

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FELD ENTERTAINMENT, INC., )  
8607 Westwood Center Drive )  
Vienna, VA 22182 )

Plaintiff, )

v. )

AMERICAN SOCIETY FOR THE )  
PREVENTION OF CRUELTY TO )  
ANIMALS, )  
424 East 92<sup>nd</sup> Street )  
New York, NY 10128-6804, )

Civil Action No. 1:07-01532-EGS

DEMAND FOR A JURY TRIAL

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RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT

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**NATURE OF THE ACTION**

**I. TOM RIDER WAS A PAID PLAINTIFF AND A PAID WITNESS**

1. This is a civil action brought by plaintiff, Feld Entertainment, Inc. (“FEI”), seeking relief pursuant to the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*, and pursuant to state law statutory and tort claims for abuse of process, malicious prosecution, conspiracy, maintenance and champerty. The defendants are the American Society for the Prevention of Cruelty to Animals (“ASPCA”); Animal Welfare Institute (“AWI”); The Fund For Animals and/or the Humane Society of the United States (“FFA/HSUS”); Animal Protection Institute d/b/a Born Free USA United with Animal Protection Institute (“API”); Tom Rider (“Rider”); the Wildlife Advocacy Project (“WAP”); the law firm of Meyer, Glitzenstein & Crystal (“MGC”); Katherine A. Meyer (“Meyer”); Eric R. Glitzenstein (“Glitzenstein”); Howard M. Crystal (“Crystal”); Jonathan R. Lovvorn (“Lovvorn”) and Kimberly D. Ockene (“Ockene”).

2. In order to bring a philosophical debate into federal court to advance a radical “animal rights” agenda and in order to garner publicity and raise money to support their various activities, defendants ASPCA, AWI, FFA/HSUS, API and WAP, acting in concert with their attorneys, MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene, devised and participated in an illegal and fraudulent pattern of actions to circumvent well established limits on the Article III jurisdiction of the federal courts. These defendants hired defendant Rider to be their plaintiff and principal witness in an action under the “citizen suit” provision of the Endangered Species Act (“ESA”), 16 U.S.C. § 1531 *et seq.*: *American Society for the Prevention of Cruelty to Animals, et al. v. Feld Entertainment, Inc.*, Nos. 01-1641 & 03-2006 (EGS) (D.D.C.) (the “ESA Action”).

3. The ESA Action ostensibly was brought to redress Rider’s “aesthetic injury” resulting from FEI’s alleged abuse of its Asian elephants. In reality, Rider did not simply wake up one day with an “aesthetic injury,” decide to sue FEI and therefore seek out an attorney. Like

others before him and since, Rider was procured through a network of animal rights groups and sympathizers, working in concert both inside the United States and abroad, that has orchestrated potential plaintiffs and witnesses who give false testimony or false statements for money and other inducements. One or more of ASPCA, AWI, FFA/HSUS, API, MGC, Meyer and/or Glitzenstein was plugged into this network. This network, and the multiple schemes in which this network has been involved, produced not only Rider's participation in the ESA Action but also the participation of other individuals who were potential plaintiffs and witnesses in the ESA Action and other forums, including legislative, administrative and other judicial forums. These activities have been aimed, not simply at the business of FEI, but at all holders of captive Asian elephants who practice or follow some form of free contact handling.

4. Rider was a former elephant "barn helper" and "barn man" for FEI. Rider had never complained to anyone in authority about any alleged elephant mistreatment the two and one-half (2 ½) years he worked for FEI. Both before and after the FEI job, Rider also had worked with other circuses which used the same instruments that FEI used with its elephants, and made no complaint about those employers either. Rider had no "aesthetic injury," so ASPCA, AWI, FFA/HSUS and API, acting in concert with their attorneys, paid Rider to say that he was in fact "aesthetically injured." Based on this false façade, defendants created the romantic, but totally untrue, image of Rider as the heroic champion of elephant welfare who quit his FEI job because of "aesthetic injury" and who was now speaking out for the elephants at great personal inconvenience and sacrifice to himself. On this basis, defendants created a fraudulent claim of standing to sue in the ESA Action, and used this false image of Rider to raise money for the organizational defendants.



5. In fact, Rider was a professional plaintiff and witness who could not even identify the elephants in question, much less be “aesthetically injured” by their treatment. For his services as a paid plaintiff and paid witness, Rider received nearly \$200,000, over more than eight (8) years from ASPCA, AWI, FFA/HSUS, API, WAP and MGC. This was the only job Rider had during this time period. It was also the steadiest form of employment that Rider had ever held and the most lucrative, given the fact that he evaded federal and state income taxes with respect to the payments.

6. The Rider payments were devised, approved, and/or carried out by, or were known to, not only MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene, counsel of record in the ESA Action, but also employees of ASPCA, AWI, FFA/HSUS, API and/or WAP, at least four of whom also were attorneys. The payments were falsely characterized and accounted for in correspondence and defendants’ records and were laundered by passing them through the legal bills of MGC or paying them out to Rider as “grants” from WAP, a purported 501(c)(3) organization created and run by Meyer and Glitzenstein. Defendants took these actions to conceal the true nature of the payments and to assist Rider in evading taxes. Defendants resisted all manner of discovery into these payments in the ESA Action. They submitted misleading and/or false sworn interrogatory answers and false sworn deposition testimony and made other false statements of fact as hereinafter detailed to cover the payments up. Defendants even went to the extreme of filing a motion (ultimately unsuccessful) to exclude ASPCA, AWI, and FFA/HSUS – three of the named plaintiffs in the ESA Action – from testifying at trial.

7. Furthermore, perpetrating what in essence was a fraud on the courts, ASPCA, AWI, and FFA/HSUS, acting in concert with their attorneys, MGC, Meyer, Glitzenstein, Lovvorn and Ockene, deliberately misrepresented Rider’s purported standing in pleadings and other filings

before the district court and the U.S. Court of the Appeals for the District of Columbia Circuit in the ESA Action. The lawyers made statements about Rider's "aesthetic injury" that they either knew were untrue or had no basis for believing that they were true at the time the statements were made. The false statements were made in order to manipulate and/or maneuver around standing requirements prescribed by law with which these lawyers were very familiar. These falsehoods were unknown to both courts in the ESA Action, but both of those courts were required under federal procedural rules to accept these representations as true. Although this Court dismissed the ESA Action on standing grounds as to all plaintiffs in 2001, the D.C. Circuit allowed the ESA Action to proceed in 2003 on the basis of Rider's fabricated standing claims as pleaded by his counsel.

8. After nearly six (6) years of expensive and protracted litigation, the ESA Action went to trial. Rider's claims of "aesthetic injury" were exposed to be untruthful. The Court in the ESA Action found, among other things, that:

Mr. Rider failed to prove either a strong and personal attachment to the seven elephants at issue or that FEI's treatment of those elephants caused and continues to cause Mr. Rider to suffer aesthetic or emotional injury. Mr. Rider was repeatedly impeached, and indeed was 'pulverized' on cross-examination. The Court finds that Mr. Rider is essentially a paid plaintiff and fact witness who is not credible, and therefore affords no weight to his testimony regarding the matters discussed herein, i.e., the allegations related to his standing to sue.

...

[T]he primary purpose of the funding provided by the organizational plaintiffs was to secure and maintain Mr. Rider's participation in this lawsuit, not legitimate reimbursement for bona fide media expenses. This determination is based on (i) the manner in which the payments to Mr. Rider were structured, accounted for and characterized by the organizational plaintiffs, MGC and WAP; (ii) the fact that they were not disclosed initially in discovery, by both omission and affirmatively false statements; and (iii) the fact that Mr. Rider never even filed tax returns until he was confronted about it in this very case.

9. Although portrayed as a case about stopping elephant "abuse," the real purpose of ESA Action was never really about improving conditions for elephants in the circus. Instead, the

ulterior purposes of the ESA Action were to ban elephants from circuses and ultimately from entertainment and captivity altogether and to use the case as a publicity stunt by ASPCA, AWI, FFA/HSUS, API and WAP to raise money for these organizations.

10. Although ASPCA, AWI, FFA/HSUS and API professed not to be seeking to outlaw elephants in the circus, these defendants knew that the relief sought in the ESA Action – an order banning FEI’s use of the guide and tethers – would force elephants out of the circus because, as these defendants’ own experts testified at the ESA Action trial, using the guide and tethers is the only safe and practical way to manage elephants in a traveling circus. These defendants also knew that there was no evidence that Congress intended to ban circus elephants when it enacted the ESA.

11. Furthermore, throughout the period from the inception of the ESA Action in July 2000, ASPCA, AWI, FFA/HSUS, API and WAP, acting in concert with their attorneys, MGC, Meyer and Glitzenstein, prominently featured the ESA Action and the romantic, but untrue, image of Rider as selfless elephant spokesman in print and broadcast media materials, website postings and in similar outlets and used such materials aggressively to seek and obtain donations. The IRS Form 990s for just 2006 through 2008 indicate that ASPCA, AWI, FFA/HSUS, API and WAP, combined, raised more than \$530 million (\$530,000,000.00) in donations. Upon information and belief, during the period from February 2003, when the D.C. Circuit ruled that the case could proceed on the basis of Rider’s (not then known to the Court) fabricated claims of standing, through December 30, 2009, when the Court in the ESA Action threw the case out, these defendants, combined, raised more than one billion dollars (\$1,000,000,000.00) in donations. Defendants were able to enrich themselves unjustly in this manner, in material part, by combining into their fundraising and related messaging (1) the romantic, but false, image of

Rider the “aesthetically injured” elephant man; (2) the public popularity of Asian elephants; and (3) the strong public name recognition of FEI’s “Ringling Bros and Barnum & Bailey®” brand. Indeed, defendants named as a defendant in the ESA Action the “Ringling Bros. and Barnum & Bailey Circus,” which is not a legal entity, which defendants had no basis for suing as a legal entity, but is a name that is well recognized by the American public.

12. Defendants’ ulterior purposes were confirmed by their own conduct in the ESA Action. The only forms of relief under the ESA ever sought by these parties in the ESA Action that would have directly affected the elephants were an injunction and forfeiture of the animals. However, even though the principal evidence they produced at trial was essentially the same that they had when they started the case in July 2000 – *i.e.*, Rider’s testimony about what he claimed he observed at FEI in 1997-99 – and even though they claimed that the elephants were being harmed every minute of every day, defendants did not seek a preliminary injunction when they brought the ESA Action in 2000. Instead, they waited eight (8) years to seek that relief, and, even then, defendants ultimately abandoned injunctive relief at trial. Defendants also abandoned any claim to forfeiture of the elephants. Had the case really been about elephant mistreatment and Rider’s purported “aesthetic injury” as a result of alleged elephant mistreatment, neither of these remedies would have been abandoned. However, through this abuse of the judicial process, financed by a corrupt stream of payments to Rider, defendants kept this litigation going for more than nine (9) years, at great expense to FEI, and raised hundreds of millions of dollars in the interim. FEI therefore seeks recovery of the damages resulting from defendants’ conduct, including but not limited to, disgorgement of the ill-gotten gains that defendants obtained as a result of their illegal and tortious actions.

## **II. OVERVIEW OF THE RACKETEERING ACTIVITY**

13. From on or about 2000, and continuing through at least March 2009, defendants and others known and unknown, including agents and employees of defendants, collectively have constituted an associated-in-fact enterprise (the "Enterprise") within the meaning of 18 U.S.C. § 1961(4). Defendants, together with others known and unknown, each participated in the operation and management of the Enterprise.

14. From on or about 2000, continuing through at least March 2009, defendants conducted or participated, directly or indirectly, in the conduct of the Enterprise's affairs through a pattern of racketeering activity in violation of § 1962(c).

15. From on or about 2000, continuing through at least March 2009, defendants conspired with and among themselves and with others known and unknown to conduct the affairs of the Enterprise through a pattern of racketeering activity in violation of §1962(d).

16. Together and acting in concert with others as hereinafter described, defendants have perpetrated and continue to perpetrate multiple schemes to permanently ban Asian elephants in circuses, to defraud FEI of money and property and/or to unjustly enrich themselves, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity. To carry out these schemes, defendants conspired to conduct and conducted the Enterprise through a pattern of, among other things, bribery and illegal gratuity payments (in violation of both state and federal law), obstruction of justice, mail fraud, wire fraud and money laundering.

17. At various times during the past eight years, ASPCA, AWI, FFA/HSUS and API, facilitated by WAP, MGC, Meyer and Glitzenstein provided funding to Rider for his participation as a plaintiff and as a key fact witness in the ESA Action in which Rider testified

falsely under oath, in both the pre-trial phase and during the trial of that case. At various times during the past eight years, ASPCA, AWI, FFA/HSUS and API, facilitated by WAP, MGC, Meyer and Glitzenstein provided funding to Rider for his appearance as a witness testifying on behalf of legislative proposals advanced or supported by certain of the defendants before the United States Congress and various state legislatures and other bodies concerning FEI and/or captive Asian elephants in the United States in which Rider testified falsely under oath or otherwise provided statements that were untruthful. At various times during the past eight years, WAP, MGC, Meyer and/or Glitzenstein, working in concert with one or more of the other defendants herein and/or non-parties such as People for the Ethical Treatment of Animals (“PETA”), Animal Defenders, Animal Defenders International (“ADI”), Last Chance for Animals, In Defense of Animals and other entities or individuals to be determined in discovery, provided funding or inducements for Rider and others to appear in either legislative or other forums where they testified falsely under oath or otherwise provided statements that were untruthful concerning FEI and/or Asian elephants in captivity in the United States.

18. ASPCA, AWI, FFA/HSUS, API and Rider were plaintiffs in the ESA Action, and FEI was a defendant. Rider was essential to ASPCA, AWI, FFA/HSUS and API’s pursuit of the ESA Action against FEI. Rider’s alleged injuries insofar as they bore upon his Article III standing to sue were the sole reason that the ESA Action continued through and including a six and one-half (6 ½) week trial at the conclusion of which the Court in the ESA Action entered judgment in favor of FEI.

19. Since at least 2001 and continuing through at least the trial of the ESA Action in February-March, 2009, Rider received and accepted: (1) payments from ASPCA, AWI, FFA/HSUS and API that were funneled through MGC; (2) payments directly from ASPCA,

AWI, FFA/HSUS and API and (3) payments from ASPCA, AWI, FFA/HSUS and API that were funneled through WAP. These payments were Rider's sole source of income. Rider has not held an identifiable job since May 2001. Rider does not collect unemployment compensation, food stamps or Aid for Families with Dependent Children. From May 2001 through at least the trial of the ESA Action in February-March, 2009, all of Rider's living expenses were defrayed by ASPCA, AWI, FFA/HSUS and API either directly or through MGC and/or WAP or were defrayed by other persons or entities, known and unknown, who have at times acted in concert with defendants.

20. Rider received funding regularly from one or more of ASPCA, AWI, FFA/HSUS and API and/or MGC and WAP since May 2001 through at least the trial of the ESA Action in February-March, 2009. Since the funding began, the source of funding to Rider has changed: ASPCA, AWI, FFA/HSUS and API have funded Rider for varying periods of time. How Rider has received the funding also has changed: at times ASPCA, AWI, FFA/HSUS and API have paid Rider directly and at other times ASPCA, AWI, FFA/HSUS and API's payments have been funneled to Rider through MGC and/or WAP. But, at least one thing has remained constant: Rider's livelihood was derived from his services to ASPCA, AWI, FFA/HSUS and API as a paid plaintiff and key fact witness in the ESA Action and as a legislative witness.

21. The payments to Rider, as described herein, have totaled more than \$190,000.00. In addition to cash payments, Rider has received and accepted non-cash compensation, such as a van, hotel rooms, cell phone use, a video camera, zoom camera equipment and a lap top computer that were paid for by one or all of ASPCA, AWI, FFA/HSUS, API, MGC and/or WAP.

22. These payments and benefits to Rider constitute bribery of a witness in violation of 18 U.S.C. § 202(b)(3) and illegal gratuity payments in violation of 18 U.S.C. § 202(c)(2). The payments and benefits also violate the bribery laws of Connecticut, Nebraska and Illinois. These violations of federal and state law are independent predicate acts under 18 U.S.C. § 1961.

23. Further, Rider's receipt and acceptance of the payments and benefits described above violate the federal bribery statute, 18 U.S.C. § 202(b)(4), and the federal anti-gratuity statute, 18 U.S.C. § 202(c)(3). Rider's receipt and acceptance of the payments and benefits also violate the bribery laws of Connecticut, Nebraska and Illinois. These violations of federal and state law are independent predicate acts under 18 U.S.C. § 1961.

24. The payments to Rider were falsely characterized as "grants" and reimbursement for "media expenses" when in reality they were compensation for Rider's services as a paid plaintiff and paid witness. These false characterizations of the money by defendants were done with knowledge of, or willful blindness to, the fact that these funds were proceeds from an unlawful activity, namely, the payment to and the receipt by Rider of bribes and illegal gratuity payments. With this knowledge of unlawful activity and/or willful blindness to the same, defendants made these false characterizations of the money to conceal or disguise the nature or the source of such proceeds in violation of the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(B)(ii). With this knowledge of unlawful activity and/or willful blindness to the same, defendants made these false characterizations of the money with intent to evade or defeat the federal income tax that Rider would have owed on the proceeds in violation of the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii). These violations of federal law are independent predicate acts under 18 U.S.C. § 1961.



25. The payments were sent to and from the following persons: (1) from ASPCA, AWI, FFA/HSUS and API directly to Rider; (2) from ASPCA, AWI, FFA/HSUS and API to MGC and/or WAP (that were then funneled to Rider); and (3) from MGC and/or WAP to Rider. The payments were sent and, at least through the trial of the ESA Action in February-March, 2009 continued to be sent, through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

26. The payments that MGC sent to Rider were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961. The invoices that MGC sent to ASPCA, AWI and FFA/HSUS reflecting payments to Rider were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of such invoices is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

27. Since receiving and accepting these payments and benefits, Rider's testimony has changed to become more favorable to ASPCA, AWI, FFA/HSUS and API's position in the ESA Action. Rider's answers to interrogatories and deposition testimony in the ESA Action were inconsistent with and contradict prior statements that Rider made about the same subjects under oath and penalty of perjury. Furthermore, Rider's testimony at trial in the ESA Action contained numerous false statements under oath and inconsistencies and contradictions with Rider's prior statements and actions, leading to an explicit finding by the Court, *inter alia* that "Mr. Rider is essentially a paid plaintiff and fact witness who is not credible, and therefore [the Court] affords no weight to his testimony regarding the matters discussed herein, i.e., the allegations related to his standing to sue." Rider's false testimony under oath as described above amounts to obstruction of justice in violation of 18 U.S.C. § 1503(a), a predicate act under 18 U.S.C. § 1961.

28. ASPCA, AWI, FFA/HSUS, API and WAP, together with the encouragement, advice and/or knowledge of MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene devised a scheme to hide the fact that Rider was on their payroll and to create the false image of Rider as a purported volunteer championing Asian elephant welfare. The payments to Rider were euphemistically and falsely labeled as "grants" in order to camouflage their true character as money to a paid plaintiff and fact witness and to avoid federal and state income tax consequences for Rider. For the federal income tax years 2001 through 2008, MGC and/or WAP sent Rider IRS Forms 1099 that characterized their payments to Rider as "non-employee compensation."

29. Although Rider was a man of more than fifty (50) years of age who had filed income tax returns reporting income from other jobs he had held during the course of his life (including the job he had with FEI in 1997-99), during the period from 2000 through 2006, Rider did not declare any of the money that had been paid to him by ASPCA, AWI, FFA/HSUS, API,

WAP, MGC or others as income on any tax return filed with the federal or any state government, and he filed no such returns during that period. Rider did not file such tax returns until April 2007, after the subject had been raised in his October 2006 deposition and other filings in the ESA Action and after he had consulted with a tax lawyer whose services were arranged for Rider “pro bono” by MGC and/or Meyer. Rider was a man of little skill or education and, by his lawyer’s own admission in the ESA Action, was not sophisticated. Rider did not have the wherewithal to conclude that, by calling the money he received “grants,” he did not have to file income tax returns. On information and belief, Rider was advised or assisted in that approach by one or more of the other defendants.

30. After discovery began in the ESA Action, ASPCA, AWI, FFA/HSUS, API, Rider and WAP attempted to cover-up the payment scheme. After FEI filed a motion to compel discovery from WAP on September 7, 2006, MGC and/or WAP attempted to hide the fact that, in reality, WAP is the alter ego of MGC. After that same motion, API changed the characterization of its “grants” to WAP from “grants” in “support of the Ringling Brothers and Barnum & Bailey Case” to “grants” in “support of the Ringling Brothers and Barnum & Bailey PR efforts.”

31. Further, through false answers to deposition questions and false responses to interrogatories in the ESA Action, AWI and FFA/HSUS attempted to deflect attention from their involvement in and knowledge of the Rider funding scheme. With the assistance and/or knowledge of Meyer, Rider also submitted a false interrogatory answer in the ESA Action that was designed to conceal the payments he received. These false statements amount to obstructions of justice in violation of 18 U.S.C. § 1503(a), a predicate act under 18 U.S.C. § 1961.

32. FEI did not begin to uncover the payment scheme described herein until the Rule 30(b)(6) deposition of ASPCA, taken in the ESA Action on July 19, 2005. The true nature and extent of the payment scheme was not fully disclosed until after the Court's order of August 23, 2007, granting FEI's motion to compel the disclosure of such information and after the complaint in the instant action was filed.

## **THE PARTIES**

### **I. PLAINTIFF**

33. Plaintiff Feld Entertainment, Inc. ("FEI") is a corporation organized under the laws of Delaware, with its principal place of business located in Vienna, Virginia. FEI produces live circus shows under the trade name "Ringling Bros. and Barnum & Bailey® Circus."

### **II. DEFENDANTS**

34. Defendant American Society for the Prevention of Cruelty to Animals ("ASPCA") holds itself out as a non-profit membership organization which professes to be dedicated to eliminating the abuse, neglect, and exploitation of all animals, including animals used in entertainment. According to its IRS Form 990 for the 2008 calendar year, ASPCA's total revenue was \$127,871,245.00 and at year end, its net assets or fund balances were \$137,794,176.00. At all times relevant hereto, ASPCA's principal representative, in connection with both the ESA Action and the Rider payments at issue in the instant case, was Lisa Weisberg ("Weisberg") who was ASPCA's Senior Vice President of Government Affairs and Public Policy. Weisberg was and still is a licensed attorney.

35. Defendant Animal Welfare Institute ("AWI") holds itself out as a non-profit membership organization which professes to be dedicated to eliminating pain and fear inflicted by people on animals, including animals used for entertainment purposes. According to its IRS

Form 990 for the tax year beginning July 1, 2007 and ending on June 30, 2008, AWI's total revenue was \$2,840,068.00 and at year end, its net assets or fund balances were \$25,895,635.00. At all times relevant hereto, AWI's principal representative, in connection with both the ESA Action and the Rider payments at issue in the instant case, has been Cathy Liss ("Liss") who is the President of AWI. In February 2005, Liss' functions were supplemented by Tracy Silverman ("Silverman") who is AWI's General Counsel. Silverman became, in effect, Rider's "handler," and, on behalf of the other defendants, was in charge of keeping tabs on Rider's whereabouts and seeing to, among other things, the fact that Rider regularly received his money. Silverman was and still is a licensed attorney.

36. Defendants The Fund for Animals and the Humane Society of the United States ("FFA/HSUS") hold themselves out as non-profit membership organizations. These organizations merged effective January 1, 2005. After the merger, both groups operated their advocacy programs under the banner of the HSUS and advertised the merged organization to be the largest animal protection organization in the United States, with more than 10.5 million members and constituents, annual revenues of \$130 million and assets of \$200 million. During the period covered by this lawsuit, HSUS did business and continues to do business in the District of Columbia at 2100 L Street, N.W., Washington, D.C. 20037. According to its IRS Form 990 for the calendar year 2008, HSUS's total revenue was \$101,826,190.00 and at year end, its net assets or fund balances were \$162,217,144.00. At all times relevant hereto, FFA/HSUS's principal representative, in connection with both the ESA Action and the Rider payments at issue in the instant case, was Michael Markarian ("Markarian"). Markarian is the President of FFA and is Executive Vice President of HSUS. In addition to Markarian, other

employees of HSUS appeared and continue to appear as counsel of record for all of the plaintiffs in the ESA Action.

37. Defendant Tom Rider (“Rider”) worked for FEI from June 1997 until November 1999. Under the supervision of others, Rider cleaned up after certain FEI elephants and gave them food and water.

38. Defendant Animal Protection Institute d/b/a Born Free USA, United With Animal Protection Institute (“API”) holds itself out as a non-profit membership organization which professes to be dedicated to eliminating the abuse, neglect, and exploitation of animals, including animals used in entertainment. In December 2007, API merged or otherwise associated itself with Born Free USA, and the combined or newly named entity continues to be headquartered at 1122 S Street, Sacramento, California 95811, and continues to do business in the District of Columbia. According to its IRS Form 990 for the 2008 calendar year, API’s total revenue was \$1,941,944.00 and at year end, its net assets or fund balances were \$2,701,087.00. At all times relevant hereto, API’s principal representative, in connection with both the ESA Action and the Rider payments at issue in the instant case, was Nicole Paquette (“Paquette”) who is the Senior Vice President and General Counsel of API. Paquette was and still is a licensed attorney.

39. Defendant Meyer Glitzenstein & Crystal (“MGC”) is a law firm with offices in the District of Columbia and which, on information and belief, is organized as a general partnership. During the period covered by this lawsuit, MGC did business in and continues to do business in the District of Columbia at 1601 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20009. The predecessor firm of MGC was Meyer & Glitzenstein (“MG”), located at the same address as MGC, and all references herein to “MGC” shall include MG and any predecessor or

successor thereof. From the inception of the ESA Action in July 2000 through trial in February-March 2009, MG and/or MGC was counsel of record for plaintiffs in the ESA Action.

40. Defendant Katherine A. Meyer (“Meyer”) is an attorney licensed to practice law in the District of Columbia. During the period covered by this lawsuit, Meyer was and continues to be a partner in MGC and did business in and continues to do business in the District of Columbia at 1601 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20009. From the inception of the ESA Action on July 11, 2000 through trial in February-March 2009, Meyer was counsel of record for plaintiffs in the ESA Action. Meyer signed the Original, First and Second Amended Complaints in Civil Action No. 00-1641 in this Court, and she signed the Complaint and Supplemental Complaint in Civil Action No. 03-2006 in this Court.

41. Defendant Eric R. Glitzenstein (“Glitzenstein”) is an attorney licensed to practice law in the District of Columbia. During the period covered by this lawsuit, Glitzenstein was and continues to be a partner in MGC and did business in and continues to do business in the District of Columbia at 1601 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20009. From the inception of the ESA Action on July 11, 2000 through trial in February-March 2009, Glitzenstein was counsel of record for plaintiffs in the ESA Action. Glitzenstein signed the Original, First and Second Amended Complaints in Civil Action No. 00-1641 in this Court, and he signed the Complaint in Civil Action No. 03-2006 in this Court.

42. Defendant Howard M. Crystal (“Crystal”) is an attorney licensed to practice law in the District of Columbia. During the period covered by this lawsuit, Crystal was employed by and/or was a partner in MGC and did business in and continues to do business in the District of Columbia at 1601 Connecticut Avenue, N.W., Suite 700, Washington, D.C. 20009. From November 7, 2006, through trial in February-March 2009, Crystal was counsel of record for

plaintiffs in the ESA Action. During some or all of the time period material to this lawsuit, Crystal had actual knowledge of the payments to Rider.

43. Defendant Wildlife Advocacy Project (“WAP”) is an organization claiming to be a non-profit advocacy group. WAP was founded by Meyer and Glitzenstein. WAP is the lobbying and advocacy extension of MGC. WAP is the alter ego of Meyer, Glitzenstein, and MGC, together and separately. Meyer and Glitzenstein completely dominate the operations of WAP. Glitzenstein serves or has served as the President of WAP. Meyer serves or has served as the Secretary and/or Treasurer of WAP. Glitzenstein and Meyer serve or have served as two of WAP’s Directors. WAP has two other directors, neither of whom has any active role in the daily management and supervision of WAP. Glitzenstein and Meyer are the only two officers, directors or key employees of WAP who are active in daily management and supervision of WAP. Upon information and belief, WAP has no other employees. MGC and WAP share the same address and facsimile numbers. Name plates for both MGC and WAP hang on the same office door to Suite 700, 1601 Connecticut Avenue, N.W., Washington, D.C. 20009. The WAP and MGC websites are linked. Meyer has used her MGC email account to conduct WAP business. Most, if not all, of WAP’s advocacy projects are related to cases litigated by MGC. MGC, Meyer and Glitzenstein utilized WAP to make the Rider payments described herein. During the period from late 2001 through the trial of the ESA Action in February-March 2009, WAP performed few functions independent of paying Rider. WAP is not adequately capitalized. WAP’s principal sources of revenue during the period from late 2001 through the trial of the ESA Action, were the “grants” that WAP received from ASPCA, AWI, FFA/HSUS and API that were earmarked for Rider. The majority of the funds that WAP received during this time frame were passed through in payments to Rider.



44. Defendant Jonathan R. Lovvorn (“Lovvorn”) is an attorney licensed to practice law in the District of Columbia. During part of the period covered by this lawsuit, Lovvorn was employed by and/or was a partner in MGC. Lovvorn currently is employed by HSUS and did business in and continues to do business in the District of Columbia at 2100 L Street, N.W., Washington, D.C. 20037. From at least July 16, 2001 through trial in February-March 2009, Lovvorn was counsel of record for plaintiffs in the ESA Action, at various times as an employee of and/or partner in MGC and as an employee of HSUS. Lovvorn signed the Complaint in Civil Action No. 03-2006 in this Court. During some or all of the time period material to this lawsuit, Lovvorn had knowledge of and participated in discussions with some or all of the other defendants or representatives of the other defendants with respect to the planning and execution of the payments to Rider. Lovvorn directly participated in some or all of the payments that FFA/HSUS made to or on behalf of Rider.

45. Defendant Kimberly D. Ockene (“Ockene”) is an attorney licensed to practice law in the District of Columbia. During part of the period covered by this lawsuit, Ockene was employed by and/or was a partner in MGC. Ockene currently is employed by HSUS and did business in and continues to do business in the District of Columbia at 2100 L Street, N.W., Washington, D.C. 20037. From at least September 26, 2003 through trial in February-March 2009, Ockene was counsel of record for plaintiffs in the ESA Action, at various times as an employee of and/or partner in MGC and as an employee of HSUS. Ockene signed the Complaint in Civil Action No. 03-2006 in this Court. During some or all of the time period material to this lawsuit, Ockene had actual knowledge of the payments to Rider.

46. At all times material hereto and with respect to each and every action alleged herein with respect to such defendants, Meyer and Glitzenstein have acted as agents of Rider, ASPCA,

AWI, FFA/HSUS, API, MGC and WAP, and their actions have been within the scope of the authority conferred upon them by their respective principals. At all times material hereto and with respect to each and every action alleged herein with respect to such defendants, Crystal, Lovvorn and Ockene have acted as agents of Rider, ASPCA, AWI, FFA/HSUS, API and MGC and their actions have been within the scope of the authority conferred upon them by their respective principals.

### **JURISDICTION AND VENUE**

47. This action is brought pursuant to the provisions of RICO and pursuant to state common law and statutory causes of action.

48. This Court has subject matter jurisdiction over the claims for relief arising under RICO pursuant to 18 U.S.C. § 1964(c) and 28 U.S.C. § 1331 and over the claims for relief arising under state law pursuant to 28 U.S.C. § 1367(a).

49. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 18 U.S.C. § 1965.

### **FACTUAL BACKGROUND AND COMMON ALLEGATIONS**

#### **I. BACKGROUND INFORMATION REGARDING THE ESA ACTION**

50. The original complaint in the ESA Action was numbered as Civil Action No. 00-1641 and was filed on July 11, 2000, on behalf of, among others, ASPCA, AWI, FFA/HSUS and Rider. These same parties filed a Second Amended Complaint on March 13, 2001 which was dismissed by the Court on June 29, 2001 on the ground that plaintiffs therein lacked standing to sue. On February 4, 2003, the D.C. Circuit reversed this dismissal, ruling that, assuming the truth of the allegations in the Second Amended Complaint, Rider had standing to sue. The standing of ASPCA, AWI and FFA/HSUS, independent of Rider's claims, was not addressed.

51. Pursuant to Fed. R. Civ. P. 12(b)(6), this Court and the D.C. Circuit were required to assume the truth of the assertions in plaintiffs' complaint when those courts considered, respectively, FEI's motion to dismiss and the appeal of the district court's order granting that motion in 2001-03. Unbeknownst either to this Court or to the D.C. Circuit, statements of fact in the pleadings and briefs made on behalf of Rider and the other plaintiffs in the ESA Action with respect to Rider's standing to sue were materially false and/or misleading. Among other things, Rider represented (1) that he had quit his FEI job due to elephant mistreatment; (2) that he was so attached to FEI's Blue Unit elephants that he suffered an "aesthetic injury" when he witnessed these animals being handled and/or managed with the guide and tethers; (3) that he would visit these elephants as often as possible or would seek to work with them again were they removed from the circus; (4) that he could detect the effects of the alleged mistreatment in the elephants' behavior; and (5) that he was refraining from going to see the elephants in order to avoid being "aesthetically injured." These statements were contained in the Original, First and Second Amended Complaints in Civil Action No. 00-1641, the Complaint in Civil Action No. 03-2006 and/or in one or more of the briefs filed on Rider's behalf in Appeal No. 01-7166. All of these statements of fact were false and were known to be false at the time they were made, by Rider, by ASPCA, AWI and FFA/HSUS and by the attorneys representing Rider and the other organizational plaintiffs in the ESA Action at that time, to wit: Meyer, Glitzenstein, Lovvorn and Ockene. All of these statements were shown to be false at the trial of the ESA Action in February-March, 2009.

52. Contrary to his representations to the courts through his counsel: (1) Rider quit his FEI circus job (which had been his second circus elephant tending job) in order to go to Europe with yet another circus, working for one of the same elephant handlers that Rider later claimed

was an abuser and using the same tool (the guide) himself to handle the elephants that he condemned at trial. (2) In multiple respects shown at the trial of the ESA Action, Rider's conduct before during and after his employment with FEI was totally inconsistent with the conduct of a person who was attached to the elephants and who was "aesthetically injured" by their treatment. (3) Rider had had multiple opportunities to visit or work with at least three (3) of the FEI elephants that he claimed an attachment to that were no longer in the circus but he had not done so. (4) Rider made no effort at the ESA Action trial to demonstrate that he could detect either the effects of elephant mistreatment or the effects of an injunction regarding same. (5) Rider not only was not refraining from going to see the FEI elephants in the circus, he was being paid by ASPCA, AWI, FFA/HSUS, MGC and/or WAP to regularly observe the elephants and videotape them (ultimately recording himself calling one of them a "bitch"). None of this was disclosed to this Court or to the D.C. Circuit.

53. These false statements were deliberately made by the lawyer defendants, acting at the direction of and/or with the knowledge of their clients, in an effort to satisfy Article III jurisdictional requirements in the ESA Action, that were well known to the lawyer defendants and that the lawyer defendants knew would not be satisfied by plaintiffs in the ESA Action absent the false claims about Rider's standing.

54. The D.C. Circuit, assuming the truth of Rider's claims as to "aesthetic injury" standing, did not reach the standing of the organizational plaintiffs on the ground that "each of them is seeking relief identical to what Rider seeks." This was also a false premise perpetrated by defendants ASPCA, AWI, FFA/HSUS and the lawyer defendants. Unlike Rider, ASPCA, AWI and FFA/HSUS did not claim an "aesthetic injury." What these parties wanted was an order that FEI apply for a permit from the federal government, and such a proceeding, they

argued, would generate information that these parties claimed they lacked. Rider sought an injunction against FEI's use of the guide and tethers or forfeiture of the elephants. Rider never claimed he lacked information. Rider had no interest in a permit proceeding that could have resulted in FEI being licensed to continue the very conduct that Rider claimed "aesthetically injured" him. This obvious conflict of interest between Rider and the organizational plaintiffs likewise was not disclosed to the D.C. Circuit but it became manifest during the ESA Action trial. Shortly before trial, evidently to avoid a jury, the forfeiture claim was completely abandoned. At trial, the three organizations that had "piggy backed" on Rider's standing in the D.C. Circuit abandoned the case and sought no relief at all. And the remaining plaintiffs, Rider and API, backed completely away from an injunction against FEI's use of the guide and tethers.

55. Following the remand from the D.C. Circuit, ASPCA, AWI, FFA/HSUS and Rider filed another ESA complaint against FEI in this Court on September 26, 2003 which was numbered Civil Action No. 03-2006. On November 25, 2003, the original action, Civil Action No. 00-1641, was dismissed without prejudice to the prosecution of an identical case, Civil Action No. 03-2006. Since that time, the ESA Action has proceeded as a single civil action under No. 03-2006. On February 23, 2006, API was added as a plaintiff to the ESA Action pursuant to plaintiffs' Supplemental Complaint.

56. The Complaint in No. 03-2006, which was represented by Meyer to the Court to be identical to the one in No. 00-1641, actually had at least one obscure, but critical addition. That pleading disclosed for the first time in a new paragraph that Rider was actually making efforts to observe the FEI elephants. On information and belief, this addition was made because, among other things, the defendant lawyers knew that Rider's actual activity was likely ultimately to be revealed in discovery in the ESA Action and they knew that the claim that he was "refraining"

from seeing his “girls” was also totally inconsistent with the fundraising pitch that defendants were making at the same time about Rider needing money to travel around the country to follow the circus. This addition to the pleadings came six (6) months after the D.C. Circuit decision which had flowed from, *inter alia*, defendants’ contrary and false representation about Rider “refraining” from seeing the elephants.

57. Plaintiffs in the ESA Action claimed that FEI’s treatment of its Asian elephants violated the “taking” prohibition of section 9 of the ESA, 16 U.S.C. § 1538(a)(1)(B) and the Fish and Wildlife Service’s (“FWS”) regulations implementing the ESA, 50 C.F.R. § 17.21. Plaintiffs in the ESA Action sought an order: (1) enjoining FEI from, *inter alia*, violating the ESA and the FWS’s implementing regulations; (2) directing FEI to forfeit possession of its elephants; (3) awarding plaintiffs their reasonable attorney’s fees and costs for this action pursuant to the ESA’s fee-shifting provision for citizen suits, 16 U.S.C. § 1540(g)(4); and (4) granting plaintiffs any other relief that this Court deems just and proper.

58. A non-jury trial on the ESA Action plaintiffs’ claims commenced on February 4, 2009, and concluded on March 18, 2009, during which time the Court heard testimony from approximately thirty (30) fact and expert witnesses and reviewed and admitted hundreds of documents into the evidentiary record.

59. On December 30, 2009, the Court entered judgment in favor of FEI in the ESA Action. The Court found that Rider had no standing to sue under Article III of the United States Constitution because his testimony with respect to his claims of “aesthetic injury” had no weight, in view of the numerous times in which he was impeached or gave false trial testimony and in view of the significant stream of money that Rider had received from the other plaintiffs and his (and their) lawyers. Rider was merely a paid plaintiff and paid witness. The Court also ruled

that API had no Article III standing either. API had offered nothing to demonstrate legally that the Court's ruling in 2001 that the organizational plaintiffs had no "informational" or "organization" injury was in error. Furthermore, even if these theories of standing had any legal basis, API failed at trial to prove any "information" or "organizational" injury in any event. Since ASPCA, AWI and FFA/HSUS completely defaulted on the standing issue at trial, the ESA Action was dismissed as to all plaintiffs and was dismissed with prejudice as to Rider.

## **II. THE PAYMENTS TO RIDER**

60. ASPCA, AWI, FFA/HSUS, API, WAP and MGC paid Rider for his participation as a plaintiff and as a key fact witness in the ESA Action. MGC, Meyer and/or Glitzenstein devised, encouraged and/or advised ASPCA, AWI, FFA/HSUS and API to make these payments to Rider, the majority of which occurred through MGC and/or WAP.

61. During the entire time that Rider has been a plaintiff in the ESA Action, he has been paid money by one or more of the other plaintiffs and/or their counsel. At the time that the original complaint was filed on July 11, 2000, Rider was employed as a "security guard" by one of the plaintiffs named in the original complaint, although Rider has stated under oath that this was not a real job. Rider remained in this position as a "security guard" until May 2001 – shortly after this former plaintiff voluntarily withdrew with prejudice from the ESA Action in January 2001. This former plaintiff told Rider that, after its voluntary withdrawal from the ESA Action, Rider could not remain on its "payroll" as a "security guard" and continue to speak out against FEI. At this point, in May 2001, the funding of Rider transitioned to the other plaintiffs in the case at that time: ASPCA, AWI, and FFA/HSUS. MGC was the conduit by which these entities paid Rider. Meyer conceived of the plan to pay Rider, and the organizational plaintiffs agreed to

this plan through their respective representatives: Weisberg for ASPCA, Liss for AWI and Markarian for FFA/HSUS.

62. Rider started receiving money from MGC within three or four days of the termination of his relationship with the former plaintiff. The funds that MGC paid to Rider were charged back to the existing organizational plaintiffs – ASPCA, AWI and FFA/HSUS – on MGC's legal bills for the ESA Action. Upon information and belief, this method of disbursement and accounting was chosen in an effort deliberately to conceal the source of the payments to Rider by, among other things, cloaking such payments in the attorney-client privilege.

63. At all times since May 2001 and continuing through at least the trial of the ESA Action in February-March, 2009, Rider has received steady and continuous funding by and/or through ASPCA, AWI, FFA/HSUS, API, and MGC and/or WAP.

64. As described herein, these payments to Rider constitute bribery of a witness in violation of 18 U.S.C. § 202(b)(3) because they were made corruptly with the intent to influence Rider in his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These payments also constitute illegal gratuity payments in violation of 18 U.S.C. § 202(c)(2) because they were made for or because of Rider's testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These violations are independent predicate acts under 18 U.S.C. § 1961.

65. As described herein, Rider's receipt and acceptance of the payments also violate the federal bribery statute, 18 U.S.C. § 202(b)(4), because Rider corruptly received and accepted



said payments in return for being influenced in his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. Rider's receipt and acceptance of the payments also violate the federal illegal gratuity statute, 18 U.S.C. § 202(c)(3), because Rider received and accepted said payments for or because of his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These violations are independent predicate acts under 18 U.S.C. § 1961.

66. The mechanics of these payments to Rider and Rider's receipt and acceptance of these payments are detailed below.

67. The funds MGC began paying Rider in May 2001 were charged back to the existing organizational plaintiffs (ASPCA, AWI and FFA/HSUS) on MGC's legal bills for the ESA Action as "shared expenses" or "special expenses." At or about the same time, representatives of ASPCA, AWI, and FFA/HSUS (respectively, Weisberg, Liss and Markarian), together with MGC and/or Meyer, met or conferred to discuss the mechanism for funding Rider. During these discussions, ASPCA, AWI, and FFA/HSUS jointly agreed to pay Rider \$3,000.00 for two months of what Rider claimed were "expenses." In reality, this payment was Rider's livelihood because he had no other job or source of income. This scheme of funding Rider's livelihood (which API later joined) continued through at least the trial of the ESA Action in February-March, 2009. During the period from May 2001 through at least the trial of the ESA Action in February-March, 2009, the payments by ASPCA, AWI, FFA/HSUS and API to or for the benefit of Rider remained constant, but were paid using the following methods: (1) through or from MGC; (2) directly from the organizational plaintiffs; and (3) through or from WAP.

68. At various times from May 2001 until November 2003, money was made available to Rider through MGC. The monies MGC provided to Rider were then charged back to ASPCA, AWI and FFA/HSUS on MGC legal bills as expenses and were reimbursed to MGC in that fashion.

69. From and after May 2001, through approximately the end of 2002, ASPCA directly paid Rider at least \$14,000.00. In 2003, ASPCA appeared to cease its financial assistance to Rider. At that point, AWI and FFA/HSUS assumed the task of paying Rider. In order to facilitate these funding efforts, MGC and/or Meyer encouraged and advised ASPCA, FFA/HSUS and AWI to donate funds and to solicit donations for the Rider funding through WAP in furtherance of the unlawful payment scheme and conspiracy.

70. From and after 2003 and continuing through at least the trial of the ESA Action in February-March, 2009, AWI and FFA/HSUS at various times paid Rider at least \$88,220.00, both directly and through WAP.

71. API joined the ESA Action in February 2006 and became another source of money for Rider. Through its representative, Paquette, API agreed to join the plan to pay Rider. From April 2005 to the end of 2008, API made nearly \$14,000.00 in payments to WAP, which ultimately was funneled to Rider.

**A. MGC'S Payments To Rider**

72. At various times from May 2001 until November 2003, money was made available to Rider through MGC. The monies MGC provided to Rider were then charged back to the organizational plaintiffs on MGC legal bills as expenses and were reimbursed to MGC in that fashion. MGC, Meyer and Glitzenstein were all counsel of record for plaintiffs in the ESA Action at the time that these payments to Rider were made. Meyer and/or Glitzenstein devised,

implemented and/or were fully aware of the plan to pass money from ASPCA, AWI and FFA/HSUS to Rider by passing said funds through MGC and charging the funds back to those clients of MGC on MGC's legal bills to said clients.

73. The totals of such payments by the ASPCA, AWI and/or FFA/HSUS to Rider through MGC are approximately:

ORGANIZATIONAL PLAINTIFF	AMOUNT PAID TO RIDER THROUGH MGC
ASPCA	\$5,700.00
AWI	\$2,000.00
FFA	\$4,400.00

74. MGC sent and Rider received an IRS Form 1009 for tax year 2001 stating that MGC had paid Rider \$8,781.00 in "nonemployee compensation" during 2001. Rider did not declare any of the money paid to him by MGC on any tax return filed with the federal or any state government until April 2007, after the subject had been raised in his October 2006 deposition and other filings in the ESA Action.

75. MGC has made at least one payment to Rider, and then was reimbursed for the payment from WAP. On February 14, 2002, WAP wrote a check to MGC for \$1,639.34, which WAP's own accounting records stated was to "[r]eimburse for money *paid* to Tom Rider." (Emphasis added.) This money had been paid by MGC to Rider but was supposed to have been paid to Rider by WAP.

76. In addition, MGC and/or Meyer encouraged and advised ASPCA, AWI, FFA/HSUS and API to "donate" funds to be provided to Rider through MGC and Meyer's alter ego WAP. On November 5, 2003, Meyer sent an email to ASPCA, FFA/HSUS and AWI from

her MGC email account. Meyer attached to the email a copy of a fundraising letter from WAP that she sent on behalf of Rider. In relevant part, Meyer stated:

I have also attached a copy of a fundraising letter *I sent from the Wildlife Advocacy Project on Tom's behalf* to the woman who gave him his last grant (which is running out) – so that you can see what Tom has been doing over the last few months on his own for this cause . . . .

All in all, I am personally very impressed with his [Rider's] efforts, his persistence, his ability to get some media coverage on this issue, *and his total commitment to the lawsuit*. I would very much like to keep him out there – so if you guys have any ideas about how we can raise more funds for this please let me know. *The funds can be contributed to our Wildlife Advocacy Project which is a C-3 organization – so they are tax deductible*. He only needs about \$5,000 to keep him going for about 6 months.

(Emphases added).

77. The payments that MGC sent to Rider were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961. The invoices that MGC sent to ASPCA, AWI and FFA/HSUS reflecting payments to Rider were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of such invoices is a violation

of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

78. As described herein, these payments to Rider constitute bribery of a witness in violation of 18 U.S.C. § 202(b)(3) because they were made corruptly with the intent to influence Rider in his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These payments also constitute illegal gratuity payments in violation of 18 U.S.C. § 202(c)(2) because they were made for or because of Rider's testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These violations are independent predicate acts under 18 U.S.C. § 1961.

79. As described herein, Rider's receipt and acceptance of the payments also violate the federal bribery statute, 18 U.S.C. § 202(b)(4), because Rider corruptly received and accepted said payments in return for being influenced in his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. Rider's receipt and acceptance of the payments during the time frame of the evidentiary hearing also violate the federal illegal gratuity statute, 18 U.S.C. § 202(c)(3), because Rider received and accepted said payments for or because of his testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding before a court, legislative or administrative body or before an officer authorized by law to take testimony. These violations are independent predicate acts under 18 U.S.C. § 1961.

80. The manner in which MGC handled and characterized the Rider payments in its invoices to the organizational plaintiffs as described herein was done to conceal or disguise the

nature or source of the payments and with an intent to evade or defeat federal income tax for Rider with respect to such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

81. The full extent of MGC's involvement in the payments to Rider did not become known until after the Court's order of August 23, 2007 in the ESA Action granting FEI's motion to compel discovery of, *inter alia*, Rider payment information and after the complaint in the instant action was filed. Because the MGC 1099 and the invoices that MGC sent to ASPCA, AWI and FFA/HSUS reflected monies that were ultimately provided by ASPCA, AWI and/or FFA/HSUS to and received by Rider and because MGC represented all of these parties as their attorneys, the MGC 1099 and MGC invoices were within ASPCA, AWI, FFA/HSUS and/or Rider's control. Neither ASPCA, AWI, FFA/HSUS nor Rider produced copies of the MGC 1099 or the MGC invoices reflecting Rider payments in 2004 when discovery requests that clearly covered those documents were served upon said parties by FEI in the ESA Action. Acting in concert with MGC, each of these parties deliberately withheld said documents. The MGC 1099 and the MGC invoices showing the Rider payments were not produced until after the Court's order of August 23, 2007 in the ESA Action granting FEI's motion to compel discovery. Furthermore, when specifically queried about it, Meyer falsely represented to FEI counsel on December 15, 2006, that "plaintiffs have no 'non-privileged portions of the invoices from [our] firm that reflect monies filtered through it for payments to Mr. Rider.'" Nine (9) months later, after an order by the Court compelling discovery, Meyer produced eight (8) such invoices,

without any claim of “privilege” being made or overruled by the Court. The concealment of the MGC 1099 and invoices constitutes fraudulent concealment of any cause of action that could have arisen on the basis of such information.

**B. WAP’S Payments To Rider**

82. From January 2002 through at least the trial of the ESA Action in February-March 2009, WAP made hundreds of separate expenditures of money in payments to or on behalf of Rider. From January 2002 through at least the trial of the ESA Action in February-March 2009, WAP has received numerous payments from ASPCA, AWI, FFA/HSUS and API that were intended to go to Rider.

**1. WAP’s cash payments to Rider**

83. According to the IRS Forms 1099 that WAP issued to Rider, WAP’s cash payments to Rider from 2002 through 2008 alone total more than \$155,000. WAP paid Rider \$7,777.34 in 2002; \$7,336.00 in 2003; \$23,940.00 in 2004; \$33,600.00 in 2005; \$32,900.00 in 2006; \$25,700.00 in 2007 and approximately \$25,000.00 in 2008. All of this money was denominated “non-employee compensation” by WAP.

84. Rider did not declare any of the money paid to him by WAP as income on any tax return with the federal or any state government until April 2007, after the subject was raised in his October 2006 deposition and other filings in the ESA Action and after tax advice from a “pro bono” tax lawyer. After he filed these returns, Rider was subjected to tax liens by the IRS of \$14,941.75. Rider did not have the money to pay these back taxes; the amounts were paid by “friends.”

**2. WAP’s 2002 expenditures and ASPCA’s \$6,000 “grant”**

85. From January 15, 2002 until March 12, 2002, WAP paid Rider at least nine times. The payments were made approximately once a week and ranged from \$441.00 to \$1,639.34.

WAP listed the payments on its books in an account labeled “media” and under the heading “elephants.”

86. On December 21, 2001, less than one month before WAP began making these payments to Rider, ASPCA made a \$6,000.00 “grant” to WAP. ASPCA’s cover letter stated that the check was “in payment of the 2002 first quarter grant money for the Tom Ryder [sic] project” to “assist in Tom’s work on the Ringling Brothers’ circus tour and litigation.” WAP recorded this payment on its books as a “Grant from ASPCA to WAP for Tom Rider.” At least some of WAP’s payments to Rider from January 15, 2002 to March 12, 2002, were made using the \$6,000.00 payment that WAP received from ASPCA on December 21, 2001.

87. WAP’s first series of payments to Rider ended on March 12, 2002. At that point, ASPCA assumed the role of paying Rider directly and stopped paying Rider through MGC and/or WAP. ASPCA then paid Rider directly through wire transfers via Western Union.

88. In addition to taking over the payments to Rider directly, ASPCA paid MGC \$526.16 on or about April 4, 2002 as “reimbursement for money given to Tom Rider exceeding the \$6,000.00 grant to the Wildlife Advocacy Project for the 1st quarter 2002.”

**3. WAP’s expenditures from 2003 until present and “grants” from ASPCA, AWI, FFA/HSUS and API**

89. ASPCA paid Rider directly from March 2002 to July 2003. During this time, WAP did not make any payments to Rider.

90. In July 2003, after ASPCA determined that it would not provide Rider with funding beyond May 2003, WAP resumed its payments to Rider. These payments followed discussions with, and with the knowledge and approval of, FFA/HSUS, AWI and MGC and/or Meyer as well as ASPCA and WAP.

91. On July 16, 2003 WAP began making systematic payments to Rider.



92. Although there may have been other “donors” (whose identities are yet to be determined in discovery), a significant amount of the money that WAP has paid to Rider since July 2003 has come from AWI, FFA/HSUS and API. From February 19, 2004 to April 4, 2005, AWI made “grants” and/or “donations” totaling at least \$10,500.00 to WAP. Four of AWI’s payments were specifically earmarked for Rider. From March 17, 2005 to June 15, 2005, FFA/HSUS, under the name HSUS, “donated” \$5,500.00 to WAP. API made “grants” totaling at least \$9,951.30 to WAP from April 20, 2005 to January 3, 2007.

93. These 2004-2007 “grants” and/or “donations” from AWI, FFA/HSUS, and API to WAP were used to fund WAP’s disbursements to Rider.

**4. WAP’s payment of Rider’s expenses**

94. In addition to the cash payments to Rider described above, WAP has funded other of Rider’s expenses by paying them directly or providing them in kind.

95. From January 8, 2004 and continuing through at least May 3, 2004, WAP paid for Rider’s cell phone service from Virgin Mobile. Payments from WAP to Virgin Mobile with the designation “For Tom Rider usage” total \$658.00. WAP’s accounting records reflect the following payments to Virgin Mobile for Rider’s cell phone usage:

<u>DATE</u>	<u>NAME</u>	<u>MEMO</u>	<u>ACCOUNT</u>	<u>CLASS</u>	<u>AMOUNT</u>
1/8/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$83.00
1/20/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$25.00
1/22/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$75.00
2/4/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$50.00
2/13/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$50.00
2/23/2004	Virgin Mobile	For Tom	Cellular phone	Elephants	\$50.00

		Rider usage			
3/5/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$75.00
3/17/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$50.00
3/29/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$50.00
4/8/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$75.00
5/3/2004	Virgin Mobile	For Tom Rider usage	Cellular phone	Elephants	\$75.00

96. On June 2, 2004, a week before Rider, ASPCA, AWI, and FFA/HSUS made their initial responses to FEI's written discovery requests in the ESA Action, WAP changed the "memo" designation in its ledger for the payments to Virgin Mobile from "for Tom Rider usage" to "cell phone minutes." From June 2, 2004, through at least November 27, 2007, WAP paid monthly cell phone bills to Virgin Mobile, Cingular Wireless and Sprint, all of which were for the cell phone used by Rider. However, the WAP ledger entries for the payments referred either to "cell phone minutes" or to the dates of cell phone service. WAP made no references in these ledger entries to Rider, even though these amounts were paid for Rider's cell phone.

97. On at least one occasion, WAP, through Glitzenstein, directly paid Rider's expenses using WAP's VISA credit card. Glitzenstein used his WAP VISA credit card to pay for Rider's hotel room at the Lincoln Inn in Lincoln, Nebraska from March 17 to March 23, 2005. Rider stayed at the Lincoln Inn while he testified before the Nebraska legislature regarding a bill concerning Asian elephants. WAP paid \$421.60 for Rider's hotel room.

**C. ASPCA, AWI, FFA/HSUS, And API's "Grants" And/Or "Donations" To WAP And WAP's "Grants" To Rider Through The Mails And Wires Further Defendants' Schemes**

**1. *The scheme to defraud FEI of money and property***

98. During the period from May 2001 through at least the trial of the ESA Action in February-March 2009, ASPCA, AWI, FFA/HSUS and API sent "grants" directly to Rider and "grants" and/or "donations" to MGC and/or WAP that were intended as payments to Rider through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by ASPCA, AWI, FFA/HSUS and API to Rider or to MGC and/or WAP is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961. ASPCA, AWI, FFA/HSUS and API's payments are described in the paragraphs below.

99. WAP has used the "grants" and/or "donations" from ASPCA, AWI, FFA/HSUS and API to send payments to Rider through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by WAP to Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

100. WAP's "grants" to Rider, which have been and are being funded by ASPCA, AWI, FFA/HSUS and API, are in reality payments to fund a "plaintiff" who had no actual injury in fact so that ASPCA, AWI, FFA/HSUS and API could bring the ESA Action. Alone, ASPCA, AWI,

FFA/HSUS and API did not have standing to bring the ESA Action. But, with Rider as a paid plaintiff and key fact witness, the ESA Action continued for more than nine (9) years, culminating in a dismissal on December 30, 2009 for lack of standing after a full trial on all issues in the case. These payments to Rider by ASPCA, AWI, FFA/HSUS and API, which were funneled through MGC and/or WAP, are illegal under the federal bribery statute, 18 U.S.C. § 202(b), and the federal anti-gratuity statute, 18 U.S.C. 202(c).

101. ASPCA, AWI, FFA/HSUS, API, Rider and WAP, with the encouragement and advice of MGC and/or Meyer and Glitzenstein, carried out the illegal and improper payment scheme with the intent to defraud FEI of money and property by forcing it to defend a complaint that would otherwise not exist -- the ESA Action -- at great expense for more than nine (9) years.

102. Acting in concert, ASPCA, AWI, FFA/HSUS, API, Rider and WAP, with the encouragement and advice of MGC and/or Meyer and Glitzenstein, devised a scheme to hide the fact that Rider was on their payroll and to create the false image of Rider as a purported volunteer championing Asian elephant welfare. ASPCA, AWI, FFA/HSUS, API, Rider and WAP, with the encouragement and advice of MGC and/or Meyer and Glitzenstein, have falsely characterized the payments as “grants” for “media expenses” in order to hide the illegal and improper payment scheme and to avoid federal and state income tax consequences for Rider.

103. During the period from 2001 through 2006, Rider did not declare any of the money paid to him by WAP as income on any tax return filed with the federal or any state government. Rider did not file such tax returns until April 2007, after the subject had been raised in his October 2006 deposition and other filings in the ESA Action and after he had consulted with a “pro bono” tax lawyer. When Rider ultimately filed federal income tax returns in 2007 for the years 2001 through 2006, he stated under penalty of perjury, that his occupation was “advocate”;

that he ran a “business” in the form of a sole proprietorship that provided a “service,” namely, that of an “advocate” and he reported all of the payments he had received from ASPCA, AWI, FFA/HSUS, API, WAP and MGC as income or wages. Furthermore, once he reported said income to the IRS, he owed back taxes resulting in IRS tax liens. Rider has never personally discharged such tax liability; it has been defrayed by “friends.”

104. Over time, the defendants have changed the characterization of the payments to cover-up the improper payment scheme, because the payments are just that – payments and not “grants” for “media expenses.” WAP’s own accounting records categorize the payments to Rider as a “media expense.” WAP’s letters to Rider, that accompany the payments, have categorized the payments as “grants” for Rider’s “media and public education efforts.” The Forms 1099 that WAP issued to Rider show that WAP paid Rider “non-employee compensation” of \$7,777.34 in 2002 and \$7,336.00 in 2003. But, WAP did not list “Media” as one of its Line 16 “Other Expenses” in its Form 990-EZs for those years. It was not until 2004 that WAP disclosed a \$23,940.00 Line 16 “Other Expense” for “Media” on its Form 990-EZ. According to the Form 1099 that WAP issued to Rider for the year 2004, \$23,940.00 is the exact amount of money that WAP paid Rider in “non-employee compensation.” In addition, after FEI filed a motion to compel production of documents from WAP in September 2006, API changed how it characterized its payments to WAP. API’s April 2005 and July 2006 payments to WAP were termed as “grants” in “support of the Ringling Brothers and Barnum & Bailey Case.” (Emphasis added). After FEI filed its motion to compel against WAP, API dropped the reference to the ESA Action and re-characterized its January 2007 payment to WAP as a “grant” in “support of the Ringling Brothers and Barnum and Bailey PR efforts.” (Emphasis added).

105. In reality, Rider lives in a Volkswagen van and the “grants”/“donations”/“non-employee compensation” for “media”/“public education”/“PR efforts”/“Ringling Brothers and Barnum & Bailey Case” provided by ASPCA, AWI, FFA/HSUS, API, MGC and/or WAP fund anything and everything it takes Rider to live in that van. The money actually supports Rider’s livelihood in that, among other things, Rider has used his “media” “grants” to buy clothes, gasoline, cat food, cat toys, “Alien v. Predator” the movie, tabloids, magazines, film, birch beer, Krispy Kreme donuts, smoked clams, candles, the New York Post, cooked shrimp, videos, and DVDs.

106. WAP also sent Rider a check to pay for the van itself. On April 12, 2005, Meyer sent Rider a purported “grant” in the amount of \$5,500.00 to allow him to purchase a used van. WAP funded the purchase of the van to enable Rider to shadow one or more FEI circus units and, among other things, observe and gather information on FEI’s elephants for use in the ESA Action and as a witness before legislative bodies. This came after Rider’s false representations through counsel to this Court and to the D.C. Circuit in 2001-03, that Rider was refraining from going to see the elephants in order to avoid “aesthetic injury.” The van was also provided so that Rider could travel to various legislative bodies before whom he has appeared and offered false testimony and other untruthful information against FEI concerning Asian elephants in support of proposed bans on said elephants.

107. WAP’s cash payments also maintained Rider’s van. Rider used the cash payments that he received from WAP to maintain the van’s registration in his own name. Rider paid his automobile insurance premiums on the van with the cash payments that he received from WAP. Rider has also used WAP funding to pay for thousands of dollars in improvements to the van.

108. FEI has suffered and continues to suffer significant damages resulting from the substantial costs it has incurred in responding to the ESA Action -- which has been ongoing for more than nine (9) years and continues to this day because of the illegal, improper, and fraudulent “grants” to Rider.

109. As is described in the paragraphs below, WAP has used, and continues to use, the United States mails, private or commercial interstate carriers, and interstate wires to send the illegal, improper, and fraudulent “grants” to Rider in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

110. When WAP sent, and through at least the trial of the ESA Action in February-March, 2009, continued to send, the “grants” to Rider through the United States mails, private or commercial interstate carriers, and/or interstate wires, WAP intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich WAP and the other defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

111. FEI is the direct victim of WAP’s use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes.

***2. Use of the mails and wires to send the payments to Rider***

112. Rider has received regular and systematic payments from WAP, initially \$500.00 per week and later \$1,000.00 every two weeks, beginning in July 2003 and continuing through at least the trial of the ESA Action in February-March 2009. The mechanics of WAP’s regular and systematic payments to Rider are described below.

113. WAP's regular and systematic payments to Rider were usually delivered via Federal Express. On some occasions, Rider was paid in the form of a Western Union money gram. The support staff from MGC prepared the Federal Express envelopes to Rider. The expense for the mailing was paid for by MGC. Although the mailing expenses were "billed" by MGC to WAP with a client code that MGC has for WAP, MGC has not actually collected these charges from WAP, and WAP has not actually paid them to MGC. The absorption by MGC of the costs of transmitting the payments to Rider reduces WAP's costs, thereby making more WAP money available to pay Rider and, in effect, constitutes a payment to Rider from MGC.

114. The packages that Rider received from WAP contained: (1) a cover letter from WAP and (2) a check from WAP. The cover letters contained materially false and/or misleading statements.

115. The cover letters falsely characterize the illegal and improper payments as "grants" used to fund a "media" campaign: "Enclosed is a further **grant** to continue with your invaluable **media and public education efforts** with regard to Ringling Brothers' **mistreatment of elephants** in the circus." (emphases added).

116. The payments were just that – payments and not "grants." The "grants" paid for everything and anything it takes to live in a Volkswagen van (including entertainment expenditures such as DVDs), the van itself, and maintenance of the van. The primary purpose of the payments is and was to secure Rider's participation as a plaintiff and a witness in the ESA Action, not to do "media" work.

117. WAP's regular and systematic payments to Rider were not reimbursements for expenses actually incurred by him. WAP provided money to Rider on a bi-weekly basis, and after receiving and spending such payments, Rider periodically submitted receipts to WAP.



WAP did not conduct a “penny-by-penny” analysis of how Rider spent the money provided to him. Rider was not expected to produce receipts for expenses totaling the amount of funding that WAP has provided to him. Rider identified no restrictions on how he could spend the money. Rider regarded all of his living expenses as “media expenses,” including but not limited to, the shirt he wore to his deposition in the ESA Action.

118. Rider’s retention of and transmission to WAP of receipts was either a litigation-motivated attempt commencing in 2005 to provide cover for the payments, or Rider and/or WAP did not take proper efforts to preserve whatever receipts Rider actually did save. In either case, most of the receipts that WAP produced in discovery in the ESA Action were from the period 2005 and later, well after the ESA Action had been filed, well after the payments to Rider had begun and after FEI started asking questions about them. Furthermore, Rider testified falsely in his deposition in the ESA Action that he had saved most of the cover letters that WAP sent to him with the payments when in fact, Rider had discarded the majority of them. Rider save none of the Federal Express airbills that he received. All of these documents were responsive to one or more of FEI’s discovery requests and all of them should have been saved by Rider and/or WAP from the inception of the payments since all of the WAP payments to Rider occurred after the ESA Action was filed.

119. WAP’s payments to Rider funded his continued participation in the ESA Action as a paid plaintiff and key fact witness, and not his “media and public education efforts.” Further, Rider’s alleged eye-witness accounts of Ringling Brothers’ mistreatment of elephants were fraudulent too. As described below in paragraphs 184-191, Rider’s testimony changed to become more favorable to ASPCA, AWI, FFA/HSUS and API’s position in the ESA Action while he received the illegal, improper, and fraudulent “grants.” Furthermore, Rider testified

falsely on numerous points during the trial of the ESA Action in February-March 2009 with respect, not only to his claimed “aesthetic injury,” but also his accounts of alleged elephant mistreatment while he was employed by FEI, leading to explicit findings by the Court, *inter alia* that “Mr. Rider was repeatedly impeached and indeed was ‘pulverized’ on cross examination. The Court finds that Mr. Rider is essentially a paid plaintiff and fact witness who is not credible, and therefore affords no weight to his testimony regarding the matters discussed herein, i.e., the allegations related to his standing to sue.”

120. The cover letters from WAP were usually signed by Glitzenstein, President of WAP, and counsel of record for plaintiffs in the ESA Action. The cover letters were a *post-hoc* attempt to make Rider’s media and/or education campaign appear legitimate. Beginning on or about August 15, 2005, more than three years after WAP’s payments to Rider first began in 2002, WAP started sending cover letters with its checks to Rider. The cover letters indicate that Rider’s media “efforts” will target certain cities. The cities cited in the cover letters track the route of FEI’s circus performances. At or about the same time, in August 2005, WAP’s ledger of payments to or for Rider began reflecting the same cities that are indicated in its cover letters to him. Neither the cover letters nor the ledger accurately reflect Rider’s actual whereabouts or his actual travels. The listing of cities in the cover letters and the ledger was done to make the payments look legitimate.

121. WAP acknowledged that its decision in 2005 to begin sending the cover letters along with its checks to Rider was influenced by a subpoena served on it by FEI in the ESA Action, pursuant to Federal Rule of Civil Procedure 45. The ledger also then began reflecting the cities referenced in the cover letters to Rider.

122. Rider did not actually travel to all of the cities which are indicated on WAP's cover letters and ledgers. A significant number of WAP's cover letters and checks to Rider were sent to Florida, even though the cover letters and the WAP ledger indicate that Rider's "media" efforts were focused on cities throughout the United States. Much of Rider's "media work" was conducted on his cell phone or laptop computer from one stationary location. Rider's travels, as indicated by the locations where he both received checks from WAP and actually spent the money, do not correlate with the movement of FEI's Red or Blue Units or with WAP's letters and ledger.

123. Very little, if any of the "media work" purportedly done by Rider was the result of the efforts of Rider himself; most, if not all, of it was the result of the ESA Action being referenced by others in media pieces and Rider being identified as one of the plaintiffs. Even if all of the media activity surrounding the ESA Action were the result of Rider's efforts alone, the activities of Rider were nonetheless episodic and non-continuous. There were a number of gaps in this activity lasting several weeks or months, including one such gap of more than nine months. Despite the irregular and sporadic nature of the media work, the payments and other financial support came to Rider from WAP and the organizational plaintiffs or their counsel without interruption. WAP has never withheld a payment on the ground that Rider had not done enough media work. The payments from WAP have been uninterrupted.

124. The payments that Rider has received are directly linked to the litigation. Rider testified in the ESA Action that he has no expectation of further payments from either the organizational plaintiffs or WAP once the litigation has concluded. WAP acknowledged that Rider's "public education campaign" is "intertwined with the purpose of" the ESA Action and

that the “distinction” between the “public education campaign” and litigation such as the ESA Action “is meaningless.”

125. WAP’s own accounting records show that from January 15, 2002 through September 12, 2007, WAP sent Rider the following payments through the United States mails, private or commercial interstate carriers, and interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment is a violation of either the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961:

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
1/15/2002	Western Union	wire transfer to Miami, FL . . . (\$49.00 = wire fee) he only gets \$500.00	MEDIA	Elephants	\$549.00
1/25/2002	Western Union	wire transfer to Atlanta, Georgia . . . (\$49.00 = wire fee) he only gets \$500.00	MEDIA	Elephants	\$549.00
1/29/2002	Tom Rider	Bus pass – 2 months – Feb - April 2002	MEDIA	Elephants	\$600.00
2/7/2002	Western Union	wire transfer to LA, CA for hotel . . . (\$41.00 wire fee) he only gets \$400.00	MEDIA	Elephants	\$441.00
2/12/2002	Western Union	wire transfer to Atlanta, GA	MEDIA	Elephants	\$549.00
2/18/2002	Western Union	wire transfer to Atlanta, GA for hotel & video camera	MEDIA	Elephants	\$1,081.00
2/25/2002	Western Union	wire Transfer to Atlanta, GA for hotel	MEDIA	Elephants	\$549.00
2/28/2002	Western Union	wire Transfer to Tom in NY	MEDIA	Elephants	\$767.00
3/12/2002	Western Union	wire transfer to Atlanta, GA for hotel	MEDIA	Elephants	\$549.00
7/16/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$1,000.00
7/23/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
8/13/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$200.00
8/22/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
9/4/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$250.00
9/22/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
10/2/2003	Tom Rider	Media expenses – 10/2/03	MEDIA	Elephants	\$500.00
10/14/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
10/30/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
11/13/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
11/19/2003	Tom Rider	Media expenses – last payment from \$5k Grant	MEDIA	Elephants	\$50.00
11/26/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$200.00
12/9/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$140.00
12/10/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/16/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/23/2003	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/2/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/12/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/20/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/27/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
2/2/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
2/11/2004	Tom Rider	Media expenses in GA	MEDIA	Elephants	\$500.00
2/18/2004	Tom Rider	Media expenses in Cincinnati	MEDIA	Elephants	\$500.00
3/1/2004	Tom Rider	Media expenses in Charlotte	MEDIA	Elephants	\$500.00
3/9/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
3/17/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
3/29/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/5/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/12/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/20/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/27/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
5/6/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
6/2/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$800.00
6/9/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
6/14/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
6/22/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
6/29/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
6/30/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
7/6/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
7/20/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
7/22/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$300.00
7/26/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$100.00
8/2/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$800.00
8/9/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
8/16/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
8/23/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
8/30/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$600.00
9/3/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$300.00
9/14/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
9/21/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
9/28/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$300.00
10/5/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$90.00
10/6/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
10/13/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
10/18/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$350.00
11/2/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$700.00
11/8/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$400.00
11/11/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$400.00
11/15/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$200.00
11/19/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$200.00
11/24/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/1/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/7/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$300.00
12/10/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$100.00
12/14/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/17/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/20/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
12/27/2004	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
1/3/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/11/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$700.00
1/18/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
1/24/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
2/1/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$400.00
3/9/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
3/14/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
3/22/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$400.00
3/29/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$200.00
4/4/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/11/2005	Tom Rider	Media expenses	MEDIA	Elephants	\$500.00
4/12/2005	Tom Rider	Media	MEDIA	Elephants	\$5,500.00
4/19/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
4/28/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
5/4/2005	Tom Rider	Media	MEDIA	Elephants	\$600.00
5/9/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
5/13/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
5/19/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
5/31/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
6/6/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
6/13/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
6/20/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
6/23/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
6/29/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
7/5/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
7/11/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
7/14/2005	Tom Rider	Media	MEDIA	Elephants	\$300.00
7/18/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
7/25/2005	Tom Rider	Media	MEDIA	Elephants	\$700.00
7/29/2005	Tom Rider	Media	MEDIA	Elephants	\$300.00



DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
8/2/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
8/8/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
8/15/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
8/22/2005	Tom Rider	Media	MEDIA	Elephants	\$500.00
8/29/2005	Tom Rider	Media in San Francisco	MEDIA	Elephants	\$500.00
9/6/2005	Tom Rider	Media in Everett, Washington	MEDIA	Elephants	\$500.00
9/12/2005	Tom Rider	Media in Sacramento, CA	MEDIA	Elephants	\$500.00
9/19/2005	Tom Rider	Media in Sacramento, CA	MEDIA	Elephants	\$500.00
9/26/2005	Tom Rider	Media in Salt Lake City, UT	MEDIA	Elephants	\$500.00
10/3/2005	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$500.00
10/5/2005	Tom Rider	Media in Boston, MA	MEDIA	Elephants	\$500.00
10/11/2005	Tom Rider	Media in Boston, MA	MEDIA	Elephants	\$500.00
10/17/2005	Tom Rider	Media in Manchester, NH	MEDIA	Elephants	\$1000.00
10/27/2005	Tom Rider	Media in Pittsburg & Chicago	MEDIA	Elephants	\$1000.00
11/2/2005	Tom Rider	Media in Tampa, FL	MEDIA	Elephants	\$1000.00
11/14/2005	Tom Rider	Media in Tampa, FL	MEDIA	Elephants	\$1000.00
11/28/2005	Tom Rider	Media in Huntsville, AL	MEDIA	Elephants	\$1000.00
12/12/2005	Tom Rider	Media in Miami, FL	MEDIA	Elephants	\$1000.00
12/20/2005	Tom Rider	Media in Miami, FL	MEDIA	Elephants	\$1000.00
12/30/2005	Tom Rider	Media in Miami, FL	MEDIA	Elephants	\$1000.00
1/12/2006	Tom Rider	Media in Jacksonville, FL	MEDIA	Elephants	\$1000.00
1/24/2006	Tom Rider	Media in Omaha, NE	MEDIA	Elephants	\$1000.00
1/31/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
2/13/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$400.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
2/21/2006	Tom Rider	Media in Chicago, IL	MEDIA	Elephants	\$500.00
3/1/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
3/8/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$400.00
3/15/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
3/27/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
4/3/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
4/10/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
4/21/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
4/26/2006	Tom Rider	Media in Florida	MEDIA	Elephants	\$600.00
5/1/2006	Tom Rider	Media in Hartford, CT	MEDIA	Elephants	\$1000.00
5/12/2006	Tom Rider	Media in Harrisburg, PA	MEDIA	Elephants	\$1000.00
5/24/2006	Tom Rider	Media in Omaha, NE	MEDIA	Elephants	\$1000.00
6/5/2006	Tom Rider	Media in Las Vegas, NV	MEDIA	Elephants	\$1000.00
6/16/2006	Tom Rider	Media in Las Vegas, NV	MEDIA	Elephants	\$300.00
6/19/2006	Tom Rider	Media in Las Vegas, NV	MEDIA	Elephants	\$700.00
6/27/2006	Tom Rider	Media in Phoenix, AZ	MEDIA	Elephants	\$1000.00
7/6/2006	Tom Rider	Media in Lost Angeles, CA	MEDIA	Elephants	\$1000.00
7/18/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
7/26/2006	Tom Rider	Media in Anaheim, CA	MEDIA	Elephants	\$1000.00
8/8/2006	Tom Rider	Media in San Diego, CA	MEDIA	Elephants	\$1000.00
8/17/2006	Tom Rider	Media in San Francisco, CA	MEDIA	Elephants	\$1000.00
8/29/2006	Tom Rider	Media in Seattle, WA	MEDIA	Elephants	\$1000.00
9/11/2006	Tom Rider	Media in Sacramento, CA	MEDIA	Elephants	\$1000.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
9/18/2006	Tom Rider	Media in Canton & Toledo, OH	MEDIA	Elephants	\$1000.00
10/2/2006	Tom Rider	Media in Toledo, OH	MEDIA	Elephants	\$1000.00
10/10/2006	Tom Rider	Media in Washington, DC	MEDIA	Elephants	\$1000.00
10/17/2006	Tom Rider	Media in Omaha, NE	MEDIA	Elephants	\$500.00
10/23/2006	Tom Rider	Media in Chicago, IL	MEDIA	Elephants	\$1000.00
11/2/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
11/14/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$500.00
11/22/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
12/5/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
12/18/2006	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
1/2/2007	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$100.00
1/5/2007	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$900.00
1/12/2007	Tom Rider	Media in Jacksonville, FL	MEDIA	Elephants	\$1000.00
1/22/2007	Tom Rider	Media in Birmingham, AL	MEDIA	Elephants	\$500.00
1/29/2007	Tom Rider	Media in Charleston, SC & Raleigh, NC	MEDIA	Elephants	\$1000.00
2/2/2007	Tom Rider	Media in Richmond, Norfolk & Hampton, VA	MEDIA	Elephants	\$1000.00
2/21/2007	Tom Rider	Media in Petersburg, VA	MEDIA	Elephants	\$1000.00
3/27/2007	Tom Rider	Media in DC/New York City	MEDIA	Elephants	\$1000.00
4/3/2007	Tom Rider	Media in Charleston, WV	MEDIA	Elephants	\$700.00
4/12/2007	Tom Rider	Media in Charleston, WV	MEDIA	Elephants	\$500.00
4/20/2007	Tom Rider	Media in Charleston, WV	MEDIA	Elephants	\$1000.00

DATE	NAME	MEMO	ACCOUNT	CLASS	AMOUNT
5/3/2007	Tom Rider	Media in Texas	MEDIA	Elephants	\$1000.00
5/18/2007	Tom Rider	Media in Pensacola, FL	MEDIA	Elephants	\$1000.00
5/31/2007	Tom Rider	Media in Mobile, AL; New Orleans, LA	MEDIA	Elephants	\$1000.00
6/7/2007	Tom Rider	Media in Las Vegas, NV	MEDIA	Elephants	\$500.00
6/14/2007	Tom Rider	Media in Las Vegas, NV & Bakersfield, CA	MEDIA	Elephants	\$1000.00
6/26/2007	Tom Rider	Media in Bakersfield and Fresno, CA	MEDIA	Elephants	\$1000.00
7/12/2007	Tom Rider	Media in Los Angeles, CA	MEDIA	Elephants	\$1000.00
7/25/2007	Tom Rider	Media in Los Angeles & San Diego, CA	MEDIA	Elephants	\$1000.00
8/7/2007	Tom Rider	Media in San Diego & San Francisco, Ca	MEDIA	Elephants	\$1000.00
8/20/2007	Tom Rider	Media in San Jose, CA	MEDIA	Elephants	\$1000.00
9/12/2007	Tom Rider	Media in Indianapolis, IN	MEDIA	Elephants	\$1000.00

126. From September 12, 2007 through at least the trial of the ESA Action in February-March 2009, WAP continued to make payments to Rider in the same fashion as the payments described above and in the same or similar amounts at least two (2) times per month. WAP sent Rider these payments through the United States mails, private or commercial interstate carriers, and interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of such payment is a violation of either the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

127. WAP utilized the United States mails, private or commercial interstate carriers and interstate wires to solicit money to be paid for Rider. In a letter dated December 11, 2003,

Meyer, acting on behalf of WAP, transmitted a “grant proposal” to Liss of AWI to fund Rider. Upon information and belief, AWI had already made the decision to provide continuous funding for Rider through WAP, and this “grant proposal” was written to give cover to that funding decision. Among other things, the “grant proposal” falsely stated that (1) the proposal was for money to help fund an ongoing grass roots media campaign; (2) Rider quit the circus because he could no longer tolerate the way the elephants were treated; (3) the D.C. Circuit held that plaintiffs in the ESA Action had standing to sue; (4) Rider has “credibility;” (5) Rider is “not employed by any group;” (6) the \$10,000 sought would “fund this public education effort for 2004;” and (7) the money was to be spent on “out-of-pocket-costs” for Rider. All of these statements were shown to be false at the trial of the ESA Action: (1) The primary purpose of the money sought was for WAP to pay Rider to be a plaintiff and witness in the ESA Action. (2) Rider quit the FEI job to go to Europe with Daniel Raffo. (3) The D.C. Circuit never addressed the standing of any plaintiff other than Rider and even as to him only ruled that his claims, if true, showed standing; the claims were not true. (4) Rider had no credibility at trial, and his testimony was given no weight. (5) Rider’s entire livelihood when this letter was written by Meyer was derived solely from money he had received from MGC, ASPCA, AWI, FFA/HSUS and WAP, and that money was later claimed as income by Rider derived from a business as a paid advocate. (6) The \$10,000 provided Rider with a livelihood. (7) WAP never required Rider to justify the “grants” he received by accounting for “out-of-pocket costs.”

128. Upon information and belief, WAP and/or Meyer utilized the “grant proposal” described above, or a similar version of that document containing the same or similar misrepresentations, to solicit funds from persons or entities other than AWI. The “grant proposal” was sent to FFA/HSUS. Upon information and belief, the “grant proposal” or a

similar version of that document containing the same or similar misrepresentations was what Meyer transmitted on Rider's behalf to an unidentified "woman," as referenced in Meyer's November 5, 2003 email to ASPCA, FFA/HSUS and AWI.

129. The communications by WAP and/or Meyer, described in the preceding two paragraphs, were sent through the United States mails, private or commercial interstate carriers, and interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring is a violation of either the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

**3. *WAP's Money Laundering***

130. The manner in which WAP, Glitzenstein and Meyer handled and characterized the Rider payments in WAP accounting records and in correspondence as described herein was done to conceal or disguise the nature or source of the payments and/or with an intent to evade or defeat federal income tax for Rider with respect to such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

**D. ASPCA's Payments To Rider**

**1. *ASPCA's participation in the illegal, improper, and fraudulent payment scheme***

131. From May 2001 to May 2003, ASPCA paid Rider purportedly to gather information about how FEI treated its Asian elephants (during the same period in which ASPCA and Rider

were falsely representing to this Court and the D.C. Circuit in their ESA Action filings that Rider was staying away from the FEI elephants to avoid “aesthetic injury”). These activities were in furtherance of Rider’s role as a plaintiff in the ESA Action and as a judicial and legislative witness. In cash or other forms of payment, ASPCA paid \$25,544.50 in 2001-03, either directly to Rider, through others who remitted the money to Rider or in the form of expenses that Rider incurred but which ASPCA paid on Rider’s behalf.

**2. ASPCA’s payments to Rider through MGC**

132. At various times from May 2001 until November 2003, ASPCA made money available to Rider through MGC. The monies MGC provided to Rider were then charged back to the organizational plaintiffs, including ASPCA, on MGC legal bills for the ESA Action as expenses and were reimbursed to MGC in that fashion. ASPCA paid Rider \$5,754 through MGC in the following amounts: \$3,565.00 in 2001, \$1,144.00 in 2002 and \$1,045.00 in 2003. These payments were made pursuant to separate invoices sent by MGC to ASPCA that were dated June 14, July 16, July 20, September 27 and November 30, 2001; January 2, 2002; and May 15 and November 20, 2003. None of these payments from ASPCA through MGC to Rider was ever reflected on an IRS Form 1099 from ASPCA to Rider.

**3. ASPCA’s direct cash payments to Rider**

133. For some period of time, yet to be determined in discovery, ASPCA directly paid Rider “grants” of \$250.00 per week. Rider also directly received two lump sum payments from ASPCA: one \$5,000.00 “grant” and one \$1,000.00 “grant.” In 2002, ASPCA gave Rider \$5,000.00 in traveler’s checks, which was subsequently reduced to \$3,800.00.

134. During 2003, ASPCA directly: (1) advanced Rider money to pay for bus tickets, (2) reimbursed him for his “daily living expenses,” and (3) paid for his hotel rooms and other expenses using one or more credit cards issued to ASPCA. Some of the credit card payments

were made using Weisberg's own ASPCA American Express card. Weisberg failed to preserve these credit card records and, after the Court in the ESA Action ordered all such records produced to FEI, Weisberg had to retrieve these credit card records directly from American Express. Although in discovery in the ESA Action ASPCA attempted to characterize these payments as "reimbursement" for Rider's expenses in conducting "media and outreach work," ASPCA never produced any receipts or other evidence that it received from Rider in which Rider purported to document the "expenses" for which ASPCA paid him directly. Upon information and belief, Rider never accounted for any of the money that ASPCA paid to him.

135. In total, ASPCA directly paid Rider at least \$14,000.00. None of these payments from ASPCA directly to Rider was ever reflected on an IRS Form 1099 from ASPCA to Rider.

#### ***4. ASPCA's payments to Rider through WAP***

136. In addition to MGC, ASPCA also used WAP as a conduit of payments to Rider. On December 21, 2001, ASPCA sent WAP a check for \$6,000.00, which was earmarked as "grant money for the Tom Ryder [sic] project," to "assist in Tom's work on the Ringling Brothers' circus tour and litigation." ASPCA understood that the entire \$6,000.00 would be paid to Rider by WAP, and that entire amount was in fact paid to Rider by WAP. ASPCA likewise knew that WAP was established and operated by Meyer and Glitzenstein who were simultaneously representing ASPCA and Rider in the ESA Action. On information and belief, with respect to the "grant" that ASPCA made to WAP for Rider, ASPCA did not follow its normal internal procedures or controls for the consideration and approval of legitimate grants. ASPCA's "grant" to WAP for Rider is not evidenced by a written instrument that describes the terms of the "grant" and what the purported "grantee" is supposed to do with the "grant" funds. Nor is there any evidence that Rider ever accounted for the ASPCA "grant" money, either to WAP or to ASPCA.



Neither WAP, Rider nor any of the other plaintiffs in the ESA Action produced any receipts from Rider from the time frame in which the ASPCA “grant” was paid out in 2002, even though, by 2002, the ESA Action had already been pending for two (2) years. Labeling this money a “grant” was simply a subterfuge. In coordination with the other defendants, ASPCA labeled the payment that it made to Rider through WAP as a “grant” in order to mask the true nature of the payment, *i.e.*, as compensation for a paid plaintiff and witness in the ESA Action. None of the money that ASPCA transmitted to Rider through WAP was ever reflected on an IRS Form 1099 from ASPCA to Rider.

**5. *Other Compensation Provided to Rider***

137. ASPCA also provided Rider non-cash compensation. ASPCA provided Rider with a laptop computer, valued at \$500.00 and a cell phone valued at \$200.00. ASPCA provided Rider with a zoom camera valued at \$400.00 to surveil FEI’s circus units. In 2002 and 2003, ASPCA directly paid for Rider’s cell phone service and internet access in a total amount for both years of approximately \$6,038.40. None of this other compensation that ASPCA provided to Rider was ever reflected on an IRS Form 1099 from ASPCA to Rider.

**6. *ASPCA’s use of the mails and wires and its money laundering to defraud FEI and to further defendants’ other schemes***

138. ASPCA’s payments to MGC for Rider (which MGC invoiced to ASPCA on legal bills), were payments to Rider that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by ASPCA to MGC for Rider is a violation of the federal mail fraud statute, 18 U.S.C.

§ 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

139. ASPCA's direct "grants" to Rider were payments that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by ASPCA to Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

140. ASPCA's "grants" and/or "donations" to MGC and/or WAP were intended as payments to Rider and sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by ASPCA to MGC and/or WAP is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

141. When ASPCA sent the "grants" and/or "donations" through the United States mails, private or commercial interstate carriers, and/or interstate wires, ASPCA intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich ASPCA and the other defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

142. FEI is the direct victim of ASPCA's use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes.

143. The manner in which ASPCA characterized the Rider payments as described herein was done to conceal or disguise the nature or source of the payments and/or with an intent to evade or defeat federal income tax for Rider with respect to such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

**E. AWI'S Payments To Rider**

***1. AWI's participation in the illegal, improper, and fraudulent payment scheme***

144. In May 2001, after discussions with ASPCA and FFA/HSUS, AWI agreed to pay Rider \$1,000.00 shortly after Rider quit his "security job" with another animal rights organization and co-plaintiff on the initial Complaint in the ESA Action.

145. In May 2003, when it became apparent that ASPCA would not continue funding Rider, ASPCA, AWI, FFA/HSUS and MGC had discussions regarding continued funding for Rider. AWI and FFA/HSUS agreed to assume Rider's funding.

***2. AWI's payments to Rider through MGC***

146. At various times from May 2001 until November 2003, money was made available to Rider through MGC on behalf of AWI. The monies MGC provided to Rider were then charged back to AWI and the other organizational plaintiffs on MGC legal bills for the ESA Action as expenses and were reimbursed to MGC in that fashion. From 2001 to 2003, AWI made such payments to Rider through MGC totaling \$5,900.00 which were reflected on the

following invoices from MGC: June 14, July 16, 20, September 6, 27, and November 30, 2001; January 30, 2002; and April 11, 2003.

**3. AWI's direct cash payments to Rider**

147. Although the amount has yet to be determined in discovery, AWI directly paid Rider thousands of dollars from 2001 through the trial of the ESA Action in February-March 2009. Rider has admitted to receiving "grants" directly from AWI. AWI directly paid Rider \$1,102 in 2001, \$1,100 in 2005, \$750.00 in 2006, and \$1,250.00 in 2008. AWI also directly paid for the cost of repairing Rider's van in 2006 by charging \$1,657.68 to an AWI credit card.

**4. AWI's payments to Rider through WAP**

148. Rider also has received funds from AWI that were funneled through WAP. For the period from February 19, 2004 through November 5, 2007, AWI made "grants" and/or "donations" to WAP totaling at least \$53,830.17 that were intended for Rider. WAP's own accounting records reflect the following "grants" and/or "donations" from AWI to WAP that were intended for Rider:

DATE	TYPE	MEMO	CLASS	AMOUNT
2/19/2004	Deposit	Grant from AWI for Elephant Education – Tom Rider	Elephants	\$2,500.00
10/6/2004	Deposit	Donation from AWI – Cathy Liss	Elephants	\$1,500.00
11/24/2004	Deposit	AWI donation to T. Rider	Elephants	\$1,500.00
3/9/2005	Deposit	AWI	Elephants	\$1,500.00
4/4/2005	Deposit	AWI donation for Tom Rider	Elephants	\$3,500.00

10/7/2005	Deposit	AWI – From fundraiser in LA	Elephants	\$8,000.00
11/23/2005	Deposit	Grant \$ from AWI (from Fundraiser in CA)	Elephants	\$5,427.57
3/1/2006	Deposit	AWI contribution	Elephants	\$2,000.00
4/20/2006	Deposit	AWI Contribution	Elephants	\$1,000.00
6/19/2006	Deposit	Donation from AWI	Elephants	\$1,000.00
6/27/2006	Deposit	Donation from AWI	Elephants	\$2,000.00
7/17/2006	Deposit	AWI contribution to Media	Elephants	\$4,000.00
7/19/2006	Deposit	AWI donation to TRider van	Elephants	\$1902.60
11/21/2006	Deposit	AWI	Elephants	\$3,000.00
1/4/2007	Deposit	AWI contribution	Elephants	\$3,000.00
5/17/2007	Deposit	AWI contribution	Elephants	\$6,000.00
9/12/2007	Deposit	AWI contribution	Elephants	\$3,000.00
11/5/2007	Deposit	AWI	Elephants	\$3,000.00

AWI also made a “grant” of \$4,500.00 to WAP on January 11, 2008, that was earmarked for payment to Rider. AWI’s IRS Form 990 for the period from July 1, 2007 through June 30, 2008,

reports a direct “grant” to Rider of \$1,301.00 and “grants” to WAP of \$14,500.00 which, on information and belief, were paid by WAP to Rider.

149. In sum, AWI’s cash payments to Rider total at least \$66,532.00. None of the foregoing amounts that AWI paid directly to Rider or that AWI paid to Rider through MGC or WAP was ever reflected on an IRS Form 1099 from AWI to Rider.

**5. *AWI’s use of the mails and wires and its money laundering to defraud FEI and to further defendants’ other schemes***

150. AWI’s payments to MGC for Rider (which MGC invoiced to AWI on legal bills for the ESA Action), were payments to Rider that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by AWI to MGC for Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

151. AWI’s direct “grants” to Rider were payments that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by AWI to Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

152. AWI’s “grants” and/or “donations” to WAP were intended as payments to Rider and sent through the United States mails, private or commercial interstate carriers, and/or

interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by AWI to WAP for Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

153. When AWI sent the “grants” and/or “donations” through the United States mails, private or commercial interstate carriers, and/or interstate wires, AWI intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich AWI and the other defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

154. FEI is the direct victim of AWI’s use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes.

155. The manner in which AWI handled and characterized the Rider payments in correspondence as described herein was done to conceal or disguise the nature or source of the payments and/or with an intent to evade or defeat federal income tax for Rider with respect to such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

**F. FFA/HSUS's Payments To Rider**

**1. *FFA/HSUS's participation in the illegal, improper, and fraudulent payment scheme***

156. In May 2001, FFA/HSUS joined ASPCA and AWI in agreeing to make a \$1,000.00 payment to Rider. FFA/HSUS's agreement to pay Rider \$1,000.00 came after discussions with ASPCA and AWI after Rider quit his "security" job with another animal rights organization and co-plaintiff on the initial Complaint in the ESA Action.

157. In May 2003, when it became apparent that ASPCA would not continue funding Rider, ASPCA, AWI, FFA/HSUS and MGC had discussions regarding continued funding for Rider. AWI and FFA/HSUS agreed to assume Rider's funding.

**2. *FFA/HSUS's payments to Rider through MGC***

158. At various times from May 2001 until November 2003, money was made available to Rider through MGC on behalf of FFA/HSUS. The monies MGC provided to Rider were then charged back to FFA/HSUS and the other organizational plaintiffs on MGC legal bills for the ESA Action as expenses and were reimbursed to MGC in that fashion. From 2001 to 2003, FFA/HSUS made such payments to Rider through MGC totaling \$4,433.00 which were reflected on the following invoices from MGC: July 16, 20, September 6, 27, and November 30, 2001; January 3, 2002; and April 11, 2003.

**3. *FFA/HSUS's direct cash payments to Rider***

159. Rider has received other direct cash payments from FFA/HSUS. In July 2004, FFA/HSUS directly paid Rider \$1,000.00. This \$1,000.00 direct cash payment was "to assist with [Rider's] travel expenses" to participate in a press conference in Denver, Colorado that was held in connection with a proposal to ban circus animal acts within the city limits of Denver. FFA/HSUS also paid to repair Rider's old Volkswagen van so that Rider could travel to the



Denver press conference. Although FFA/HSUS did receive a receipt for the repairs to Rider's van, FFA/HSUS did not receive a receipt for the remainder of Rider's expenses associated with the press conference. Rider appeared at the press conference with Markarian, FFA/HSUS's Rule 30(b)(6) witness in the ESA Action.

**4. FFA/HSUS's payments to Rider through WAP**

160. FFA/HSUS and HSUS merged effective January 1, 2005. After the merger, WAP received "donations" from HSUS totaling \$11,500.00 that were intended to be paid to Rider. WAP's own accounting records reflect the following "donations" from HSUS to WAP that were intended for Rider:

DATE	NAME	MEMO	CLASS	AMOUNT
3/17/2005	Deposit	Contribution from HSUS to Elephant media campa...	Elephants	\$500.00
4/18/2005	Deposit	Donation from HSUS	Elephants	\$2,000.00
6/15/2005	Deposit	Donation from HSUS for media in Elephants	Elephants	\$3,000.00
4/24/2006	Deposit	Donation from HSUS	Elephants	\$2,000.00
8/18/2006	Deposit	HSUS – elephant media	Elephants	\$2,000.00
4/8/2007	Deposit	HSUS Contribution	Elephants	\$2,000.00

**5. *Other compensation provided to Rider***

161. Before WAP bought him his current Volkswagen van, Rider drove an older Volkswagen van. On at least one occasion, FFA/HSUS paid to have the older vehicle repaired. The repairs enabled Rider to attend the press conference in Denver, Colorado that was held in connection with a proposal to ban circus animal acts within the city limits of Denver that was referenced above in paragraph 159.

162. In sum, FFA/HSUS's cash payments to Rider total at least \$11,933.00. None of foregoing amounts that FFA/HSUS paid directly to Rider or that FFA/HSUS paid to Rider through MGC or WAP was ever reflected on an IRS Form 1099 from FFA/HSUS to Rider.

**6. *FFA/HSUS's use of the mails and wires and its money laundering to defraud FEI and to further defendants' other schemes***

163. FFA/HSUS's payments to MGC for Rider (which MGC invoiced to FFA on legal bills in the ESA Action), were payments to Rider that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by FFA/HSUS to MGC for Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

164. FFA/HSUS's direct "grants" to Rider were payments that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by FFA/HSUS to Rider is a

violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

165. FFA/HSUS's "grants" and/or "donations" to WAP were intended as payments to Rider and sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by FFA/HSUS to WAP for Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

166. When FFA/HSUS sent the "grants" and/or "donations" through the United States mails, private or commercial interstate carriers, and/or interstate wires, FFA/HSUS intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich FFA/HSUS and the other defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

167. FEI is the direct victim of FFA/HSUS's use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes.

168. The manner in which FFA/HSUS handled and characterized the Rider payments in correspondence as described herein was done to conceal or disguise the nature or source of the payments and/or with an intent to evade or defeat federal income tax for Rider with respect to such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal

gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

**G. API'S Payments To Rider**

**1. *API'S participation in the illegal, improper, and fraudulent payment scheme***

169. API became a plaintiff in the ESA Action on February 23, 2006. Upon information and belief, API was added so that it could provide additional funding to Rider and so that plaintiffs could attempt to recoup some or all of such funding through the ESA Action against FEI. API also chose to get involved in the ESA Action for the specific purpose of using the litigation as a way to raise funds for API. Although API was well aware of the ESA Action in 2000 and also had a working relationship with one or more of the original plaintiffs in the ESA Action, it was not until several years later – after a reordering of fundraising priorities – that API decided to get involved in the ESA Action.

170. API has made “grants” totaling at least \$12,951.30 to WAP that are related to the ESA Action. Upon information and belief, some or all of this money has been paid to Rider. All of API's payments were accompanied by a letter signed by Paquette, General Counsel for API. The following chart summarizes the letters accompanying API's payments to WAP.

DATE OF LETTER	RE:	TEXT OF LETTER	CHECK AMOUNT
April 21, 2006	Grant	Please find enclosed a grant for \$3,000.00 towards support of the Ringling Brothers and Barnum & Bailey Case.	\$3,000.00
July 20, 2006	Grant	Please find enclosed a grant for \$3,951.30 towards support of the Ringling Brothers and	\$3,951.30

		Barnum & Bailey Case.	
January 3, 2007	Grant	Please find enclosed a grant for \$3,000.00 towards support of the Ringling Brothers and Barnum & Bailey PR efforts.	\$3,000.00
May 16, 2007	Grant	Please find enclosed a grant for \$3,000.00 towards support of the Ringling Brothers and Barnum & Bailey PR efforts.	\$3,000.00

171. In an effort to cover-up the illegal, improper, and fraudulent funding scheme, API changed the text of its letters to WAP to reflect that its “grants” were really supporting WAP’s “Ringling Brothers and Barnum & Bailey **PR efforts**” and not the “Ringling Brothers and Barnum & Bailey **Case**.” (Emphases added). This change in terminology came after FEI had filed a motion to in September 2006, to enforce a subpoena served upon WAP.

172. In addition to the API payments to WAP that were intended for Rider, Rider received money directly from API earmarked as “grants.” API also paid for Rider’s flight (\$310.19), hotel (\$241.08) and car rental (\$117.06) for travel to Omaha, Nebraska on or about January 23, 2006.

173. API’s cash payments to Rider have totaled at least \$13,619.63. None of foregoing amounts that API paid directly to Rider or that API paid to Rider through WAP was ever reflected on an IRS Form 1099 from API to Rider.

**2. *API’s use of the mails and wires and its money laundering to defraud FEI and to further defendants’ other schemes***

174. API’s direct “grants” to Rider were payments that were sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of

schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by API to Rider is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

175. API's "grants" and/or "donations" to WAP were intended as payments to Rider and sent through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. Each mailing or wiring of a payment by API to WAP is a violation of the federal mail fraud statute, 18 U.S.C. § 1341, or the federal wire fraud statute, 18 U.S.C. § 1343, and is an independent predicate act under 18 U.S.C. § 1961.

176. When API sent the "grants" and/or "donations" through the United States mails, private or commercial interstate carriers, and/or interstate wires, API intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich API and the other defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

177. FEI is the direct victim of API's use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes.

178. The manner in which API handled and characterized the Rider payments in correspondence as described herein was done to conceal or disguise the nature or source of the payments and/or with an intent to evade or defeat federal income tax for Rider with respect to

such payments with knowledge of or willful blindness to the fact that the payments were proceeds of an unlawful activity, namely payment to and receipt by Rider of bribes and illegal gratuity payments. These actions violated the federal money laundering statute, 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i), and are independent predicate acts under 18 U.S.C. § 1961.

### **III. THE FUNDRAISER HELD IN FURTHERANCE OF THE SCHEMES**

179. In July 2005, ASPCA, AWI and FFA/HSUS (operating under the name HSUS), jointly hosted a fundraiser to raise money as an additional source of funding for Rider. The defendants who were involved in the fundraiser specifically referred to the ESA Action in the fundraising solicitation materials. One or more attorneys from MGC participated directly in this solicitation of funds. The solicitation materials contain materially false and/or misleading statements about Rider, the ESA Action, and FEI. The invitation to the fundraiser states the following:

In an innovative case and the first of its kind in the country, the American Society for the Prevention of Cruelty to Animals (ASPCA), Animal Welfare Institute (AWI) and Fund for Animals (which has recently joined forces with the Humane Society of the United States) have sued Ringling Bros. and Barnum & Bailey under the Endangered Species Act for its mistreatment of Asian Elephants.

**The three non-profit organizations are joined by former Ringling Bros. employee Tom Rider who left the circus to speak about the elephant abuse he witnessed on a daily basis.**

...

**Unfortunately, the non-profit organizations are up against Feld Entertainment-the parent company of Ringling Bros. and one of the richest corporations in the world. Therefore, we desperately need your help to raise money so we can successfully wage this battle on behalf of the elephants.**

Benefit hosted by  
the American Society for the Prevention of Cruelty to Animals,  
Animal Welfare Institute,  
and Humane Society of the United States

(Emphases added).

180. The invitation is false and/or misleading in at least the following five ways. First, the invitation's various claims that FEI mistreats its Asian elephants are untrue. Second, the invitation fails to state that after quitting his job with FEI, Rider went to work for another circus in Europe. Rider did not "le[ave] the circus to speak out about elephant abuse" but rather left FEI to work for another circus. Rider only began to speak out about alleged elephant abuse when he was paid to do so. Third, the invitation claims that Rider "witnessed [elephant abuse] on a daily basis." The invitation fails to state that Rider's alleged accounts of elephant abuse have changed to become more favorable to ASPCA, AWI, FFA/HSUS and API's position in the ESA Action and that his current allegations are inconsistent with and contradict prior statements that Rider previously made about the same subjects under oath and penalty of perjury. Fourth, the invitation misleadingly states that the non-profit organizations are not capable of proceeding "against Feld Entertainment -- one of the richest corporations in the world" when, at the end of 2005 (the year that the fundraiser was held), the combined net assets or fund balances of the participating defendants -- ASPCA, AWI and FFA/HSUS/HSUS -- was \$306,184,637.00. (At the time the fundraiser was held, in July 2005, API had not yet been added as a plaintiff to the ESA Action. At the end of 2005, API's net assets or fund balances was \$ 4,673,863.00. In total, at the end of 2005, the combined net assets or fund balances of ASPCA, AWI, FFA/HSUS/HSUS, and API was \$310,858,500.00.) The invitation misleadingly implies that the defendants versus FEI was akin to "David versus Goliath," when in fact the combined assets or



fund balances of those defendants was and still is hundreds of millions of dollars. Fifth, the invitation misleadingly implies that any funds raised would help ASPCA, AWI and FFA/HSUS “wage” their legal “battle” against FEI, when in fact, the funds were being raised to provide Rider with a livelihood for his services as a plaintiff and witness in the ESA Action. According to ASPCA, the fundraiser was held “so [that ASPCA, AWI and FFA/HSUS could] continue to support Tom Rider in his outreach to the public and the media” when the actual purpose of the money was to continue to fund Rider’s role as an “injured” plaintiff and key fact witness. WAP’s ledger indicates that AWI made two payments to WAP for Rider using proceeds from the fundraiser.

181. AWI sent the invitation to the July 2005 fundraiser on behalf of ASPCA, FFA/HSUS, and itself through the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information, in violation of the federal mail fraud statute, 18 U.S.C. § 1341, and/or the federal wire fraud statute, 18 U.S.C. § 1343. This mailing is an independent predicate act under 18 U.S.C. § 1961.

182. When AWI sent the fundraiser invitation through the United States mails, private or commercial interstate carriers, and/or interstate wires, AWI, together with ASPCA and FFA/HSUS, intentionally devised or participated in schemes reasonably calculated to deceive FEI with the purpose of either obtaining from or depriving FEI of money and/or property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

183. FEI is the direct victim of AWI's use of the United States mails, private or commercial interstate carriers, and/or interstate wires in furtherance of these schemes. The fundraiser's sole targets were FEI and its Asian elephants; the fundraiser did not purport to raise money for any other purpose.

#### **IV. RIDER'S EVOLVING STORY**

184. Rider, the only individual plaintiff in the ESA Action, has given multiple statements under oath and penalty of perjury regarding his observations while he was employed by FEI: (1) Statement under Oath in Galt, California (Mar. 25, 2000); (2) Statement to a Congressional Committee (June 13, 2000); (3) Affidavit submitted to the United States Department of Agriculture ("USDA") (July 20, 2000); (4) Answer to Defendants' First Set of Interrogatories (June 9, 2004); (5) Deposition of Tom E. Rider (Oct. 12, 2006); (6) Supplemental Responses to Defendants' First Set of Interrogatories (January 30, 2007); (7) Deposition of Tom E. Rider (Dec. 18-19, 2007) and (8) Trial Testimony of Tom Rider (Feb. 12 & 17, 2009).

185. ASPCA, AWI, FFA/HSUS and API embraced Rider's USDA affidavit, his interrogatory responses and his October 12, 2006 deposition regarding alleged elephant mistreatment by incorporating all of these items into their own answers to FEI's interrogatory answers in the ESA Action submitted under penalty of perjury. These defendants also embraced Rider's March 25, 2000 sworn statement by submitting it as an exhibit at trial in the ESA Action.

186. While Rider has been receiving payments from ASPCA, AWI, FFA/HSUS and API, facilitated by MGC and WAP, his statements have changed to become more favorable to ASPCA, AWI, FFA/HSUS and API's position in the ESA Action.

187. Rider's June 2004 Answer to Defendant's First Interrogatory No. 11 in the ESA Action contained new assertions of fact that were not raised in his previous three statements

made under oath and penalty of perjury ((1) Statement under Oath in Galt, California (March 25, 2000); (2) Statement to a Congressional Committee (June 13, 2000); and (3) Affidavit submitted to USDA (July 20, 2000)). Rider's Answer to Interrogatory No. 11 recites his "recollections" of FEI's alleged abuses against elephants in specific locations and on specific dates that were not mentioned at all in his previous three statements under oath, even though such "recollections" would have been responsive and even though the earlier statements were closer in time to the events that Rider claimed he witnessed. In total, there are sixty-seven newly "recalled" instances of alleged elephant abuse.

188. In each of the sixty-seven newly remembered instances where Rider for the very first time alleges that he witnessed abuse of FEI's elephants, Rider does so only in very general terms. Conveniently, Rider's observations parallel the "taking" alleged in the ESA Action complaint. In other instances, Rider's testimony regarding elephant "abuse" at specific times and locations has changed to fit ASPCA, AWI, FFA/HSUS and API's "taking" allegations.

189. When Rider answered Interrogatory No. 11 falsely and submitted a false affidavit to the USDA, which was incorporated by reference into ASPCA, AWI, FFA/HSUS and API's Answers to Interrogatory No. 2, he acted with the specific intent to impede the administration of justice.

190. At trial in the ESA Action, Rider appeared as the plaintiffs' key fact witness and testified over the course of two (2) days. The Court found that Rider was not credible and gave his testimony no weight. Among other things, the Court found that "Mr. Rider was repeatedly impeached and indeed was 'pulverized' on cross examination. The Court finds that Mr. Rider is essentially a paid plaintiff and fact witness who is not credible, and therefore affords no weight to his testimony regarding the matters discussed herein, i.e., the allegations related to his

standing to sue.” As to Rider’s claims of “aesthetic injury” due to the elephant mistreatment he claims he witnessed when he worked for FEI, the Court found that Rider did not witness it or whatever he did witness did not cause “aesthetic injury.” Rider’s complete lack of credibility as a trial witness arose from the numerous inconsistencies between his trial testimony and his prior statements and actions as well as the false statements he gave from the witness box, including but not limited to further false versions of the same events that he claimed he had witnessed (and had described) in earlier sworn statements. When Rider testified falsely at trial, he acted with the specific intent to impede the administration of justice.

191. Rider’s false statements under oath as described above amounted to obstruction of justice in violation of 18 U.S.C. § 1503(a), a predicate act under 18 U.S.C. § 1961.

#### **V. ATTEMPTS TO COVER-UP THE PAYMENTS TO RIDER**

192. ASPCA, AWI, FFA/HSUS, WAP, MGC and Rider have attempted to cover-up the illegal, improper and fraudulent payment scheme—a scheme that was hatched before API became a plaintiff in the ESA Action and which API later joined. API also has attempted to cover-up its knowledge of WAP’s payments to Rider and its own substantial payments to Rider through WAP, which are detailed above.

193. During the period from 2001 through 2006, Rider did not declare any of the money that had been paid to him by the ASPCA, AWI, FFA/HSUS, API, WAP or MGC as income on any tax return filed with the federal or any state government. Rider did not file such tax returns until April 2007, after the subject had been raised in his October 2006 deposition and other filings in this case and after he had consulted with “pro bono” tax counsel.

194. After FEI filed a motion compel against WAP on September 7, 2006 in the ESA Action, MGC and/or WAP have attempted to hide the fact that, in reality, WAP is the alter ego

of MGC. In the brief in support of the motion, FEI referenced the “Who We Are” page of WAP’s website in support of its argument that WAP is MGC’s alter ego. This page stated that Glitzenstein serves as the President of WAP while Meyer serves as the Secretary of WAP, and that together, Glitzenstein and Meyer serve as two of WAP’s four Directors. Further, the “Who We Are” page stated that “Mr. Glitzenstein and Ms. Meyer are extremely active in daily management and supervision of the Wildlife Advocacy Project.” Less than one month later, on October 3, 2006, the entire WAP website was no longer functional. However, by November 1, 2006, WAP’s website was again functional, with the exception of its “Who We Are” page. In or about January or February 2007, the “Who We Are” page returned to WAP’s website, this time deleting any reference to Glitzenstein and Meyer’s positions as officers of WAP and their active involvement in WAP’s operations.

195. After FEI filed its motion to compel against WAP, API changed the characterization of its payments to WAP from “grants” in “support of the Ringling Brothers and Barnum & Bailey Case” to “grants” in “support of the Ringling Brothers and Barnum & Bailey PR efforts.” (emphases added).

196. The cover-up scheme was also carried out through the organizational plaintiffs’ responses to discovery in the ESA Action. In their initial responses to FEI’s discovery requests on June 9, 2004, neither ASPCA, FFA/HSUS nor AWI disclosed that they had paid money directly to Rider or to Rider through MGC and WAP when, by that point in time, these defendants, collectively, had paid Rider more than \$50,000.00. Although ASPCA made reference to having paid MGC and WAP, ASPCA did not disclose that such payments were ultimately remitted to Rider.

197. Through false answers to deposition questions and false responses to interrogatories in the ESA Action, AWI and FFA/HSUS have attempted to deflect attention from their involvement in and knowledge of the Rider funding scheme. Assisted by Meyer, Rider also has submitted a false interrogatory answer in the ESA Action that was designed to conceal the payments he received and continued to receive, at least through the trial of the ESA Action in February-March, 2009. AWI, FFA/HSUS and Rider's cover-up of the funding to Rider has amounted to at least four acts of obstruction of justice in violation of 18 U.S.C. § 1503(a).

198. The true nature and extent of the payments the organizational plaintiffs made to Rider directly or through MGC and/or WAP was not fully disclosed until after the Court's order of August 23, 2007, granting FEI's motion to compel the disclosure of such information and after the complaint in the instant action was filed.

**A. AWI Submitted False Answers To Interrogatories Regarding At Least One Payment To WAP**

199. AWI submitted its initial responses to FEI's interrogatories in the ESA Action on June 9, 2004. Meyer signed AWI's responses and objections.

200. At the time AWI submitted its June 9, 2004, responses, the following facts were known, or should have been known, to AWI: MGC had made money available to Rider and those monies had been charged back to ASPCA, AWI and FFA/HSUS on MGC legal bills as expenses in the ESA Action. MGC and WAP had both sent Rider IRS Forms 1099 for tax years 2001, 2002 and 2003, stating that they collectively had paid Rider \$23,890 in "nonemployee compensation." In addition, ASPCA, AWI and FFA/HSUS had all made payments or agreed to make payments either directly to Rider or to MGC and/or WAP that were funneled to Rider. ASPCA, AWI and FFA/HSUS had already agreed to pay Rider \$1,000.00 each – for a total of \$3,000.00 – in May 2001, after Rider quit his "security job" with another animal rights

organization that was previously a plaintiff in the ESA Action. WAP had already paid Rider \$15,114.34 from 2002-2003 and was on track to pay Rider \$23,940.00 in 2004, according to the Forms 1099 that WAP issued to Rider. ASPCA had already made a \$6,000.00 “grant” to WAP in 2001 and supplemented that “grant” with a \$526.16 check to MGC. Further, ASPCA had already been paying Rider directly for over one year – from March 2002 to May 2003. WAP had already written a check to MGC in February 2002, that WAP’s own accounting records stated was to “[r]eimburse for money paid to Tom Rider.” (emphasis added). Most importantly, at the time that AWI submitted its responses to FEI’s interrogatories, AWI had already made a \$2,500.00 “grant” to WAP in February 2004, which WAP’s own accounting records labeled as: “Grant from AWI for Elephant Education – Tom Rider.”

201. FEI’s Interrogatory No. 21 states: “Identify each resource you have expended from 1997 to the present in ‘advocating better treatment for animals held in captivity, including animals used for entertainment purposes’ as alleged in the complaint, including the amount and purpose of each expenditure.” AWI’s Response to Interrogatory No. 21 failed to disclose the \$2,500.00 payment that AWI made to WAP on February 13, 2004 – less than four months before, that was intended for Rider, even though such a disclosure would have been responsive.

202. FEI’s Interrogatory No. 22 states: “Identify each expenditure from 1997 to the present of ‘financial and other resources’ made while ‘pursuing alternative sources of information about defendants’ actions and treatment of elephants’ as alleged in the complaint.” AWI’s Response to Interrogatory No. 22 failed to disclose the \$2,500.00 payment that AWI made to WAP on February 13, 2004 – less than four months before, that was intended for Rider, even though such a disclosure would have been responsive.

203. AWI's failure to disclose this substantial payment to WAP – intended for Rider – was part of AWI's effort to cover-up the illegal, improper and fraudulent payment scheme (a scheme that was hatched before API became a plaintiff in the ESA Action and which API later joined), its knowledge of WAP's payments to Rider, and its own substantial payments to Rider through WAP.

204. AWI acted with the specific intent to impede the due administration of justice in the ESA Action.

205. AWI's false interrogatory response amounted to an obstruction of justice in violation of 18 U.S.C. § 1503(a).

**B. AWI Testified Falsely Regarding Payments To Rider In Its Deposition**

206. On May 18, 2005, AWI testified under oath and penalty of perjury, through its Rule 30(b)(6) witness, Liss, that it was “not aware” that AWI was sharing Rider's expenses with other organizations and that it did not know whether other animal welfare organizations were providing reimbursements to Rider.

207. At the time that AWI so testified, the following facts were known, or should have been known, to the witness: ASPCA, AWI, and FFA/HSUS had all made payments or agreed to make payments either directly to Rider or to MGC and/or WAP that were funneled to Rider. MGC had made money available to Rider and those monies had been charged back to ASPCA, AWI and FFA/HSUS on MGC legal bills as expenses. MGC had sent Rider an IRS Form 1099 for tax year 2001 stating that MGC had paid Rider \$8,781.00 in “nonemployee compensation.” In addition, ASPCA, AWI and FFA/HSUS had agreed to pay Rider \$1,000.00 each – for a total of \$3,000.00 – in May 2001, after Rider quit his “security job” with another animal rights organization that was previously a plaintiff in the ESA Action. WAP had already paid Rider



\$39,053.34 from 2002-2004 and was on track to pay Rider \$33,600.00 during 2005, according to the Forms 1099 that WAP issued to Rider. ASPCA had already made a \$6,000.00 “grant” to WAP in 2001 and supplemented that “grant” with a \$526.16 check to MGC. Further, ASPCA had already been paying Rider directly for over one year – from March 2002 to May 2003. WAP had already written a check to MGC in February 2002, that WAP’s own accounting records stated was to “[r]eimburse for money **paid** to Tom Rider.” (emphasis added). FFA/HSUS had already made a \$500.00 “grant” to WAP in March 2005 and a \$2,000.00 “grant” to WAP in April 2005.

208. Most importantly, at the time that AWI testified in May 2005, AWI had been invoiced approximately \$2,000.00 by MGC for payments to Rider—some of which were “shared expenses” with ASPCA and FFA/HSUS—and AWI had already paid \$10,500.00 in “grants” to WAP, some of which were specifically earmarked for Rider. Additionally, AWI made a \$1,208.00 cash “grant” directly to Rider sometime during the calendar or tax year beginning July 1, 2004 and ending on June 30, 2005.

209. Liss’ 30(b)(6) testimony under oath and penalty of perjury that AWI was “not aware” that AWI was sharing Rider’s expenses with other organizations and that it did not know whether other animal welfare organizations were providing reimbursements to Rider was false. First, there is evidence predating AWI’s deposition that MGC made money available to Rider that was then invoiced on legal bills to ASPCA, AWI and FFA/HSUS. Several of these invoices indicated that ASPCA, AWI and FFA/HSUS were “sharing” Rider’s expenses and the amounts to be paid by each organization. Second, there is evidence predating AWI’s deposition that AWI had discussions with ASPCA, FFA/HSUS, and MGC regarding the continued funding of Rider. Third, there is evidence predating AWI’s deposition that Liss personally knew that WAP was

distributing funds to Rider. Therefore, Liss, as President of AWI and AWI's Rule 30(b)(6) witness, certainly knew or should have known that AWI was "sharing" Rider's expenses with other organizations and that other animal welfare organizations were providing reimbursements to Rider.

210. AWI's testimony is refuted by prior legal bills sent by MGC to AWI for the ESA Action in 2001 and 2003. Some of the invoices were addressed to Liss. Moreover, some of the invoices showed "shared expenses" that were "to be shared by all 3 groups." Other invoices showed expenses that were paid entirely by the other organizations, *i.e.*, ASPCA and FFA/HSUS. Liss, as President of AWI and AWI's Rule 30(b)(6) witness, knew or clearly should have known that ASPCA and FFA/HSUS were paying Rider's travel expenses and that AWI was sharing Rider's payments with ASPCA and FFA/HSUS. FEI remained unaware of the payments to Rider through MGC until after the Court's order of August 23, 2007, which granted FEI's motion to compel the disclosure of such information. It was only then that the MGC invoices—dated 2001 to 2003—were produced to FEI.

211. AWI's testimony also contradicts Weisberg's May 7, 2001 email to Larry Hawk (ASPCA's former President and CEO), which confirmed in writing that ASPCA, AWI, and FFA/HSUS were all in communication regarding sources of funding for Rider after Rider quit his "security job" with another animal rights organization. Liss, as President of AWI and AWI's Rule 30(b)(6) witness, knew or clearly should have known that ASPCA and FFA/HSUS were paying Rider's travel expenses and that AWI was sharing Rider's payments with ASPCA and FFA/HSUS.

212. AWI's testimony contradicts ASPCA's July 19, 2005 sworn testimony through Weisberg, its Rule 30(b)(6) witness. ASPCA testified that after it determined that it would not

provide funding to Rider beyond May 2003, ASPCA communicated with AWI and FFA/HSUS regarding funding for Rider. Liss, as President of AWI and AWI's Rule 30(b)(6) witness, knew or clearly should have known that ASPCA and FFA/HSUS were paying Rider's travel expenses and that AWI was sharing Rider's expenses with ASPCA and FFA/HSUS.

213. AWI's testimony directly contradicts the November 5, 2003 email that Meyer sent from her MGC email account to ASPCA, FFA/HSUS, and AWI as described above. Liss and Meyer had at least one discussion regarding Meyer's November 5, 2003 email and, on December 11, 2003, Meyer proposed to Liss that AWI make a payment to WAP to fund the activities against FEI. On February 13, 2004, Liss sent a letter to Meyer stating that AWI was providing WAP with a \$2,500.00 payment in accordance with Meyer's December 11, 2003 request. Thus, when Liss testified under oath and penalty of perjury at AWI's May 18, 2005 deposition in the ESA Action as AWI's Rule 30(b)(6) witness, Liss had personal knowledge that other "animal welfare organizations" were providing funding to Rider for his travel and living expenses. She not only knew about it, she participated in it directly. AWI's sworn statement that "I don't know," therefore was false.

214. AWI testified falsely under oath and penalty of perjury in a deposition in the ESA Action in an effort to cover-up the illegal, improper and fraudulent payment scheme (a scheme that was hatched before API became a plaintiff in the ESA Action and which API later joined), its knowledge of WAP's payments to Rider, and its own substantial payments to Rider through MGC and/or WAP.

215. AWI acted with the specific intent to impede the due administration of justice in the ESA Action.

216. AWI's false testimony under oath and penalty of perjury amounted to an obstruction of justice in violation of 18 U.S.C. § 1503(a).

**C. FFA/HSUS Testified Falsely Regarding Payments To Rider In Its Deposition**

217. On June 22, 2005, FFA/HSUS testified under oath and penalty of perjury, through its Rule 30(b)(6) witness, Markarian, President of FFA, that it had paid Rider money on only *one* occasion in the amount of \$1,000.00.

218. At the time that FFA/HSUS so testified, the following facts were known, or should have been known, to the witness: ASPCA, AWI, and FFA/HSUS had all made payments or agreed to make payments either directly to Rider or to MGC and/or WAP that were funneled to Rider. MGC had made money available to Rider and those monies had been charged back to ASPCA, AWI and FFA/HSUS on MGC legal bills as expenses. MGC had sent Rider an IRS Form 1099 for tax year 2001 stating that MGC had paid Rider \$8,781.00 in "nonemployee compensation." In addition, ASPCA, AWI and FFA/HSUS had agreed to pay Rider \$1,000.00 each – for a total of \$3,000.00 – in May 2001, after Rider quit his "security job" with another animal rights organization that was previously a plaintiff in the ESA Action. WAP had already paid Rider \$39,053.34 from 2002-2004 and was on track to pay Rider \$33,600.00 during 2005, according to the Forms 1099 that WAP issued to Rider. ASPCA had already made a \$6,000.00 "grant" to WAP in 2001 and supplemented that "grant" with a \$526.16 check to MGC. Further, ASPCA had already been paying Rider directly for over one year – from March 2002 to May 2003. WAP had already written a check to MGC in February 2002, that WAP's own accounting records stated was to "[r]eimburse for money **paid** to Tom Rider." (emphasis added). AWI had already paid \$10,500.00 in "grants" to WAP, some of which were specifically earmarked for

Rider. Additionally, AWI made a \$1,208.00 cash “grant” directly to Rider some time during the calendar or tax year beginning July 1, 2004 and ending on June 30, 2005.

219. Most importantly, at the time that FFA/HSUS testified that it had made only one payment to Rider in the amount of \$1,000.00, FFA/HSUS had been invoiced approximately \$4,400.00 by MGC for payments to Rider and already had made three “donations” to WAP for Rider: a \$500.00 “donation” on March 17, 2005; a \$2,000.00 “donation” on April 18, 2005; and a \$3,000.00 “donation” on June 15, 2005—just days before FFA’s deposition. FEI was not aware of FFA/HSUS’s payments to Rider through MGC until after the Court’s August 23, 2007 order granting FEI’s motion to compel. Moreover, FEI only became aware of FFA/HSUS’s payments to WAP for Rider after it served a subpoena on WAP.

220. FFA/HSUS testified falsely under oath and penalty of perjury in a deposition in the ESA Action in an effort to cover-up the illegal, improper and fraudulent payment scheme (a scheme that was hatched before API became a plaintiff in the ESA Action and which API later joined), its knowledge of WAP’s payments to Rider, and its own substantial payments to Rider through MGC and WAP.

221. FFA/HSUS acted with the specific intent to impede the due administration of justice in the ESA Action.

222. FFA/HSUS’s false testimony under oath and penalty of perjury amounted to an obstruction of justice in violation of 18 U.S.C. § 1503(a).

**D. Rider Submitted False Interrogatory Answers Concerning Payments He Received From MGC, ASPCA, AWI, FFA/HSUS and WAP**

223. Rider submitted his initial responses to FEI’s interrogatories in the ESA Action on June 9, 2004. Meyer signed Rider’s responses and objections.

224. At the time that Rider submitted his June 9, 2004 interrogatory answers, ASPCA, AWI and FFA/HSUS had all made payments or agreed to make payments either directly to Rider or to MGC and/or WAP that were funneled to Rider. MGC had made money available to Rider and those monies had been charged back to ASPCA, AWI and FFA/HSUS on MGC legal bills as expenses. MGC had sent Rider an IRS Form 1099 for tax year 2001 stating that MGC had paid Rider \$8,781.00 in “nonemployee compensation.” ASPCA, AWI and FFA/HSUS had already agreed to pay Rider \$1,000.00 each – for a total of \$3,000.00 – in May 2001, after Rider quit his “security job” with another animal rights organization that was previously a plaintiff in the ESA Action. WAP had already paid Rider \$15,114.34 from 2002-2003 and was on track to pay Rider \$23,940 in 2004, according to the Forms 1099 that WAP issued to Rider. ASPCA had already made a \$6,000 “grant” to WAP in 2001 and supplemented that “grant” with a \$526.16 check to MGC. Further, ASPCA had already been paying Rider directly for over one year – from March 2002 to May 2003. WAP had already written a check to MGC in February 2002, that WAP’s own accounting records stated was to “[r]eimburse for money **paid** to Tom Rider.” (emphasis added). AWI had already made a \$2500.00 “grant” to WAP in February 2004.

225. FEI’s First Interrogatory No. 24 in the ESA Action called for Rider to “[i]dentify all income, funds, compensation, or other money or items . . . received from any animal advocacy organization.” Rider objected to this interrogatory but also provided the following answer: “I have not received any such compensation.” Rider signed and verified this answer upon his oath before a notary public on June 3, 2004. Meyer signed the responses that contained this answer.

226. Rider’s answer to Interrogatory No. 24 in the ESA Action was false. Rider had received more than \$50,000.00 in payments from a former plaintiff in the ESA Action, ASPCA, AWI, FFA/HSUS, MGC and/or WAP as of June 3, 2004 when he swore to the truth of this

answer and as of June 9, 2004, when his counsel served this answer on counsel for FEI. All of these entities are, and were at the time, animal advocates or animal advocacy organizations. The money that these groups had paid to Rider was “compensation” because it was designated by these groups as either “wages” or “nonemployee compensation” on IRS Form 1099’s and other tax forms sent to and received by Rider. The money was paid for services rendered. When Rider ultimately filed federal income tax returns in 2007 for the years 2000 through 2004, he stated, under penalty of perjury, that his occupation was “advocate”; that he ran a “business” in the form of a sole proprietorship that provided a “service,” namely, that of an “advocate”; and he reported all of the payments he had received from these groups as income or wages.

227. Meyer and/or MGC knowingly permitted Rider to submit this false interrogatory answer to FEI in the ESA Action. Meyer and/or MGC had personal knowledge of the substantial payments that had been made up to and including June 3, 2004 by a former plaintiff in the ESA Action, ASPCA, AWI, FFA/HSUS MGC and/or WAP to Rider. Indeed, Meyer was a principal in two of the entities—WAP and MGC—that had paid Rider and had sent him 1099’s reporting such payments. And, the former plaintiff in the ESA Action that paid Rider and also sent him a 1099 was one of Meyer’s clients. Moreover, after the payments to Rider from the former plaintiff in the ESA Action ceased in May 2001, it was Meyer’s suggestion that ASPCA, AWI and FFA/HSUS pay Rider, initially through MGC and later through WAP.

228. Rider’s false answer to Interrogatory No. 24 in the ESA Action, as enabled by Meyer and/or MGC, was part of Rider and MGC’s effort to cover-up the illegal, improper and fraudulent payment scheme.

229. Rider and Meyer acted with the specific intent to impede the due administration of justice in the ESA Action.

230. Rider's false interrogatory response, as enabled by Meyer, amounted to an obstruction of justice in violation of 18 U.S.C. § 1503(a).

**E. Other Acts To Cover Up The Payments**

231. In February and March, 2008 the magistrate judge in the ESA Action held an evidentiary hearing pursuant to an order to show cause why ASPCA, AWI, FFA/HSUS, API and Rider should not be held in contempt for violating the Court's order of August 23, 2007, granting FEI's motion to compel. The hearing concerned whether these parties had produced all of the documents and information concerning the Rider payment scheme that the August 23, 2007 order required them to produce. Even though Rider was a named plaintiff in the case, Rider did not appear in the hearing. Even though Rider had testified previously that he would appear at any trial of this case voluntarily and without a subpoena from FEI, MGC and the lawyer defendants, Meyer, Glitzenstein, Crystal, Ockene and Lovvorn, refused to accept a subpoena for Rider from FEI. A subpoena for Rider's attendance at the hearing was issued by FEI, but Rider evaded service of the subpoena. Upon information and belief, one or more of ASPCA, AWI, FFA/HSUS, API, MGC and/or one or more of the lawyer defendants procured Rider's absence from the hearing and/or told him not to attend.

232. At the time of Rider's absence from the hearing, Rider was being paid by WAP with money provided by one or more of the other organizational plaintiffs, and said payments were known to ASPCA, AWI, FFA/HSUS, API and the lawyer defendants.

233. In addition to the other allegations herein concerning the payments to Rider, the payments to Rider during the time frame of the evidentiary hearing constitute bribery of a witness in violation of 18 U.S.C. § 202(b)(3) for the additional reason that they were made corruptly with the intent to influence Rider to absent himself from the hearing and he did in fact



absent himself. These payments also constitute illegal gratuity payments in violation of 18 U.S.C. § 202(c)(2) because they were made for or because of Rider's absence from the evidentiary hearing, and Rider was in fact absent. These violations are independent predicate acts under 18 U.S.C. § 1961.

234. In addition to the other allegations herein concerning the payments to Rider, Rider's receipt and acceptance of the payments during the time frame of the evidentiary hearing also violate the federal bribery statute, 18 U.S.C. § 202(b)(4), because Rider corruptly received and accepted said payments in return for absencing himself from the evidentiary hearing. Rider's receipt and acceptance of the payments during the time frame of the evidentiary hearing also violate the federal illegal gratuity statute, of 18 U.S.C. § 202(c)(3), because Rider received and accepted said payments for or because of his absence from the evidentiary hearing. These violations are independent predicate acts under 18 U.S.C. § 1961.

235. During the ESA Action, ASPCA, AWI, FFA/HSUS and WAP did not take adequate measures to preserve and/or spoliated documents and other information pertaining to the payments to Rider in numerous respects, including, but not limited to the following. Many of the payment-related documents that these defendants did produce in the ESA Action on their face referred to other documents that were not produced. ASPCA discarded the credit card records showing expenses defrayed on Rider's behalf with Weisberg's credit card. Rider discarded the majority of the letters he received with his checks from WAP and all of the Federal Express airbills. The contents of computers used, and later discarded, by Rider and WAP during the relevant time frame have never been accounted for. FFA/HSUS did not instruct its employees to save materials relevant to the ESA Action until 2005, more than five (5) years after the action commenced.

## **VI. FEDERAL AND STATE LEGISLATIVE EFFORTS**

236. To accomplish their scheme to ban Asian elephants in circuses and to defraud FEI of money and property, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity, the defendants have supported legislation pending in Congress and in a number of states and municipalities.

237. In 1999, a bill was introduced in Congress that would have outlawed elephants in live performances.

238. Similar bills have been introduced in the legislatures of California, Connecticut, Florida, Maryland, New York, Rhode Island and Washington. In addition, a number of cities and municipalities, including the city of Chicago, have introduced measures to prohibit or to create obstacles to the exhibition of elephants traveling in circuses.

239. Rider has testified before the United States Congress and the legislatures of at least three states, Connecticut, Massachusetts and Nebraska, and the city council of at least one municipality, the City of Chicago, in support of these legislative efforts. ASPCA, AWI, FFA/HSUS and/or API, through MGC and WAP, paid Rider in connection with his testimony at these hearings. Further, at the time that he testified at these hearings, Rider knew that the payments were coming from ASPCA, AWI, FFA/HSUS and/or API. Rider's legislative testimony has evolved to fit ASPCA, AWI, FFA/HSUS and API's legislative and litigation agenda against FEI. Rider never disclosed to any of these legislative bodies that since May 2001, his entire livelihood was derived from the money he received from ASPCA, AWI, FFA/HSUS, API, WAP and MGC.

240. ASPCA, AWI, FFA/HSUS, API and WAP's payments and benefits to Rider are bribery of a witness in violation of the state bribery laws of Connecticut (Conn. Gen. Stat. § 53a-

149(a)), Nebraska (Neb. Rev. Stat. Ann. § 28-918(1)(a)) and Illinois (720 Ill. Comp. Stat. § 5/331(a)). Further, when Rider received and accepted ASPCA, AWI, FFA/HSUS, API and WAP's payments and benefits, Rider violated the state bribery laws of Connecticut (Conn. Gen. Stat. § 53a-150(a)), Nebraska (Neb. Rev. Stat. Ann. § 28-918(3)) and Illinois (720 Ill. Comp. Stat. § 5/331(d)).

241. As a legislative witness in receipt of payments from ASPCA, AWI, FFA/HSUS and/or API, through MGC and WAP, Rider has given varying, conflicting and ultimately false descriptions of the same elephant incidents fashioned to fit the circumstances in which Rider happens to be speaking. For example, in his sworn statement to Congress on June 13, 2000, Rider misrepresented an incident in Tupelo, Mississippi, in order to create the false impression that Asian elephants in a circus are dangerous to support a proposed ban on elephants in entertainment endorsed by defendants. Barely a month later in his sworn affidavit to the USDA, Rider gave a completely different account of the same Tupelo incident in order to support the claim by MGC to USDA that FEI allegedly mistreats elephants in the circus. Similarly, to support one agenda, Rider, in his sworn statement to Congress on June 13, 2000, falsely characterized the FEI elephant "Karen," as a "killer elephant" that he could never touch, but in sworn testimony on March 4, 2005, before a committee of the Connecticut Legislature described the same animal as a gentle elephant that he could actually hug. In that same hearing in Connecticut, Rider testified falsely that the hearing was only the second time in his life that he had ever held a bullhook when in fact he had held one on multiple occasions prior to 2005, some of which had been photographed.

242. Rider testified falsely before a committee of the Nebraska legislature in 2006 that he had received written reprimands from FEI for his complaints about animal abuse. In fact, the

written reprimands were for violations of FEI's work rules, including missing a day of work, insubordination to a supervisor and drunk and disorderly conduct, events that Rider has admitted occurred.

243. In 2006, Rider appeared before the Chicago City Council to make a statement in support of a proposed ordinance restricting or banning the use of the guide and tethers to manage elephants. When he appeared, Rider was being paid by WAP and also had certain of his expenses paid by PETA. In the hearing, Rider stated falsely, among other things, that FEI had killed a baby elephant with a bullhook, that the FEI elephants were chained "twenty-four hours a day," and that USDA "covers up" for FEI.

244. In addition to these federal and state legislative efforts, ASPCA, FFA/HSUS, AWI, API and MGC have been involved with other litigation and compiled a report concerning FEI's Asian elephants.

245. After the trial of the ESA Action in 2009, Rider continued to peddle his story and seek publicity, this time in Europe on behalf of, *inter alia*, Animal Defenders International ("ADI"). Upon information and belief, Rider's trip to Europe and his activities there were coordinated by or through one or more of the defendants herein, and Rider continued to be compensated in the same or similar manner as he had been compensated in the past for his services by either one or more of the defendants herein, ADI and/or persons or entities acting in concert with said parties. Rider continued to present the same story that was found in the ESA Action to have no credibility or evidentiary weight, and, in at least one respect, Rider utilized a document (a photograph) that Rider should have, but did not, produce in discovery in the ESA Action.

## **VII. PAYMENTS OR INDUCEMENTS TO OTHER WITNESSES AND PARTIES**

246. At various times during the past eight years, WAP, MGC, Meyer and/or Glitzenstein, working in concert with one or more of the other defendants herein and/or non-parties such as PETA, Animal Defenders, ADI, Last Chance for Animals or In Defense of Animals and other entities or individuals to be determined in discovery, provided funding or inducements for not only Rider's participation in the ESA Action, but also the participation of other individuals who were potential plaintiffs and witnesses in the ESA Action and other forums, including legislative, administrative and other judicial forums.

247. Together and acting in concert with others as hereinafter described, defendants have perpetrated and continue to perpetrate multiple schemes to permanently ban Asian elephants in circuses, to defraud FEI of money and property and/or to unjustly enrich themselves, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity. From on or about 2000, continuing through at least March 2009, defendants conspired with and among themselves and with others known and unknown to conduct the affairs of the Enterprise through a pattern of racketeering activity in violation of §1962(d). To carry out these schemes, defendants conspired to conduct and conducted the Enterprise through a pattern of, among other things, bribery and illegal gratuity payments (in violation of both state and federal law), obstruction of justice, mail fraud, wire fraud and money laundering.

### **A. Frank Hagan**

248. PETA procured the assistance of former FEI transportation employee Frank Hagan, who PETA had reason to know was a single parent and unemployed. From at least August 2004 through December 2004, PETA paid Hagan for information about FEI. Such payments included the funding of Hagan and his daughter's expenses for travel, food, lodging and passport expenses, and were referred to in PETA's financial documents as, for example, "Contractor fee

for Ringling Whistleblower.” Hagan later indicated to an FEI employee that his burden of raising a young child as a single parent and his need for money motivated him to cooperate with PETA.

249. Describing the money as a “living wage,” PETA’s counsel admitted that PETA paid Hagan’s living expenses for several months, which totaled approximately \$15,000 to \$20,000. Although some documents concerning these expenditures were produced in the ESA Action pursuant to a third-party subpoena, PETA did not produce an IRS Form 1099 for the monies paid to Hagan.

250. PETA promised Hagan other monetary payments for information about FEI which Hagan never received.

251. On or about the last week of July 2004 to the first week of August 2004, PETA procured a misleading affidavit from Hagan about FEI’s alleged treatment of its elephants and other animals.

252. While being paid by PETA, Hagan spoke against FEI at various forums, including publicity events such as news conferences, at the behest of PETA. Rather than give his own statement, Hagan read a statement that PETA prepared for him. PETA paid Hagan a per diem of \$75 per day plus other living and travel expenses. PETA paid Hagan from at least the period between August 16, 2004 through December 20, 2004.

253. During the time period that PETA was paying Hagan, he met with a USDA investigator and swore a false affidavit to the USDA on August 24, 2004, regarding the treatment and condition of elephants at FEI.

254. PETA used one or more of Hagan's false or misleading affidavits to gain publicity, advance its political agenda, and/or solicit donations on its website and in its promotional and publicity materials.

255. MGC attorneys, including Meyer, have previously represented PETA on multiple occasions, including, upon information and belief, during the time period in which PETA was paying Hagan. In connection with litigating a third party subpoena served on PETA in the ESA Action, PETA claimed attorney-client privilege in the ESA Action for communications with Meyer.

256. During the period when PETA was paying Hagan, defendant Ockene issued a subpoena for a deposition of Hagan in the ESA Action. The subpoena did not list any address for Hagan. He was served with the subpoena at a hotel in Norfolk, Virginia, by a woman Hagan later thought to be a process server. When questioned at his deposition about how the process server located him at his hotel in Norfolk, Hagan indicated that he believed the process server had called PETA and that PETA knew where he was staying. Prior to Hagan's deposition, he traveled to Washington, D.C. and met with Meyer at her law office, whereupon Meyer showed Hagan videotapes. The travel to Washington, D.C. was funded by Mary Beth Sweetland, who was employed as the Vice President of PETA.

257. On November 16, 2004, Hagan was deposed in connection with the ESA Action at the behest of defendant's counsel, MGC. Hagan's deposition testimony included false statements. At the trial of the ESA Action, defendants moved into evidence portions of Hagan's deposition in an attempt to prove their "taking" allegations.

**B. Glenn Ewell**

258. Glenn Ewell, a former FEI employee, was named as a plaintiff in the Original Complaint in ESA Action (No. 00-1641) but was dropped as a plaintiff on August 11, 2000.

259. A former co-plaintiff in the ESA Action (and officer of the animal rights group co-plaintiff) had promised Ewell that he would be paid in exchange for turning over evidence against FEI.

260. Prior to his involvement in the ESA Action, Ewell had made allegations of elephant mistreatment about FEI to the USDA. In connection with the complaint made to the USDA, Ewell swore an affidavit on January 20, 1999. The address listed in his affidavit is that of the former co-plaintiff animal rights group. After an investigation, the USDA officially closed the case on June 1, 1999 with no action taken. The former plaintiff animal rights group posted Ewell's affidavit on the legislative section of its website and issued a press statement about Ewell's allegations against FEI.

261. Meyer used Ewell's statements as one of the bases of a December 21, 1998 complaint made to the Animal Plant Health Inspection Service ("APHIS") division of the USDA about FEI's treatment of its elephants. WAP also posted Ewell's allegations of elephant mistreatment on its website.

**C. Archele Hundley, Robert Tom and Margaret Tom**

262. Archele Hundley worked on FEI's Red Unit for approximately two months, from April to June 2006. Hundley's primary responsibility was to care for one horse; she had no elephant-related responsibilities.

263. After leaving her employment with FEI, Hundley became affiliated with PETA. Ms. Hundley attempted to regain employment with FEI and returned to the Red Unit wearing an



undercover camera and recording device provided to her by PETA for the purpose of surreptitiously filming alleged animal abuse.

264. Robert Tom worked on FEI's Red Unit for approximately two years, ending in August 2006. Mr. Tom's primary responsibility was to care for the horses, not the elephants. Margaret Tom, who is married to Robert Tom, worked for the Red Unit for approximately two years, ending in August 2006. Mrs. Tom worked backstage assisting with props for circus performances. Mrs. Tom did not handle or work near any animals. After being terminated from FEI, Mr. and Mrs. Tom became affiliated with PETA.

265. MGC attorneys, including Meyer, have previously represented PETA on multiple occasions. In connection with litigating a third party subpoena served on PETA in the ESA Action, PETA claimed attorney-client privilege in the ESA Action for communications with Meyer.

266. On August 29, 2007, seven (7) years after the lawsuit initially was filed, Hundley and Mr. and Mrs. Tom attempted to join the ESA Action as plaintiffs. The Court denied their request on October 25, 2007. When Mrs. Tom was questioned about whether she had attempted to join the ESA Action as a plaintiff at her deposition in the ESA Action, she denied doing so. Neither Hundley nor the Toms had a credible claim of "attachment" to any of FEI's Asian elephants because none of them worked with the elephants. However, these parties were advanced as plaintiffs with purported "aesthetic injuries" because, upon information and belief, defendants herein were concerned that their entire case rested on the "aesthetic injury" claimed by Rider who, at the time of the proposed joinder of Hundley and the Toms, had already demonstrated a lack of credibility in his first deposition and also was vulnerable to due the corrupt stream of payments that we was receiving.

267. With the assistance of PETA, and during the pendency of the ESA Action, Hundley and Mr. Tom swore false and/or misleading declarations that contained allegations of animal mistreatment against Ringling Bros. Hundley and Mr. Tom's declarations were filed as exhibits to plaintiffs' opposition to defendants' motion for summary judgment. Neither Hundley nor Mr. Tom disclosed funding by PETA in their respective declarations nor that they were prepared with PETA's assistance. Both of those individuals had received thousands of dollars in funds from PETA denominated as expense reimbursement.

268. In connection with a USDA investigation of the same complaints of animal abuse made by Hundley and Mr. Tom in the PETA-assisted declarations, the USDA met with Hundley and Mr. and Mrs. Tom two times each. Hundley, Mr. Tom, Mrs. Tom and a representative from PETA met with the USDA in Washington, D.C. After the meetings in Washington, D.C., the USDA met separately with Ms. Hundley and Mr. and Mrs. Tom outside the presence of a PETA representative and each individual swore an affidavit. WAP posted the affidavits of Hundley and Mr. Tom on its website.

269. Hundley has filmed public service announcements, scripted and directed by PETA, spoken to state legislatures on behalf of PETA, and has spoken at PETA press conferences, including one with Mr. and Mrs. Tom. PETA has admitted to paying expenses for Hundley and Mr. and Mrs. Tom during the time that the ESA Action was pending.

270. At the direction and assistance of PETA, and during the pendency of the ESA Action, Mr. and Mrs. Tom appeared on PETA's behalf and/or spoke against Ringling Bros. in connection with participating in PETA's legislative and public relations efforts. PETA paid their expenses in connection with these events.

271. PETA drafted a November 13, 2006 letter on behalf of Mrs. Tom to Mayor Richard Daley of Chicago, Illinois, in which Mrs. Tom encouraged the Chicago City Council to pass legislation that would have severely restricted, or eliminated entirely, the ability of any traveling circus to exhibit elephants in Chicago. WAP posted this letter on its website. Mrs. Tom's own testimony in the ESA Action demonstrated that she did not have the intellectual capacity to write this letter. She was used callously by PETA and ultimately by defendants herein in their prosecution of the ESA Action.

272. Hundley appeared as a witness at trial on behalf of the ESA Action plaintiffs and was repeatedly impeached. The ESA Action plaintiffs moved into evidence portions of deposition transcripts from Mr. and Mrs. Tom. The Toms' testimony was impeached at trial by other portions of their deposition testimony and exhibits.

#### **DAMAGES SUFFERED BY FEI**

273. FEI has sustained damages which are ongoing and yet to be completely identified and quantified, that are the direct and proximate result of wrongful actions of defendants and others known and unknown to FEI, acting in concert, and which are described herein. Such damages are ongoing, and include, but are not limited to significant damages, direct, indirect, collateral, consequential, and incidental, to FEI's business and operations resulting from the substantial costs incurred by FEI to defend the ESA Action that has continued only due to the racketeering and tortious activity of ASPCA, AWI, FFA/HSUS, API, WAP, MGC and Rider which has been ongoing since at least May 2001.

274. FEI retained the law firm of Fulbright & Jaworski L.L.P., and previously Covington & Burling L.L.P., to represent it in the ESA Action, and FEI is obligated to pay said attorneys a reasonable fee for their services and the costs necessitated by the ESA Action.

**COUNT I**

**RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

**CONDUCTING THE AFFAIRS OF THE ENTERPRISE THROUGH A PATTERN OF RACKETEERING ACTIVITY**

**(18 U.S.C. §§ 1962(c) and 1964(c))**

**(Against All Defendants)**

275. FEI realleges and incorporates by reference each and every allegation in paragraphs 1-274 above as if set forth fully herein.

**I. THE ENTERPRISE**

276. From on or about 2000, continuing through the filing of this Amended Complaint, each defendant was a “person” within the meaning of 18 U.S.C. § 1961(3).

277. From on or about 2000, continuing through the filing of this Amended Complaint, defendants, and others known and unknown, including agents and employees of the defendants, formed an associated-in-fact enterprise within the meaning of 18 U.S.C. §§ 1961(4).

278. From on or about 2000, continuing through the filing of this Amended Complaint, the Enterprise formed by these parties engaged in, and the activities of which affected, interstate and foreign commerce.

279. Defendants formed the Enterprise to execute and attempt to execute schemes to ban Asian elephants from circuses, to defraud FEI of money and property, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity and/or to unjustly enrich themselves through donations obtained from third parties on the basis of false or otherwise misleading information.

280. From on or about 2000, continuing through the filing of this Amended Complaint, defendants, and each of them individually, together with others known and unknown to FEI,

acting in concert, were each employed or were employed by and associated with the Enterprise and have in the past, continuously and currently continue to, in an ongoing manner, knowingly and intentionally conduct the activities of the Enterprise, directly or indirectly, through a continued pattern of racketeering activity consisting of numerous acts of racketeering in the District of Columbia and elsewhere. Their actions include multiple, related acts in violation of the following provisions of the United States Code: Bribery, 18 U.S.C. § 201(b); Illegal Gratuity Payments, 18 U.S.C. § 201(c); Obstruction of Justice, 18 U.S.C. § 1503(a); Mail Fraud, 18 U.S.C. § 1341; Wire Fraud, 18 U.S.C. § 1343; Money Laundering, 18 U.S.C. § 1956. Further, defendants conducted the affairs of the Enterprise through, among other things, multiple related acts in violation of the bribery laws of Connecticut, Nebraska and Illinois. These violations of the United States Code were in furtherance of the Enterprise's ongoing schemes to ban Asian Elephants from circuses, to defraud FEI of money and property, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information.

281. From on or about 2000, the Enterprise has existed separate and apart from defendants' racketeering acts and their conspiracy to commit such acts. The Enterprise has an ascertainable structure and purpose beyond the scope and commission of defendants' predicate acts.

## **II. THE PATTERN OF RACKETEERING ACTIVITY**

282. The Enterprise as described herein is at all relevant times a continuing enterprise because it continues to execute schemes to ban the use of Asian elephants in circuses and defraud FEI of money and property, with the ultimate objective of banning Asian elephants in all forms

of entertainment and captivity, and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information, by bringing the ESA Action against FEI that is substantiated by Rider's testimony, which is (and has been) influenced by unlawful payments orchestrated by ASPCA, AWI, FFA/HSUS, API, WAP, MGC and Rider, and facilitating Rider's obstruction of justice in the ESA Action. In furtherance of the schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information, these payments to Rider, and other solicitation materials, have been sent through the mails and wires in violation of the federal mail and wire fraud statutes. Defendants engaged in transactions that were designed to disguise the nature and source of the payments and/or with an intent to evade or defeat federal income tax. Further, AWI, FFA/HSUS and Rider, enabled by Meyer, have committed four or more obstructions of justice in this matter in an effort to cover-up the racketeering activity. The conduct of the Enterprise has continued from its inception through the date of this Amended Complaint and threatens to continue into the future, by virtue of the continued payments to Rider and to WAP, which are as recent as February 2009, and the ESA Action which centers on Rider's testimony.

283. The pattern of racketeering activity, as defined by 18 U.S.C. §§ 1961(1) and (5), presents both a history of criminal conduct and a distinct threat of continuing criminal activity. Such activity consists of multiple acts of racketeering by each defendant herein, is interrelated, not isolated and is perpetrated for the same or similar purposes by the same persons. Such activity extends over a substantial period of time, up to and beyond the date of this Amended Complaint. Such activities occurred after the effective date of 18 U.S.C. §§ 1961 *et seq.*, and the

last such act occurred within 10 years after the commission of a prior act of racketeering activity.

These racketeering activities include multiple repeated acts of:

a. Bribery (18 U.S.C. § 201(b)(3)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, directly or indirectly, corruptly gave, offered, or promised anything of value to any person, or offered or promised such person to give anything of value to any other person or entity, with intent to influence the testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding or to influence such person to absent himself therefrom, with respect to the individuals identified above in the ESA Action, in violation of 18 U.S.C. § 201(b)(3) and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

b. Bribery (18 U.S.C. § 201(b)(4)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, directly or indirectly, corruptly demanded, sought, received, accepted, or agreed to accept anything of value personally or for any other person or entity in return for being influenced in testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding or in return for absenting himself therefrom, with respect to the individuals identified above in the ESA Action, in violation of 18 U.S.C. § 201(b)(4) and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

c. Illegal Witness Payments (18 U.S.C. § 201(c)(2)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants,

directly or indirectly, gave, offered, or promised anything of value to any person, for or because of the testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding or for or because of such person's absence therefrom, with respect to the individuals identified above involved with the ESA Action, in violation of 18 U.S.C. § 201(c)(2) and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

d. Illegal Witness Payments (18 U.S.C. § 201(c)(3)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, directly or indirectly, demanded, sought, received, accepted, or agreed to receive or accept anything of value personally for or because of the testimony under oath or affirmation as a witness upon a trial, hearing or other proceeding or for or because of such person's absence therefrom, with respect to the individuals identified above involved with the ESA Action, in violation of 18 U.S.C. § 201(c)(3) and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

e. Obstruction of Justice (18 U.S.C. § 1503(a)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, corruptly influenced, obstructed, or impeded, or endeavored to influence, obstruct, or impede the due administration of justice, in violation of 18 U.S.C. § 1503(a) and 18 U.S.C. § 2, as described in paragraphs 184-235 of this Amended Complaint.

f. Mail Fraud (18 U.S.C. § 1341): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, used the United States



mails and/or private or commercial interstate carriers in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

g. Wire Fraud (18 U.S.C. § 1343): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, used interstate wires in furtherance of schemes to defraud FEI of money and property and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information, in violation of 18 U.S.C. § 1343 and 18 U.S.C. § 2, as described in paragraphs 1-191 of this Amended Complaint.

h. Bribery (Conn. Gen. Stat. § 53a-149(a)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, offered, conferred, or agreed to confer upon a witness any benefit to influence the testimony or conduct of such witness, in, or relation to, any official proceeding, in violation of Conn. Gen. Stat. § 53a-149(a), as described in paragraphs 1-191 & 236-243 of this Amended Complaint.

i. Bribery (Conn. Gen. Stat. § 53a-150(a)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, solicited, accepted, or agreed to accept any benefit from another person upon an agreement or understanding that such benefit will influence his testimony or conduct in, or relation to, any

official proceeding, in violation of Conn. Gen. Stat. § 53a-150(a), as described in paragraphs 1-191 & 236-243 of this Complaint.

j. Bribery (Neb. Rev. Stat. Ann. § 28-918(1)(a)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, offered, conferred, or agreed to confer any benefit upon a witness or person he believes is about to be called as a witness in any official proceeding with intent to influence him to testify falsely or unlawfully withhold any testimony, in violation of Neb. Rev. Stat. Ann. § 28-918(1)(a), as described in paragraphs 1-191 & 236-243 of this Amended Complaint.

k. Bribery (Neb. Rev. Stat. Ann. § 28-918(3)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, accepted or agreed to accept any benefit from any other person for the purpose of being influenced to testify falsely or unlawfully withhold any testimony in any official proceeding, in violation of Neb. Rev. Stat. Ann. § 28-918(3) as described in paragraphs 1-191 & 236-243 of this Amended Complaint.

l. Bribery (720 Ill. Comp. Stat. § 5/331(a)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, with the intent to influence the performance of a witness, promised or tendered to that person property or personal advantage which said person was not authorized by law to accept, in violation of 720 Ill. Comp. Stat. § 5/331(a), as described in paragraphs 1-191 & 236-243 of this Amended Complaint.

m. Bribery (720 Ill. Comp. Stat. § 5/331(d)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, received, retained or agreed to accept property or personal advantage which he was not authorized by law to accept knowing that such property or personal advantage was promised or tendered with the intent to influence him in performance of a function as a witness, in violation of 720 Ill. Comp. Stat. § 5/331(d), as described in paragraphs 1-191 & 236-243 of this Amended Complaint.

n. Money Laundering (18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i)): On or about the dates indicated in the paragraphs incorporated below, the defendants and their employees and/or agents acting on their behalf, aided and abetted by each other, and the remaining defendants, with knowledge of, or willful blindness to, the fact that the proceeds were from an unlawful activity, engaged in transactions designed in whole or in part to conceal or disguise the nature or the source of such proceeds and/or with intent to evade or defeat federal income tax, in violation of 18 U.S.C. § 1956(a)(1)(A)(ii) & (B)(i) and 18 U.S.C. § 2 as described in paragraphs 1-191 of this Amended Complaint.

284. The persons alleged herein to have violated 18 U.S.C. § 1962(c) are separate from, though employed by or associated with, defendants.

285. Each defendant had a role in the racketeering activity that was distinct from the undertaking of those acting on its behalf. Each defendant also attempted to benefit, and did benefit, from the activity of their employees and agents alleged herein, and thus were not passive victims of racketeering activity, but active perpetrators.

286. FEI has been injured in its business or property as a direct and proximate result of the defendants' violations of 18 U.S.C. § 1962(c), including injury by reason of the predicate acts constituting the pattern of racketeering activity.

287. As a result of the violations of 18 U.S.C. § 1962(c) by the defendants, FEI has suffered substantial damages in an amount to be proved at trial.

288. Pursuant to 18 U.S.C. § 1964(c), FEI is entitled to recover treble its general and special compensatory damages, plus interest, costs and attorneys fees, incurred by reason of defendants' violations of 18 U.S.C. § 1962(c).

## **COUNT II**

### **RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT**

### **CONSPIRACY TO CONDUCT THE AFFAIRS OF THE ENTERPRISE THROUGH A PATTERN OF RACKETEERING ACTIVITY IN VIOLATION OF § 1962(c)**

**(18 U.S.C. §§ 1962(d) and 1964(c))**

**(Against All Defendants)**

289. FEI realleges and incorporates by reference each and every allegation in paragraphs 1-288 above as if fully set forth herein.

290. From on or about 2001, and continuing through the time of filing in this Amended Complaint, defendants, and others unknown and unknown, being persons employed by and associated with the Enterprise, did unlawfully, knowingly and intentionally conspire, combine, confederate and agree together to conduct of the affairs of the Enterprise, which was engaged in, and the activities of which affected, interstate and foreign commerce, through a pattern of racketeering activity in violation of 18 U.S.C. § 1962(c).

291. Each defendant agreed that at least two acts of racketeering activity would be committed by a member of the conspiracy in furtherance of the Enterprise.

292. It was part of the conspiracy that the defendants and their co-conspirators would commit numerous acts of racketeering activity in the conduct of the affairs of the Enterprise, including but not limited to, the acts of racketeering set forth below. The pattern of racketeering activity, as defined by 18 U.S.C. §§ 1961(1) and (5) includes multiple repeated acts of:

a. Bribery, 18 U.S.C. § 201(b)(3), as described in paragraphs 1-191 & 283 of this Amended Complaint;

b. Bribery, 18 U.S.C. § 201(b)(4), as described in paragraphs 1-191 & 283 of this Amended Complaint;

c. Illegal Witness Payments, 18 U.S.C. § 201(c)(2), as described in paragraphs 1-191 & 283 of this Amended Complaint;

d. Illegal Witness Payments, 18 U.S.C. § 201(c)(3), as described in paragraphs 1-191 & 283 of this Amended Complaint;

e. Obstruction of Justice, 18 U.S.C. § 1503(a), as described in paragraphs 184-235 & 283 of this Amended Complaint;

f. Mail Fraud, 18 U.S.C. § 1341, as described in paragraphs 1-191 & 283 of this Amended Complaint;

g. Wire Fraud, 18 U.S.C. § 1343, as described in paragraphs 1-191 & 283 of this Amended Complaint;

h. Bribery, Conn. Gen. Stat. § 53a-149(a), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

i. Bribery, Conn. Gen. Stat. § 53a-150(a), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

j. Bribery, Neb. Rev. Stat. Ann. § 28-918(1)(a), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

k. Bribery, Neb. Rev. Stat. Ann. § 28-918(3), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

l. Bribery, 720 Ill. Comp. Stat. § 5/331(a), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

m. Bribery, 720 Ill. Comp. Stat. § 5/331(d), as described in paragraphs 1-191, 236-243 & 283 of this Amended Complaint;

n. Money Laundering, 18 U.S.C. § 1956(a)(1)(A)(ii ) & (B)(i), as described in paragraphs 1-191 & 283 of this Amended Complaint.

293. In furtherance of this unlawful conspiracy, and to effect its objectives, defendants committed numerous overt acts, including but not limited to those set forth in paragraphs 1-274 above.

294. FEI has been injured in its business or property by reasons of the defendants' violations of 18 U.S.C. § 1962(d), including injury by reason of the predicate acts constituting the pattern of racketeering activity.

295. As a result of the conspiracies between and among all of the defendants to violate 18 U.S.C. § 1962(c), FEI has suffered substantial damages, in an amount to be proved at trial.

296. Pursuant to 18 U.S.C. § 1964(c), FEI is entitled to recover treble its general and special compensatory damages, plus interest, costs and attorney's fees, by reason of defendants' violations of 18 U.S.C. § 1962(d).

**COUNT III**

**VIRGINIA CONSPIRACY ACT**

**CONSPIRACY TO HARM A BUSINESS**

**(Va. Code Ann. § 18.2-499(a), § 18.2-500)**

**(Against All Defendants)**

297. Defendants combined associated, agreed, mutually undertook, or concerted together, as described in paragraphs 1-296 of this Amended Complaint.

298. Defendants' concerted action was undertaken to injure FEI intentionally, purposefully, and without lawful justification, as described in paragraphs 1-297 of this Amended Complaint.

299. Defendants undertook their concerted action intentionally and purposefully to injure FEI's business. Defendants intended that their actions in creating and carrying out the illegal, improper and fraudulent payment scheme, which enabled them to bring the baseless ESA Action, would cause FEI to spend a significant amount of money in defending the ESA Action, and would enable defendants to unjustly enrich themselves through donations obtained from third parties on the basis of false or otherwise misleading information as described in paragraphs 1-298 of this Amended Complaint.

300. Defendants conspired to accomplish an unlawful purpose and/or to accomplish a purpose, not in itself criminal or unlawful, by criminal or unlawful means. Defendants have perpetrated and continue to perpetrate a scheme to permanently ban Asian elephants in circuses, to defraud FEI of money and property, with the ultimate objective of banning Asian elephants in all forms of entertainment and captivity and/or to unjustly enrich defendants through donations obtained from third parties on the basis of false or otherwise misleading information. To carry

out this scheme, Defendants have each violated the following provisions of the United States Code: (1) Bribery, 18 U.S.C. § 201(b); (2) Illegal Gratuity Payments, 18 U.S.C. § 201(c); (3) Obstruction of Justice, 18 U.S.C. § 1503(a); (4) Mail Fraud, 18 U.S.C. § 1341; and (5) Wire Fraud, 18 U.S.C. § 1343; and Money Laundering, 18 U.S.C. § 1956. Further, the defendants' actions include multiple related acts in violation of the bribery laws of Connecticut, Nebraska and Illinois.

301. Defendants' concerted action caused FEI injury, in its business or property as a direct and proximate result of defendants' violations of federal and state law, including injury by reason of the predicate acts constituting the pattern of racketeering activity. As a result of the violations of Va. Code Ann. § 18.2-499 by defendants, FEI has suffered substantial damages in an amount to be proved at trial and is entitled to relief under Va. Code Ann. § 18.2-500.

#### **COUNT IV**

#### **ABUSE OF PROCESS**

#### **(Against All Defendants)**

302. FEI realleges and incorporates by reference each and every allegation in paragraphs 1 through 301 above as if set forth fully herein.

303. The ESA Action commenced on July 11, 2000 with a complaint filed in Civil Action No. 00-1641 (D.D.C.), on behalf of, *inter alia*, ASPCA, AWI, FFA/HSUS and Rider. After a dismissal of Civil Action No. 00-1641 on the pleadings for lack of Article III standing, an appeal of the dismissal and reversal, on September 26, 2003, ASPCA, AWI, FFA/HSUS, and Rider re-filed a complaint in Civil Action No. 03-2006 (D.D.C.). API became a plaintiff in the ESA Action on February 23, 2006.



304. The Court presided over a non-jury trial of the ESA Action from February 4, 2009 through March 18, 2009. On December 30, 2009, the Court entered judgment in favor of Feld Entertainment, Inc. and found, among other things, that Rider failed to prove that he suffered an aesthetic or emotional injury. The Court also found that Rider was essentially a paid plaintiff and fact witness who was not credible, and therefore afforded no weight to his testimony regarding the matters discussed herein. Further, the Court found that the primary purpose of the funding provided by the organizational plaintiffs was to secure and maintain Rider's participation in this lawsuit, not legitimate reimbursement for bona fide media expenses.

305. Defendants ASPCA, AWI, FFA/HSUS, API and Rider initiated the ESA Action for the improper and ulterior purposes of attracting publicity and soliciting fundraising/donations for their anti-circus campaign and not to pursue a cognizable injury pursuant to the ESA.

306. Defendants have admitted in various contexts that their philosophical, political and/or advocacy goals are to eliminate the use of Asian elephants in circuses.

307. Throughout the period from the inception of the original ESA Action in July 2000, ASPCA, AWI, FFA/HSUS, API and WAP, acting in concert with their attorneys, MGC, Meyer and Glitzenstein, prominently featured the ESA Action and the romantic, but untrue image of Rider as selfless elephant spokesman in print and broadcast media materials, website postings and in similar outlets and used such materials aggressively to seek and obtain donations and/or to fund other projects unrelated to Asian elephant welfare. For example, on the ASPCA website, postings about the lawsuit were featured on the same page as links (such as those labeled "Donate Today" and "Donate Now") which direct the viewer to pages that solicit donations. Despite the fact that the Court in the ESA Action dismissed all claims on December 30, 2009, as

of the date of the filing of this Amended Complaint, one or more of defendants herein continues to solicit donations on the basis of the ESA Action.

308. In July 2005, Defendants ASPCA, AWI and FFA/HSUS used the ESA Action as a fundraising opportunity by directly featuring it in such materials. The tax deductible proceeds from that fundraiser were not directed to a legal defense fund of the ESA Action, but rather directly to Rider for his services as a paid plaintiff and witness.

309. Upon information and belief, during the period from February 2003, when the D.C. Circuit ruled that the case could proceed on the basis of Rider's (not then known to the Court) fabricated claims of standing, through December 30, 2009, ASPCA, AWI, FFA/HSUS, API and WAP, combined, raised more than one billion (\$1,000,000,000.00) in donations.

310. Seeking publicity and soliciting donations constitute acts in the use of the judicial process that are not contemplated by or proper in the regular prosecution of a lawsuit brought against one private party against another private party under the "citizen suit" provision of the ESA.

311. Defendants also initiated both iterations of the ESA Action for the improper and ulterior purpose of assisting their legislative efforts at the federal, state and municipal levels to eliminate the use of elephants in circuses. Defendants utilized information obtained from FEI in discovery in the ESA Action to seek publicity and to further the defendants' legislative efforts.

312. For example, Rider has testified or appeared and given statements before the United States Congress, the legislatures of at least three states, Connecticut, Massachusetts and Nebraska, and the city council of at least one municipality, the City of Chicago, in support of these legislative efforts. ASPCA, AWI, FFA/HSUS, and/or API, through MGC and/or WAP, paid Rider in connection with his testimony at these hearings. Rider's legislative testimony has

evolved to fit ASPCA, AWI FFA/HSUS, API, WAP and MGC's legislative agenda against FEI. In each of these appearances, Rider gave false testimony or made false statements concerning, FEI, FEI's elephants and/or Rider himself. In some or all of these hearings, Rider advertised the fact that he was a plaintiff in the ESA Action and utilized or relied upon documents and other information generated in the course of the ESA Action. However, Rider did not disclose the fact that he was a paid plaintiff and paid fact witness in the ESA Action. Rider was aided and guided in these efforts by one or more of the defendant organizations and by one or more of the defendant lawyers. Furthermore, one or more of the defendant organizations and one or more of the defendant lawyers has engaged in similar legislative activity on the basis of the documents and other information generated in the course of the ESA Action.

313. Utilizing the pendency of, and the processes, procedures and information generated by, a lawsuit to seek publicity and to pursue legislative agendas are acts in the use of the judicial process not contemplated by or proper in the regular prosecution of a lawsuit brought against one private party against another private party under the "citizen suit" provision of the ESA.

314. Defendants' own conduct in the ESA Action demonstrated their ulterior purposes. The only forms of relief under the ESA ever sought by these parties in the ESA Action that would have directly affected the elephants were an injunction and forfeiture of the animals. However, defendants did not seek a preliminary injunction when they brought the ESA Action in 2000. Instead they waited eight (8) years to seek that relief, and, even then, defendants ultimately abandoned injunctive relief at trial. Defendants also abandoned any claim to forfeiture of the elephants. Had the case really been about elephant mistreatment and Rider's purported "aesthetic injury" as a result of alleged elephant mistreatment, neither of these remedies would have been abandoned.

315. At trial, ASPCA, AWI and FFA/HSUS defaulted on any attempt to establish standing and abandoned any claim for relief. Furthermore, the permit proceeding before FWS that the remaining plaintiffs (Rider and API) did request that the Court order FEI to pursue was antithetical to Rider's claim of "aesthetic injury." The ulterior purpose of this requested relief was not to remedy any "aesthetic injury" that Rider claimed or even, for that matter, to remedy any "informational injury" that API claimed. Instead, this relief was sought in order to prolong the fundraising potential of the dispute with FEI. Even if it had been conducted, the permit proceeding could have taken years to resolve but would have kept the controversy with FEI alive and enabled defendants to raise more funds on the basis of the case.

316. Through this abuse of the judicial process, financed by a corrupt scheme of payments to Rider, defendants kept this litigation going for nearly nine (9) years, at great expense to FEI, and raised hundreds of millions of dollars in the interim and while seeking publicity and attempting to use the litigation to influence their legislative goals to ban elephants in circuses. These ends – publicity, revenue from donations and legislative goals – are outside the regular purview of the judicial process.

317. The ulterior purposes of the ESA Action are further demonstrated by the more than \$190,000 in payments that ASPCA, AWI, FFA/HSUS, API, WAP and MGC made to Rider. The primary purpose of the payments was securing the services of a plaintiff who ostensibly had Article III standing so that the organization defendants and the lawyer defendants could bring a case that said defendants otherwise had no Article III standing to bring. These defendants paid Rider to claim an "aesthetic injury" that Rider in fact did not and never had. The defendants paid Rider to be their key fact witness with respect to events that the Court in the ESA Action later found to have no credibility. Paying a person to be a plaintiff and key fact witness in this manner

is not only a fraud on the court, but also is a perversion of the legal process and constitutes additional conduct in the use of the process not proper in the regular prosecution of the proceedings.

318. Defendants' actions constitute a malicious abuse and misuse of the process that was lawfully and properly issued. The process was caused to issue and was used, not for the purpose for which it was intended, but for the collateral objectives of publicity, fundraising/soliciting donations and legislative campaigns and participation to bring an end to elephants in FEI's circus. Defendants used the issuance of process in the ESA Action in an attempt to extort from FEI something that defendants could not have achieved by successfully pressing its claims in the ESA Action – the end of Asian elephants in FEI's circus. Defendants used the issuance of process in the ESA Action to achieve a result that is without the proper scope of the judicial process, namely seeking publicity and unjustly enriching themselves with donations from third parties that would not have been made but for the false image that defendants portrayed in court pleadings and other filings of Rider the “aesthetically injured” elephant man who quit FEI because he could not stand the way the elephants were treated.

319. Defendants acted with actual and/or implied malice.

320. Defendants' actions were willful and wanton and/or in reckless and/or callous disregard of FEI's rights.

321. As a result of defendants' actions, FEI seeks compensatory damages equal to an amount to be proven at trial.

322. As a result of defendants' actions, FEI requests punitive damages for the reckless disregard of, and callous indifference to, its rights in an amount appropriate to the proof presented at trial.

**COUNT V**

**MALICIOUS PROSECUTION**

**(Against All Defendants)**

323. FEI realleges and incorporates by reference each and every allegation in paragraphs 1 through 322 above as if set forth fully herein.

324. On December 30, 2009, the Court entered judgment in favor of FEI, thereby terminating the ESA Action in FEI's favor.

325. Although packaged as a case about elephant "abuse", the ESA Action was never really about how FEI treats its Asian elephants. The ulterior purposes of the ESA Action were to use the case, and Rider's falsely portrayed image as an "aesthetically injured" former FEI employee who quit his FEI job because he could not stand to see the elephants mistreated, as a publicity stunt by ASPCA, AWI, FFA/HSUS, API, WAP and MGC to raise money and/or to advance their legislative campaigns to ban elephants from the circus.

326. Defendants ASPCA, AWI, FFA/HSUS and API, acting in concert with their attorneys, MGC, devised an illegal and fraudulent scheme to circumvent well established limits on the Article III jurisdiction of the federal courts. Fully aware that none of them could assert Article III standing based upon an "aesthetic injury," these defendants hired Rider to be their plaintiff and principal witness in an action under the "citizen suit" provision of the ESA. For his services as a paid plaintiff and a paid witness, Rider received nearly \$200,000 over more than eight (8) years from ASPCA, AWI, FFA/HSUS, API, WAP and MGC. Rider's alleged injuries, insofar as they bore upon his Article III standing to sue, were the sole reason that the ESA Action continued through and including a six and one-half (6 ½ ) week trial at the conclusion of which the Court entered judgment in favor of FEI.

327. The payments made to secure Rider's participation in the ESA Action were falsely characterized in correspondence and defendants' records and were laundered by passing them through the legal bills of MGC or paying them out to Rider as "grants" from WAP in order to avoid detection.

328. In entering judgment for FEI, the Court found that Rider failed to prove that he suffered an aesthetic or emotional injury. The Court also found that Rider was essentially a paid plaintiff and fact witness who was not credible, and therefore afforded no weight to his testimony. The Court found that the primary purpose of the funding provided by the organizational plaintiffs was to secure and maintain Rider's participation in the ESA Action, not legitimate reimbursement for bona fide media expenses. Based upon Rider's failure to complain, the Court also determined that Rider either: (a) did not witness elephant mistreatment when he was employed by FEI or (b) any mistreatment he did witness did not affect him to the extent he suffered the requisite injury.

329. The ESA Action had no probable cause because the plaintiff upon whose "aesthetic injuries" the Article III jurisdiction of the case rested – Rider – did not in fact have any "aesthetic injury." Instead Rider was paid by ASPCA, AWI, FFA/HSUS, API, WAP and MGC to be the plaintiff and to say that he had been "aesthetically injured." Further perpetuating what in essence was a fraud on the courts (and on FEI), ASPCA, AWI and FFA/HSUS, acting in concert with their attorneys, Meyer, Glitzenstein, Lovvorn and Ockene deliberately misrepresented Rider's purported standing in pleadings and other filings before this Court and the D.C. Circuit in the ESA Action. The attorneys made statements about Rider's "aesthetic injury" that they knew were untrue at the time they made them. Although this Court dismissed the ESA Action on

standing grounds as to all plaintiffs in 2001, the D.C. Circuit allowed the ESA Action to proceed in 2003 on the basis of Rider's fabricated standing claims as pleaded by his counsel.

330. By bringing and pursuing the ESA Action with a fraudulent Article III jurisdictional predicate, based upon a corrupt stream of payments to the paid plaintiff and paid fact witness Rider, defendants acted with malice toward FEI and these actions constitute a willful, wanton, reckless and/or oppressive disregard for the rights of FEI. FEI was forced to defend itself against such ill-conceived litigation for more than nine (9) years.

331. FEI has suffered special injury as a result of defendants' actions. FEI was forced to defend a lawsuit in which the plaintiff had no injury but was hired and paid by his co-plaintiffs and his (and their) attorneys to make a false claim of injury so that the other defendants could pursue a case in federal district court for which there otherwise would have been no Article III jurisdiction, in order to further the other plaintiffs' ulterior purposes of banning elephants in circuses, entertainment and, ultimately captivity, and of raising money. These effects – flowing from having to defend a lawsuit brought by a paid plaintiff – who has no injury but who was paid to testify falsely that he was injured – are special injuries because they are over and above the normal inconvenience, expense and business disruption that results from being a defendant in litigation in federal district court.

332. In addition to the special injuries described above, FEI has suffered the substantial expense of defending itself in the ill-conceived ESA Action and harm to its business, property and/or reputation equal to an amount to be proven at trial.

333. As a result of defendants' actions, FEI requests punitive damages for the reckless disregard of, and callous indifference to, its rights in an amount appropriate to the proof presented at trial.



**COUNT VI**

**MAINTENANCE**

**(Against ASPCA, AWI, FFA/HSUS, API and WAP)**

334. FEI realleges and incorporates by reference each and every allegation in paragraphs 1 through 333 above as if set forth fully herein.

335. WAP was never a party to the ESA Action. WAP was a stranger to any dispute between Rider and FEI concerning any “aesthetic injury” suffered by Rider as a result of how FEI handles its Asian elephants. WAP had no concern in the subject matter of any dispute between Rider and FEI with respect to any “aesthetic injury” suffered by Rider as a result of how FEI handles its Asian elephants. No employee or other representative of WAP has ever claimed an “attachment” to any of FEI’s Asian elephants or any “aesthetic injury” as a result of how FEI handles its Asian elephants. WAP has never owned, exhibited, cared for or bred an Asian elephant.

336. Although ASPCA, AWI, FFA/HSUS and API were parties to the ESA Action, they also were in fact strangers to any dispute between Rider and FEI concerning any “aesthetic injury” suffered by Rider as a result of how FEI handles its Asian elephants. Neither ASPCA, AWI, FFA/HSUS nor API had any concern in the subject matter of any dispute between Rider and FEI with respect to any “aesthetic injury” suffered by Rider as a result of how FEI handles its Asian elephants. Rider had never been a member of ASPCA, AWI, FFA/HSUS or API. In the ESA Acton, no member of ASPCA, AWI, FFA/HSUS or API claimed any “attachment” to any of FEI’s Asian elephants or any “aesthetic injury” as a result of FEI’s handling of its Asian elephants. Neither ASPCA, AWI nor API has ever owned, exhibited, cared for or bred an Asian elephant.

337. ASPCA, AWI, FFA/HSUS, API and WAP officiously stirred up litigation and strife with FEI by encouraging and aiding Rider to bring a “citizen suit” against FEI under the ESA, and with money and other benefits paid or provided to Rider as described herein, ASPCA, AWI, FFA/HSUS, API and WAP maintained and assisted Rider in the ESA Action. Rider was the paid plaintiff for ASPCA, AWI, FFA/HSUS and API in the ESA Action to establish a false façade of standing to sue under Article III that ASPCA, AWI, FFA/HSUS and API otherwise did not have.

338. ASPCA, AWI and FFA/HSUS never attempted to prove their own standing to sue at the trial of the ESA Action and abandoned any claim for relief in the ESA Action. Although API did not abandon its claim for relief, API’s claim was no different than the claim that ASPCA, AWI and FFA/HSUS had abandoned. API could not establish its own standing to sue at the trial of the ESA Action independent of Rider’s.

339. WAP officiously intermeddled in a suit to which it was not a party. ASPCA, AWI, FFA/HSUS and API officiously intermeddled in a matter in which they had no concern. Although ASPCA, AWI and FFA/HSUS were parties to the ESA Action, they abandoned any claim to relief at trial.

340. Through the above-described actions, ASPCA, AWI, FFA/HSUS, API and WAP committed the tort of maintenance.

341. As a result of these defendants’ maintenance, FEI was forced to defend a lawsuit that lasted for more than nine (9) years at great expense and inconvenience to FEI which includes, but is not limited to the attorneys fees and costs in defending the ESA Action, and harm to FEI’s business, property and/or reputation.

342. As a result of these defendants’ maintenance, FEI has been damaged equal to an amount to be proven at trial.

343. The conduct of ASPCA, AWI, FFA/HSUS, API and WAP described above constituting maintenance was willful and wanton and/or in reckless and/or callous disregard for FEI's rights.

344. As a result of these defendants' actions, FEI requests punitive damages for their willful and wanton conduct and/or reckless and/or callous disregard for FEI's rights in an amount appropriate to the proof presented at trial.

### **COUNT VII**

### **CHAMPERTY**

**(Against MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene)**

345. FEI realleges and incorporates by reference each and every allegation in paragraphs 1 through 344 above as if set forth fully herein.

346. Neither MGC, Meyer, Glitzenstein, Crystal, Lovvorn nor Ockene had any concern or legitimate interest in the subject matter of any dispute between Rider and FEI with respect to any "aesthetic injury" suffered by Rider as a result of how FEI handles its Asian elephants. Neither MGC, Meyer, Glitzenstein, Crystal, Lovvorn nor Ockene has ever claimed any "attachment" to any of FEI's Asian elephants or any "aesthetic injury" due to FEI's handling of its Asian elephants. Neither MGC, Meyer, Glitzenstein, Crystal, Lovvorn nor Ockene has ever owned, exhibited, cared for, or bred an Asian elephant. Neither MGC, Meyer, Glitzenstein, Crystal, Lovvorn nor Ockene would have had any standing in their own right under Article III to bring a "citizen suit" as plaintiffs under the ESA against FEI to seek relief with respect to FEI's handling of its Asian elephants.

347. MGC's predecessor firm, Meyer & Glitzenstein, and/or Meyer procured Rider as a client for purposes of the ESA Action. MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene

represented Rider as his counsel of record in the ESA action at various times during the pendency of that case. MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene undertook to pursue Rider's claim in the ESA Action at their own expense and at no expense to Rider. Rider has never paid any attorneys fees or costs to MGC, Meyer, Glitzenstein, Crystal, Lovvorn or Ockene with respect to their representation of him in the ESA Action. Upon information and belief, with respect to any costs of litigation that MGC, Meyer, Glitzenstein, Crystal, Lovvorn and/or Ockene have advanced to Rider, Rider is not obligated to pay them back; has not paid them back, and even if Rider has a technical obligation to pay those costs back, has no means of doing so. MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene have prosecuted the ESA Action on Rider's behalf with their own resources, including but not limited to, the substantial payments made to Rider through MGC and/or WAP from May 2001 through at least the trial of the ESA Action in February-March 2009, as described herein. Rider had the explicit understanding with MGC, WAP and Meyer, that, as long as Rider was a plaintiff in the ESA Action, Rider would be paid by WAP, an entity controlled and operated by Meyer and Glitzenstein. WAP is the alter ego of Meyer and Glitzenstein as well as MGC, in which Crystal, Lovvorn and Ockene have either been partners or by which they have been employed. Upon information and belief, Rider has not paid back any of the funds he has received from MGC and WAP; has no obligation to do so and; even if Rider has a technical obligation to pay those funds back, has no means of doing so.

348. Rider and MGC, Meyer, Glitzenstein, Crystal, Lovvorn and/or Ockene agreed between or among themselves and/or had the understanding between or among themselves that the parties would share in the proceeds of the ESA Action in the following ways: if the ESA Action were successful for the plaintiffs in that case, Rider would claim a statutory reward under

the ESA, and MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene would claim attorneys fees under the section of the “citizen suit” provision of the ESA providing for the recovery of attorneys fees. If the ESA Action were not successful, Rider would continue to be paid by WAP until the plaintiffs in the ESA Action did prevail.

349. On information and belief, the forfeiture claim against FEI in the ESA Action was pursued (until it was abandoned on eve of trial) at least in part for the benefit of one of MGC’s and/or Meyer’s clients, Carol Buckley (“Buckley”), the owner and/or operator of The Elephant Sanctuary (“TES”) in Hohenwald, Tennessee, a facility holding itself out as a “sanctuary” for Asian and African elephants. Buckley had raised millions of dollars in donations with respect to the elephants that were transferred to TES from various sources. Buckley’s TES had received elephants on at least one prior occasion as a result of litigation brought by MGC. Buckley and/or TES had appeared in at least one case as plaintiffs represented by MGC and Meyer seeking to have elephants confiscated and sent to TES. Buckley appeared as an expert witness for the plaintiffs in the ESA Action ostensibly without charging an expert witness fee. However, TES was the only “sanctuary” identified by plaintiffs during the trial of the ESA Action as “suitable” for FEI’s elephants were they to be removed from the circus. Any FEI elephant that plaintiffs could have succeeded in having the Court in the ESA Action order forfeited and transferred to Buckley and/or TES would have been beneficial to MGC and/or Meyer in their ongoing attorney-client or other relationship with Buckley and/or TES.

350. Through the actions described above, MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene committed the tort of champerty.

351. As a result of these defendants’ champerty, FEI was forced to defend a lawsuit that lasted for more than nine (9) years at great expense and inconvenience to FEI which includes,

but is not limited to the attorneys fees and costs in defending the ESA Action, and harm to FEI's business, property and/or reputation.

352. As a result of these defendants' champerty, FEI has been damaged equal to an amount to be proven at trial.

353. The conduct of MGC, Meyer, Glitzenstein, Crystal, Lovvorn and Ockene described above constituting champerty was willful and wanton and/or in reckless and/or callous disregard of FEI's rights.

354. As a result of these defendants' actions, FEI requests punitive damages for their willful and wanton conduct and/or reckless and/or callous disregard for FEI's rights in an amount appropriate to the proof presented at trial.

#### **PRAYER FOR RELIEF**

WHEREFORE, FEI prays for judgment against all defendants jointly and severally, as follows:

A. Judgment in an amount equal to three times the damage caused to FEI by defendants' racketeering activity, pursuant to 18 U.S.C. § 1964(c) and conspiracy to harm FEI's business, pursuant to Va. Code Ann. § 18.2-500(a).

B. Preliminary and permanent injunctions enjoining defendants from any further racketeering activity and from harming FEI's business, pursuant to Va. Code Ann. § 18.2-500(b);

C. Disgorgement of defendants' unlawful and unjustly obtained gains and/or divestment of defendants' interests in the Enterprise to prevent and restrain further unlawful conduct;

D. Compensatory damages in an amount to be proven at trial;

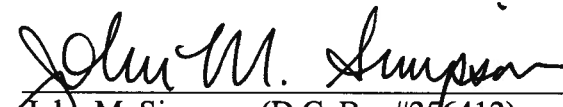
E. Punitive damages in an amount to be proven at trial appropriate to the severity of defendants' conduct;

F. Appropriate attorney's fees, pursuant to 18 U.S.C. § 1964 and Va. Code Ann. § 18.2-500(a)-(b);

G. Trial by jury, pursuant to Fed. R. Civ. P. 38;

H. For any other relief the Court deems just and proper.

Respectfully Submitted,



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ATTORNEYS FOR PLAINTIFF  
FELD ENTERTAINMENT, INC.

Dated this 16th day of February, 2010.