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December 5, 2007

BY FAX

George A. Gasper
Fulbright & Jaworski, L.L.P.
801 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Re: *ASPCA et al. v. Ringling Bros. and Barnum & Bailey Circus*, No. 03-2006

Dear Mr. Gasper:

On behalf of the Wildlife Advocacy Project ("WAP"), I am writing to inform you of WAP's objections to the deposition subpoena served on WAP by Feld Entertainment Inc. ("FEI") on November 27, 2007, and to propose an approach for resolving this matter without the need for judicial involvement. However, if an agreed-on approach to the subpoena is not possible, WAP intends to file a motion for relief within the next several days.¹

Although WAP has now responded to three subpoenas for documents, and has also filed a Declaration regarding the first of those subpoenas in accordance with Judge Sullivan's August 23, 2007 order, FEI's deposition sets forth thirteen broad "subject matters for inquiry" at a deposition. Although some of the "subject matters" overlap, they generally fall into the following categories:

- (1) payments made to Tom Rider and funds received by WAP for the benefit of Tom Rider (Nos. 1, 2);
- (2) the internal workings of WAP, including the "role of WAP in making payments," particularly how and when payments were "planned, executed, managed, coordinated, tracked and delivered" (Nos. 3, 4), the "formation and corporate structure of WAP" (No. 9), how "WAP accounted for all payments" (No. 10), and WAP's "record/document management practices and policies" (No. 12.);

¹ Should it be necessary for WAP to seek a protective order, WAP will request expedited resolution of its motion, while also making clear to the Court that a ruling on the motion will have to precede the deposition. In any event, due to a preexisting scheduling conflict, WAP could not participate in a December 14 deposition.

- (3) payments made to seven individuals other than Tom Rider (Nos. 5-8);
- (4) WAP's "efforts to comply with the document subpoenas" (No. 11); and
- (5) the "authenticity of documents" produced by WAP in response to the subpoenas (No. 13).

Especially in light of the extensive efforts already undertaken by WAP to furnish FEI with any documents deemed by Judge Sullivan to be potentially relevant, the deposition subpoena imposes an undue burden on WAP and, as discussed further below, appears designed in large measure to obtain information regarding FEI's RICO claim against WAP, rather than the ESA case. In any event, WAP's specific response to each of the foregoing categories is as follows:

(1) WAP has already produced materials reflecting all "payments made by WAP to or for Tom Rider" (No. 1) through November 30, 2007 (the date of WAP's response to the last subpoena), as well as the sources of all funds used for the funding WAP has provided to or for Mr. Rider. In addition, WAP has filed a Declaration that provides the specific information required by Judge Sullivan. Among other matters, that Declaration makes clear that WAP's transaction detail reports reflect all such funding and sources of funding (subject to the protection for privileged information authorized by Judge Sullivan). Accordingly, WAP should not be subjected to a deposition in order to furnish the same information that has now been the focus of three document subpoenas.

(2) Questions concerning WAP's internal workings have nothing to do with this case or Tom Rider's credibility. Such information can only be relevant to FEI's RICO case against WAP and other animal protection organizations. Accordingly, such discovery plainly violates Judge Sullivan's stay of the RICO case.

(3) WAP's September 24, 2007 Declaration and other responses to the three document subpoenas have already made clear that WAP has no documents concerning payments to any of the individuals in paragraphs 5-8. WAP has no such documents because WAP has never provided funding of any kind to these individuals, nor has it ever received any funding for their benefit. While this should be sufficient, in an effort to avoid unnecessary proceedings, WAP is willing to provide FEI with a sworn declaration to that effect.

(4) With regard to WAP's compliance with the document subpoenas, WAP has produced an explanatory Declaration in compliance with Judge Sullivan's instructions and that should be end of the matter.

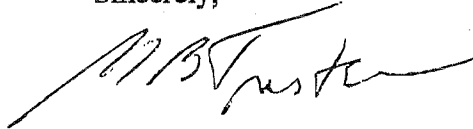
(5) While WAP assumes that plaintiffs will be willing to stipulate to the authenticity of all documents produced by WAP in response to the document subpoenas, if for any reason there

(4) With regard to WAP's compliance with the document subpoenas, WAP has produced an explanatory Declaration in compliance with Judge Sullivan's instructions and that should be end of the matter.

(5) While WAP assumes that plaintiffs will be willing to stipulate to the authenticity of all documents produced by WAP in response to the document subpoenas, if for any reason there are particular documents for which FEI desires an attestation of authenticity from WAP, WAP would be willing to furnish it by declaration. Such a process certainly does not warrant a deposition.

Please let me know by no later than 1:00 pm on December 10, 2007, whether the foregoing represents an acceptable approach to the subpoena. If I do not hear from you by then, I will assume the answer is no and pursue appropriate relief with the Court.

Sincerely,

A handwritten signature in black ink, appearing to read "M B Trister", with a long horizontal flourish extending to the right.

Michael B. Trister