

August 20, 2012

Andrew Mason, CEO  
Groupon

Re False and Misleading Statements by Groupon

Dear Mr. Mason:

I am the Director of Captive Animal Law Enforcement at the PETA Foundation, and I am writing in regard to misleading statements made to the public by Groupon about the animal welfare record of the circuses that Groupon promotes. Groupon's statements represent an apparently deliberate effort to mislead the public, and consumers in particular, about Groupon's sponsorship of circuses that keep and use animals under inhumane and abusive conditions, in violation of the federal Animal Welfare Act (AWA). PETA demands that Groupon stop misleading the public about the circuses that it promotes.

Groupon promotes circuses that have a history of citations from the U.S. Department of Agriculture (USDA) for violations of the AWA, despite statements by Groupon that imply that the circuses it advertises have operated in compliance with federal law for at least two years prior to their promotion by Groupon. Specifically, Groupon represents the following to the public:

In addition to the already thorough vetting we do against all businesses before they appear on our site, any circus deal we feature must reach an additional threshold. They must have proof of an active USDA license required for a circus owner and must have clean USDA and public record inspection reports from at least the past 2 years, without reported incidences of animal cruelty or animal control-related drugs.<sup>1</sup>

The statement that each circus featured by Groupon must have "clean" USDA inspection reports implies that each circus must be free of any violation of the AWA for the prior two years, which is belied by the inspection reports for almost every circus, or exhibitor who provides the circus with animals, featured by Groupon in the past four months.<sup>2</sup> Groupon's statement is particularly misleading in light of the fact that the AWA does not regulate, as such, "animal cruelty or

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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.)

<sup>1</sup><http://www.facebook.com/groupon> (last accessed August 16, 2012).

<sup>2</sup>While we focus here on the most recent Groupon circus promotions, circuses promoted prior to the past four months are also routinely cited for violations of the AWA.

animal control-related drugs" and imposes only very minimal standards on circuses and other animal exhibitors.<sup>3</sup>

In truth, the following circuses, which have been promoted by Groupon since it ceased communications with PETA in early April, have all been cited for violations of the AWA numerous times, including during the two-year time period set forth in Groupon's statement to the public, and some have even faced additional enforcement action relating directly to inhumane treatment of animals and public health and safety risks. All supporting documentation cited herein is available upon request.

### **Piccadilly Circus**

- June 2012: The State of Maine barred Piccadilly from bringing an elephant named Topsy into the state because she tested positive for a form of tuberculosis that is highly transmissible to humans. The elephant was being handled by Frank Murray.
- May 10, 2012: Frank Murray, the elephant handler traveling with the Piccadilly Circus, was arrested on an outstanding warrant related to multiple counts of cruelty to animals for the infliction of "unnecessary cruelty towards a living animal" and for failing to provide animals with proper sustenance.
- March 27, 2012: Zachary Garden, general manager of Piccadilly, was cited by the USDA for inadequate veterinary care and repeated failure to have an enrichment plan for two ring-tailed lemurs. During this inspection, gaps in the wall where a tiger was kept in the truck used to transport the animals, and holes in the walls where other animals were kept were also discovered.
- March 2, 2012: Zachary Garden was cited by the USDA for acquiring five zebras from an unlicensed broker. He was also cited for not having an environmental enhancement plan for two ring-tailed lemurs.
- February 9, 2012: Zachary Garden was cited by the USDA for failing to notify the USDA that his address had changed, which interferes with the agency's ability to conduct inspections.
- January 25, 2012: Zachary Garden was cited by the USDA for keeping animals in a holding pen that had sharp exposed edges that could injure the animals.

You should also be aware that Piccadilly and other businesses related to Garden have been fined or barred from operating in at least six states. In addition to facing USDA enforcement action, Piccadilly business partner Richard Garden faced criminal charges in New York after his circus bleachers collapsed, injuring 70 people.

### **UniverSoul Circus**

The following USDA-licensed exhibitors have recently supplied animals to [UniverSoul Circus](#), which does not have its own USDA license: Jorge and Louann Barreda, Mitchel Kalmanson, and Culpepper & Merriweather Circus. All these exhibitors have been cited by the USDA for violations

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<sup>3</sup>"The AWA requires that *minimum standards* of care and treatment be provided for certain animals ... exhibited to the public. Individuals who operate facilities using animals in these ways must provide their animals with adequate housing, handling, sanitation, nutrition, water, veterinary care, and protections from extreme weather and temperatures."(Emphasis added.) United States Department of Agriculture, "Animal Welfare", available at [http://www.aphis.usda.gov/publications/animal\\_welfare/content/printable\\_version/animal\\_welfare4-06.pdf](http://www.aphis.usda.gov/publications/animal_welfare/content/printable_version/animal_welfare4-06.pdf) (last accessed August 13, 2012).

of the AWA within the past two years. It is because of the deplorable record of animal care and public endangerment by exhibitors performing with the UniverSoul Circus that Burger King ended its UniverSoul sponsorship.

*Elephant Act: Jorge and Louann Barreda*

- December 14, 2011: The USDA cited the Barredas for having an inadequate perimeter fence around the elephants, very dangerously allowing any person to have direct access to the elephants.
- September 26, 2011: Jorge and Louann Barreda received an Official Warning for their failure to provide four African elephants with adequate veterinary care. An Official Warning is the final opportunity for an exhibitor to avoid a civil penalty or criminal prosecution for AWA violations.
- August 24, 2011: The Barredas were cited by the USDA for repeatedly failing to provide four elephants with adequate foot care. Foot-related problems are the leading reason why captive elephants are euthanized.
- April 29, 2011: The Barredas were cited by the USDA for inadequate foot care for all four elephants.

The track records of other elephant exhibitors that UniverSoul has used are no better. For example, UniverSoul has had Culpepper & Merriweather Circus supply elephants for its shows. On December 20, 2011, an administrative law judge suspended Culpepper & Merriweather's USDA license and ordered the circus to cease and desist from violating the AWA because of willful violations of the AWA, including failure to provide animals with adequate veterinary care and to handle animals in a way that does not cause undue trauma. Culpepper & Merriweather has been cited numerous times by the USDA for violations of the AWA, including failure to provide animals with veterinary care, adequate space, and shelter from the elements. Elephants traveling with Culpepper & Merriweather Circus have also escaped and been on the loose for several hours, running through residential neighborhoods and causing property damage, and have also died decades prematurely.

UniverSoul has also leased an elephant act from the infamous [Carson & Barnes Circus](#). Carson & Barnes has a lengthy history of violating the AWA, including serious violations for failure to provide elephants with proper veterinary care and minimum space, failure to provide shelter from the elements, inadequate ventilation, unsound fencing that failed to protect the animals and the public, rusty animal cages, and failure to provide animals with sanitary drinking water. In addition, the Carson & Barnes animal-care director was captured on undercover [video](#) violently beating an elephant with a bullhook, shocking elephants with an electric prod, and instructing others to beat the elephants and "make 'em scream," all in a manner that a U.S. District Court judge described as a clear violation of the AWA. These incidents are germane because they indicate the type of abuse and neglect of animals by exhibitors that UniverSoul chooses to do business with.

*Exotic Cats: Mitchel Kalmanson*

- April 18, 2012: Mitchel Kalmanson was cited by the USDA for failure to have a responsible person on the premises in order for the USDA to conduct an inspection.
- September 15, 2011: Mitchel Kalmanson was cited by the USDA for poor pest control when wasps and hornets were observed in an animal enclosure.

- July 14, 2011: Mitchell Kalmanson was cited by the USDA for failing to handle a tiger in a manner that prevents "behavioral stress and unnecessary discomfort" and for failing to maintain facilities so that there is no risk of injury to the animals after a tiger's paw became trapped under a faulty cage door. A concerned member of the public captured this incident on [video](#), which shows the tiger panting, struggling to free her foot, and exhibiting obvious signs of distress.
- February 22, 2011: Mitchel Kalmanson was cited for using outdated food supplements and allowing meat to thaw in standing water.

On February 1, 2008, Mitchel Kalmanson was ordered to pay \$6,000 to settle a USDA complaint relating to two tiger escapes that occurred while Kalmanson was exhibiting with the UniverSoul Circus. The USDA cited and fined Kalmanson for failure to have sufficient distance or barriers between dangerous animals and the public, failing to train employees adequately, and failing to have a sufficient number of adequately trained employees. In addition, Kalmanson's failure to provide exotic cats with an adequate diet and veterinary care led to disease and death in multiple lion cubs.

### **Circus Gatti**

- April 11, 2012; December 15, 2011; and January 21, 2011: Circus Gatti was cited by the USDA for having an insufficient perimeter fence around an outdoor enclosure for two elephants. The fence lacked the required height and was broken in several places, putting the public at risk.
- October 1, 2011: Circus Gatti was cited by the USDA for improper handling of animals: Twice, children were observed entering the elephant ride area during intermission without the handler's noticing them. The performance ring was also less than 4 feet from VIP floor seating, putting both animals and the public in danger.
- January 21, 2011: In addition to being cited by the USDA for the previously mentioned insufficient perimeter fencing, Circus Gatti was also cited because the primary enclosure used to transport the elephants had frayed and splintered wood, risking injury to the elephants.

It is also worth noting that according to a Sacramento, Calif., Police Department Incident Report, a SWAT team responded with guns and the Memorial Arena was evacuated after a tiger used by Circus Gatti refused to return to his cage after performing. The tiger had to be darted with a tranquilizer gun.

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In addition to misrepresenting the animal welfare records of the exhibitors it promotes, Groupon misrepresents that each circus it promotes has a "USDA license required for a circus owner." As was explained to Groupon by Kristina Addington, PETA's corporate affairs liaison, before Groupon ceased communications with PETA in early April, a circus or "circus owner" is only required to obtain a USDA license if the circus itself "owns" the animals that it uses. For example, neither Shrine Circus nor UniverSoul Circus holds a USDA license because they lease animals from other exhibitors, whose animal-care and public-safety records are frequently abysmal. Thus, this statement by Groupon misleads the public to believe that all circuses promoted by the company are regulated by the federal government.

As demonstrated above, Groupon's statements to the public about the role of the federal government in the oversight of circuses it promotes, as well as the animal welfare record of those circuses, are deceptive. The statements have the potential to mislead the public, and consumers in particular, about Groupon's sponsorship of circuses and inappropriately influence the compassionate consumer's choice not to patronize Groupon and the inhumane forms of "entertainment" that it sponsors. PETA demands that Groupon immediately stop misleading the public and put an end to its circus promotions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Delcianna Winders", with a long, sweeping horizontal stroke extending to the right.

Delcianna Winders

Director

Captive Animal Law Enforcement

cc: Julie Mossler, director of communications, Groupon