

January 8, 2018

Bernadette Juarez  
Deputy Administrator, Animal Care  
Animal and Plant Health Inspection Service  
U.S. Department of Agriculture

Via e-mail: [bernadette.r.juarez@aphis.usda.gov](mailto:bernadette.r.juarez@aphis.usda.gov)

**Re: Request for Termination of Animal Welfare Act License of Hugo Liebel**

Dear Ms. Juarez,

I'm writing on behalf of People for the Ethical Treatment of Animals (PETA) to request that the U.S. Department of Agriculture (USDA) terminate the Animal Welfare Act (AWA) license of Hugo Liebel (license number 58-C-0288), who has lost custody of the elephant Nosey and is currently facing a charge of cruelty to animals for his neglect and mistreatment of her.

Liebel operates the itinerant Great American Family Circus, which travels across the U.S. for up to 10 months of the year and offers elephant rides and circus performances in rural parking lots, seedy flea markets, and small fairs. The USDA has repeatedly [cited](#) and fined him for endangering public safety and failing to provide Nosey with proper care. As recently as November 3, 2017, a USDA inspector cited him for failing to give adequate veterinary care to Nosey, who had an accumulation of thickened dead skin over her forehead and back. The USDA has cited him at least 16 times for failing to offer adequate care for Nosey's skin and first noted the condition 25 years ago.

In the past year, Liebel's ramshackle operation has also run afoul of numerous state and local laws, leading to Nosey's seizure and the filing of cruelty charges. Consider the following:

- In November 2017, an Alabama judge ordered Lawrence County officials to seize Nosey after she was found tightly chained in her own waste and without adequate food or shelter. The county has transferred her to The Elephant Sanctuary in Tennessee (TES) pending a final order from the judge.
- At a hearing on December 15, 2017, the Lawrence County District Court heard testimony that Nosey arrived at TES suffering from a series of grave, painful, and chronic health problems, including hyperkeratosis, a long-standing bacterial skin infection, a urinary tract infection, intestinal parasites, osteoarthritis, and muscle atrophy. She also appeared to have a nearly empty gastrointestinal tract and showed signs of dehydration. Apparently, neither Liebel nor his attending veterinarian had noticed, diagnosed, or treated these conditions.
- On December 16, 2017, Liebel and his wife, Franciszka, were charged with cruelty to animals in Lawrence County in relation to their neglect of Nosey.

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- In June 2017, the Florida Fish and Wildlife Conservation Commission denied Liebel's application to renew the permit required to possess elephants in that state on the grounds that he "withheld itinerary information" and "submitted materially false information" to the agency.
- In December 2016, Polk County Code Enforcement informed Liebel that it's unlawful to keep exotic and wild animals such as African elephants on his residential property located at 1414 Adair Rd., Davenport, Florida. This is his only permanent facility for Nosey.
- In October 2017, the Kentucky Department of Fish & Wildlife Resources revoked an exemption to the state's prohibition on possessing wild animals that it had granted Liebel and ordered him to remove Nosey from the state because he had allowed a child to ride her in violation of state regulations.
- In July 2017, the Ohio Department of Agriculture placed Nosey under quarantine after determining that Liebel brought her into the state without a required health certificate.

Under the AWA's implementing regulations, the USDA may terminate a license for any reason that would require it to deny an initial license. 9 C.F.R. § 2.12. Those reasons include, *inter alia*, if the licensee "is or would be operating in violation or circumvention of any Federal, State, or local laws" or "[h]as made any false or fraudulent statements or provided any false or fraudulent records to the Department or other government agencies, ... has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals, or is otherwise unfit to be licensed and the Administrator determines that the issuance of a license would be contrary to the purposes of the Act." *Id.* § 2.11(a)(5)(6).

For the reasons discussed in the attached appendix and supported by the attached exhibits, the USDA has ample reason to terminate Liebel's AWA license, which is set to expire on January 30. Moreover, he has continued to disregard the AWA and its regulations and standards in violation of a 2013 cease-and-desist order. Please exercise your discretion to terminate his license immediately and ensure that Nosey is not returned to his neglectful circus.

Thank you for your attention to this important matter.

Very truly yours,



Rachel Mathews, Esq.

Associate Director | Captive Animal Law Enforcement

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## Appendix

### I. Liebel Has Made False and Fraudulent Statements to the USDA and Other Government Agencies (9 C.F.R. § 2.11(a)(6)).

USDA records show that Liebel has a long history of making false and misleading statements to government officials, the media, and the general public. In a 2011 complaint that initiated an administrative lawsuit against Liebel under the AWA, the USDA explained the following:

[Liebel] misrepresents his own identity, and the identity of Nosey, to the public. [He] uses various names for himself, including "Tom Liebling." [He] has identified Nosey as "Dumbo" and as having appeared "in the most movies ever in the country." He also identifies Nosey as "Peanut," and represents to the public that she is 15 years old, when in fact she is approximately 30.

USDA Complaint, *In re: Hugo Tommy Liebel*, AWA Docket No. 12-0103 (USDA Dec. 7, 2011).

In his response to the USDA's action, Liebel admitted that he routinely misrepresents his identity and that of the circus for the express purpose of deceiving the public, and made the following statements:

- "If you are are [sic] a private citizen and you dont [sic] know me and by 'mistake' i [sic] tell you my real name you may look me or my circus up on the internet and get shocked with all the information you will find there."
- "People love babies and youth so I tell them [Nosey] is only 15 years old."
- "I hereby categorically admit to telling everyone, except [sic] law enforcement [sic] officials, that [the elephant's] name is Tiny, Peanut, or Nosey. It depends on what my instincts tell me about the person I am talking to."

Respondent's Answer, *In re: Hugo Tommy Liebel*, AWA Docket No. 12-0103 (USDA Jan. 1, 2012).

Liebel's pattern of making false and fraudulent statements has continued, and demonstrates that he does more than lie to the general public: he lies to government agencies and even in court under oath.

#### A. False Statements to the FWC Regarding Travel Itineraries

In June 2017, the Florida Fish and Wildlife Conservation Commission (FWC) denied Liebel's application to renew his permit to possess elephants in the state on the grounds that he "withheld itinerary information" and "submitted materially false information" to the agency. Letter from Maj. Rob Beaton, Div. of Law Enf., FWC to Hugo Liebel, Great American Family Circus (June 16, 2017) (Ex. 1). Specifically, Liebel lied to the FWC by telling it that he didn't have a current itinerary to include in his permit application. The FWC confirmed the lie by obtaining itineraries that Liebel had submitted to the USDA but not to the FWC.<sup>1</sup> The letter advises that he is no longer allowed to possess Nosey in the state of Florida.<sup>2</sup>

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<sup>1</sup> As the USDA knows based on its own citations and previous correspondence from PETA, Liebel has also routinely failed to comply with federal itinerary submission requirements. *See* USDA, Inspection Report, Florida State Family Circus (Mar. 23, 2006); USDA, Inspection Report, Florida State Family Circus (Feb. 3, 2004); USDA, Inspection Report, Florida State Family Circus (Apr. 3, 2003); USDA, Inspection Report, Tom Liebel, Florida State Family Circus (June 3, 1998); USDA, Inspection Report, Liebel Family Circus (Apr. 13, 1995); USDA, Inspection Report, Liebel Family Circus

In his appeal to the FWC, Liebel made additional demonstrably false statements. For example, he wrote that "Our other regulatory agency requires a specific advance itinerary notice by law. Fish and Wildlife doesn't have such rules," and that "We understood from different wildlife officers that we spoke with in the past that itineraries only have to be submitted ones a year with annual licence [sic] renewal." Letter from Hugo Liebel to Maj. Rob Beaton (July 4, 2017) (Ex. 5). Although Liebel has a history of poor compliance with the FWC's itinerary submission requirement, agency records going back years demonstrate that Liebel is well-aware that he must provide written itineraries to the agency in advance of his appearances. *See* Itineraries submitted by Hugo Liebel to the FWC, 2012-2017 (Ex. 6).

Indeed, in an article that ran in the Gadsden Times on November 11, 2017, a circus representative told the reporter that "the circus withholds information because PETA is able to request that schedule through the Freedom of Information Act to publicize the tour route and arrange for protests." Benjamin Nunnally, *Traveling Circus Won't be Coming to Gadsden*, Gadsden Times (Nov. 11, 2017) (Ex. 7). He also falsely claimed that "providing the itinerary is done as a courtesy, not a requirement, though the document sent by the FFWCC said the renewal was denied based on violation of the Florida Administrative Code, which does require full disclosure of upcoming tour dates." *Id.*

### **B. False Statements to the FWC and the Lawrence County Commissioners Regarding Acreage**

In addition to providing false statements to the FWC about his itineraries, Liebel has made multiple demonstrably false statements on his FWC captive wildlife permit applications with respect to the number of acres that he owns in Florida.

FWC regulations state that facilities holding Class I animals such as elephants "shall not be constructed on less than five (5) acres." Fla. Admin. Code Ann. r. 68A-6.003(c)2.a. On Liebel's 2017 captive wildlife permit application, he falsely claimed to own a facility on "20+ acres" and signed the application stating "I certify that the information provided is true and correct." FWC Captive Wildlife Permit Renewal Applications submitted by Hugo Liebel, 2011-2017 at 1 (Ex. 8). His previous applications going back to 2011 contain the same signed certification with varying representations of the size of his facility, with acreage ranging from "± 5+" acres to "20+" acres. *See id.*

All of these statements are demonstrably false. The Polk County Property Appraiser's website, <http://www.polkpa.org/camadisplay.aspx>, shows that Liebel owns eight contiguous parcels that add up to only 2.7 acres total. *See* Property Records for Polk County Parcel nos. 27-27-11-734500-041307, 27-27-11-734500-041308, 27-27-11-734500-041402, 27-27-11-734500-041403, 27-27-11-734500-041406, 27-27-11-734500-041407, 27-27-11-734500-041408, 27-27-11-734500-041409 (Ex. 9).

A recent news article reported that Liebel made a similar false statement before another governmental body when he told Lawrence County, Alabama, Commissioners, "I just want to take Nosey home and

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(Feb. 14, 1995) (Ex. 2); *see also* Letter from Rachel Mathews, PETA Foundation, to Elizabeth Goldentyer, USDA, and Bernadette Juarez, USDA (Jan. 29, 2016) (Ex. 3); Letter from Rachel Mathews, PETA Foundation, to Elizabeth Goldentyer, USDA (Apr. 7, 2014) (Ex. 4).

<sup>2</sup> Liebel has appealed the denial, and a hearing is scheduled before the state's Division of Administrative Hearings in late February.

retire her. I have 25 acres there. She'll live on it where she's lived the past 34 years." Michael Wetzel, *Nosey's Owner Says Elephant Was Illegally Seized*, Decatur Daily News (Nov. 19, 2017) (Ex. 10). In another news article, Liebel reportedly said of his plans for Nosey: "We have one more town to play and then we're going to Florida. I got 22 acres there and we'll let her lose [sic] and she'll live happily ever after." Lindsey Connell, *Nosey the Elephant Headed to Sanctuary in TN as Custody Battle Heats Up*, WAFF.com (Nov. 9, 2017) (Ex. 11). He subsequently said under oath in court that he may or may not retire Nosey—expressly refusing to commit to doing so—and that he would not be caught in a lie "for a billion dollars."

### **C. False Statements in Court**

Liebel made multiple false statements under oath at the December 15, 2017, hearing in Lawrence County District Court, including the following:

- The county's witness Shay Culbertson testified that on November 5, 2017, in Cullman, Alabama, she purchased hay for Nosey because a circus representative told her that they had none, and Liebel told her that he couldn't afford to buy hay. Liebel accepted Ms. Culbertson's hay, and then posed for photographs with her. *See* Affidavit of Shay Culbertson (Dec. 8, 2017) (Ex. 12). Liebel denied ever having seen or spoken with Ms. Culbertson, even when confronted with a photograph of him standing with her. He also claimed that his employee had merely "hustled" Ms. Culbertson for free hay.
- When asked why his Florida FWC permit was denied, Liebel lied and said that it was denied because of animal rights activists. When pressed, Liebel would not give the true reason.

### **II. Liebel Would Be Operating in Violation and Circumvention of State and Local Law (9 C.F.R. § 2.11(a)(5) - (6)).**

The USDA may terminate a license if an exhibitor "would be operating in violation or circumvention of any Federal, State, or local laws." 9 C.F.R. §§ 2.12, 2.11(a)(5). It may also terminate if an exhibitor "has been found to have violated any Federal, State, or local laws or regulations pertaining to the transportation, ownership, neglect, or welfare of animals." *Id.* §§ 2.12, 2.11(a)(6).

The FWC matter represents an initial finding that Liebel has violated state law pertaining to the ownership of animals. The Polk County Code Enforcement letter stating that keeping exotic animals at his residential property violates the local code represents an initial finding that Liebel has violated local law pertaining to the ownership of animals. *See* Letter from Sherry Sheffield, Codes Investigation Supervisor, Polk County, to Hugo Liebel (Dec. 4, 2017) (Ex. 13).<sup>3</sup> Allowing Liebel to continue to operate under a federal license held under his Florida address would undermine the state's permit decision as well as Polk County's land use code.

Additional findings of state regulatory violations occurred in Kentucky and Ohio in 2017. As discussed above, the Kentucky Department of Fish & Wildlife Resources (KDFWR) revoked an

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<sup>3</sup> Polk County Code Enforcement has purportedly backtracked on its initial finding that keeping Nosey at Liebel's property violates county code on the grounds that Nosey is not a wild or exotic animal because she is "domesticated." This is patently incorrect, and the USDA must consider this dispute to be open and ongoing, particularly in light of the county's erroneous belief that Liebel has "some kind of paperwork or license from a State or Federal Agency that says [Nosey is] domesticated." *See* Email from Erik E. Peterson, Land Development Division, Polk County, to Sherry Sheffield, Codes Investigation Supervisor, Polk County (December 27, 2017 9:11 AM) (Ex. 14). There is no such documentation. Nosey was born in the wild, she's considered wild under state law, *see* Fla. Admin. Code r. 68A-6.002(1)(a)15., and she's considered a wild and exotic animal under the AWA. 9 C.F.R. § 1.1.

exemption to the state's prohibition on possessing wild animals that it had granted Liebel and ordered him to remove Nosey from the state because Liebel had allowed a child to ride her in violation of state regulations. Letter from Gregory K. Johnson, Commissioner, KDFWR, to Franciszka Liebel, Great American Family Circus (Oct. 11, 2017) (Ex. 15) Likewise, the Ohio Department of Agriculture (ODA) placed Nosey under quarantine after finding that Liebel brought her into Ohio without a required health certificate. ODA Quarantine Order issued to H.T. Liebel, Great American Family Circus (July 26, 2017) (Ex. 16).

### **III. Liebel Is Unfit to Be Licensed and His Continued Licensure Would Be Contrary to the Purposes of the AWA. 9 C.F.R. § 2.11(a)(6).**

#### **A. Lack of a Permanent Facility**

As a result of the state and local proceedings against him, Liebel effectively has no permanent facility attached to his license and is therefore "unfit to be licensed." Should Nosey be returned to him, her only "shelter" would be Liebel's unairconditioned, unheated, dark, cramped converted horse trailer, which is barely larger than Nosey's body and prevents her from lying down or turning around.

The USDA repeatedly cited Liebel for permanently confining Nosey under virtually identical conditions when his home site in Florida didn't have a barn, including in the following instances:

- Inspectors found that "[t]he elephant was chained outdoors to a dead tree trunk and a tree..... She was chained so that she could not take a full stride. She swayed stereotypically from side to side." USDA, Inspection Report, Florida State Family Circus (Nov. 23, 2004) (Ex. 17).
- Liebel was cited when Nosey was "housed in the travel truck compartment during cold weather or when unsupervised. Otherwise, she [wa]s chained in the yard." USDA, Inspection Report, Florida State Family Circus, (Jan. 2, 2004) (Ex. 17).
- Nosey was "housed in the trailer's transport compartment when at home and on tour" and in good weather was "chained between two trees beside the travel trailer." USDA Inspection Report, Hugo Liebel, Florida State Family Circus (Feb. 28, 2002) (Ex. 17).
- "The elephant was in an outdoor corral, but there is no shelter available there .....For shelter during cold, the elephant is placed inside the travel trailer. However, the travel trailer is too small a space to provide freedom of movement." USDA, Inspection Report, Liebel Family Circus (Jan. 23, 2001) (Ex. 17).

Confining Nosey under these conditions on a regular or permanent basis would also jeopardize her fragile physical condition, discussed in more detail below.

#### **B. Nosey's Serious Health Problems**

As discussed above, in November 2017, Nosey was found tightly chained by two legs outside of a truck repair shop in rural Moulton, Alabama, where Liebel was reportedly getting the brakes fixed on the truck he uses to haul her. A Lawrence County Animal Control officer inspected Nosey and obtained a writ of seizure from a Lawrence County District Judge. Her affidavit attested that Nosey was "chained by her legs in such a manner that it made it impossible for her to move and resulted in her having to stand in her own feces," and that Nosey's only shelter was a transport trailer, which was "so small that the elephant could not stand completely upright, could not lay down, and could not even tum around when inside." Affidavit of Kimberly Carpenter (Nov. 9, 2017) (Ex. 18). Following a hearing, the judge ordered the county to make necessary arrangements for Nosey's care pending a

further hearing. Nosey was sent to The Elephant Sanctuary in Tennessee (TES), where she remains pending a final order from the judge.

On December 15, 2017, the court held a 10-hour evidentiary hearing to determine whether Nosey was healthy enough to be returned to Liebel. Testimony from TES's associate veterinarian, Dr. Lydia Young, revealed that Nosey arrived at the sanctuary suffering from a series of serious, painful, and chronic health problems that had apparently not been properly diagnosed or treated by Liebel or his attending veterinarian, Dr. Mark Wilson. In fact, Dr. Wilson admitted that he had not seen Nosey since April or May 2017.

Dr. Young's findings, which she documented in a health care plan introduced at trial, included the following:

- **Nosey has the most severe and extensive excessive build-up of dry skin (hyperkeratosis) that Dr. Young had ever observed in an elephant.** Discharge from one of the deeper cracks on Nosey's flank revealed a chronic multi-drug resistant bacterial infection. According to Dr. Young's testimony, Nosey's skin has likely been infected for months, if not years. She cautioned that untreated bacterial skin infections such as that from which Nosey was suffering, can lead to life-threatening blood poisoning. She also testified that diet, hydration, exercise, stress, and limited access to surfaces for scratching and exfoliation have likely all contributed to Nosey's poor skin condition. Liebel's vet, Dr. Wilson, also conceded that Nosey has hyperkeratosis and testified that a bacterial skin infection can lead to sepsis.
- **Nosey was suffering from a painful urinary tract infection (UTI).** When Nosey arrived at TES, she was continually dribbling small amounts of urine, which was chalky, white, and thick. A urinalysis revealed a high concentration of bacteria. Dr. Young testified that UTIs are caused by a variety of factors, including dehydration and unsanitary conditions. Liebel's vet, Dr. Wilson, admitted that the urine that Dr. Young photographed appeared abnormal and that the urinalysis showed bacteria. He also testified that a severe UTI can be life-threatening if it impacts an elephant's kidneys.
- **Nosey had intestinal parasites.** Dr. Young performed a fecal examination soon after Nosey arrived at TES. The test revealed that Nosey had roundworms, which is caused by ingesting fecal matter.
- **Nosey has osteoarthritis.** When she arrived at the sanctuary, Nosey's gait was abnormal. The stride of her left hind limb was shorter than that of her right, and her left hind limb was swollen. When standing, Nosey would shift her weight abnormally, frequently resting two legs at a time (elephants normally only rest one leg at a time). This shifting-leg lameness indicated that Nosey was experiencing discomfort in multiple limbs and joints, indicating chronic, progressive, orthopedic disease. Dr. Young performed radiographs on Nosey's left hind foot and ankle, and obtained a written report from a boarded zoological radiologist. The x-rays confirmed that that Nosey has osteoarthritis, which is a serious, irreversible, painful, chronic condition that would be worsened by giving rides and standing on hard surfaces. Nosey also had subluxation (partial dislocation) of one toe. Dr. Young also testified that because elephants bear most of their weight on their front limbs, she expects Nosey to have similar or worse changes in her other limbs. Liebel's vet, Dr. Wilson, first denied that Nosey had arthritis before admitting that she "might have a little bit" of it. He admitted that arthritis can become serious enough to require euthanasia.
- **Nosey has significant muscle wasting.** The muscles along Nosey's topline, pelvis, and hind limbs showed significant atrophy. Dr. Young testified that this can indicate poor nutrition or that the

animal is not using her muscles properly because of pain. Nosey requires a balanced diet, free access to water, and species-appropriate exercise to allow her to build muscle.

- **Nosey was underfed.** Dr. Young testified that the shape of Nosey's belly changed significantly in the first few days after she arrived at TES. It was initially narrow and then became more rounded. This indicated that Nosey's gastrointestinal (GI) tract was mostly empty at the time she arrived, and then filled out to a normal shape once she was given an appropriate diet at TES, including free access to hay and browse. Since her arrival at TES, Nosey has gained several hundred pounds and her rounded belly has not changed. Dr. Young explained that because elephants eat continually, their GI tracts should be continually full and there should never be an instance where their GI tract empties completely. Dr. Young also reviewed a photograph of Nosey taken on November 5, several days before she was seized, and opined that Nosey's GI tract also appeared to be mostly empty in that photograph. (The photographer, Shay Culbertson, separately testified that she purchased hay for Nosey that day because a circus representative told her that they needed some and Liebel told her that he couldn't afford to buy any.)
- **Nosey was dehydrated.** When Nosey arrived at TES, there was an excessive foamy discharge in both of her eyes. This problem resolved over the next few days, and Dr. Young believes it was likely the result of dehydration. Several of Nosey's other medical problems are also connected to dehydration, including the UTI, the hyperkeratosis, and the muscle wasting.

In sum, when Nosey was seized from Liebel, she was extremely unwell. Some of the conditions, such as the arthritis, muscle wasting, and the skin infection, had been present for years—unnoticed or ignored, not properly treated or diagnosed. Other conditions, such as the UTI, were likely more acute. Yet Liebel either ignored or failed to notice that Nosey was dribbling chalky white urine, and he failed to get her treatment for the excruciating infection. As a result of his neglect, Nosey now requires intensive daily medical care to clear up her infections and to alleviate or manage her pain. Above all else, Nosey's extremely poor health demonstrates that Liebel is unfit to be licensed and that allowing him to continue to hold a license would be contrary to the purposes of the AWA.

### C. Inadequate Veterinary Care

The USDA must also cease its continued deferral to Dr. Wilson's poor veterinary judgment with respect to Nosey. Under the AWA's regulations, more than just any veterinary care is required—it must, among other things, be "adequate" and "appropriate." These requirements confer on the USDA a duty to assess the veterinary care being provided and preclude simply rubberstamping the findings of an exhibitor's veterinarian. Dr. Wilson's last written evaluation occurred on April 12, 2017, and contained little more than superficial comments about Nosey's "good" health. *See* Mark Wilson, *Yearly Evaluation of African Elephant – Nosey – Liebal Family* (Apr. 12, 2017) (Ex. 19).

For example, Wilson's evaluation claims that Nosey "has good body weight, confirmation [sic], and muscle tone," yet does not include a body condition score or a weight for her. In fact, he writes that "her normal weight ranges less than ?????? pounds." *Id.* He also states—in all caps—that Nosey has normal locomotion. *Id.* Setting aside the hours' worth of video footage that the USDA has accumulated showing that Nosey is lame—which has now been definitively linked to osteoarthritis through radiographs—this contradicts Dr. Wilson's own statements. He previously claimed that Nosey had a "gait deficit" caused by a "congenital shortening of one rear leg" in 2015, a claim that the USDA accepted even though no other veterinarian has apparently noticed or documented such a condition. *See* USDA Animal Welfare Complaint Response AC15-486 (Nov. 17, 2015) (Ex. 20). For example, this alleged "congenital" condition was not noted in the November 7, 2014, evaluation of Nosey by



Ringling Bros. veterinarian Dr. Ramiro Isaza (and attended by Dr. Wilson and USDA staff). Her gait abnormalities and muscle wasting *were* noted during that exam, however.

Dr. Wilson's report also asserts in all caps that Nosey's skin is "normal," and refers to—but does not include—a skin care plan that includes baths, oil, and exfoliation. This is apparently the same treatment that he has prescribed for years, and that has not corrected Nosey's hyperkeratosis and that failed to prevent the development of a multi-drug resistant skin infection. For example, on January 23, 2011, Wilson wrote that Nosey "looks better than I have ever seen her" and "her skin care is exceptional and in now [sic] way is detrimental to her health." Note by Mark Wilson, DVM (Jan. 23, 2011) (Ex. 21). Yet USDA inspectors cited Liebel on both December 14, 2010, and February 23, 2011, for her overgrown, dry, cracked skin (Ex. 22).

As PETA has previously pointed out, Dr. Wilson has a history of poor judgment with respect to other elephants used in circuses suffering from diseases and illnesses. For example, he apparently provided health certificates to the elephants Tina and Jewel in March 2007, even though the USDA found Jewel to be underweight in October 2006, February 2007, and March 2007. The elephants were ultimately removed from travel after the USDA arranged for an independent veterinary evaluation. Likewise, USDA records show that Dr. Wilson was resistant to complying with the agency's former TB testing and treatment requirements with respect to both Nosey and the elephant Luke.

#### **IV. Liebel Is in Violation of a 2013 Cease and Desist Order.**

In March 2013, Liebel was ordered to cease and desist from violating the AWA as part of a settlement agreement arising from an administrative complaint alleging nearly 33 AWA violations. *See* Consent Decision and Order, *In re: Hugo Tommy Liebel*, AWA Docket No. 12-0103 (USDA Mar. 2013). In subsequent inspections, the USDA has found Liebel to be out of compliance with the law for six AWA violations, including in the November 3, 2017, inspection discussed above.

The AWA provides that "[a]ny person who knowingly fails to obey a cease and desist order made by the Secretary under this section *shall* be subject to a civil penalty of \$1,500<sup>4</sup> for each offense, and each day during which such failure continues shall be deemed a separate offense." 7 U.S.C. § 2149(b) (emphasis added); *see also, e.g., In Re Karl Mitchell*, No. 09-0084., 2010 WL 5295429, at \*7 (U.S.D.A. Dec. 21, 2010) ("A civil penalty of \$1,650 must be assessed for each offense by any person who knowingly fails to obey a cease and desist order."). Liebel's subsequent citations carry a mandatory penalty of at least \$9,900.

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<sup>4</sup> In 1997, the penalty was adjusted to \$1,650 for inflation. On December 5, 2017, it was again adjusted to \$1,674. *See* 7 C.F.R. § 3.91(b)(2)(ii).