

EXHIBIT 2

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

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

DECLARATION

MARY KATHRYN BERGE, being duly sworn, deposes and states as follows:

1. I am the Controller of The Humane Society of the United States ("The HSUS").
2. The HSUS typically processes about 23,000 invoices per year. As a public charity with federal tax-exempt status, The HSUS is required to be able to demonstrate that payments it makes further its charitable purpose. As a result, The HSUS Accounting Department obtains and files certain backup documentation on any payment to be made by or through The HSUS. This backup documentation typically includes an approved written check request form prepared by the requesting staff that details the amount, date, and name and contact information of the payee for each check requested, as well as invoices, vendor agreements, correspondence (such as the cover letters from Jonathan R. Lovvorn to Eric Glitzenstein of Wildlife Advocacy Project, which accompanied

payments to Wildlife Advocacy Project made through The HSUS and which described the payments as donations “to the Wildlife Advocacy Project to assist with media outreach and other press-related efforts in support of the pending case concerning Ringling Brothers Circus”), and/or other documentation setting forth the reason the payment is being made.

3. The HSUS stores backup documentation on such payments for a period of seven years according to the following procedures:

- a. Vendor files for the current year and at least one prior year are kept in a storage facility in Gaithersburg.
- b. Older vendor files are archived in a storage facility in Jessup, Maryland.

4. In August 2007, attorneys for The HSUS and employees of The HSUS Accounting Department conducted a thorough search of HSUS accounting records to find records of and documents relating to any payments made by The HSUS to Tom Rider and records of and documents relating to payments made by The HSUS to the Wildlife Advocacy Project during the years 2000-2007.

5. Specifically, The HSUS searched:

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

6. The documents yielded by this search were produced to the Defendant on December 13, 2007. No documents were withheld on the basis that such documents belong to The Fund for Animals.

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

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

9. No documents relating to a \$3,000. payment to Wildlife Advocacy Project made by The HSUS in June 2005 (and invoiced in May 2005) were found, despite a thorough search of HSUS "vendor files" by employees of The HSUS Accounting Department. This search included two employees' spending a total of six hours searching in locations where experience has taught them that documentation may be misfiled, including all archived vendor files stored in the vicinity of vendor files containing documents relating to payments to Wildlife Advocacy Project, as well as vendor files filed alphabetically under the letters "W," "A," and "P" in an attempt to ascertain whether documents relating to the \$3,000. payment were misfiled.

10. I have concluded that the vendor file containing documents relating to The HSUS's June 2005 payment of \$3,000. to Wildlife Advocacy Project has been lost. In spite of The HSUS' best efforts to comply with its file retention procedures, vendor files are occasionally misfiled or lost.

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.


Mary Kathryn Berge
Controller

Dated: February 5, 2008