

August 29, 2017

Robert M. Gibbens, D.V.M.
 Director, Animal Welfare Operations
 USDA/APHIS/AC

Via e-mail: robert.m.gibbens@usda.gov; aceast@aphis.usda.gov
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Dear Dr. Gibbens,

I'm writing on behalf of PETA to request that the U.S. Department of Agriculture (USDA) investigate apparent Animal Welfare Act (AWA) violations at the Garden Bros. Circus.

As detailed in the enclosed Appendix, a former circus employee contacted PETA to report routine abuse, neglect, and public endangerment by the circus's manager and animal exhibitors. For example, the whistleblower recounted that in early 2016 an elephant provided by the Carson & Barnes Circus went down and became so sick she was feared to be dying, yet she was apparently not seen by a veterinarian. The worker also reported witnessing handlers whip camels' feet until they bled, seeing elephants dripping blood from behind their ears, hearing a handler tase elephants backstage, and observing a llama repeatedly fall down during a difficult trick before the animal was eventually discarded at a petting zoo.

The whistleblower's account implicates the following companies and individuals:

- Garden Bros. Circus, manager Zachary Garden (58-C-1116), and employee James Moser
- Carson & Barnes Circus (73-C-0001) and employees Habib Omar, Anthony Frisco, and Josh Schultz
- Evan Wall, dba Hoosier Camel Encounter (license number unknown), and employee David Meda
- Franzen Bros. Circus (58-C-0447) and owner Brian Franzen
- Hugo Liebel (58-C-0288)

Please investigate the apparent AWA violations detailed herein, and hold all responsible licensees and individuals accountable. Please inform me of the complaint number assigned to this correspondence.

Very truly yours,



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cc: Denise Sofranko, D.V.M., USDA/APHIS Field Specialist for Elephants
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- PETA Germany
- PETA Netherlands
- PETA Foundation (U.K.)

Appendix

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] This complaint will refer to the individual as "the whistleblower," "the worker," or "the former employee."

The whistleblower reported the following conditions that put animals, the public, and circus workers at risk.

1. Elephants Tased and Beaten by Carson & Barnes Handlers

Carson & Barnes employees working with Garden and the Circus reportedly engaged in routine abuse of elephants using electric shocks and bullhooks, in apparent violation of 9 C.F.R. § 2.131 (b)(2)(i) ("Physical abuse shall not be used to train, work, or otherwise handle animals") and (b)(1) ("Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort"), including the following:

- On numerous occasions the whistleblower witnessed Carson & Barnes handler Habib Omar "warm up" the elephants Libby and Bunny by jabbing them with a bullhook and/or by shocking them with a Taser before taking them on stage. He usually did this while the elephants were in an area called the "backyard," where the animals are kept, and then would loudly yell in the elephants' ears when they were backstage, just before they were to charge through the curtain and into the ring.
- The whistleblower recalled that on or around October 30, 2016, the Circus was performing in Sarasota, FL, at the Robarts Arena. There were many people from the circus industry in the audience, so performers were under a lot of pressure for the show to go flawles [REDACTED] [REDACTED] heard the buzz of Omar tasing the elephants, and the elephants responding by making loud noises. Although the animals were in an area surrounded by visual barriers, there was a two- to three-foot gap in the barrier, and the whistleblower could see the elephants sprinting in circles. [REDACTED] [REDACTED] The Taser reportedly went off 10 to 15 times in a row, and the individual estimated that this session continued for approximately 15 to 20 minutes. Multiple workers reportedly witnessed this incident.
- Although Omar used the Taser periodically—which the worker assumed was because it would not make the elephants bleed—he would more often beat or hook the elephants with a bullhook. If the Circus was performing in a town with a lot of protestors, Omar would use a light-up toy saber as a stand-in for the bullhook. The whistleblower characterized this as an "illusion" to dupe the

audience, and reported seeing Omar strike the elephants with a bullhook after the show if they did something wrong.

- Another Carson & Barnes handler, Anthony Frisco (aka Anthony Friscia) also toured with the Circus in 2016, using the elephants Isa and Viola. Frisco's assistant, Josh Schultz, groomed the elephants and supervised them during elephant rides. Of all the elephant handlers, the whistleblower felt that Schultz was the most abusive. He reportedly used the bullhook on the elephants "constantly," often causing them to bleed. Schultz was particularly harsh on the elephants when no customers were around, but the worker also saw him jab the elephants when they were giving rides. He would jab them if they stopped walking and if he jabbed them hard enough, they would "skip," which seemed dangerous for the kids who were on top. The whistleblower reported that Schultz would check to make sure the crowd could not see him before he jabbed the elephants, and also witnessed him use the hook to pull the elephants' heads down in order to put on their headpieces for the show.
- On almost a weekly basis when Schultz was the handler, the whistleblower would notice [REDACTED] that the elephants were bleeding from places they were hooked or jabbed, especially behind their ears or on top of their heads. The blood would drip down to the ground, [REDACTED]
- Periodically the patrons would also ask about holes that they saw in the elephants' ears, asking if they had had their ears pierced. Frisco would sometimes tell the customers that this happened when the elephants were playing as babies. But one [REDACTED] he smirked and said "training." The worker understood this to mean the holes were created by bullhooks.
- The worker also reported witnessing Frisco and Schultz yell at and hit the elephants on the trunk with the bullhook when they were backstage before the show because the elephants would use their trunks to pick up workers' bags or eat people's food. The elephants would reportedly take peoples' shoes if they fell off during the elephant rides, so the Circus had a policy requiring people to remove their flip flops before riding.

2. Camels and Other Animals Beaten and Abused

The Circus used camels, a llama, a buffalo calf, and other animals provided by Evan Wall (dba Hoosier Camel Encounter). Wall reportedly purchased the camels from Zack Garden in 2016, and Garden owned them for a number of years before that. According to the whistleblower, the exhibitors routinely beat and otherwise abused these animals in order to force them to perform, in apparent violation of 9 C.F.R. § 2.131(b)(2)(i) ("Physical abuse shall not be used to train, work, or otherwise handle animals") and (b)(1) ("Handling of all animals shall be done as expeditiously and carefully as possible in a manner that does not cause trauma, overheating, excessive cooling, behavioral stress, physical harm, or unnecessary discomfort"). The worker reported the following:

- Wall was very aggressive with the camels and beat them. When they wouldn't move, he would tug and jerk on their leads, and he would whip their feet prior to going onstage—sometimes until they bled—in order to make them run faster when they entered the ring.

- Garden would meet with Wall about every other week to try to teach him how to handle the camels. He was more vocal with the camels, reportedly yelling in their ears to scare them before they entered the ring. (Wall hardly ever talked to the camels.) Garden would also reportedly whip the camels much more intensely than Wall. The worker characterized Garden's instruction on handling camels as "really violent,"¹ but said it was "circus courtesy" to ignore it. If Garden made eye contact with the whistleblower during these sessions, he would give a look "that told me I should walk away and that what was going on was none of my business."
- In West Palm Beach, FL, on or about July 24, 2016, the worker reported seeing Wall beat, punch, and kick a camel named Cash after a performance, apparently because the camel wouldn't get down on his belly. The beating went on for 10 to 15 minutes. The performers had to walk past the camel to get on stage, but no one intervened because it is "circus courtesy" to ignore such things. During the beating, Cash was howling so loudly that the worker could hear him from the stage. Cash reportedly tried to bite Wall, which angered Wall even more.
- For two months in early 2017, Wall required a llama named Poncho to try to jump between the humps of a kneeling Bactrian camel during the show. The presenter at the time was David Meda (aka David Berosini). The Circus typically did two shows daily, and Poncho often fell while attempting the jump because his legs would get caught on one of the camel's humps. He would fall and flip over the camel and land on his back. The audience would laugh and thought it was cute when Meda petted Poncho afterwards. The crew also thought it was funny and would bet on whether or not Poncho would fall. He fell at almost every first show and sometimes during the second show too. It got to the point that he would refuse to jump the camel, which angered Meda, who took Poncho out of the show. Wall reportedly told the whistleblower that they would have to wait until they were somewhere where no one was around so they could whip Poncho back into shape. This behavior is substantiated by [video](#) that PETA submitted to the USDA in February 2017, which shows the llama falling. Also in February 2016, [Wall was cited](#) after a handler repeatedly whipped the llama onstage when the animal refused to perform a trick, causing the animal to become distressed and spit at the handler.
- Also in early 2017, Wall had a baby buffalo named Tatonka who was never taken off the truck except for when he was used in the show. Even when he was used, he only ever came out in the finale. He was very loud and vocal when he was trapped in the truck and when being taken to or from the ring. Tatonka had a bull ring through his septum and Meda would drag him into the circus ring by it. Tatonka would refuse to walk into the ring and Meda would yell at Tatonka and use all his weight to pull on the rope attached to the calf's nose. When Tatonka finally got into the ring, he would get scared and run in circles (as PETA previously documented in [video footage](#) submitted to the USDA). The Circus instructed employees to keep their distance from Tatonka before and after the finale because he would appear very anxious and would run in circles, make noises, and pull back on the rope through his nose. Eventually, Wall and the Circus got rid of Tatonka and Poncho by giving them to a petting zoo with elephants—likely R.W. Commerford & Sons Traveling Petting Zoo (license no.16-C-0006). In addition to the provisions cited above, the mistreatment of Tatonka appears to violate 9 C.F.R. § 2.131(c)(3) ("Young or immature animals shall not be exposed to

¹ Court documents from [2016](#) and [2008](#) show that Garden has been ordered to take anger management classes on at least two occasions.

rough or excessive public handling or exhibited for periods of time which would be detrimental to their health or well-being.").

3. Elephants Denied Veterinary Care

The Circus reportedly does not travel with veterinary staff, and the whistleblower recounted one instance in 2016 when an elephant exhibited by Carson & Barnes, Frisco, Garden, and the Circus, became so sick that the worker believed she was near death—yet apparently, a veterinarian never examined her while she was with the Circus. This appears to violate the AWA's veterinary care requirements, which require exhibitors to have an attending veterinarian to provide adequate veterinary care, and with whom they maintain "direct and frequent communication" to convey "timely and accurate information on problems of animal health." 9 C.F.R. § 2.40.

- When the Circus was in Little Rock, AR, on or about February 19, 2016, one of the elephants Frisco handled (either Isa or Viola) became extremely sick and depressed. She lay down for extended periods without getting up while the other elephant watched and stood over her, making noises and stroking her with her trunk. Because it was cold, Frisco tried to warm the downed elephant up by putting her and the other elephant in a barn attached to the arena that had a heater in it, and gave both elephants a bath. The elephant was so sick that Frisco was reportedly upset and crying. However, the Circus did not travel with a veterinarian, and the worker never saw a veterinarian examine the elephant, even though she was sick for days. Eventually, Frisco took the elephants back to Carson & Barnes' winter quarters in Oklahoma. He was gone for about 10 days but came back to the show with both Isa and Viola after that. This approximate timeline can be independently corroborated—on or around March 1, Frisco and the elephants disappeared from the show, and the elephant act was provided by Hugo Liebel; by March 9, Frisco was back on the show. *See* Photosheet, Photos 1-3. The whistleblower believes that the elephant nearly died.
- For a week or so while Frisco was gone, the Circus brought in Nosey the elephant—whom the whistleblower referred to as Tiny—exhibited by Hugo Liebel and his family. Nosey reportedly "smelled terrible," her skin was crusty, and she had constant runny feces. The whistleblower has worked around many elephants, but had never seen runny feces like that. USDA has previously documented Nosey's poor skin condition on multiple occasions, and has also documented bouts of diarrhea—indicating ongoing substandard husbandry and diet, and a lack of adequate veterinary care.

4. Extreme Confinement of Elephants

The Circus and its exhibitors reportedly confine elephants to trailers for extended periods of time without exercise—in some cases, for days at a time—and in all temperature extremes without relief. The following examples appear to violate 9 C.F.R. § 3.128 (Animals shall have "sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement") and USDA Animal Care Policy #6, Space and Exercise Requirements for Traveling Exhibitors (Animals may be confined to travel enclosures "**ONLY** during actual transport, i.e., movement in a conveyance between temporary locations. At all other times, they must be provided with space" that allows them to lie down, get up, self-groom, and "move about within a reasonable range.").

The latter two examples also appear to violate 9 C.F.R. § 2.131(e) ("When climatic conditions present a threat to an animal's health or well-being, appropriate measures must be taken to alleviate the impact of those conditions. An animal may never be subjected to any combination of temperature, humidity, and time that is detrimental to the animal's health or well-being[.]").

- [REDACTED] only used one elephant in the show, Okha. On or about October 15, 2015, in Glen Falls, NY, the worker noticed Franzen's elephant truck rocking, even though Okha was not in it. [REDACTED] explained that Franzen had two African elephants in the [REDACTED] [REDACTED] for elephants in the act unless the Circus paid him more money. Because the Circus would not increase his pay, Franzen reportedly left these two elephants on the truck. The worker says that the elephants would be left on the truck for four to five days at a time. Franzen would reportedly leave Okha in the truck for long periods as well, unless she was performing in the show or giving rides—the worker estimated that she would sometimes spend 20 to 21 hours each day confined to the truck. A couple days after noticing the truck rocking, the whistleblower saw Franzen take all three elephants off the truck to bathe them—the two African elephants came off the truck, covered in and smelling of feces.
- In general, the elephants traveling with the Circus were confined under "terrible" conditions, especially when there were temperature extremes. For example, in Texas in early June 2016, Frisco left the elephants in the truck overnight, sometimes until 11:00 am or noon, during a heatwave where temperatures exceeded 90 degrees. There were no sprinklers or fans on the trucks holding the elephants and there was no ventilation and no other forms of climate control on inside the trucks. The whistleblower recalls that even though staff were required to wear long pants, it was so hot that most people were wearing tank tops and shorts and were drenched in sweat.
- When the Circus toured through New York in the winter, the temperatures were as low as 10 degrees Fahrenheit. Franzen always left the elephants on the truck in this weather. Frisco and Omar would try to move their elephants indoors, but about three times a week, the Circus would be at a venue that did not have indoor accommodations for the elephants or that charged more to allow the elephants indoors. When this happened, the elephants would be left outside in the snow overnight or they would be left on the trucks.

5. Unsafe Conditions for Animals, the Public, and Workers

The whistleblower described a multitude of conditions that endangered the safety of animals and the humans around them, in apparent violation of 9 C.F.R. § 2.131(c)(1) ("During public exhibition, any animal must be handled so there is minimal risk of harm to the animal and to the public, with sufficient distance and/or barriers between the animal and the general viewing public so as to assure the safety of animals and the public.").

- On or about April 28, 2016, the Circus performed at the Main Street Armory in Rochester, NY. The building was very old, with extremely creaky floors, and the performance area was above a basement. The building owner had instructed the Circus not to bring the elephants into the building because the floors couldn't support their weight. Despite these instructions and the obvious risk of injury to any elephant who might fall through the floor, Zack Garden reportedly insisted that Frisco bring one of the elephants into the building to stick her trunk through the curtain during the finale.

Word got around to the Circus crew and performers that this would happen, and they gathered to watch as the elephant entered the building, and many had their cellphones ready to record the elephant in case she fell through the floor.

- The worker believes that it's only a matter of time before a human is injured by an elephant with the Circus. During elephant rides, for example, elephants carrying people would sometimes skip or move quickly after being hooked or jabbed. Viola, the larger of the two elephants exhibited by Frisco, would sometimes shake and run into the ride platform, apparently because she didn't want people on her back. The handlers didn't always pay close attention to the elephants when the animals were at the platform and passengers were being loaded. For example, the handlers would get distracted when grabbing a tub to catch the elephants' urine or feces or if someone rattled the fence. The elephants would start to walk away from the platform while people were in transition, placing the kids at risk of falling through the platform. Frisco also said that small children can wiggle free even once they are on the elephant, [REDACTED].
- The elephants were also routinely walked through crowds of people with no barriers in place. When Frisco and Schultz walked Isa and Viola through the crowd to the arena, the whistleblower saw the elephants demonstrate signs of aggression, such as spreading their ears and swaying their heads. When this happened, the trainers would tell the elephants to be steady and would yell instructions at people in the crowd. If people did not get out of the way, Frisco would sometimes yell, cuss, and call them names. For example, in 2016, the worker saw a man run up behind an elephant and try to pull a hair from her tail, and Frisco yelled at him. The worker also reported seeing children run under and even into the elephants. On one occasion, a four-year-old boy named Michael, who was the son of one of the circus workers, ran under an elephant.
- The worker reported seeing elephants lunge at workers daily, and would tell from the trainers' reactions that these were signs of danger. The trainers would intervene and try to divert the elephants' attention and tell the workers to stop or hurry up.
- Customers were also in danger from the elephants because the stagehands weren't always diligent about keeping people away from the curtains before the elephants came charging out into the ring. For example, one night a woman from the audience was in front of the curtain and an elephant lunged at her. To make it up to her, the Circus gave her VIP seats and free food.
- The whistleblower reportedly saw multiple workers dragged through arenas by camels that they were leading. In 2016, Hank—Garden's assistant—was dragged while leading two camels. The worker also reported seeing multiple people with black eyes or stitches from injuries inflicted by camels.
- A camel named Roscoe, exhibited by Wall, was never happy being tied up. Because he only gave rides and was not trained to perform, he would often be left tied up alone while the performing camels were used in the show. The worker observed Roscoe "flip out" by kicking and stepping on the rope, but couldn't help because of the risk of getting kicked.

- Camels and horses also sometimes ran into the crowd during shows—the worker estimated that this would happen in one out of every ten shows. While the animals would often be recovered without further incident, the worker saw at least one person get hurt by a camel. In late 2015, while Meda was walking a camel through a crowd, the camel kicked an older woman, who fell over. The Circus refunded her ticket and gave her VIP seats and free stuff to make it up to her.
- The camels would also sometimes lay down on their stomachs when being used for rides, presumably because they did not want to work anymore. The children on the camels' backs would be frightened by this. This would end the camel ride and the kids would be removed from the camels there instead of at the platform.
- Garden had a "pet" capuchin named Ohie, who he would hide from the USDA during inspections.² Ohie started out being friendly to the workers. His demeanor changed after he was scared by a group of circus performers who frightened Ohie by surrounding the cage, sticking their hands in it, and violating his space. [REDACTED] heard the monkey yelling, and saw that he was extremely agitated. He was showing his teeth, pounding his chest, and throwing things at the people who had been shaking his cage. After this, Ohie was not the same.

[REDACTED]

- Many Circus workers reportedly used drugs on a regular basis, including some animal handlers. Frisco reportedly smoked marijuana, even before working with the elephant. Workers often drank alcohol too. The whistleblower estimated that Wall would be drunk during a show approximately once a month.

6. Abuse of Alligators and Snakes

Some Circus workers were allowed to use alligators and snakes for photo encounters to make some cash on the side. In 2016, a performer named Dieter Galambos ran the alligator encounters. He generally had two or three alligators at a time but would only bring one out a time to do encounters. The alligators were kept backstage in a plastic crate with no water and with their mouths taped up. James Moser reportedly said that Galambos would restrict the amount of food he gave them to keep

²In August 2016, Garden was [charged with](#) three misdemeanor counts of improperly confining a capuchin monkey to a cage in his backyard. The Florida Fish and Wildlife Conservation Commission report indicated that the capuchin was confined to a cage that failed to meet the agency's minimum size requirements, that the cage wasn't secure, and that lifting it could allow the animal to escape. Garden entered a plea of no contest to the charges. He entered a [plea of no contest](#) to similar charges in 2008. PETA previously notified the USDA of this conviction, which warrants revocation or nonrenewal of Garden's AWA license. *See* 9 C.F.R. §§ 2.11(a)(4), 2.12.

them from growing too large. The alligators often died after only about two weeks, and Galambos would apparently just have new alligators shipped in. Garden allowed various other employees to offer snake encounters. They often got the snakes off Craigslist. Although the snakes lived longer than the alligators, they still died frequently. Although reptiles are not covered by the Animal Welfare Act, PETA encourages the USDA to work with state and local authorities to inspect them and any other non-covered animals being exploited by this circus.