

# EXHIBIT 5

Mike  
Enriquez 7/30/99  
\_\_\_\_\_  
\_\_\_\_\_  
Suzy \_\_\_\_\_

RECEIVED MAY 3 2002



PERFORMING ANIMAL WELFARE SOCIETY

P.O. Box 849 • Galt, CA • 95632 • (209) 745-PAWS office/shelter • (202) 529-5531 DC office • (209) 745-1809 fax • e-mail paw@capaccess.org

CONTROL NO: MRP-99-104

ORIGINAL TO: APHIS

DATE: 7/29/99

July 27, 1999

Mr. Mike Dunn  
Assistant Secretary for Marketing and Regulatory Affairs  
USDA  
AG Box 0109  
Washington, D.C. 20250-0109

*APHIS  
Please follow up  
Ⓟ*

Dear Mr. Dunn:

On December 21, 1998 PAWS filed a complaint with USDA regarding Ringling Brothers Circus based on a sworn deposition by a former Ringling Brothers crewman who testified that Ringling Brothers elephant trainers were beating the circus elephants.

In an affidavit dated January 20<sup>th</sup>, 1999  
oath to a USDA field representative

*b4* } swore under  
*Kenny  
bird*

One of the baby elephants, Benjamin, has suddenly died while traveling with Ringling Brothers' Circus in Texas. Ringling Brothers' official report that on a scheduled stop en route from Houston to Dallas Benjamin was playing in a pond with his elephant companion, Shirley, and "it appears that Benjamin died when he ventured into deeper water. Attempts to rescue him were unsuccessful", raises many doubts about the demise of this second baby elephant from Ringling Brothers' Circus. Elephants are notoriously good swimmers and death by drowning, to my knowledge, is almost unknown in elephants unless they are somehow trapped in the water.

I have also carefully reviewed my FOIA reports from USDA regarding the death of Kenny, the first baby elephant who died on 24 January of 1998. These reports indicate that Kenny was showing colicky signs, had not been drinking for 18 hours and during the second performance that day had "three episodes of diarrhea, continued to act painful and colicky and laid down and rose

*7/29  
KC*

several times" passing copious amounts of blood from his rectum. Despite these alarming symptoms, the decision was made by [redacted] to take Kenny to the arena for the performance against the advice of the veterinarian, Dr. West. According to Dr. West's report, "due to the bleeding from his rectum, he should not go in the show. [redacted] answer to this was [redacted] decide this. The elephant did go in but had a hard time standing, was very shaky, walked very slowly..." He died a few hours later.

b6

b6

[redacted] affidavit is particularly callous, he states: "It is not unusual for an animal to have diarrhea... leaving one elephant behind can create a problem with the rest of the herd" It is obvious that a smooth performance was much more important to [redacted] than Kenny's suffering. Although he apparently did not find Kenny's condition unusual, it was certainly indicative of serious medical problems and was not handled in the best interests of the animal. Diarrhea is not a usual condition for a healthy elephant and is always cause for alarm in a baby elephant. Fear induced diarrhea may be common among circus elephants, but it should never be treated as commonplace.

b6

b6

The deaths of five animals under unacceptable circumstances in less than two years should be reason enough to initiate a meaningful investigation of the Ringling Brothers Circus. I would also greatly appreciate information regarding the name and location of the property where Benjamin drowned and more details of the circumstances which caused him to drown. This was an unusual cause of death for a healthy elephant.

Thank you for your consideration in this matter.

Sincerely,

Pat Derby

