



USDA, APHIS, Animal Care



ANIMAL WELFARE COMPLAINT

Complaint No. FY#W10-093	Date Entered 11-Mar-10	Received By KMG
Referred To Jones/ Curren		Reply Due

Facility or Person Complaint Filed Against

Name Javier Martinez		Customer/License/Registration No. 58-C-0657/ 9300	
Address 3417 Morningside Drive			
City Kissimmee	State FL	Zip 34744	Phone No 903-520-6277

Complainant

Name Mathew Jones		Organization N/A	
Address N/A			
City N/A	State N/A	Zip	Phone No./Email address mat@bibliopolis.com

How was complaint received?
E-mail

Details of Complaint: Concerned about the way the Kangaroo is being treated during the show.

Results: Sent to ERO for complaint E10-105.

Application packet provided? Yes No

INSPECTOR

DATE

REVIEWED BY

DATE

Daniel R. Jones

3/12/10



USDA, APHIS, Animal Care



ANIMAL WELFARE COMPLAINT

Complaint No. E10-105	Date Entered 12-Mar-10	Received By V McCollough
Referred To Michael Smith	Reply Due April 13, 2010	

Facility or Person Complaint Filed Against

Name Javier Martinez		Customer/License/Registration No. 58-C-0657/ 9300	
Address 3417 Morningside Drive			
City Kissimmee	State FL	Zip 34744	Phone No 903-520-6277

Complainant

Name Mathew Jones		Organization N/A	
Address N/A			
City N/A	State N/A	Zip	Phone No./Email address mat@bibliopolis.com

How was complaint received?
E-mail

Details of Complaint: Concerned about the way the Kangaroo is being treated during the show.

Results:

Application packet provided? Yes No

INSPECTOR

DATE

REVIEWED BY

DATE



----- Forwarded by Paula D Bovee/CO/APHIS/USDA on 03/10/2010 08:23 AM -----



Mathew Jones
<mat@bibliopolis.com>
03/05/2010 07:33 PM

To acwest@aphis.usda.gov

cc

Subject BorderFest - Rocky Show Circus Complaint

To Whom It May Concern,

I was so disturbed by a new story I read online

(
<http://www.heraldsun.com.au/news/shame-as-our-national-mascot-is-goaded-into-broking-a-clown-at-a-fair-in-texas/story-e6frf7jo-1225837511562>),
I felt that I had to email someone at USDA. I'm not sure if you deal with public complaints, so if not, hopefully you can redirect it to the appropriate person.

I am disgraced that the USDA has not done anything to protect the welfare of kangaroos that were scheduled to appear in the Rocky Show Circus, that is taking place this weekend at BorderFest in Texas. The show is clearly animal cruelty, as it involves the taunting of an animal to make it perform. I don't care how well the animal may be treated when not performing, the act of abusing animals during a show for public pleasure is absolutely shameful. The owner clearly admits that "You cannot force a kangaroo to do nothing," hence the only way to make it do something is to harrass it until it can take no more.

I understand that the show was taken out of the event schedule, but I hope that one day you will do the right thing, and shut down this show entirely, and provide a safe and dignified life for the animals involved.

Regards,

Mat Jones



March 11, 2010

Mathew Jones
mat@bibliopolis.com

United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Animal Care
Western Region

2150 Centre Ave.
Building B
Mail Stop # 3W11
Ft. Collins, CO 80526
Phone: 970/494-7478
Fax: 970/494-7461

Dear Complainant:

Thank you for your emailed letter dated March 05, 2010 concerning Javier Martinez. Your concern has been issued number W10-093. If you wish to know the results of our findings, you must send a request, in writing, to our Freedom of Information Act office. Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly investigate your concerns.

FOIA requests can be submitted three ways--

1. Email: foia.officer@aphis.usda.gov
2. Fax: 301-734-5941
3. US Mail: USDA, APHIS, FOIA
4700 River Road, Unit 50
Riverdale, MD 20723

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Please be assured that we will look into your concerns and take appropriate action if necessary.

Thank you for your interest in the welfare of these animals.

Sincerely,

Robert Gibbens, DVM
Director, Western Region
USDA, APHIS, Animal Care

cc: Charlie Currer, ACI



Safeguarding American Agriculture
APHIS is an agency of USDA's Marketing and Regulatory Programs
An Equal Opportunity Provider and Employer

FAX CUBIERTA

PARA {usda} vÃ-a eFax Messenger

EMPRESA RECEPTORA usda

NÚMERO DE FAX DEL RECEPTOR 19198557123

DE Javier Martinez

FECHA 2010-03-12 15:47:05 GMT

SOBRE

NOTAS

My license # 58-C-0657
my etinerary is march 18 to 21 Hamid circus in Hamburg,
NY. march 24 to 28 in Harrisbug Pa. april 1 to 11 Nanut,
NY



USDA, APHIS, Animal Care



E10-105

ANIMAL WELFARE COMPLAINT

Complaint No. FY#W10-093	Date Entered 11-Mar-10	Received By KMG
Referred To Jones/ Curren	Reply Due	

Facility or Person Complaint Filed Against

Name Javier Martinez		Customer/License/Registration No. 58-C-0657/ 9300	
Address 3417 Morningside Drive			
City Kissimmee	State FL	Zip 34744	Phone No 903-520-6277

Complainant

Name Mathew Jones		Organization N/A	
Address N/A			
City N/A	State N/A	Zip	Phone No./Email address mat@bibliopolis.com

How was complaint received?
E-mail

Details of Complaint: Concerned about the way the Kangaroo is being treated during the show.

Results:

Application packet provided? Yes No

INSPECTOR

DATE

REVIEWED BY

DATE



USDA, APHIS, Animal Care

ANIMAL WELFARE COMPLAINT

Complaint No. E10-161	Date Entered 4 May 2010	Received By J Meek
Referred To Smith	Reply Due 5 June 2010	

Facility or Person Complaint Filed Against

Name Javier Martinez		Customer/License/Registration No. 58-C-0657	
Address 3417 Morningside Drive			
City Kissimmee	State FL	Zip 34744	Phone No 903-520-6277

Complainant

Name (b)(6)		Organization PETA	
Address 501 Front Street			
City Norfolk	State VA	Zip 23510	Phone No./Email address (b)(6)

How was complaint received? mail

Forward response to FOIA: Yes No

Details of Complaint: Complainant states that there is a kangaroo being forced to "box" with a human. See attached video filmed 19 March 2010 in Elizabethtown, KY.

Complainant 2 saw Rocky at the Knox County Fairgrounds in Mount Vernon, OH on 1 May 2010 and was very disturbed by the treatment towards Rocky the kangaroo.

Results: Inspection in response to complaint was conducted at the JFK Memorial Coliseum in Manchester, NH, on May 18, 2010. USDA inspector was accompanied by IES investigator, (b)(6)

This was a 1-ring circus with Picadilly Circus being the headliner and we obtained seats in the VIP ringside area to have the best view of the act. We were trying to guess who Javier Martinez was based on the video provided by PETA, the complainent, and could not match anyone at the show.

"Rocky"'s entrance was made obvious with the setup of a boxing ring and a black, wooden container on casters that was rolled adjacent to the ring. He was announced by a young man, who later turned out to be Javier Martinez's son. There was an older man in the boxing ring wearing boxing shorts and gloves. After the show, he was introduced to us as Javier Martinez. Javier's other son was holding onto a leash (approx 4 ft long) and opened the wooden box/ transport container. Rocky jumped out and went straight to Javier and hugged him while the son had the end of the leash. Some music was played and

Javier and Rocky started to stand facing each other. Javier clapped his gloved hands and got Rocky's attention. This would cause Rocky to move toward Javier. Javier would allow himself to be slapped by Rocky (who was wearing white boxing gloves and red and blue boxing shorts) and Javier would sometimes fall over doing a somersault and out of the ring. Inbetween claps from Javier, which seemed to grab Rocky's attention, Rocky would hug the son. The son was holding the leash, but I never noticed the leash being pulled at any time. If Rocky rested on all fours, Javier would clap and Rocky would stand.

After Javier fell out of the ring, the announcer son asked for a volunteer from the audience. He chose (b)(6) Asked her a few questions and they put boxing gloves on her. At this point in the act, Javier is holding the leash. He is using it to restrain Rocky and I do notice some tension in the leash, but never tugging Rocky nor pulling him up with it. She went into the ring and immediately Rocky ran to her and grabbed her hair. She ran out of the ring. She once again went into the ring and Rocky ran to hug her and she fell over trying to run away.

The act lasted a little less then 4 minutes and there was not any point at which Rocky was tugged by the leash nor hit. The volunteer was Javier's wife, (b)(6) At the end of the act, (b)(6) ran off afraid, and Javier and Rocky exited the stage.

Upon speaking with Javier and his family, they reported that the volunteer is always (b)(6) They consider the act to be a comedy act, not really boxing. Javier mentioned that he used to perform with Star Family Circus, but has not for about 5 years. When he left that circus with the original Rocky, who has since passed away, the Star Family Circus got their own kangaroo who they have named Rocky and they have started their own boxing act. Javier reported that his act with the kangaroo is always the same and the video that was sent to AC was a different licensee.

I have found the complaint that Javier Martinez's kangaroo "Rocky" is being forced to box with a human, getting hit by a human, and being tugged by a leash all to be Not Valid.

Application packet provided? Yes No

INSPECTOR
Tonya Hadjis, VMO
REVIEWED BY
Michael J Smith SVMO

DATE
May 24, 2010
DATE
10-Jun-10

April 22, 2010

Elizabeth Goldentyer, D.V.M.
Eastern Regional Director
USDA-APHIS-AC
920 Main Campus Dr., Ste. 200
Raleigh, NC 27606

Dear Dr. Goldentyer,

Please consider this letter an official request for the USDA to investigate the following incident involving an exhibitor who we are assuming is **Javier Martinez of Kissimmee, Fla., license #58-C-0657**.

PETA came across a recent video (enclosed) of a kangaroo named Rocky, who was being used in a "boxing match" in Elizabethtown, Ky. The video was apparently taken on March 19 and depicts the following:

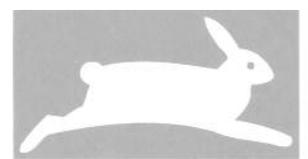
- At 00:45 in the video, the man "boxing" with the kangaroo is clearly seen striking the kangaroo in the face, sending the animal's head recoiling back.
- Throughout the entire "match," which lasts approximately four minutes, the man goads the kangaroo into "boxing" by repeatedly jabbing and hitting at the animal.
- Throughout the entire "match," the kangaroo is pulled and yanked by another man who stands behind the animal and holds a leash that is secured under the kangaroo's front legs and around his chest.

This "boxing match" appears to clearly depict violations of Animal Welfare Act (AWA) regulations, including 2.131(b)(1), 2.131(b)(2)(i), and 2.131(d)(1).

Further evidence that such use of a kangaroo is completely inappropriate for the species comes from (b)(6) of the Kangaroo Conservation Center in Dawsonville, Ga., who provided this comment on the issue (emphasis added):

From: Kangaroo Conservation Center
[mailto:tours@kangaroo-center.com]
Sent: Saturday, April 03, 2010 11:58 AM

I am very sorry to hear that a "boxing" event between a man and a kangaroo is being allowed to take place anywhere. Having worked with kangaroos for 26 years, including 12 different species, I have NEVER seen any kangaroo show any interest to box with a human. Not only have I never seen any boxing aggression directed towards a person, I know that kangaroos are naturally quiet, peaceful animals. Adult male kangaroos box between themselves to determine the strongest male in the mob, who will then have the breeding rights with females within that mob. By letting the



PETA

PEOPLE FOR THE ETHICAL
TREATMENT OF ANIMALS

501 FRONT ST.
NORFOLK, VA 23510
757-622-PETA
757-622-0457 (FAX)

PETA.org
Info@peta.org

APR 26 2010

AN INTERNATIONAL
ORGANIZATION DEDICATED
TO PROTECTING
THE RIGHTS OF ALL ANIMALS

strongest male breed, he is passing on the best genes for the next generation. Young joeys box playfully, and without aggression, as a social behavior between themselves and with their dams. **The ONLY way a kangaroo would box with a human is if that kangaroo is being harrassed, stressed, mistreated and subject to imprisonment with no means to escape. In any normal situation where a kangaroo feels threatened by a human or other predator, they will hop away. That is their means of defense. But, being held by harness or restrained by ropes or held within a small enclosure, like a boxing ring, the kangaroo has no means of escape and, like any living creature, he will try to protect himself. This forced "boxing" event between a man and a kangaroo is wrong in every way.**

Sincerely,

(b)(6)

Kangaroo Conservation Center

(b)(6)

Fax: 706-265-6261

www.kangaroocenter.com

We ask you to please thoroughly investigate the handling of the kangaroo(s) used for this act and to pursue strict enforcement of the AWA.

Thank you for your time. I can be reached at 206-367-0228 or LisaW@peta.org.

(b)(6)

Captive Exotic Animal Specialist

Enclosure: DVD; Rocky the kangaroo in Elizabethtown, Ky.; 19 March 2010

APR 26 2010

58-C-0657
9300

Mon	May	17	Durham	NH	Whittamore Center
Tue		18	Manchester	NH	JFK Coliseum
Wed		19	West Warwick	RI	Civic Center Fieldhouse
Thu		20	Fitchburg	MA	Wallace Civic Center
Fri		21	Lincroft	NJ	Collins Arena
Sat		22	Upper Marlboro	MD	Showplace Arena
Sun		23	Salisbury	MD	Wicomico Civic Center
Mon	June	7	Concord	NC	Cabarrus Arena
Tue		8	Salem	VA	Civic Center
Wed		9	Beckley	WV	Convention Center Arena
Thu		10	Corbin	KY	SE KY Expo - The Arena
Fri		11	Huntington	WV	Vet Memorial Fieldhouse
Sat		12	Dayton	OH	Hara Arena
Sun		13	pending		



4 May 2010

United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and Plant
Health Inspection
Services

Animal Care

920 Main Campus Drive
Suite 200
Raleigh, NC 27606

Tel No. 919-855-7100
Fax No. 919-855-7123

(b)(6)

PETA
501 Front Street
Norfolk, VA 23510

Dear (b)(6)

Thank you for your letter dated 26 April 2010 concerning Javier Martinez located in Kissimmee, FL. Your concern has been given complaint number E10-161. Please refer to this number when inquiring about this concern.

Please be assured that we will evaluate the situation and take appropriate enforcement action if necessary.

Thank you for bringing this to our attention and for your concern for the welfare of animals.

Sincerely,

Elizabeth Goldentyer, D.V.M.
Regional Director
Eastern Region, Animal Care



Animal Care is a part of the Department of Agriculture's Animal and Plant Health Inspection Service.

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Date 5.13.10

This FAX transmission contains 2 pages (not including this cover sheet)

To: Name Dr. Robert Gibbens
Department Reg. Dir. West Region
Company USDA
FAX (970) 494-7461

(b)(6)
From: Name _____
Telephone _____

Notes: _____

The information contained in this facsimile message may be privileged and confidential information intended only for the use of the intended recipient named above. If you are not the intended recipient, you are hereby notified that any copying of this communication or dissemination or distribution of it to anyone other than the intended recipient is strictly prohibited.

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M3587 10/06

MAY 13 2010

(b)(6)

May 13, 2010

Dr. Robert Gibbens
Regional Director West Region
United States Department of Agriculture

FAX No.: 970-494-7461

Dear Dr. Gibbens:

I spoke with (b)(6) early this morning concerning the attached article I received from a friend in Adelaide, Australia, last week. I am very concerned about what's happening to the kangaroo(s) in this article. It mentions that two of them died within 4 months. What I'd like to know is:

1. Are these kangaroo(s) still boxing?
2. If not, what are their living conditions like now?
3. Can you permanently stop Javier Martinez from exploiting these or any other animals now and in the future?

In searching who to contact about my concerns (which were numerous), I spoke with a lady named (b)(6) who told me that she is the investigator who would be going out to check on these animals. Her phone number is (b)(6). She works out of the Upper Valley Humane Society in Edinburg, Texas. Another name I heard on the answering machine (before I spoke to (b)(6)) was either the Palm Valley or Plum Valley animal facility. She also told me to contact PETA. For now, I will leave this in your hands and if you think I should contact them, please let me know.

I'm hoping that your agency can rectify this situation. I would also like to be informed of the outcome of your investigation, either directly from your office or the Freedom of Information Act.

Please help these animals. Thank you for all you do.

(b)(6)

MAY 13 2010



20 May 2010

(b)(6)

United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and Plant
Health Inspection
Services

Animal Care

920 Main Campus Drive
Suite 200
Raleigh, NC 27606

Tel No. 919-855-7100
Fax No. 919-855-7123

Dear (b)(6)

Thank you for your fax dated 13 May 2010 concerning kangaroo boxing. Your concern has been issued number E10-161. If you wish to know the results of our findings, you can do so one of two ways:

1. Inspection reports for licensees are now available on our website after a 21 day mandatory holding period. You may view or retrieve the reports at: http://www.aphis.usda.gov/animal_welfare/inspection_list.shtml.
2. If you wish to request more than inspection reports, or request the results of a complaint on a class Research Facility, you must submit a request, in writing, to our Freedom of Information Act office, using one of the following methods.
 1. Email: foia.officer@aphis.usda.gov
 2. Fax: 301-734-5941
 3. US Mail: USDA, APHIS, FOIA
4700 River Road, Unit 50
Riverdale, MD 20723

Depending on the circumstances of the situation, please allow us enough time (30 to 60 days) to thoroughly investigate your concerns.

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Please be assured that we will look into your concerns and take appropriate action if necessary.

Thank you for your interest in the welfare of these animals.

Sincerely,

Elizabeth Goldentyer, D V M
Regional Director – Animal Care
Eastern Region



Animal Care is a part of the Department of Agriculture's Animal and Plant Health Inspection Service.

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E10-161

From: (b)(6)
Sent: 05/14/2010 03:12 PM AST
To: Betty Goldentyer
Subject: Rocky the Boxing Kangaroo

Dr. Goldentyer,

On the afternoon of May 1st, I took my 4-year-old daughter to the Star Family Circus performance at the Knox County Fairgrounds in Mount Vernon, OH. She had received a free ticket at her school and had seen posters up around town. While there, we witnessed a kangaroo being brought into the middle of a makeshift boxing ring to "box" a clown. The kangaroo was restrained by a leash attached to a harness wrapped around his body under his arms. The leash was controlled by one of the circus employees. They had dressed the kangaroo in "boxing shorts" which prohibited us from being able to see his legs.

The idea was that the kangaroo would box the clown, but as the kangaroo did not show any signs of wanting to fight, the clown began punching the kangaroo. The kangaroo tried to punch back, but when he would try, the man holding the leash would pull him back until his back was arched, prohibiting him from protecting himself. When he wasn't in this uncomfortable arched position, he was trying to wrap his arms around the clown to keep him from punching.

I do not recall how long the "boxing match" lasted, perhaps 5 minutes, but when the kangaroo began trying to bite the clown and the leash holder, the announcer said the kangaroo was biting the performers so they would wrap up the performance. The clown disappeared behind the ring, the restrainer held up the kangaroo's arms in triumph, and the kangaroo was directed out of the ring and behind the curtain.

I know very little about kangaroos, but the entire performance disturbed me, primarily because it greatly disturbed my daughter. The next day she wanted to make posters to put around town about the poor kangaroo, and she wanted to write a letter to the circus, asking them to take better care of "Rocky."

Not quite knowing how to handle what I witnessed responsibly, I tried to get information about the circus, perhaps a schedule of their next few spots, from the board of the Knox County Fairgrounds. The board member I spoke with knew nothing of their whereabouts and said they had had no communication with the circus while they were here. I then contacted PETA who shared with me that the owner of the act, Javier Martinez, had been cited numerous times by the USDA for violations of the federal Animal Welfare Act. They suggested I file a complaint with the USDA which has led me to you. Please investigate this further, and let me know what more I might be able to do to help.

Thank you,

(b)(6)



20 May 2010

United States
Department of
Agriculture

Marketing and
Regulatory
Programs

Animal and Plant
Health Inspection
Services

Animal Care

920 Main Campus Drive
Suite 200
Raleigh, NC 27606

Tel No. 919-855-7100
Fax No. 919-855-7123

Dear (b)(6)

Thank you for your email of 14 May 2010 concerning Javier Martinez. Your concern has been issued number E10-161. If you wish to know the results of our findings, you can do so one of two ways:

1. Inspection reports for licensees are now available on our website after a 21 day mandatory holding period. You may view or retrieve the reports at:
http://www.aphis.usda.gov/animal_welfare/inspection_list.shtml.

2. If you wish to request more than inspection reports, or request the results of a complaint on a class Research Facility, you must submit a request, in writing, to our Freedom of Information Act office, using one of the following methods.

1. Email: foia.officer@aphis.usda.gov
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Please be assured that we will look into your concerns and take appropriate action if necessary.

Thank you for your interest in the welfare of these animals.

Sincerely,

Elizabeth Goldentyer, DVM
Regional Director – Animal Care
Eastern Region



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*Javier Martinez
58-C-0657
9300*

Mon	May	17	Durham	NH	Whittamore Center
Tue		18	Manchester	NH	JFK Coliseum
Wed		19	West Warwick	RI	Civic Center Fieldhouse
Thu		20	Fitchburg	MA	Wallace Civic Center
Fri		21	Lincroft	NJ	Collins Arena
Sat		22	Upper Marlboro	MD	Showplace Arena
Sun		23	Salisbury	MD	Wicomico Civic Center
Mon	June	7	Concord	NC	Cabarrus Arena
Tue		8	Salem	VA	Civic Center
Wed		9	Beckley	WV	Convention Center Arena
Thu		10	Corbin	KY	SE KY Expo - The Arena
Fri		11	Huntington	WV	Vet Memorial Fieldhouse
Sat		12	Dayton	OH	Hara Arena
Sun		13	pending		

FAX COVER SHEET

TO Dr. taire

COMPANY Animal Care

FAX NUMBER 19198557123

FROM Javier Martinez 58-C-0657

DATE 2010-05-04 15:49:27 GMT

RE

COVER MESSAGE
