

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE SECRETARY OF AGRICULTURE

RECEIVED

In re:

AWA Docket No.

12-0103

HUGO TOMMY LIEBEL, also known as HUGO  
T. LIEBEL, an individual doing business as  
FLORIDA STATE FAMILY ENTERTAINMENT,  
LLC, FLORIDA STATE FAMILY CIRCUS,  
LIEBLING BROTHERS CIRCUS, and LIEBLING  
BROTHERS FAMILY CIRCUS,

Respondent.

COMPLAINT

There is reason to believe that the respondent named herein has willfully violated the Animal Welfare Act, as amended (7 U.S.C. § 2131 et seq.) (the "Act" or "AWA"), and the regulations issued pursuant thereto (9 C.F.R. § 1.1 et seq.) (the "Regulations"). Therefore, the Administrator of the Animal and Plant Health Inspection Service ("APHIS"), issues this complaint alleging the following:

JURISDICTIONAL ALLEGATIONS

1. Hugo Tommy Liebel, also known as Hugo T. Liebel ("Liebel"), is an individual whose mailing address is P.O. Box 3220, Davenport, Florida 33836. Liebel does or has done business as Florida State Family Entertainment, LLC, Florida State Family Circus, Liebling Brothers Circus, and Liebling Brothers Family Circus. At all times mentioned herein, respondent Liebel was operating as an exhibitor, as that term is used in the Act and the Regulations, and held Animal Welfare Act license 58-C-0288.

2. Respondent owns and operates a circus, in which he exhibits no fewer than three animals (an African elephant referred to as both "Nosey" and "Tiny," and two nonhuman primates) to the public. Respondent also operates animal acts, as that term is defined in the Regulations. The gravity of the violations herein is great. The violations include repeated noncompliance with the Regulations and Standards governing veterinary care, handling, housing and husbandry. Respondent

was advised as early as April 17, 2007, of concerns as to the adequacy of the skin care for Nosey, as inspectors observed an excessive accumulation of dead skin. Subsequent inspections by multiple APHIS inspectors revealed continued deficiencies in skin care and husbandry provided to Nosey. Respondent misrepresents his own identify, and the identity of Nosey, to the public. Respondent uses various names for himself, including "Tom Liebling." Respondent has identified Nosey as "Dumbo," and as having appeared "in the most movies ever in the country." Respondent also identifies Nosey as "Peanut," and represents to the public that she is 15 years old, when in fact she is approximately 30.

#### ALLEGED VIOLATIONS

3. APHIS conducted unannounced inspections of respondent's facilities, records and animals on April 17 and August 6, 2007, May 22, 2008, March 17, April 10, June 2, July 14, August 1, September 12, and October 28, 2009, February 28, November 11 and December 14, 2010, and February 23, 2011. APHIS documented noncompliance with the Regulations and Standards on each of these occasions.

4. On or about April 17, 2007, respondent failed to meet the minimum Standards for housing facilities (9 C.F.R. § 3.125(a)), and specifically, a portion of the metal wall of the enclosure housing Nosey was detached, exposing a sharp metal edge that could injure the elephant, in willful violation of the Regulations. 9 C.F.R. § 2.100(a).

5. On or about August 6, 2007, at Davenport, Florida, respondent failed to handle a nonhuman primate as carefully as possible, and specifically, a spider monkey in respondent's custody had an 18-inch chain affixed to its collar, including during periods of time when the animal is housed in its enclosure, presenting a risk of injury to the animal, in willful violation of the Regulations. 9

C.F.R. § 2.131(b)(1).

6. On or about May 22, 2008, at Davenport, Florida, respondent failed to handle a nonhuman primate as carefully as possible, and specifically, two spider monkeys in respondent's custody had access, in their enclosure, to lengths of hay twine, in which the animals could become entangled, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

7. On or about May 22, 2008, at Davenport, Florida, respondent failed to meet the minimum Standards for housing facilities (9 C.F.R. § 3.125(a)), and specifically, there were nails protruding into the enclosure housing Nosey, in willful violation of the Regulations. 9 C.F.R. § 2.100(a).

8. On or about March 13, 2009, at Fruitland Park, Florida, respondent failed to handle a nonhuman primate as expeditiously and carefully as possible, and specifically respondent handled a spider monkey (Reggie) in a manner that allowed the animal to escape, and the spider monkey was not recovered for at least ten days, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

9. On or about March 17, 2009, at Davenport, Florida, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically, Nosey had a visibly poor skin condition, with thickened layers of dead skin on the legs, tail, sides and face, and respondent had apparently not provided skin care to the elephant in approximately a month, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

10. On or about March 17, 2009, at Davenport, Florida, respondent failed to meet the minimum Standards in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. There were nails and metal rods proximate to the elephant housed in the

elephant barn. 9 C.F.R. § 3.125(a).

b. Respondent's perimeter fence was inadequate. 9 C.F.R. § 3.127(d).

11. On or about April 10, 2009, at Lake Buena Vista, Florida, respondent failed to handle an elephant as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, and specifically respondent tethered Nosey in such a manner that the elephant could only move a few feet from side to side, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

12. On or about April 10, 2009, at Lake Buena Vista, Florida, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to provide adequate space so as to allow an elephant to make normal postural adjustments with adequate freedom of movement, and specifically, respondent held Nosey outdoors tethered by chains around the elephant's left front and right rear ankles that were so taut that they permitted little movement; the elephant was unable to lie down on her side, or to make any forward or backward movement, and could only move a few feet from side to side. 9 C.F.R. § 3.128.

b. The trailer used for transporting Nosey contained accumulations of equipment in close proximity to the elephant during transit. 9 C.F.R. § 3.138(f).

c. The trailer used for transporting Nosey contained loose metal ceiling panels, exposed bolts and peeling, chipping and flaking interior paint. 9 C.F.R. § 3.138(a).

13. On or about June 2, 2009, at Bamberg, South Carolina, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically,

Nosey had a visibly poor skin condition, with thickened layers of dead skin on her body, and respondent had not provided adequate skin care to the elephant, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

14. On or about June 2, 2009, at Bamberg, South Carolina, respondent handled an elephant during public exhibition without minimal risk of harm to the animal and to the public, and unattended by a knowledgeable, experienced handler, and specifically, respondent displayed Nosey to the public in an outdoor area adjacent to a public sidewalk, with a 32-inch tall two-rail metal fence as the only barrier between the animal and the public, which barrier would permit the ingress of both children and adults; and respondent permitted members of the public to approach and to feed the elephant while the elephant was unattended, or in the custody of respondent's teenaged daughter or adolescent son, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(c)(1), 2.131(d)(3).

15. On or about June 2, 2009, at Bamberg, South Carolina, respondent failed to handle a nonhuman primate as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, and specifically respondent left a spider monkey unattended and tethered by a chain to a pony, outside of a performance area, for one hour, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

16. On or about June 2, 2009, at Bamberg, South Carolina, respondent failed to handle a nonhuman primate as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, handled the primate during public exhibition without minimal risk of harm to the animal and to the public, and allowed the public to feed the primate food that was inappropriate and non-nutritional for its species and dietary needs, and posed a risk of disease transmission; and specifically, respondent took a spider monkey into an audience and

instructed the audience members, including children, to feed the spider monkey their concession food (popcorn, cotton candy), whereupon the spider monkey became agitated and forcefully took food from children who were disinclined to feed the animal, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(b)(1), 2.131(c)(1), 2.131(d)(1).

17. On or about June 2, 2009, at Bamberg, South Carolina, respondent failed to handle an elephant as carefully as possible in a manner that would not cause behavioral stress, physical harm or unnecessary discomfort, and specifically respondent tethered Nosey in such a manner that the elephant could not stand comfortably, in willful violation of the Regulations. 9 C.F.R. § 2.131(b)(1).

18. On or about June 2, 2009, at Bamberg, South Carolina, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. Respondent failed to provide adequate space so as to allow an elephant to make normal postural adjustments with adequate freedom of movement, and specifically, respondent held Nosey outdoors tethered by chains around the elephant's left front and left rear ankles that were so taut that they permitted little to no movement; the elephant was required to maintain her left front foot in a forward position. 9 C.F.R. § 3.128.

b. Respondent failed to follow his own environmental enrichment plan for two spider monkeys, which plan required the provision of toys, hay, brachiating structures and other items, none of which was observed by APHIS in the monkeys' enclosure. 9 C.F.R. § 3.81(b).

19. On or about July 14, 2009, at Deer River, Minnesota, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically,



Nosey had a visibly poor skin condition, with thickened layers of dead skin on her body, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

20. On or about August 1, 2009, at Cumberland, Wisconsin, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically, Nosey had a visibly poor skin condition, with thickened layers of dead skin on her body, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

21. On or about August 1, 2009, at Cumberland, Wisconsin, respondent handled an elephant during public exhibition without minimal risk of harm to the animal and to the public, and unattended by a knowledgeable, experienced handler, and specifically, respondent displayed Nosey to the public in an open outdoor area outside of the designated elephant ride area, and the elephant was unattended and accessible to the members of the public who were leaving the circus tent, while respondent was engaged in other tasks, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(c)(1), 2.131(d)(3).

22. On or about September 12, 2009, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically, Nosey had a visibly poor skin condition, with thickened layers of dead skin on her body, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

23. On or about October 28, 2009, at Davenport, Florida, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

- a. The area outside the perimeter fencing for spider monkeys had accumulated

and discarded equipment and building materials. 9 C.F.R. § 3.84(c).

b. Respondent failed to store supplies of food in facilities which adequately protected such supplies against deterioration, molding, or contamination by vermin, and specifically an open trailer used for food storage was cluttered, dirty and had holes in the floor, there were open bags of feed, and evidence of vermin. 9 C.F.R. § 3.125(c).

c. Respondent failed to keep his premises cleans, and to place accumulations of trash in designated areas, and specifically, respondent failed to remove discarded clutter and materials adjacent to the elephant enclosure. 9 C.F.R. § 3.131(c).

d. Respondent failed to establish and maintain an effective pest control program and specifically, there was evidence of rodents in and among food supplies. 9 C.F.R. § 3.131(d).

24. On or about February 13, 2010, at Sorrento, Florida, respondent handled an elephant during public exhibition without minimal risk of harm to the animal and to the public, and unattended by a knowledgeable, experienced handler, and specifically, respondent displayed Nosey to the public in an open outdoor area, unattended but for respondent's teenage daughter sitting nearby, and members of the public had access to the elephant and were permitted to feed the animal directly, in willful violation of the Regulations. 9 C.F.R. §§ 2.131(c)(1), 2.131(d)(3).

25. On or about February 28, 2010, at Haines City, Florida, respondent failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent and diagnose diseases and injuries, and a mechanism of direct and frequent communication with respondent's attending veterinarian, and specifically, Nosey was observed to have lost weight, and respondent had not consulted with his attending veterinarian as to the reasons therefor or sought an



change of mailing address, as required, in willful violation of the Regulations. 9 C.F.R. § 2.8.

31. On or about December 14, 2010, at Davenport, Florida, respondent failed to provide adequate veterinary care to an animal, and failed to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and specifically, Nosey had a visibly poor skin condition, with accumulations of dead skin with a dry, cracked appearance, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(b)(2).

32. On or about December 14, 2010, at Davenport, Florida, respondent failed to meet the minimum Standards, in willful violation of the Regulations, 9 C.F.R. § 2.100(a), as follows:

a. The sidebars in the housing structures for spider monkeys were rusted, with sharp edges. 9 C.F.R. § 3.75(a).

b. An open trailer used for food storage was cluttered and had holes in the floor. 9 C.F.R. § 3.125(c).

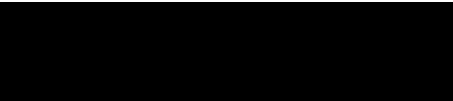
33. On or about February 23, 2011, at Tampa, Florida, respondent failed to provide adequate veterinary care to an animal, to establish and maintain programs of veterinary care that included the use of appropriate methods to prevent diseases and injuries, and to ensure that the attending veterinarian had appropriate authority to ensure the provision of adequate veterinary care, and specifically, respondent failed to follow his attending veterinarian's instruction to weigh Nosey, an examination of the elephant's feet revealed overgrowth of the soles, with trapped manure and leaves in flaps of the front feet and the right rear foot, and the elephant continued to exhibit a visibly poor skin condition, with a cracked appearance over the back, sides and rump, in willful violation of the Regulations. 9 C.F.R. §§ 2.40(a), 2.40(a)(2), 2.40(b)(2).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the

respondent has in fact willfully violated the Act and the regulations issued under the Act, this complaint shall be served upon the respondent. The respondent shall file an answer with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250-9200, in accordance with the Rules of Practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint.

The Animal and Plant Health Inspection Service requests that unless the respondent fails to file an answer within the time allowed therefor, or files an answer admitting all the material allegations of this complaint, this proceeding be set for oral hearing in conformity with the Rules of Practice governing proceedings under the Act; and that such order or orders be issued as are authorized by the Act and warranted under the circumstances, including an order that respondent cease and desist from violating the Act and the regulations and standards issued thereunder, assessing civil penalties against respondent in accordance with section 19 of the Act (7 U.S.C. § 2149), and suspending or revoking AWA license 58-C-0288.

Done at Washington, D.C.  
this 7<sup>th</sup> day of ~~November~~ December 2011

  
*Acting* Administrator  
Animal and Plant Health Inspection Service

Colleen A. Carroll  
Office of the General Counsel  
United States Department of Agriculture  
1400 Independence Ave., SW  
Washington, D.C. 20250-1400  
Telephone (202) 720-6430  
FAX: (202) 690-4299  
e-mail: [colleen.carroll@usda.gov](mailto:colleen.carroll@usda.gov)