizabeth Goldentyer, D.V.M.
Eastern Regional Director
USDA/APHIS/AC

Via e-mail: betty.j.goldentyer@usda.gov

Re: Request for Investigation of Whistleblower Report of Animal Neglect and Abuse at UniverSoul Circus

Dear Dr. Goldentyer:

I am writing on behalf of my client, People for the Ethical Treatment of Animals (PETA), to request that the U.S. Department of Agriculture (USDA) investigate apparent Animal Welfare Act (AWA) violations by Pascale Freeman, dba "UniverSoul Circus" (58-C-0505), Jorge and Louann Barreda (58-C-0490), and Mitchel Kalmanson (58-C-0505).

A former UniverSoul employee who is familiar with the handling of the animals used by the circus recently contacted PETA to report "highly inappropriate, unnatural, and abusive" treatment of animals by all three exhibitors. As detailed in the whistleblower's sworn affidavit and the enclosed appendix and exhibits, the whistleblower was disturbed by the circus's routine practices, including the use of tiny cages as permanent housing for big cats; keeping elephants chained on hard surfaces at all times but for their brief performances; failure to protect elephants and big cats from extreme weather conditions, including flooding and heat; and physical abuse of the animals. In addition, another credible source reports that the orange tiger Stefano is suffering from a wound on his neck and may not be receiving veterinary care.

Please promptly inspect the handling of the animals used by UniverSoul, ensure that Stefano's wound is being treated, and take all appropriate enforcement action. Please inform me of the complaint number that the USDA assigns to this correspondence. Thank you for your attention to this important matter.

Very truly yours,



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PETA FOUNDATION IS AN
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TO SUPPORT ANIMAL PROTECTION.

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

Appendix

In October 2013, a former UniverSoul employee who traveled extensively with the circus in the past six years contacted PETA to report the circus's routine "inappropriate, unnatural, and abusive" treatment of animals and has provided a sworn affidavit (attached) detailing extensive observations. Aff. ¶¶ 4-5. The former employee attests to working eight- to eleven-hour shifts, often during nontraditional work hours, allowing the individual to become familiar with the daily functions of the circus, as well as the handling, housing, and transport of the animals. *Id.* ¶¶ 2, 4. In addition, the whistleblower reports having a basic understanding of typical exotic-animal husbandry practices gained while volunteering at a facility accredited by the Association of Zoos & Aquariums. *Id.* ¶ 5. To protect the individual, PETA has removed identifying information from the enclosed affidavit; however, the whistleblower is prepared to speak to the USDA and PETA will put the USDA in contact with the whistleblower upon request. Based on the testimony of the former employee, UniverSoul, Kalmanson, and the Barredas¹ have apparently committed the following AWA violations:

I. Big Cats Exhibited by Kalmanson and UniverSoul

According to the former employee, Kalmanson currently provides UniverSoul with two tigers and one cougar for performances. As detailed below, **Kalmanson's chronic disregard of animal welfare and federal law warrants enforcement action and the revocation of his exhibitor's license:**

- **Forcing cats to live in cramped, tiny cages with no opportunity to exercise.** According to the former employee, it is standard practice for UniverSoul and Kalmanson to keep the big cats in tiny, cramped cages at all times when not performing. Aff. ¶ 21. The cats reportedly **never** have the opportunity to exercise. *Id.* According to the whistleblower, they growl frequently and rapidly pace their tiny cages, signs of behavioral distress. Confining cats to tiny cages as their primary enclosure at all times except for performances violates 9 C.F.R §§ 3.128 and 3.137(c). *See* USDA, *Animal Care Inspection Guide* § 6.16.4 (2010) ("animals that normally engage in occasional vertical postures, such as bears and many felines, should have sufficient vertical space available to accommodate these postures"); *see also* [AWA Policy #6: Space and Exercise Requirements for Traveling Exhibitors](#) (Tigers must be provided with "adequate freedom of movement," *including the opportunity to exercise*. Where an exhibitor is unable to provide a primary enclosure that is sufficiently large for exercise the exhibitor *must release the animals regularly* into a "secure space... that provides the *opportunity for species-appropriate exercise*." (emphasis added) "This release should occur *at least once per day for an appropriate length of time*," and "[t]hese periods will be *in addition to* regular performance and practice time." (emphases added)). The USDA has cited Kalmanson at least *four times* for failing to provide big cats with sufficient space and opportunities to exercise. *See* Annmarie Hauser, USDA, Animal Care Inspector, Inspection Report, Mitchel Kalmanson [P.O. Box 940008, Maitland, Fla., 32794] 2 (July 26, 2013) ("The tigers should have an opportunity, at least daily, for exercise outside of the limited space of their transport cages where they should be able to stretch to their full vertical height and length with adequate freedom of movement in a safe and secure location"); Pamela L. Smith, D.V.M., USDA, Veterinary Medical Officer, Inspection Report, Mitchel Kalmanson [P.O. Box 940008, Maitland, Fla., 32794] 2 (Apr. 13, 2013) ("Failure to allow each animal the opportunity to make normal postural adjustments with adequate freedom of movement could be detrimental to their health and well-being. Steps should be taken to provide an opportunity for the animals to leave their primary enclosures for exercise and stretching at least once a

¹ To the extent that UniverSoul has engaged the Barredas and Kalmanson to exhibit animals during UniverSoul performances, the actions of those exhibitors are equally attributable to UniverSoul. *See* 7 U.S.C. § 2139 (stating in pertinent part that "the act, omission, or failure of any person acting for or employed by ... an exhibitor ... within the scope of his employment or office, shall be deemed the act, omission, or failure of such ... exhibitor ... as well as of such person."); *see also* 9 C.F.R. § 2.11(a)(6).

day."); F. Binkley, D.V.M., USDA, Veterinary Medical Officer, Inspection Report, Mitchel Kalmanson [33432 C.R. 437 , Sorrento, Fla., 32776] (Aug. 22, 2002; Ralph Ayers, USDA, Animal Care Inspector, Inspection Report, Mitchel Kalmanson [235 S. Maitland Ave, Maitland, Fla., 32794-0008] (Mar. 13, 1998).

- **Failure to employ trained staff.** The former employee reports that UniverSoul's lot crew is responsible for the daily feeding and handling of the big cats because a trained big cat handler is not accompanying UniverSoul's 2013 tour. Aff. ¶ 18. In fact, it appears that no single person is consistently responsible for the care of the animals during the current tour. *Id.* Failure to employ staff experienced in the handling and care of big cats puts the health and well-being of the cats at risk and may lead to serious human injury. For example, the whistleblower reports that during UniverSoul's 2012 tour, tigers ripped off the fingers of two lot crewmembers during routine tasks: one man lost the top of his middle finger while feeding a tiger, and the other lost the top of his ring finger while hosing down a tiger's cage. *Id.* ¶ 24. Putting inexperienced staff in charge of meeting the complex needs of big cats violates 9 C.F.R. § 3.132, which requires that a "sufficient number of adequately trained employees shall be utilized to maintain the professionally acceptable level of husbandry practices set forth" in the AWA, including "a supervisor who has a background in animal care," and § 2.131(a), which requires exhibitors to "demonstrate adequate experience and knowledge of the species they maintain."
- **Exhibiting tigers in a manner that causes behavioral stress.** According to the former employee, UniverSoul uses the cats in a magic trick performance in which the animals are made to "appear" or "disappear" before the audience after being squeezed into the false bottom or wall of a small cage, and in one of the tricks, a cat is suspended in the air in a Plexiglas box. Aff. ¶ 19. The whistleblower reports that each trick requires the animals to be compressed for approximately 15 minutes during two to three performances per day. *Id.* Throughout the routine, the cats apparently exhibit signs of considerable distress. Human performers who are compressed into a separate compartment adjacent to the cats apparently report that the cats frequently urinate on them. *Id.* ¶ 20. Restricting the space of big cats so severely that they cannot move for extended periods of time violates 9 C.F.R. § 2.131(b)(1)'s mandate that "[h]andling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, ... behavioral stress, physical harm, or unnecessary discomfort."
- **Failure to alleviate the impact of climatic conditions.** The former employee reports that during UniverSoul's summer 2012 performances in Dallas, tigers were housed outdoors in the "sweltering Texas heat." Aff. ¶ 23. The whistleblower attests that the tigers would hang their paws outside of the cages and submerge their paws in small drinking water receptacles in apparent attempts to cool off. *Id.* The animals reportedly panted heavily and exhibited extreme lethargy. *Id.* The former employee reports seeing one tiger vomit in his cage while housed outside in the heat. *Id.* Additionally, during a severe storm in October 2013 that flooded a parking lot where UniverSoul was housing animals, the tigers were exposed to 18 inches of putrid, feces-laden floodwater, according to the whistleblower. *Id.* ¶ 14. Leaving big cats exposed to the elements during extreme weather violates 9 C.F.R. § 2.131(e), which requires exhibitors to take "appropriate measures ... to alleviate the impact" of climatic conditions "presenting a threat to an animal's health or well-being." Furthermore, it violates that section's requirement that animals must *never* be subjected to "any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being."
- **Physical abuse of animals.** According to the former employee, a man named John Jairo ("Jairo") handled four to six tigers used in a routine in 2011 and 2012. Aff. ¶ 22. Reportedly, on one occasion when Jairo had his back turned to the cats, a tiger approached him in a "deliberate, crouched, predatory posture." *Id.* The whistleblower attests that Jairo then turned and "whipped the tiger into submission until the cat returned to the pedestal." *Id.* Beating animals in the manner described violates 9 C.F.R. § 2.131(b)(2)(i), which prohibits the use of physical abuse to "train, work, or otherwise handle animals."

- **Declawing of tigers.** A handler named Chino reportedly informed the whistleblower that the tigers used by UniverSoul are declawed. *Id.* ¶ 18. Using declawed tigers would indicate that Kalmanson may not be following a program of adequate veterinary care, as required by 9 C.F.R. § 2.40(b). According to USDA policy, declawing is an inappropriate procedure because it "can cause ongoing pain, discomfort, or other pathological conditions in the animals" and fails to "prevent predatory behaviors, safeguard the general public, or prevent biting." USDA, *Policy # 3: Veterinary Care* (2011).



Tigers provided to UniverSoul Circus by Kalmanson are kept in tiny cages without access to an exercise pen or larger enclosure. Photos provided by former UniverSoul employee.



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The cougar provided to the UniverSoul Circus by Kalmanson is also housed in a tiny cage without access to an exercise pen or larger enclosure. Photo provided by former UniverSoul employee.

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After a rainstorm in Chicago in October 2013, the parking lot where the big cats were kept flooded with 18 inches of putrid water containing elephant dung and other waste and debris. Photo provided by former UniverSoul employee.

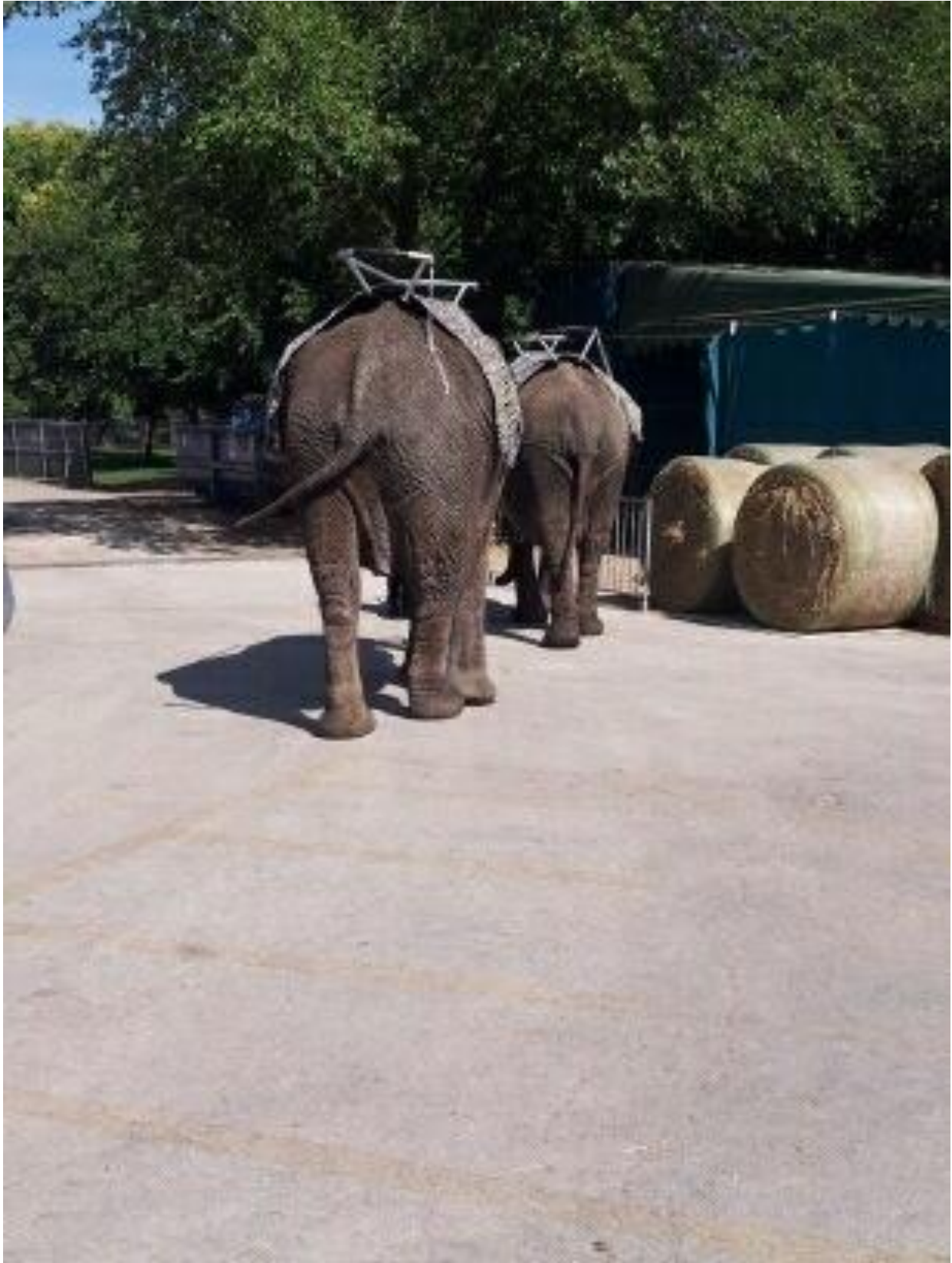
II. Elephants Exhibited by the Barredas and UniverSoul

According to the former employee, the Barredas are the primary handlers of three Asian elephants used for UniverSoul performances and rides—Makia, LouLou, and Lovie. A third person, Ameera Diamond, handled the elephants from time to time.

- **Abusive handling.** The former employee attests to witnessing the Barredas frequently strike and jab the elephants with bullhooks, metal poles, and pieces of plywood in order to force the elephants' compliance. Aff. ¶ 10. According to the whistleblower's testimony, when using the bullhook, Jorge Barreda typically struck the elephants with the curved hook, while Louanne Barreda would jab the elephants with the sharp tip. *Id.* The former employee reports that the Barredas targeted the elephants' legs and hindquarters and the backs of their knees, particularly during the process of re-chaining them after performances. *Id.* The Barredas' reported routine practice of jabbing and poking the elephants with bullhooks and other devices appears to violate 9 C.F.R. § 2.131(b)(2)(i), which prohibits the use of "[p]hysical abuse ... to train, work, or otherwise handle animals," and (b)(1), which requires "[h]andling of all animals [to] be done as expeditiously and carefully as possible in a manner that does not cause trauma, ... behavioral stress, physical harm, or unnecessary discomfort."
- **Constant chaining on hard surfaces with inadequate protection from the elements.** According to the former employee, the Barredas tether the elephants by one leg at all times using 6-foot chains, except during UniverSoul performances, in apparent violation of 9 C.F.R. § 2.131(b)(1). Aff. ¶ 8. The whistleblower attests that the chains were not long enough to allow the elephants to turn around or lie down and that the elephants exhibited constant repetitive swaying and head-bobbing, a sign of behavioral stress in elephants. *Id.* The whistleblower further reports that the Barredas typically chain the elephants on the hard pavement parking lots of performance venues, with only a small green canopy that failed to provide sufficient protection from the sun and elements, in apparent violation of 9 C.F.R. § 3.127(a) and (b), which require that "sufficient shade ... be provided to allow all animals kept outdoors to protect themselves from direct sunlight," and appropriate "shelter ... for all animals kept outdoors to afford them protection and to prevent discomfort" during inclement weather. Aff. ¶ 8. In fact, according to the former

employee, during the circus's stint in Chicago, Illinois, between September 18 and October 6, 2013, a rainstorm flooded the parking lot where the Barredas had chained the elephants with putrid water containing elephant feces. *Id.* ¶¶ 13-14. The whistleblower attests that while wading through knee-high flooding, the whistleblower observed the elephants standing in at least a foot and a half of water. *Id.* ¶ 13. The Barredas had not provided them any protection from the high winds and rains that left them vulnerable to falling trees and power lines, according to the former employee. *Id.* ¶ 14. The whistleblower reports that Louann Barreda emerged from her trailer to aid the elephants only after the green canopy collapsed onto them. *Id.* ¶ 13. By reportedly leaving the elephants exposed to the elements during the storm so that they were forced to stand in flood water carrying feces and parking lot runoff, the Barredas apparently violated 9 C.F.R. § 2.131(e), which requires exhibitors to take "appropriate measures ... to alleviate the impact" of climatic conditions "presenting a threat to an animal's health or well-being."

- **Failure to protect animals and the public.** According to the former employee, the Barredas routinely leave the elephants unsupervised for long periods of time while chained at performance venues, protected by no more than a very low, rudimentary temporary fence, in apparent violation of 9 C.F.R. § 3.127(d), which requires exhibitors to use a perimeter fence "constructed so that it protects the animals ... by restricting animals and unauthorized persons from going through it or under it and having contact with the animals in the facility, and so that it can function as a secondary containment system for the animals." Aff. ¶¶ 13, 9. While that regulation allows traveling exhibitors to employ "alternative security measures," leaving elephants chained and unsupervised in a parking lot without a meaningful containment system fails to keep the elephants sufficiently secure. Moreover, failure to supervise the elephants while they are in a publicly accessible location appears to violate 9 C.F.R. § 2.131(d)(2) and (3), which require a "responsible, knowledgeable, and readily identifiable employee or attendant [to] be present at all times during periods of public contact," and "dangerous animals such as ... elephants [to] be under the direct control and supervision of a knowledgeable and experienced animal handler" during public exhibition.
- **Failure to provide adequate veterinary care.** The former employee reports that the elephants used by UniverSoul and the Barredas have an "overpowering foul odor" that is not characteristic of elephants and regularly suffer from diarrhea several times a month. Aff. ¶ 12. The whistleblower attests that the elephants are forced to perform while afflicted, sometimes even experiencing diarrhea on stage. *Id.* Using sick elephants to perform is inconsistent with their health and well-being, in violation of 9 C.F.R. § 2.131(d)(1). Furthermore, the reported regular occurrence of diarrhea and foul odor of the elephants suggests that the Barredas may not be following an adequate program of veterinary care as required by 9 C.F.R. § 2.40(b).
- **Deprivation of water.** "It struck me as odd," states the former employee, "that I never saw any elephants drinking water or being provided with drinking water at any point during my employment and travel" with UniverSoul. Aff. ¶ 12. Failing to provide elephants with water at all times, or "as often as necessary for the health and comfort of the animal," constitutes a violation of 9 C.F.R. § 3.130, and may even violate § 2.131(b)(2)(ii), which prohibits the use of "[d]eprivation of food or water ... to train, work, or otherwise handle animals."



The venue at Washington Park in Chicago, which flooded during a violent storm in 2013. Photo provided by former UniverSoul employee.

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The elephant housing area with a small green canopy is not secure from the public and is enclosed by only a very short temporary fence. Photo provided by former UniverSoul employee.