PLAINTIFFS' EXHIBIT 5

To Plaintiffs' Opposition to Defendants' Motion to Compel Discovery from Plaintiff Tom Rider and For Sanctions, Including Dismissal

Civ. No. 03-2006 (EGS/JMF)

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March 6, 2007

VIA FACSIMILE & REGULAR MAIL

Tanya M. Sanerib
Howard M. Crystal
Meyer Glitzenstein & Crystal
1601 Connecticut Ave., N.W.
Suite 700
Washington, D.C. 20009

Re: ASPCA v. Feld Entertainment, Inc., Civil Action No. 1:03-cv-2006

Dear Ms. Sanerib and Mr. Crystal:

Thank you for the check in the amount of $4,020.88 for copying costs enclosed with your February 14, 2007 correspondence. I believe we had, however, already credited plaintiffs the $200.65 charge from the August 11, 2006 production (as indicated in our February 2 letter), so that amount should not have been deducted again in your letter from the amount owed by plaintiffs. Rather than having to cut a separate check for this amount, we will simply keep it on reference and apply it against any future amounts owed by plaintiffs for copying costs. If you prefer to proceed some other way, please let me know.

As for the various privilege log issues, we understand your position to be as follows: Plaintiffs are not willing to provide a separate privilege log for each plaintiff so that the party logging the material(s) can be identified. Much of your correspondence refers to the "Privilege Log" (which we presume means the original log from 2004 and API's original log from January 16, 2007) but also states that the "Supplemental Privilege Log" (which we presume means the January 31, 2007 log) likewise contains "more detail than has been provided by defendants with respect to the same categories of documents," such that plaintiffs will not be providing any additional information related to their privilege logs. The basis for your latter statement is unclear: In looking at FEI's February 23, 2006 supplemental privilege log, the documents are broken out and logged individually, they include those created by both inside and outside counsel, and a significant portion of them are e-mail communications. We would like to re-iterate what we stated at our February 7, 2007 meeting in case there is some misunderstanding as to what we seek. We do not expect outside counsel to log their internal e-mail communications with each other, nor do we expect their litigation files and/or correspondence to be inventoried.

What we do expect, however, is that your clients log their materials, including anything that is responsive and resting with in-house counsel such as correspondence between the parties, payments and obligations regarding Tom Rider, and/or media strategy regarding this litigation for which plaintiffs claim privilege. The collective dearth of e-mails from all plaintiffs is also a good example: It is simply not believable that plaintiffs have little or no responsive e-mails, as their current document productions and privilege logs would suggest.

As for the "including, but not limited to" clauses included in plaintiffs' written discovery responses, we understand plaintiffs' position to be that they need not identify what these documents are nor need delete this clause from their answers. We understand that you are permitted under the rules to produce documents as they are retained in the ordinary course of business; however, that is not relevant to our dispute in this instance. What FEI is contesting is plaintiffs' apparent need to include a generic escape hatch, without providing specifics as to the documents referenced, for its written discovery responses, which the Federal Rules of Civil Procedure prohibit. See F.R.C.P. 33(d) ("it is a sufficient answer to such interrogatory to specify the records from which the answer may be derived" . . . "A specification shall be in sufficient detail to permit the interrogating party to locate and to identify, as readily as can the party served, the records from which the answer may be ascertained.").

Thank you for discussing these matters with us. We will be including them in our motions to compel. If you have any questions, please feel free to call me.

Sincerely,

Lisa Zeiler Joiner