



## IN DEFENSE OF ANIMALS

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September 5, 2007

Dr. Robert Gibbens, Regional Director  
USDA-APHIS  
2150 Centre Ave., Bldg. B  
Mail Stop #3W11  
Fort Collins, CO 80526

VIA FACSIMILE (13 PAGES - W/O EXHIBITS) AND FEDERAL EXPRESS (WITH EXHIBITS)

Dear Dr. Gibbens:

I am writing to you out of grave concern for the two elephants named Tina and Jewel, who – with the full knowledge and acquiescence of your agency -- are currently confined to a facility that is unapproved by the USDA and is located in Leggett, Texas. These two Asian elephants are owned by the Cole Bros. Circus (USDA Lic. No. 58-C-0080) and leased by Georgianna Davenport, also known as “Gigi’s Exotics” (USDA Lic. No. 74-C-0358).

Based on the history documented below and in the exhibits to this report, including a detailed chronology (Exhibit 1), In Defense of Animals (IDA) believes that USDA must confiscate Tina and Jewel. The Animal Welfare Act (AWA) provides for confiscation of regulated animals at 9 CFR, Chapter I, Section 2.129. IDA believes that these elephants are experiencing unrelieved suffering and distress as a direct result of the abusive treatment, failure to provide adequate veterinary and daily care, and failure to handle animals in a humane manner by both the lessee and the owner of these elephants.

***Indeed, as this letter will painstakingly document, if any case merited confiscation of the elephants, it is this one.***

By this letter and the attachment at Exhibit 2, we inform you that The Elephant Sanctuary in Tennessee is available to accept these two elephants immediately into their quarantine facility – a facility that, unlike the makeshift Leggett location, is fully approved by the USDA and secure for both the safety of the elephants and the public. The Sanctuary is willing to take full responsibility for transport and care of these elephants and all the costs associated with both.

### **I. Tina and Jewel: Current situation**

Photographic evidence (Exhibit 3) of Tina and Jewel taken on July 25, 2007 reveals two shockingly emaciated and traumatized elephants held in a makeshift enclosure that is little more than a 20 x 20 slab of concrete surrounded by low metal barriers with two strands of hotwire on top. Their indoor facility is a tiny tin barn with no visible ventilation. USDA inspection reports from May and June of this year document the failure of this facility to comply with AWA regulations. (Exhibit 4).

While it is IDA's understanding that Tina and Jewel have recently been moved to a slightly larger enclosure and windows have been cut into the tin shed for ventilation, we believe that the facility remains both woefully insufficient for these elephants as well as in clear and continuing violation of AWA regulations.

## **II. History of abuse, neglect and AWA violations by Tina and Jewel's exhibitors**

According to your agency's own inspection reports and documents, Tina and Jewel have for years been subjected to abusive and neglectful treatment by both Cole Bros. Circus (formerly known as Clyde Beatty-Cole Bros. Circus) and the Davenport family. A third surviving elephant, Queenie, has reportedly been "owned" by the Davenports for decades and has also been subjected to abusive treatment – again, reported by your own agency. (Exhibits 1, and 4).

- Feb. 12, 2001: USDA investigated report of "inadequate control...**and use of physical force**" on Tina.
- Sept. 16, 2003: Tina and Jewel were beaten by handler. According to a sworn statement, an eyewitness saw " a guy come out of a motor home with a feeding bucket and a black pool stick with a silver point on it and with **2 hands like holding a baseball bat, proceeded to beat 2 elephants ...about the backs, sides, head, trunks. The guy had no reason!**" The night watchman acknowledged hitting the elephants with the bullhook " to make them be quiet." (Emphasis added.)
- June 23, 2004: USDA cited Cole Bros with "physical abuse" for incident in which three eyewitnesses saw **a circus employee hitting Jewel about the head and face with a PVC pipe.** The elephant gave a "**grunt and then a high pitched sound.**" The USDA sent three inspector-veterinarians to investigate this complaint. The handler admitted hitting Jewel, but said that "he did not hit the elephant hard enough to hurt it because the plastic/PVC pipe did not break." The inspectors noted an area of abnormal looking skin over the bony areas of Jewel's forehead and an area of red tissue over her left eye. (Emphasis added.)
- March 30, 2007: USDA documented abuse of Queenie (aka Boo) by the handler who is also responsible for Tina and Jewel:

*" . . . Multiple wounds draining yellowish exeduate (sic) on the inside of the left ear canal. The handler said they hadn't noticed it and there was no evidence that a veterinarian had seen the wounds or attended to it. While there is no proof of how the wounds were caused, they would be consistent with the improper use of an ankus in the ear. "*

***"The handler had to continuously rely on excessive and inappropriate use of the ankus to get the elephant to perform the behaviors he was asking for during the rides and performances. . . during the rides and performances, the handler***

*was observed repeatedly jabbing and hitting the elephant with the ankus. Several times during the elephant ride, the handler used the ankus to hit the Elephant and she reacted by throwing her head and changing her gait demonstrating irritation at the action of the handler. . . **This is inappropriate and abusive use of the ankus and such use is likely to cause trauma, behavioral stress, physical harm or unnecessary discomfort.** . . . This type of inappropriate use can cause the elephants to become more aggressive behavior (sic).” (Emphasis added.)*

### **III. Exhibitors provide grossly inadequate veterinary care for seriously ailing elephants**

Tina and Jewel have been provided with egregiously inadequate care, resulting in both elephants suffering from what the Cole Bros Circus’s own veterinary expert termed “alarming” weight loss, especially Jewel who lost an astonishing 2,000 pounds. (Exhibit 4) This has been repeatedly documented by your inspectors over the past ten months, as these excerpts from USDA inspection reports demonstrate:

*“I observed two Asian elephants, Tina (40 yrs.) and Jewel (42 yrs.) Jewel appears to be underweight. The musculing along both sides of her spine appears sunken or hollowed out. Her spine is very prominent.” (Michelle B. Williams, DVM, Oct. 24, 2006)*

*“42-year old female Asian elephant Jewel is noticeably thin. Based on comparison photos taken by USDA personnel between October 2006 and Feb. 2007, this animal appears to be chronically thin. Jewel has a sunken appearance in her face. Her spine is prominent and her ribs are visible when she walks. During November 2006 inspection, the elephant handler was instructed to acquire weight on Jewel by November 27 so that her condition can be properly monitored. The elephant’s weight was not evaluated until 02 Feb. 07. The long delay in assessing this animal’s weight is not considered appropriate considering her body condition.” (Inspector name redacted, Feb. 16, 2007)*

*“The female Asian elephant Jewel is still noticeably thin. . . travel restrictions and prohibiting public contact with these elephants is necessary to ensure the health of both elephants and the public by minimizing the potential spread of tuberculosis.” (Denise Sofranko, DVM, March 18, 2007)*

*“The female Asian elephant Jewel is noticeably thin. The spine is prominent as is the pelvis. The areas above the eyes are very sunken. The neck appears very thin. . . . Jewel is not gaining weight despite an apparently adequate diet. The cause of her being underweight is still undiagnosed.” (F. Binkley, DVM, April 10, 2007)*

*“The expert [in elephant health called in by Cole Brothers to evaluate Tina and Jewel] determined that both elephants showed an alarming amount of weight loss and that Jewel was not fit to continue traveling with the circus. The expert felt that both elephants should be kept together and should be moved to the winter quarters for the Cole Brothers Circus in Deland, FL, where they could be closely monitored and have access to veterinarians experienced in elephant health. . . . In early May, the elephants were moved to Leggett, TX instead of Deland, FL. . . The Leggett facility is currently not an approved site location and currently cannot provide the same degree of care, monitoring or access to veterinarians experienced in elephant health as the Deland, FL winter quarters for Cole Bros. Circus. . . . Jewel is still visibly thin.”*  
(Ernest Johnson, DVM, May 16, 2007)

***Note: USDA has taken no action against Gigi’s Exotics for moving the elephants to an unapproved location in direct contravention of the recommendation of the veterinary expert consulted by Cole Bros. Circus. USDA has apparently acquiesced to the housing of these elephants at this unapproved facility that cannot provide the same degree of care (including access to veterinarians experienced in elephant health) as the Florida location.***

#### **IV. Exhibitors have chronically violated federal law**

With the full knowledge and acquiescence of your agency, Tina and Jewel remain in the hands of individuals who have chronically violated the AWA and have been found by your own agency to be unqualified and untrained in both the handling of elephants and the provision of adequate veterinary care.

##### **A. Georgianna Davenport (Gigi)/Gigi’s Exotics**

Before leasing Tina and Jewel, Gigi’s Exotics traveled and performed with other animals, including two camels and the elephant named Queenie, also known as Boo, who has “been in the Davenport family for 32 years.” Gigi’s Exotics has a history of violating the Animal Welfare Act: In July 2004, Gigi’s was assessed an \$1100 penalty for multiple violations of the AWA documented in USDA inspections dated May 15, 2002, October 20, 2003, and December 4, 2004. (Exhibits 1 and 4) The violations, at least some of which related to the care and treatment of Queenie/Boo included:

- “Failure to provide and implement a written program of veterinary care.”
- “Failure to handle animals in a manner so as not to cause trauma, overheating, excessive cooling, behavioral stress, physical harm or unnecessary discomfort.”
- “Failure to provide appropriate methods to prevent, control, diagnose and treat diseases and injuries for the elephant named Boo.”

Since leasing Tina and Jewel in January 2006, Gigi’s Exotics has again been repeatedly cited for the same violations by your agency, including:

- Ten citations for failure to provide adequate veterinary care, half of those repeat (uncorrected) non-compliances.

- Seven citations for failure to handle animals in a safe and humane manner, six of those repeat (uncorrected) non-compliances.

## **B. Will Davenport, son of Gigi**

Although the name is redacted in USDA inspection reports, news reports, Internet postings and confidential sources (See Exhibits 1 and 2) indicate that Tina and Jewel's handler is Will Davenport, son of Gigi and John Davenport (see below). He also reportedly handles Queenie.

Evidence of Will Davenport's involvement as handler of Queenie, Tina and Jewel includes:

- A Leesville Daily Leader (Feb. 3, 2006) article on the American All Starr Circus (one of numerous Davenport circus identities) reported that Queenie's handler is Will Davenport and that "*Queenie has been in the Davenport family for 32 years.*" (Exhibit 5)
- A June 11, 2006 a review of the Cole Bros. on a circus review website (<http://www.circusrevue.com/2006circusvisits.htm>) stated, ". . . *This year at selected performances the elephants have returned now owned by Gopher Davenport and handled by his son. The only thing I can say is young Davenport needs to put away the bull-hook on these two elephants as Adam Hill never used the hook on these two in previous years. All the animal rights people need is to see how he is handling these two elephants, Tina and Jewel and there will be a lot more flax (sic) about not having animals in circuses.*" (Exhibit 6)
- A July 17, 2007 posting by Gigi Davenport to a circus email list entitled, *My Wonderfull (sic) Son 'Will' stated: He is an amazing person, his love for these animals is nothing less than a gift from God. He has suffered from people making ugly judgments to his qualifications. Being born and raised in the circus and around animals all his life. Common sense, book smart and animal sense, he has it all. God Bless him. He is an amazing young man and hasn't done anything wrong. I pray everyday that God will let the USDA see the truth and tell us (what it is) and take that ugly cloud off my son's head and just let him do what comes so very natural to him, taking care and loving these incredible animals.*" (Exhibit 7)

Your agency has documented the lack of experience and training on the part of the elephant handler, apparently Will Davenport, for Gigi's Exotics:

- Queenie found to have "*excessive dead skin over most of her body and doesn't show evidence of proper bathing for quite some time. She has some urine staining and what appeared to be urine scalds on her back legs. The pads on this elephant had excessive growth and there were numerous flaps of skin that had trapped debris in them. The cuticles were also excessively long and in need of attention.*" (March 30, 2007) Note: foot disease is one of the main causes of elephant suffering in captivity and is currently the subject of a rulemaking petition submitted by IDA to USDA . The fact that this is a well-known cause of elephant suffering and that the Davenports and Cole Bros. Circus continue to fail to address it, makes these transgressions all the more egregious. Similarly, USDA's inaction against these exhibitors who have repeatedly failed to properly care for the elephants' feet is similarly egregious.

- *“The main handler . . . stated that he had been trained in November and December 2006 by another handler. That handler is not qualified to train in areas of elephant handling and husbandry. He told us he had worked with horses a little, but other than that he had no animal handling or husbandry experience or training. The backup handler said that he had worked as an assistant for about a year, but before that did construction work and had no elephant experience. He feeds, waters and handles the elephant and is a “loader” for the elephant rides.*

*When we asked the handler to demonstrate behaviors with the elephant he had trouble getting her to consistently do basic things like pick up her feet for an exam. He had to prod her excessively with the ankus to get the desired behavior and sometimes could not get the behavior completed. The handler was not able to demonstrate adequate control of the elephant. Handler does not appear to be adequately trained in foot and skin care. This was noted when the feet were in need of trimming and he could not identify this. He did not appear to understand the importance of frequent bathing and proper care for the elephant. The license was not present at the time of the inspection and no one could tell us where she was. There was no one on site that appeared to have adequate training or experience to properly and safely handle the elephant.” (March 30, 2007) (Emphasis added.)*

*“The licensee was not present during the inspection and no one could tell us where she was. Currently there is not an elephant handler with appropriate training and experience traveling with this group.” (April 16, 2007)*

(All excerpts from inspection reports at Exhibit 4)

### **C. John Davenport**

John (Gopher) Davenport is the husband of Gigi Davenport and father of Will Davenport. His USDA exhibitor license was revoked in 1998 and he was barred from animal exhibitor business and assessed a \$200,000 fine by the UDA after the overheating death of a baby elephant named Heather in the back of a poorly-ventilated truck in Albuquerque, NM. (Exhibit 8) These grossly negligent and cruel conditions were first documented by the City of Albuquerque, which filed criminal cruelty charges against Davenport employees, including Benjamin “Derrell” Davenport. . John Davenport operated the now-defunct King Royal Circus.

Prior to the tragic death of Heather, the USDA had repeatedly cited King Royal Circus for failing to provide adequate veterinary care, failing to provide adequate space, and failing to handle animals humanely. In 1996, King Royal was formally charged with AWA violations and assessed an \$8,000 fine in conjunction with the public beating of a young bull elephant named Mickey.

By court order (Exhibit 8), John Davenport is legally barred *“directly or indirectly, through any corporate entity, agent or other device, from engaging in any activity as an exhibitor or dealer within the meaning of the Animal Welfare Act and the Regulations; in particular . . . barred . . . from operating as an independent contractor in conjunction with any exhibitor or dealer, or from leasing, renting, or otherwise providing animals to any person or entity or undertaking engaged in business as an exhibitor or dealer.”*

However, confidential sources have alleged to IDA that John “Gopher” Davenport continues to operate in the exotic animal business through family members with current USDA exhibitor licenses. There are currently four USDA exhibitor licenses held by Davenport family interests. One of those is Gigi’s Exotics. The other three are: Billie Davenport (reportedly John Davenport’s niece), USDA Lic. No. 74-C-0748; Juan and Delores Davenport/ Delores Pets, USDA Lic. No. 74-C-0612; and Maximus Tons of Fun, USDA Lic. No. 74-C-0762. Tellingly, all three use the same Post Office Box in Gainesville, Texas for USDA registration purposes.

John Davenport’s alleged continued involvement in the circus business – which, if true, would be illegal per the above-referenced USDA settlement -- was publicized in this May 1, 2003 CircusNews.com report: *“Gopher Davenport has revived the venerable old Bailey Bros Circus title for two units touring in the Dakotas and elsewhere this season. Initial reports stated that the Davenport family’s Starr Bros Circus would be making the High Plains tour, but advance publicity for the show reveals the Bailey Bros title. While one section of the Bailey show plays dates in the Dakotas, another section under the direction of Chewy Davenport will tour in Texas. While early American circuses included the Geo F Bailey show, and the later Molly Bailey Circus, it was showman James A Bailey who made the name famous as owner of the Barnum & Bailey show. Later Bailey titles benefited from the well known name.”* (Exhibit 9) (<http://www.circusnews.com/modules.php?name=News&file=article&sid=2046>).

News reports and USDA inspection reports document that Tina, Jewel and Queenie have performed under Gigi’s Exotics at circuses using both the “Bailey Bros.” and “Starr” circus names. (See Exhibits 4 and 5.) Further indication of John Davenport’s involvement in the exotic animal business – which if true would be illegal pursuant to the above-referenced USDA settlement – was provided in a June 11, 2006 a review of the Cole Brothers on a circus revue website (<http://www.circusrevue.com/2006circusvisits.htm>) stating, “. . . This year at selected performances the elephants have returned now owned by Gopher Davenport and handled by his son.” (Exhibit 6)

This involvement, if true, would not only be patently illegal and a blatant thumb at the nose of your agency and compliance with the law, it would also further jeopardize the health and well-being of all three elephants, given John “Gopher” Davenport’s egregious history of AWA violations.

## **V. Exhibitor has endangered public safety as well as elephant welfare.**

Gigi’s Exotics has endangered public safety by failing to properly test elephants for tuberculosis and allowing the public to be in close contact with elephants (including on elephant rides) who were not sufficiently controlled by their handlers due to inexperience and improper training. (Exhibits 1 and 4)

### **A. Tuberculosis**

This highly contagious, infectious disease, was likely first transmitted to elephants by their human handlers. It is a particular problem in the circus industry.

- When USDA inspected Gigi's on Feb. 15, 2007, the last confirmed negative TB tests were from November 2005. USDA was concerned about TB infection because of Jewel's extreme weight loss.
- TB cultures taken in Feb. 2007 were negative but USDA was still concerned about TB due to undiagnosed weight loss.
- Tina and Jewel are reportedly in quarantine in the makeshift Leggett, Tex. location that is unapproved by the USDA, although when IDA investigators saw the elephants on July 25, 2007, they were unattended in an enclosure 20 yards off a state highway and easily accessible to anyone who might walk up to them.

#### **B. Unsafe public contact with elephants**

The USDA's March 30, 2007 inspection report documents a number of disturbing public safety transgressions and potential psychological trauma as well as desensitization to animal abuse and cruelty for people witnessing the abuse of these elephants/the elephant (name them/her) as documented by your agency, including:

- *“During the rides and performances, the handler was observed repeatedly jabbing and hitting the elephant with the ankus. Several times during the elephant ride, the handler used the ankus to hit the elephant and she reacted by throwing her head and changing her gait demonstrating irritation at the action of the handler. This is inappropriate and abusive use of the ankus and such use is likely to cause trauma, behavioral stress, physical harm or unnecessary discomfort. This type of inappropriate use can cause the elephant to become more aggressive behavior (sic).”*
- *“During an observed performance, the public, including many children, were allowed to sit on the floor of the performance space on mats. The location of the mats was directly in front of the enclosure used to contain the elephant between rides and performances. The elephant was behind a wire “tape” that was not electrified and there was one other metal gate type barrier around the area that was about 4 feet high. There was no attendant with the elephant during much of the time the public was directly in front of the elephant.”*
- *“At one point during the rides, the elephant was at the ride loading stand and a child was near the steps. . . She had a balloon that fell inside the enclosure and the adult who was with her opened the enclosure to allow the child inside to retrieve her balloon. She entered the enclosure behind the elephant out of site of the handler who was at the front of the elephant. There was nothing to prohibit this child from being in the same space as the elephant and it didn't appear that any of the licensee's representatives were even aware that she was in the enclosure.”*

## **VI. “Owner’s” of Tina and Jewel have similarly egregious history of elephant abuse and AWA violations**

While leased by Gigi’s Exotics, Tina and Jewel continue to be “owned” by Cole Bros. Circus, which itself has a long history of abuse, neglect and violating federal law.

In April 1999, the USDA charged Cole Bros. Circus (then Clyde Beatty-Cole Bros. Circus) with AWA violations related to the inhumane handling of elephants. *“We believe that on numerous occasions employees of the Clyde Beatty-Cole Brothers Circus abusively used an elephant hook on several animals. Charges of abuse are always among the most serious. And, it both angers and saddens me when I hear allegations such as these,”* Michael Dunn, Undersecretary for the USDA’s marketing and regulatory programs wrote in a statement issued in conjunction with the charges. The charges were settled when Cole agreed to hire a consultant approved by the USDA, and implement recommendations made to improve elephant handling and care.

Despite the agreement, USDA inspectors continued to cite Cole Bros. for AWA violations, including the chronic failure of this circus to provide adequate veterinary care for ailing elephants and inhumane handling of elephants. This situation is similar to the current one; an exhibitor is charged with violating the AWA, the exhibitor settles the charges for a nominal fee (in the Cole Bros. case, the fine was actually waived), the exhibitor continues to flagrantly and chronically violate the AWA, and the USDA simply catalogues the violations in inspection reports but takes no significant enforcement action. The exhibitors thumb their noses at federal law with impunity.

### **A. Physical Abuse**

- Feb. 2-3, 2000: USDA inspectors document bullhook scars identified on Cole Bros. elephants Helen and Bessie, cite Cole for inhumane handling.
- June 13, 2000: Former Clyde Beatty-Cole Bros. Circus elephant trainer Tom Rider testifies before Congress with eye witness account of the beating of a Cole Bros. Circus elephant named Pete (Petunia) by five trainers with bullhooks.
- Feb. 12, 2001: Complaint about “inadequate control . . . and use of physical force on Tina, by Cole Bros. employee.
- Sept. 16, 2003: Eye witness sworn statement submitted to South Carolina law enforcement agency attesting to the beating of Tina and Jewel with a stick (probably bullhook) wielded like a baseball bat “about the backs, sides, head, trunks.” Watchman admitted to hitting elephants to “make them be quiet.”
- December 2003: USDA fines Cole Bros for improper handling of an elephant after receiving a videotape of a Cole Bros. handler hitting an elephant with a broom.
- June 23, 2004: USDA cites Cole Bros. for improper handling and physical abuse after Massachusetts Police receive three eyewitness reports of Cole Bros. handler hitting Jewel on

the head with a PVC pipe. Handler admitted to hitting the elephant. Inspector identified wounds consistent with incident on Jewel's head.

#### **B. Inadequate Veterinary Care/ Forcing ailing, disabled elephants to perform**

Cole Bros. Circus has a horrendous history of forcing disabled and arthritic elephants to travel and perform, and failing to provide desperately needed veterinary care to these ailing elephants.

- 1997: USDA issues warning to Cole Bros. Ola died at age 40 under suspicious circumstances after the circus tranquilized her to trim her feet (not standard procedure); for 28 – 29 hours leading up to her death, Ola was unable to stand. She had been taken off the road by the circus due to hip problems.
- Sept. 10-11, 1998: USDA cites Cole for inadequate vet care, noting that three of the elephants (Conti, Helen and Pete) have gait abnormalities. *Performance behaviors and requirements and other circumstances that might cause pain, distress or strain on the individual animals should be addressed.*””
- August 1999: Cole takes Pete and Conti off the road due to numerous public complaints about their health. The two elephants died shortly after, within two weeks of each other. The necropsy on Pete indicates that she collapsed in a field and lay there for two and a half days until they brought in a crane to help her up. *“She stood for several minutes, ate hay, drank water, sprayed herself down and then urinated multiple liters of dark red/brown urine. She then laid down and died.”* Pete had hemorrhaging throughout her body and significant degenerative joint disease and arthritis. (There were no records to indicate that Pete's arthritis had ever been diagnosed or treated.) The necropsy on Conti was never published.
- August 1999: Monmouth County SPCA in New Jersey filed animal cruelty charges against Clyde Beatty-Cole Brother Circus for overworking and overloading an elephant named Helen who appeared to suffer from a crippling knee injury.\
- Feb. 2000: Seven years prior to ordering Tina and Jewel off the road, USDA ordered Cole to keep Bessie off the road at the circus' winter quarters after she was found bleeding after and/or during urination and had not been diagnosed or treated for that condition. USDA also found that neither Bessie or another elephant named Helen had received foot care for three months, \both elephants had scars from hook wounds, and Helen had not received necessary vet care for an injury to her tail. The USDA determined that Cole Bros. lacked a veterinarian experienced in the care of elephants. There were no records to document the TB status of the elephant handlers that had direct contact with the elephants in the past year.
- March 9, 2000: Three veterinarians reviewed videotape of Helen being forced to give rides and pull a caravan of heavy tiger cages. Under oath they described Helen's disability as a chronic, degenerative condition causing pain-related lameness and instability, a condition that would be aggravated by the work they observed her doing. The vets

recommended that Helen be removed from service, but Cole continued to work her in the circus for at least six more months.

- September 2000: Helen was retired by Cole to a private facility in Missouri operated by Murray Hill, father of Cole Bros. trainer Adam Hill. (Helen had been forced to work for more than two years after her disability was first documented.). Helen, age 42, was euthanized by Hill six months after she arrived at his facility.
- June 14, 2001: Bessie back on the road, and USDA inspection report documents multiple complaints involving her, “regarding excessive vocalizations during performances, when on or off loading from her trailer and an inability to walk.” The report notes that she has been diagnosed with arthritis and that she is notably short-strided in both legs.
- July 22, 2002: Knoxville Zoo veterinarian Ed Ramsay reviewed videotape of Bessie and commented that her arthritic condition was “**painful....Extended periods of exercise and forced performance of unusual leg motions may very well cause this animal to suffer.**”
- Nov. 18, 2002: Cole Bros. retires Bessie to the Wild Adventures Theme Park in Valdosta, Georgia. She had been forced to work for at least a year and a half since arthritis and difficulty walking were first documented.

On May 6, 2004, Clyde Beatty-Cole Bros. Circus announced that they have changed their name to the New Cole Brothers Circus and decided to discontinue using elephants in their shows. Shortly thereafter, they sent Tina and Jewel on tour with Walker Brothers Circus, the owner of which (John Caudill, Jr.) and his son had just pleaded guilty in a federal administrative court to 18 AWA violations. The Caudills were ordered to pay a \$25,000 fine, and their circus exhibitor’s license was suspended for five years. The USDA had charged Walker Bros. and its employees with causing physical harm and discomfort, failing to provide veterinary care to an emaciated elephant, holding an elephant suffering from severe chemical burns and a bacterial infection, having several elephants with potentially deadly foot problems, allowing unsafe public contact and operating without a USDA exhibitor’s license.

While Tina and Jewel were traveling with Walker Bros., USDA cited Cole for AWA violations in the beating of Jewel with a PVC pipe and for failure to provide adequate veterinary care to its two surviving elephants.

## **VII. Grave concerns about Queenie**

IDA is also gravely concerned about Queenie, the elephant who has been in the Davenport family and whose whereabouts are unknown to IDA at this time. USDA has documented the abuse of this elephant and the failure of the exhibitor to provide her with adequate care. Your inspector has witnessed her being abused with the ankus and visually identified pus-oozing wounds, consistent with ankus abuse, in her ears. IDA urges USDA to pursue the whereabouts and welfare of Queenie vigorously, and to take action on her behalf before her health deteriorates to the point of the same severe debility that Tina and Jewel are now experiencing.

## **VIII. Conclusion**

In the past ten months, your agency has inspected Gigi's Exotics an unprecedented 12 times and documented dozens of AWA violations, the majority of them repeat non-compliant items (i.e. uncorrected violations), many of which directly jeopardize the health and well-being of the elephants. Prior to this your agency cited the elephants' "owner," Cole Bros. Circus, with dozens of AWA violations, including egregious failure to provide adequate veterinary care and inhumane handling of elephants, over a seven year period.

**The USDA has done little more than catalogue the enormous number of violations of the Cole Bros. Circus and the Davenports as the violations have accumulated to mountainous proportions. Yet, no significant enforcement action has been taken, despite the horrific track record of cruelty perpetrated on these elephants – a track record documented in the inspection reports of your own agency.** Worse, one of the few instances in which USDA did take significant action – the permanent revocation of John Davenport's exhibitor's license – is apparently being made moot by the former licensee's continued and apparently illegal involvement in the exotic animal/circus business.

**Once again, your agency is exercising its enforcement responsibilities on paper only.** Unfortunately, this is consistent with multiple USDA Inspector General reports – e.g., March 1992 (Audit Report Number 33002-0001-Ch), January 1995 (Audit Report Number 33600-1-Ch), and September 2005 (Audit Report Number 33002-3-SF) – all of which repeatedly document that your agency cannot or will not enforce the Animal Welfare Act.

Tina and Jewel's current situation stands as a clear-cut example of USDA's failure to act to uphold the AWA. These elephants remain sequestered at an unapproved facility in rural Texas, in the care of an exhibitor and handler whom your own agency has deemed to be inexperienced and untrained. They are in desperate need of veterinary care yet dependent on an exhibitor with a long history of failing to provide adequate veterinary care and husbandry for elephants. Further, Tina and Jewel's fate may ultimately be in the hands of an individual whose exhibitor's license was revoked nearly a decade ago due to gross negligence and abuse! Finally, they are "owned" by a circus with a horrendous history of abuse and negligence, and one documented by your own agency over and over to have failed to provide adequate veterinary care, husbandry, shelter, and handling to ailing elephants, and these currently ailing elephants – Tina and Jewel in particular!

The USDA's frequent inspections of this exhibitor over the past ten months are commendable, however, the lack of enforcement action is a travesty. Four of five other elephants who have been "retired" from the Cole Circus died within weeks of being taken off the road. IDA is gravely concerned that Jewel and Tina face the same fate if they are left at the mercy of circus interests with a long history of abusing elephants and violating federal animal welfare law. The condition that is causing significant weight loss in both of them remains undiagnosed and untreated.

**As stated at the beginning of this complaint, given the overwhelming amount of evidence regarding abuse, suffering and repeated, uncorrected violations of the AWA as documented herein, if any case merited confiscation of the elephants, it is this one.**

IDA Complaint on Tina and Jewel

September 5, 2007

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Fortunately, The Elephant Sanctuary stands ready to accept these elephants immediately at its USDA-approved quarantine facility, where it can provide them with the top-notch veterinary attention and general care they so desperately need. Please note that even the Cole Bros.' veterinary consultant acknowledged Tina and Jewel's urgent need for such care, that, in his opinion, could have been provided with a move to the Cole Brothers Winter Quarters in Deland, FL. Yet Tina and Jewel were moved instead to a makeshift facility in rural Texas, to a location that your agency's own inspector specifically stated jeopardized their health.

Your agency's repeated failure to enforce the Animal Welfare Act regarding life and death matters for elephants is becoming more and more intolerable as elephants continue to suffer and or die. Please do not allow Tina and Jewel to join the ranks of elephants who have lost their lives due to the gross negligence of the U.S. facilities that have held them captive.

IDA believes the evidence documented in this complaint is both overwhelming and compelling: The USDA must confiscate these elephants immediately and send them to The Elephant Sanctuary in Tennessee.

Thank you for your consideration.

Sincerely,

Suzanne Roy  
Program Director

Exhibit 1: Chronology

Exhibit 2: Letter from The Elephant Sanctuary

Exhibit 3: Photos taken by IDA investigator

Exhibit 4: USDA inspection reports 2006-2007 for Gigi's Exotics

Exhibit 5: Leesville Daily Leader article

Exhibit 6: "Crash Moreau's" circus review posting

Exhibit 7: Gigi Davenport email, "My Wonderfull (sic) Son Will"

Exhibit 8: Court decision on John Davenport

Exhibit 9: Circusnews.com posting