**SeaWorld Questions Ethics of *Blackfish* Investigator**

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LOS ANGELES — SeaWorld Entertainment, which has come under fire after the release of “Blackfish,” a critical documentary about whales in captivity, struck back Thursday at one of its government monitors for her supposed cozy relations with animal-rights activists and involvement in the film.

“Blackfish” has become a rallying point for those who oppose the use of killer whales for entertainment in the SeaWorld parks, and it has drawn large audiences in theaters and on TV. But SeaWorld has defended its practices, mounting an aggressive pushback against the film.

The company continued its counterattack with a complaint delivered Thursday to the Labor Department. It accuses the official examining an orca’s 2010 fatal attack on a SeaWorld trainer of ethical violations, including leaking confidential documents to the makers of “Blackfish.”

SeaWorld asked the agency to investigate the leak, and accused the investigator, Lara A. Padgett, of having improper dealing with both animal-rights activists and the makers of the film, whom she cheered via social media and joined at the Sundance Film Festival and at a New York premiere last year.

Gabriela Cowperthwaite, director of “Blackfish,” attended a screening at the Sundance London film festival last year.  Credit Gareth Cattermole/Getty Images for Sundance London

“Blackfish,” which is directed by Gabriela Cowperthwaite, focuses on the killing of the trainer, Dawn Brancheau, by an orca named Tilikum. The film was acquired by Magnolia Pictures and CNN Films at Sundance in 2013, and took in about $2.1 million at the domestic box office. It then rolled up a large audience when the CNN cable channel first broadcast it in October, and has since become available from Netflix.

The singers Willie Nelson and Martina McBride backed out of SeaWorld’s “Bands, Brews & BBQ” concert series under pressure from animal-rights groups. Activists also protested SeaWorld floats at the Rose Bowl and Macy’s Thanksgiving Day parades.

SeaWorld has responded with a fierce public relations campaign that included an unusual open letter to movie critics claiming that “Blackfish” was misleading and agenda-driven.

With its filing Thursday, SeaWorld added a demand that the government remove Ms. Padgett, a compliance officer with the Occupational Safety and Health Administration, from oversight of its parks while reviewing her conduct.

Ms. Padgett’s review of Ms. Brancheau’s death led to an enforcement action that severely limited interaction between SeaWorld trainers and orcas. SeaWorld’s legal team, led by Eugene Scalia — the son of the Supreme Court justice Antonin Scalia — has appealed, and the case is pending before the United States Court of Appeals District of Columbia Circuit.

Ms. Padgett did not respond to an email on Thursday. A call to her Florida office was routed to a supervisor, who did not respond.

Luiz Santos, a Labor Department spokesman, declined to comment.

Last month, The Orlando Sentinel reported that Ms. Padgett’s ties to “Blackfish” were already under scrutiny, after a posting of photographs on the MiceChat.com website showing her at Sundance and elsewhere with the makers of the film.

The SeaWorld complaint said Ms. Padgett provided confidential documents from the safety review and a subsequent mediation to one of the film’s producers, Tim Zimmermann. To support that claim, the complaint details an account by an eyewitness — whom the company said it would identify to investigators on receiving assurances of protection — of Ms. Padgett and Mr. Zimmermann working over a laptop from which the documents were apparently transferred to a thumb drive.

Mr. Zimmermann did not respond to an email. In a phone interview, Ms. Cowperthwaite said she never received confidential documents from Ms. Padgett, and was unaware of any transfer of such material to anyone connected with the film.

“That’s just so patently wrong,” Ms. Cowperthwaite said of any claim of improper collaboration. She noted that the film was already finished at the time of the claimed encounter between Mr. Zimmermann and Ms. Padgett, which is said to have occurred at Sundance.

SeaWorld’s six-page complaint was supported by more than 200 pages of documentation, much of it drawn from Ms. Padgett’s Facebook postings. While several of her official emails, also included in the documents, reflected a seemingly objective approach to the SeaWorld review, her expressions on social media openly cheered on the filmmakers.

“Wow ... take that Sea World!!!! They’ve got to be getting nervous now,” she wrote last July, after linking to a report, “Blackfish on the move in Europe.”

In its objections to Ms. Padgett’s conduct, SeaWorld cited a government ethical code barring officials from using their position to benefit those with whom they are privately affiliated, or from appearing to imply official endorsement for a private activity.

Whether the film and a subsequent debate about the propriety of orca captivity have taken a toll on SeaWorld’s business — a publicly traded company with a stock market value of more than $3 billion — remains an open question.

SeaWorld’s namesake marine parks in Orlando, Fla., San Diego and San Antonio posted what the company said was record attendance in the final three months of 2013. But overall attendance at the company’s parks, which include the Busch Gardens attractions and others, had declined about 5 percent during the first nine months of last year.

When it opened last July, “Blackfish” was viewed as a contender for a best documentary Oscar. But the film did not make a list of nominees that are now in contention for that prize at the Academy Awards ceremony on Sunday. Ms. Cowperthwaite said she did not know whether SeaWorld’s pushback had hurt her film in the awards race.

As for Ms. Padgett’s Sundance visit, Ms. Cowperthwaite said she believed the investigator had mainly been interested in seeing how her own agency was depicted. She said she did not know whether Ms. Padgett had stayed, free of charge, at a vacation home that had been rented by the film’s producers.

“People crashed there,” Ms. Cowperthwaite said. “At Sundance, that’s what people do.”

**Why “Blackfish” is Propaganda, not a Documentary**   
(from www.seaworld.com)

We object to *Blackfish* because its two central premises are wrong: (1) that life at SeaWorld is

harmful for killer whales and for trainers working with these animals, and (2) that SeaWorld

has attempted to cover up the facts surrounding the tragic death of trainer Dawn Brancheau in

2010, as well the history of Tilikum, the killer whale involved in that accident. Nothing could be

further from the truth.

To make these ultimately false and misleading points, the film conveys falsehoods, manipulates

viewers emotionally, and relies on questionable filmmaking techniques to create “facts” that

support its point of view.

Here are some significant examples with links to supporting documents:

1. Blackfish employs false and emotionally manipulative sequences concerning the collection and separation of killer whales: Through stock footage and video mismatched to the narrative, the film implies that SeaWorld collects killer whales from the wild and separates mothers and calves. NEITHER IS TRUE.

• **Collection**: The film depicts a killer whale collection in Washington State that occurred 40 years ago. It leaves viewers with three false impressions: (1) that SeaWorld continues to collect whales from the wild to this day; (2) that Tilikum himself was collected by SeaWorld; and (3) that the collections done four decades ago were illegal. None of this is true. SeaWorld does not collect killer whales in the wild, and has not done so in over 35 years. Tilikum was not collected by us. And the collections four decades ago were conducted in compliance with federal laws, pursuant to federally-issued permits at that time.

• **Separation**: The film highlights two separations. In one instance, involving a whale named Takara, the film leaves you with the impression she was a calf when separated. In fact, Takara was 12 years old when she was moved. In the second, involving a whale named Kalina, the film misleadingly shows footage of a calf that is only days old. Kalina was moved when she was 4 1⁄2 years old because she was disruptive to her mother and other whales. We do not separate killer whale moms and calves, and in the rare occurrences that we do move whales among our parks, we do so only in order to maintain a healthy social structure.

2. The film relies on former SeaWorld employees, most of whom have little experience

with killer whales, and others who haven’t worked at SeaWorld in nearly 20 years: These

individuals, who speak with apparent authority, have little or no firsthand knowledge of the

incidents they describe. Most of them had no experience with Tilikum, and several never even

performed with killer whales in the water. The film’s “cast” is completely unfamiliar with

current conditions and techniques at SeaWorld, and are certainly in no position to critique a

trainer of Dawn Brancheau’s caliber or her last interaction with Tilikum.

• The Film includes a SeaWorld video of a female trainer riding a killer whale, while one of the cast members, Samantha Berg, talks about her “experience” at Shamu Stadium. This segment misleadingly implies that Ms. Berg had relevant experience when, in fact, the video used in the film was shot 10 years after Ms. Berg had left SeaWorld. The trainer depicted in the video is not Ms. Berg but rather is a current SeaWorld employee. Of just the 3 years Ms. Berg spent working at SeaWorld, she spent only one year working with killer whales and she never conducted direct training with Tilikum.

3. The film also relies on animal rights activists masquerading as scientists: The film relies

heavily on the dubious reflections of scientists who have aggressively campaigned against

marine mammal display for decades, and have no expertise with killer whale behavior in

captivity. These scientists include Howard Garrett, Lori Marino and Ken Balcomb. Mr. Garrett,

along with cast members Samantha Berg and Carol Ray, joined with PETA in a previously filed

lawsuit against SeaWorld. In this lawsuit, they equated SeaWorld’s work with killer whales as

slavery under the 13th Amendment. Although their case was promptly dismissed by the Court,

their anti-captivity bias is obvious. Likewise, the film relies on the statements of David Duffus,

a professor of geography and purported expert in the area of killer whale behavior, whom

Occupational Safety and Health Administration’s (OSHA) Judge Kenneth Welsch found “has no

expertise in the training of captive killer whales.”

4. The film spins an entirely fictitious account of Dawn Brancheau’s death in order to

advance its anti-captivity narrative. To support this bias slant, and specifically the idea that

Tilikum was a psychotic and violent animal because of captivity, the film engages in a series of

false and misleading statements about the circumstances of Ms. Brancheau’s death:

• In its opening sequence, the film misleadingly cobbles together separate pieces of

innocuous training and performance footage, synched with the actual 911 calls, to

mislead the audience into believing it is viewing the actual footage of Ms. Brancheau swimming with Tilikum prior to the fatal incident. In fact, the opening sequence does not depict either Ms. Brancheau or Tilikum, or an attack of any kind. From the date Tilikum arrived at SeaWorld, no one was allowed to swim in the water with Tilikum, and Ms. Brancheau never did so.

• Purely for shock value, the film includes a recording of an EMT technician, subsequently proved to be mistaken, suggesting that Tilikum swallowed Ms. Brancheau’s arm during the incident. This is false. This fact was readily available to the filmmaker in the documentation she obtained from the Secretary of Labor, yet was not included.

• The film falsely suggests that SeaWorld “blamed” Ms. Brancheau for her death. We have never done that. She was our colleague and we mourn her loss to this day. The film, however, does blame Ms. Brancheau, and it accomplishes this through former trainers with little or no relevant experience. These trainers were not present on the day she died, and callously presume to critique her interaction with Tilikum.

5. To advance both its anti-captivity narrative and its false theories surrounding Ms.

Brancheau’s death, the film falsely suggests that Tilikum had become psychotic and

aggressive:

• The film blatantly mischaracterizes the events that led to the death of trainer Keltie

Byrne at SeaLand of the Pacific, a park that was never owned or operated by

SeaWorld. Tilikum was one of three whales in the sea pen at the time Ms. Byrne

drowned, and the jury in the Coroner’s Inquest (the Canadian investigation of the

incident), which considered the testimony of 19 witnesses, did not identify any one of the three whales as the leader in the incident. Nevertheless, the film claims that Tilikum was the instigator, relying upon an interview given by two local residents. Another key fact never disclosed in the film: David Duffus, who is featured in the film numerous times as an “expert”, was the foreman of this very same Coroner’s Jury that investigated the SeaLand incident. Mr. Duffus testified that it was inconclusive that Tilikum was primarily responsible for the death of Ms. Byrne.

• The film similarly trades in fictional theories about the circumstances surrounding the death of Daniel Dukes, an intruder who broke into the back area of Shamu Stadium after hours and jumped into Tilikum’s pool. The film claims there was a “public relations version” of the death and that Mr. Dukes’ death was somehow caused by an act of aggression by Tilikum. A review of the official Sherriff’s report reveals that virtually nothing said in the film about our conduct that day is true. In fact, Naomi Rose, Ph.D., an outspoken critic of SeaWorld who actually appears in the credits to Blackfish, was quoted after the incident as saying “since the body was found on Tilikum’s back, it’s unlikely the whale was behaving aggressively.......The whale was probably playing with the man and continued to play with the body after the man died.”

• What clearly is supported by the facts is that prior to Ms. Brancheau’s accident in 2010, Tilikum had engaged in numerous interactions with trainers and veterinarians safely and without incident over a period of 18 years. Tilikum remains at SeaWorld, where he cooperates with trainers, socializes with other killer whales and our guests.

6. The film falsely suggests that important facts about Tilikum were concealed from his

trainers and that SeaWorld is indifferent to trainer safety:

• SeaWorld was aware of Keltie Byrne’s death when it acquired Tilikum. We adopted special precautionary protocols regarding work with Tilikum, including prohibition of performance in-water work. These protocols were impressed upon all trainers who worked with Tilikum, yet the film falsely implies that important safety information about Tilikum and his background were withheld. This is untrue. Nothing was ever concealed from Tilikum’s trainers. During the OSHA trial surrounding Ms. Brancheau’s accident, SeaWorld provided more than 35 hours of testimony concerning our killer whale program and topics such as our detailed safety protocols and how they are communicated to our trainers. All of this testimony was in the possession of the filmmakers, but ignored by the film.

• The film misrepresents, through the use of footage four decades old, that SeaWorld

takes a cavalier approach to safety and qualifications of its trainers. This is completely untrue. The path to becoming a killer whale trainer is rigorous and lengthy: It takes years to be qualified to work with killer whales The film ignores all the steps and protocols trainers must take in order to be promoted through the ranks.

• In addition to our written safety protocols and extensive training processes, we have

invested tens of millions of dollars in state-of-the art improvements, including lifting

floors, underwater cameras, and other both passive and active devices, all of which are tied together in our Emergency Response Program.

**Conclusion**

All of the falsehoods and misleading techniques in Blackfish are employed in the service of the film’s obvious bias, one that is best revealed near the end of Blackfish by a neuroscientist with no known expertise in killer whales. She claims that all killer whales in captivity are “emotionally destroyed,” and “ticking time bombs.” These are not the words of science, and indeed, there is not a shred of scientific support for them. Rather, they are the words of animal rights activists whose agenda the film’s many falsehoods were designed to advance. They reveal “Blackfish” not as an objective documentary, but as propaganda.