



United States Department of Agriculture
Animal and Plant Health Inspection Service
Investigative and Enforcement Services

Reference Number: OK10026-AC
Issuance Date: July 26, 2012
Version: Final

VIA: USPS Certified Mail
Shipping Event: 1st

July 26, 2012

Carson & Barnes Circus Co., Inc.
P. O. Box J
Hugo, OK 74743

Registered Agent: Thelma Millican
203 East Jackson Street
Hugo, OK 74743

SETTLEMENT AGREEMENT

Dear Sir or Madam:

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described in the attached Settlement Agreement. Our agency, the Animal and Plant Health Inspection Service (APHIS), is responsible for enforcing the AWA, and other agriculture laws that help prevent the spread of animal and plant pests and diseases, and ensure the welfare of animals.

After providing you with an opportunity for a hearing, we may impose civil penalties of up to \$10,000, or other sanctions, for each violation described in this Settlement Agreement. We are offering you the opportunity to resolve this matter by paying an amount that is much lower than the maximum civil penalty.

What are the terms of the Settlement Agreement?

You should review the information in this Settlement Agreement, including the citation and notification of penalty.

If you agree to waive your right to a hearing and pay the penalty, then do the following:

- Pay the amount due, \$3,714, by **September 10, 2012**. You can pay by check, money order, or credit card. For your convenience, we have included additional instructions for making payments.
- If you are unable to pay the full amount due by **September 10, 2012**, you may be eligible for a payment plan. To request a payment plan, you must use the enclosed form to submit a written response to this letter by **September 10, 2012**, that indicates you wish to pay the penalty and waive your right to a hearing. You must also submit a copy of your most recent federal tax return. As part of your response, please include a phone number and an email address so that we may contact you.



What are my other options?

If you do not agree with the terms of this Settlement Agreement, submit a written request for a hearing, with your Reference Number, to our office by **September 10, 2012**, at 4700 River Rd., Unit 85, Riverdale, MD, 20737.

What happens if I fail to respond?

If we do not receive a payment or hearing request from you by **September 10, 2012**, we will forward this matter to our Office of the General Counsel for litigation.

What should I do if I need help?

If you have any questions concerning this letter, contact Deirdre Jarvis at (301) 851-2741, or call our main office at (301) 851-2948.

Sincerely,



Robert J. Huttenlocker
Director
Investigative and Enforcement Services



CITATION AND NOTIFICATION OF PENALTY

We believe that you violated the Animal Welfare Act (7 U.S.C. § 2131 et seq.) (AWA), as described below.

Date of Violation: August 27, 2010

9 C.F.R. § 2.131(c)(1) Handling of animals.

Respondent failed to maintain control of an elephant when allowing three elephants to drink while in traveling exhibit status. The elephant ran and fell down a steep slope and onto her side. After the incident, the elephant was observed to have a cracked toenail and an inflamed shoulder.

Date of Violation: May 12, 2010

9 C.F.R. § 3.127(b) Facilities, outdoor. Shelter from inclement weather.

Respondent failed to provide appropriate shelter from inclement weather for three elephants. Shelter must be provided to elephants to prevent discomfort during inclement weather.

Date of Violation: May 12, 2010

9 C.F.R. § 3.127(d) Facilities, outdoor. Perimeter fence.

Respondent failed to maintain a controlled perimeter fence or appropriate alternative security measures for three elephants. The electric fence used to contain the three elephants was not powered, rendering the containment inadequate.

Date of Violation: Jun 19, 2010

9 C.F.R. § 3.138(a) Primary conveyances (motor, vehicle, rail, air, and marine).

Respondent failed to maintain the trailer used to haul various circus animals in good repair. The trailer had an 8 inch hole in the floor at the entrance of the trailer that could injure all animals that would use this entrance to access the trailer.

Date of Violation: June 29, 2011

9 C.F.R. § 2.131(c)(1) Handling of animals.

Respondent failed to provide adequate distance and/or barriers between the public and two elephants. In the parking lot of the exhibition, while two elephants were being bathed, several people stopped to observe the bathing within close proximity of the animals, with no physical barrier or sufficient distance to minimize the risk of harm to



the public and the animals. APHIS officials also observed that a member of the public was able to grab an elephant's trunk over a barrier while the elephant handler had his back to the public area.

Date of Violation: June 29, 2011

9 C.F.R. § 2.131(d)(3) Handling of animals.

Respondent failed to have its elephants under the direct control and supervision of knowledgeable and experienced animal handlers during public exhibition. During the elephant rides, the handlers frequently left the animals unattended, such as by walking away from the elephants to adjust the barrier fence or standing several feet away from the elephants. In another instance, a handler walked away from an elephant, while 1 adult and 6 children were saddled on it, to talk on his cell phone while the elephant continued the ride unattended.

Date of Violation: October 7, 2011

9 C.F.R. § 2.131(d)(3) Handling of animals.

Respondent failed to have its elephants under the direct control and supervision of knowledgeable and experienced animal handlers during public exhibition. During this focused inspection concerning the handling of elephants, APHIS officials observed two elephants used for rides with passengers on board, that were not controlled and/or supervised at all times. Two elephants that were being used for rides with passengers on board only had one handler present. The unattended elephant would stop in from of an "exit curtain" that did not have a physical barrier to stop the animals. The elephant could have left the area through this curtain with the public on board.

Date of Violation: December 20, 2011

9 C.F.R. § 3.125(a) Facilities, General.

Respondent failed to maintain the interior walls of the elephant barns in good repair. The walls had missing or damaged sections of insulation that inhibited the cleaning of the walls.

Date of Violation: April 27, 2012

9 C.F.R. § 3.125(a) Facilities, General.

Respondent failed to maintain the metal mesh near the entry for one adult elephant in good repair. The metal mesh had sharp edges protruding that could cause injury to the elephant.

Date of Violation: April 27, 2012

9 C.F.R. § 3.127(d) Facilities, Outdoors.

Respondent failed to maintain the perimeter fence to restrict animals and unauthorized



persons from going through it or under it. APHIS observed that sections of the perimeter fence had gaps between the fencing and the ground, perimeter gates were not properly closing to restrict entry, and gates did not close completely to restrict entry.