EXHIBIT H

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS, et al.,	)	
Plaintiffs,	)	
v.	)	**Civ. No. 03-2006 (EGS/JMF)**
FELD ENTERTAINMENT, INC.,	)	
Defendant.	)	

Declaration of Jonathan R. Lovvorn

Pursuant to 28 U.S.C. § 1746, I, Jonathan R. Lovvorn, declare as follows:

1. I submit this declaration in the above captioned case (the "ESA case") in response to defendant's motion to hold me liable for legal fees under 28 U.S.C. § 1927, and the Court's inherent authority. I am more than 21 years of age and make this declaration based on my personal knowledge and belief, and not on behalf of any employer or client, including my current employer, and without authorization or intent to waive any privilege held by any employer or client. I have shared this finalized declaration with individual counsel for each plaintiff and each counsel has advised that its client has determined that nothing in this declaration waives the attorney-client privilege and consents to the filing of this declaration.

2. I am a member of the bar of the United States District Court for the District of Columbia, the Court of Appeals for the District of Columbia Circuit, the District of Columbia, the states of Maryland and California, the Ninth Circuit Court of Appeals, the United States District Court for the Northern District of California, and the United States Supreme Court. I have never been

sanctioned by any court or bar association, nor has any attorney ever served me with a notice of intent to seek such sanctions under Fed. R. Civ. P. 11.

3. I hold a Juris Doctor from the University of California, Hastings College of the Law, and a Masters of Laws in Environmental Law from Northwestern, Lewis & Clark Law School.

4. I am currently employed as Senior Vice President for Animal Protection Litigation and Investigations for The Humane Society of the United States ("HSUS"), and as an Adjunct Professor at Georgetown University Law Center, where I teach animal protection litigation. I was employed by the law firm Meyer & Glitzenstein ("MGC") from 1997 to 2004, first as an associate attorney and as an employed, non-equity partner from 2001 to 2004. I also previously served as an attorney in the Office of the Solicitor for the United States Department of the Interior.

5. I learned about this lawsuit shortly before it was filed in 2000. I was not involved in the pre-filing investigation, the drafting and sending of 60-day notices, the drafting of the complaint, or any financial arrangements between the plaintiffs and/or counsel. I did not sign the complaint filed in 2000 ("2000 complaint").

6. While employed by the law firm, it was my practice to record time that I worked for clients. I have reviewed my time entries for the ESA case. I recorded no time before 2001. From 2001, when I first began work on the ESA case, through December 2004, when I left the law firm, I recorded a total of 8.02 hours. In 2001 and 2002, I recorded a total of 7.23 hours, including one entry concerning a "call with Tom Ryder [sic]" in 2001. I do not recall the phone call, or the substance of the conversation. My time entries for the ESA case in 2003 and 2004 total less than one hour (0.79 hours). The firm was a small office, and I likely had informal conversations with firm lawyers about the case that are not reflected in my time records.

7. I signed the amended complaint that was filed in September 2003, along with three other lawyers in the firm. Prior to signing, I read the amended complaint and understood it included substantially the same factual allegations as the 2000 complaint. Because I had little involvement in the ESA case as of that time, I relied on the work done by other firm lawyers whom I trusted to investigate the facts, draft the factual allegations, and ensure that the clients confirmed the accuracy of those allegations. I was aware that the D.C. Circuit, in *ASPCA v. Ringling Brothers*, 317 F.3d 334 (D.C. Cir. 2003), found that the facts, as alleged in the 2000 complaint, were sufficient to establish Article III standing for Mr. Rider. As a signatory, I am responsible for the contents of the pleading. I signed the amended complaint because I believed that the factual allegations in the amended complaint supported Article III standing for Mr. Rider and the organizational plaintiffs, that the claims were warranted by existing law, and that the case was a legitimate effort to enforce the Endangered Species Act. Shortly thereafter, I became lead counsel on a major rock mining case and several other actions, and ended up doing almost no substantive work on this matter. I did not record any time to the ESA case after January 2004.

8. When I left the firm in December 2004, I joined HSUS and was responsible for a docket of more than 40 cases, and roughly a dozen lawyers. Among my responsibilities was to serve as in-house counsel for litigation in which The Fund For Animals ("FFA") was a plaintiff because FFA was affiliated with HSUS. I maintained my appearance in the ESA case and monitored it, in the same fashion that I monitored other HSUS and FFA cases in my new role as head of animal protection litigation for HSUS. I was consulted on most major strategy decisions but had no day-to-day role. The FFA was represented in the ESA case by highly experienced outside counsel. In 2007, in my role as in-house counsel to FFA, I oversaw the search for and

compilation of documents in response to the Court's August 23, 2007 discovery order as it pertained to FFA. At the direction of Magistrate Judge Facciola, I appeared before the Court on May 30, 2008 to answer the Court's questions concerning FFA's compliance with the Court's August 23, 2007 order.

9. At no point from 2001, when I first became involved in the ESA case, through the end of 2009, when the Court's opinion issued, did counsel for defendant ever notify me, by letter, pleading, or Rule 11 demand, that I had presented any pleading, memorandum, or motion to the Court in violation of Federal Rule of Civil Procedure 11(b), or had personally engaged in conduct that allegedly "multiplie[d] the proceedings in [this] case unreasonably and vexatiously" within the meaning of 28 U.S.C. § 1927 .

10. Defendant's fee motion does not identify any pleading, representation, or conduct undertaken by me in the ESA case that was vexatious and acted to multiply proceedings within the meaning of 28 U.S.C. § 1927.

11. I did not draft or sign any pleading, motions, briefs, or memoranda in the ESA case, other than signing the 2003 amended complaint. I did not draft or sign any discovery requests, conduct or defend any depositions, or draft or sign any discovery responses. I did not participate in the conduct of the trial in this case.

12. I did not speak to and did not know Tom Rider before the ESA case was filed in 2000. I believe I met him in person on at least one occasion, but cannot recall the details. Apart from the March 2001 call with Mr. Rider referenced in my time records of which I have no independent recollection, I do not recall having any written or oral communications with Tom Rider.

13. I did not observe Tom Rider's deposition preparation, deposition, trial preparation, or trial testimony nor did I have any discussions with Mr. Rider concerning the substance of his

testimony in the ESA case. I did not discuss with Tom Rider whether to accept or reject a subpoena, whether to accept or reject any other form of legal process, or whether to appear or not appear at any inspection or judicial proceeding.

14. I have never made a payment to Tom Rider or otherwise given him anything of value.

15. At some point between 2000 and 2004, I learned that Tom Rider was pursuing a media campaign to draw attention to the mistreatment of elephants and to the issues raised in the ESA case. During this period, I also became aware that Tom Rider was receiving funding to cover his living expenses while he pursued this media campaign, but I was not involved in the decision to fund his expenses nor the day-to-day operations of the media campaign.

16. While employed at HSUS, I prepared six check routing requests on behalf of my client, FFA, for FFA grants totaling $11,500 to the Wildlife Advocacy Project ("WAP"). Each check routing request required approval by an FFA officer because FFA was the grantor and because each request exceeded the amount that I was authorized to approve as an employee. Once approved, each check routing request was sent to the accounting department for payment. I drafted and signed the cover letters to accompany the issued checks. These letters set forth the conditions of the FFA grants to WAP: namely, that WAP was required to use the monies "to assist with media outreach and other press-related efforts in support of the pending case concerning Ringling Brothers Circus." I understood that WAP, as the recipient of the grants, had discretion to commit all of the money to fund the expenses incurred by Mr. Rider while pursuing the media campaign, or to commit some of the money to fund Mr. Rider's expenses and the remainder to fund some other media outreach efforts. To the best of my knowledge, FFA provided no further grants to the Wildlife Advocacy Project after January 2007.

17. I am not aware and have never been aware of any effort by any organization or person to hire Tom Rider to be a plaintiff in this matter, or to pay Tom Rider to lie.

18. The only specific reference to me in defendant's motion is a footnote referencing comments I made in 2006 at an academic symposium at New York University Law School, which question, as many judges and academics have, whether current Article III doctrine is a definable legal standard, or rather a malleable concept that is applied on an ad hoc basis. *See* William A. Fletcher, *The Structure of Standing*, 98 Yale L.J. 221, 223 (1988) (noting that Article III standing has been described as a "meaningless 'litany' recited before 'the Court . . . chooses up sides and decides the case"), *quoting* Abram Chayes, *The Supreme Court 1981 Term—Foreword: Public Law Litigation and the Burger Court*, 96 Harv. L. Rev. 4, 22, 23 (1982); *Flast v. Cohen*, 392 U.S. 83, 129 (1967) (Harlan, J., dissenting) (referring to Article III standing doctrine as "a word game played by secret rules").

19. My comments at New York University Law School were part of an academic discussion on a difficult question of Constitutional law, and not a comment on this case or a description of my personal approach to public interest litigation. In 2006, I published an essay setting forth my views on the proper conduct of animal protection litigation, entitled *The Law, Public Perception, and the Limits of Animal Rights Theory as a Basis For Legal Reform,* 12 Animal L. 133 (2006). That essay strongly admonishes public interest lawyers "to put things into perspective and to think long and hard about the consequences of our actions," and condemns "people who step outside the law allegedly in the name of 'animal rights.'"

Pursuant to 28 U.S.C. § 1746, I swear that the foregoing is true and accurate to the best of my knowledge.

Jonathan R. Lovvorn

Executed on June 10, 2012