

August 3, 2016

***VIA FAX to 416-961-7904, Page 1 of 4 Pages**

Advertising Standards Canada
175 Bloor Street East,
South Tower, Suite 1801
Toronto, Ontario
M4W 3R8

Cc:
Toronto Transit Commission
1900 Yonge Street
Toronto, Ontario
M4S 1Z2
By email: ttcfollowup@ttc.ca

To Whom It May Concern:

RE: Complaint re: Shrine Circus misleading transit advertisements

I write to you on behalf of Animal Justice, a national animal law organization focused on protecting animals.

Please accept this letter as a formal complaint regarding a misleading Shrine Circus advertisement (“the Shrine Circus ad”) appearing on Toronto transit vehicles in violation the Canadian Code of Advertising Standards.

The advertisement

The Shrine Circus ad promotes the Shrine Circus' 2016 summer tour in Canada, known as “Spectac!”. The ad lists the Shrine Circus’ website, where the summer tour schedule can be obtained. The Shrine Circus has been performing in Ontario and has additional shows scheduled throughout the month of August.

A photo of the Shrine Circus ad is available below. The ad was seen on the 512 St. Clair Street Car in Toronto, Ontario on July 26, 2016.



The main image in the Shrine Circus ad is that of an elephant in the midst of being used in a circus performance, interacting with a woman wearing circus attire.

By using an image of a performing elephant, the Shrine Circus ad is representing that elephant acts are a part of the Summer 2016 “Spectac!” tour. This is false.

In reality, elephant acts will not appear in the summer 2016 Shrine Circus tour because **the U.S. Fish and Wildlife Service (FWS) refused to issue permits allowing elephants to be transported to Canada for use by the Shrine Circus.**

In past years, the Shrine Circus has contracted with Tarzan Zerbini, a U.S.-based company that produces elephant performances and rents elephant shows out to a variety of circus operations. In 2014, the FWS granted permits to Tarzan Zerbini for the export to Canada and re-import into the U.S. of Shelley and Marie – two endangered Asian elephants who have used in Shrine Circus shows.

This year, the FWS chose to suspend the Tarzan Zerbini permits after uncovering deception by Tarzan Zerbini. As an organization seeking export/re-import permits for endangered animals, Tarzan Zerbini was required to show that its activities would enhance the survival of that species.

As there is no demonstrable conservation benefit to exploiting animals in circuses, the FWS had previously allowed Tarzan Zerbini to pledge to donate a substantial amount of

money to conservation organizations in satisfaction of the survival enhancement requirement. On that basis, the permits had been issued. However, this year a U.S. government investigation revealed that Tarzan Zerbini had in fact contributed less than half of the pledged amount to conservation organizations. The FWS suspended Tarzan Zerbini's elephant permits on April 21, 2016.¹

The Shrine Circus organization acknowledges on its website in a June 17, 2016 media release that the FWS denied permits to transport Shelley and Marie to Canada.²

The Canadian Code of Advertising Standards

The Canadian Code of Advertising Standards ("the Code") is designed to help maintain, *inter alia*, honesty, truth, and accuracy in advertising. The Code should be adhered to both in letter and in spirit.

Clause 1 of the Code makes it clear that in assessing accuracy and truthfulness, it is the general impression of the advertisement left on the viewer that must be taken into account, and not the intent of the advertiser.

Clause 1(a) provides that "Advertisements must not contain inaccurate, deceptive or otherwise misleading claims, statements, illustrations or representations, either direct or implied, with regard to any identified or identifiable product(s) or service(s)."

The Shrine Circus ad is in flagrant violation of Clause 1(a), as the ad inaccurately leaves viewers with the general impression that the Shrine Circus summer 2016 tour will include elephant performances. The ad does not disclose that elephant travel permits were denied based on the deceptive conduct of Tarzan Zerbini.

It is important to situate this misleading advertisement within the broader societal context. Using elephants for entertainment is becoming less and less acceptable in North America with each passing year. Most Canadian zoos (and many American zoos) have sent their elephants to live at sanctuaries, recognizing that elephants have complex social and behavioural needs that cannot be kept in captivity.³

After 145 years, Ringling Brothers and Barnum and Bailey recently eliminated elephant acts from their shows. The circuses chose to abandon elephant performances because of strong public pressure to do so. In announcing the change, company representative Kenneth Feld cited shifting societal attitudes, stating, "There's been, on the part of our

¹ <http://www.businessinsider.com/loophole-enabled-trading-of-1300-endangered-animals-2016-6>

² <http://shrine-circus.com/shrine-circus-update/>

³ <http://www.animaljustice.ca/blog/wildlife-captivity-elephants-canada-dont-mix/>

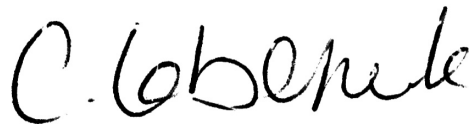
consumers, a mood shift where they may not want to see elephants transported from city to city.”⁴

The FWS permit cancellation is the latest blow to the outdated practice of using elephants for entertainment. Yet instead of acknowledging that Shrine Circus contractor Tarzan Zerbini’s wrongful conduct caused the permits to be cancelled, and that using elephants in circuses is no longer acceptable, Shrine Circus is instead attempting to mislead consumers into believing that elephants will still perform in Shrine Circuses this summer, and that it would be acceptable for them to do so.

We ask that you take immediate action to ensure that misleading Shrine Circus advertisements are withdrawn from display on Toronto Transit Commission property and anywhere else that they may appear.

Thank you for your consideration. Please do not hesitate to contact me at camille@animaljustice.ca if you should have any questions.

Yours sincerely,

A handwritten signature in black ink that reads "C. Labchuk". The signature is written in a cursive, flowing style.

Camille Labchuk, BA, JD
Barrister & Solicitor
Executive Director

⁴ <http://www.nytimes.com/2015/03/06/us/ringling-brothers-circus-dropping-elephants-from-act.html>