

# **EXHIBIT 1**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE )  
PREVENTION OF CRUELTY TO )  
ANIMALS, et al., )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
RINGLING BROS. AND BARNUM )  
& BAILEY CIRCUS, et al., )  
 )  
Defendants. )  
 )

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

**DECLARATION**

MICHAEL MARKARIAN, being duly sworn, deposes and states as follows:

1. I am the Executive Vice President, External Affairs of The Humane Society of the United States (“The HSUS”).

2. In response to the Court’s Order of December 3, 2007, The HSUS conducted a thorough inquiry, in December 2007, to find relevant documents in its possession, control, or custody that:

a. “were created by any other party to this litigation in which that party discusses this litigation or any aspect of it”;

b. “pertain to Tom Rider’s ‘funding for his public education and litigation efforts’ provided the funding came from ‘a party, any attorney for any of the parties, or any officer or employee of the plaintiff organizations or WAP’ or that

pertain to payments made to Rider by any such person, with the understanding that the names of donors will be redacted if the donor is not ‘a party, any attorney for any of the parties, or any officer or employee of the plaintiff organizations or WAP’”;

c. “that ‘refer, reflect or relate’ to Tom Rider, including all communications with or to him, and documents that pertain to payments made to him”; and

d. “that that fall within Judge Sullivan’s August 23, 2007, order that pertain to WAP [EGS Order at 8]

Order (Dec. 3, 2007) at 1-2.

3. I identified HSUS employees who have worked on HSUS programs relating to the welfare of captive elephants since 2000, which was the set of HSUS employees who I believed would or may have had some contact with Tom Rider at some time between 2000 and the present and would or may have had documents referring to or related to Tom Rider or to the litigation—if any such contacts occurred or if any such documents were extant. (Many of these HSUS employees had not done work for the Fund for Animals and so had not previously been interviewed by attorneys and/or attorneys’ agents for the Fund for Animals and whose files had not previously been searched and produced to the Defendant by the Fund for Animals.)

4. An HSUS attorney interviewed each of these employees. None of the employees interviewed had in their possession, custody, or control any documents (that were not solely related to media or legislative strategies of The HSUS or any party to the litigation, and that had not already been searched and produced to Defendant by the Fund for Animals) that were created by a party to the litigation, in which any aspect of the

litigation was discussed, or knew of the existence of such documents or where such documents could be located. None of the employees interviewed had in their possession, custody, or control and documents, including electronic documents, that referred to, reflected, or related to Tom Rider or to any payments made to Tom Rider by The HSUS or by any party to the litigation, attorney for any party to the litigation, or Wildlife Advocacy Project or knew of the existence of such documents or where such documents could be located.

5. Attorneys for The HSUS, and employees of The HSUS Accounting Department, conducted a search of HSUS accounting records to find records of and documents relating to any payments by The HSUS to Tom Rider and to Wildlife Advocacy Project.

6. Specifically, The HSUS searched:

- a. All HSUS electronic records, including HSUS check registers for the years 2000-2007.
- b. All HSUS "vendor files" located in a storage facility in Gaithersburg, Maryland.
- c. All HSUS "vendor files" located in a storage facility in Jessup, Maryland.

7. The documents that were yielded by these searches were produced to the Defendant on December 13, 2007.

8. The HSUS has no record of making any payment to Tom Rider.

9. The HSUS has no record of making any payment to Wildlife Advocacy Project between March 29, 2007 and December 13, 2007.

10. No document was withheld on grounds of privilege.

11. No document was withheld on the basis that such document belongs to the Fund for Animals.

12. To the best of my knowledge then, The HSUS is not in possession of any relevant, non-privileged documents regarding the subject matter of this lawsuit between plaintiffs, Rider, WAP, and plaintiffs' counsel, or regarding payments to Tom Rider, that have not already been produced by The HSUS or the Fund for Animals.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge.



Michael Markarian  
Executive Vice President,  
External Affairs

Dated: February 5, 2008