

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

PEOPLE FOR THE ETHICAL TREATMENT
OF ANIMALS, INC.,

Plaintiff,

v.

KENNETH FELD,

and

JOHN DOES 1, 2, and 3,

Defendants.

At Law No. 220181

JURY TRIAL DEMANDED

SECOND AMENDED MOTION FOR JUDGMENT

This action seeks damages for conspiracy and attempted conspiracy to unlawfully interfere with plaintiff's business by infiltration into, and theft of documents and confidential information from animal rights and animal welfare groups including People for the Ethical Treatment of Animals, Inc. (hereinafter "PeTA") by these defendants, as well as others who have conspired and have acted in concert with them. The defendants, with aid from ex-CIA operatives, numerous private investigators, and other conspirators, succeeded in wrongfully stealing information and documents from PeTA, which was done in an effort to harm and thwart its animal protection work, in violation of the law. The defendants used illegal means, including, upon information and belief, illegal wiretaps, burglaries, infiltrations, and other means, through which to harm PeTA, in violation of Virginia conspiracy law.

I. PARTIES

1. PeTA is a corporation organized and operating under the laws of the Commonwealth of Virginia. PeTA is located at 501 Front Street, Norfolk, Virginia.
2. Upon information and belief, defendant Kenneth Feld is the Chairman and Chief Executive Officer of Feld Entertainment, Inc., a company located in Vienna, Virginia, which is now the parent company of Ringling Bros.-Barnum & Bailey Combined Shows, Inc. Kenneth Feld also is Chief Executive Officer of Sells-Floto, Inc., a corporation incorporated under the laws of Delaware and also located in Vienna, Virginia. Sells-Floto represents itself to be a concessionaire and supplier to Feld Entertainment and, upon information and belief, it was an entity utilized by the defendants herein in hatching and carrying out their conspiratorial and illegal schemes. Defendant Feld is also the Chief Executive Officer and/or full or majority owner of over at least twenty different companies and/or entities, over which he has full and complete control.
3. Upon information and belief, Kenneth Feld instigated and was deeply involved in the wrongful conduct described herein. Upon information and belief, Kenneth Feld orchestrated the events that took place, the infiltrations at issue were done at his request and at his behest, and Kenneth Feld closely monitored, oversaw and was kept closely apprised about the events herein.
4. Defendants John Does 1, 2 and 3, whose identities presently are unknown, conspired with the other defendants and acted in concert with them to commit the wrongful acts detailed in this lawsuit to cause or contribute to injury within the Commonwealth of Virginia, including, upon information and belief, engaging in wiretapping, burglaries, theft, and other illegal actions.
5. Defendant Feld conspired with numerous others, including individuals, corporations and partnerships, to effect this massive conspiracy. The conspirators acted not only to steal documents and

information and commit various felonies against animal rights groups and individuals, including, without limitation, PeTA, the Performing Animals Welfare Society ("PAWS") and The Elephant Alliance, but also generally against perceived enemies or people who defendant Feld felt personally threatened him or his various enterprises. The conspirators acted to destroy a writer, Jan Pottker, and prior Feld entities' employee Shan Sparshott. Many of the identical means used against PeTA and the animal rights groups were used similarly against Pottker and Sparshott

The other conspirators included, *inter alia*:

A. Feld Entertainment, Inc (and its predecessors) is a corporation existing under the laws of the Commonwealth of Virginia. Defendant Feld is the Chief Operating Officer and major stockholder of Feld Entertainment, Inc (hereinafter "FEI") FEI is and serves as the "parent" company for some other Feld entities, including some of which set forth herein. The entities have, from time to time, changed their names and/or relationships. FEI and other Feld entities paid significant funds to the conspirators and employed some of the conspirators directly.

B. Ringling Bros.-Barnum & Bailey Combined Shows, Inc. (hereinafter "Ringling Bros." or "Ringling") was/is principally owned and operated by defendant Feld. It also directly employed some conspirators and provided substantial funds to other individuals and entities to further the conspiracy. At some point, Ringling Bros. became, and continues as, a wholly-owned subsidiary of FEI

C. Sells-Floto, Inc. (hereinafter "Sells-Floto") is, upon information and belief, a corporation principally run by defendant Feld and of which he is the principal stockholder. Sells-Floto principally serves in the capacity of providing support services for circus operations and sales and, upon information and belief, owns the building which houses the corporate offices of FEI and various Feld

entities. It provided much of the funding and employed a number of the people and entities involved in the conspiracy.

D. I&K Production Company (hereinafter "I&K Production") and/or I&K Trading Company Limited Partnership (hereinafter "I&K Trading") are entities that provided much of the funding for the conspiracy and, upon information and belief, hired some of the independent contractors and employed some of the others involved in the conspiracy. I&K Production later became known as Feld Entertainment, Inc. I&K Trading is owned and operated by defendant Feld.

E. Charles Smith was a long time officer (including Senior and/or Executive Vice President) of various of the Feld entities, including Sells-Floto, FEI and others for which defendant Feld was the Chief Executive Officer. In 1997, Smith left the employ of the various Feld entities. From 1987, when the conspiracy allegedly began, until his departure in 1997, Smith participated with Feld and others in the planning, coordinating and execution of investigations of, surveillance of, and theft of documents from PeTA, as well as other animal protection organizations, as set forth herein.

F. Richard Froemming, now deceased, was a private investigator with offices in Northern Virginia and ran various enterprises including, Amtro, Creative Visualization Concepts, Inc., Developmental Designs, Inc., Richlin Consultants, and Shamus (all or many of which were engaged in private and/or covert investigative work), and who was deeply involved in the conspiracy. Upon information and belief, in the mid-1990's, Froemming became an employee of various Feld entities and, upon information and belief, held the title "Vice President of Circus Project Development" although he had no experience in the components of that job. Until that time, Froemming and/or his entities were acting as independent contractors on behalf of defendant Feld and the various Feld entities. After Froemming became an employee of various Feld entities, his enterprises remained independent

contractors of Feld and FEI. Froemming and his entities oversaw and directed many of the criminal activities in furtherance of the conspiracy, including, but not limited to, burglaries, breaking and entering, wiretaps, theft of documents, as well as the planting and supervision of undercover, covert operatives to effect these criminal activities against various animal rights groups and individuals. As part of his activities, Froemming provided written reports, memoranda and correspondence to Feld and other co-conspirators which detailed the covert and illegal actions taken by Froemming and/or his enterprises on defendant Feld's behalf. Upon information and belief, Froemming and/or his enterprises were paid in the millions of dollars by and/or at the direction of defendant Feld for services relating to the conspiracy.

G Douglas Martin, Julie Lewis, Steven Kendall, Kirk Breed, and an individual known as "Fleming" were several of the numerous operatives hired by Froemming through his various enterprises to infiltrate animal rights groups, including, without limitation, PeTA, PAWS, The Elephant Alliance, In Defense of Animals, and The Fund for Animals, among others, for the ultimate purpose of destroying them. In furtherance of the conspiracy, these operatives, as well as others, obtained jobs at least at PeTA, PAWS, and The Elephant Alliance and removed documents and information from each of these organizations, as well as from others.

H. Allen Bloom, Jerome Sowalsky, Joseph Dugan, Andy Ireland, and Joan Galvin were all senior officials of Feld entities who approved payments and reports, and gave advice and assistance in implementing and conducting the conspiracy and its actions. Bloom was senior Vice President of various Feld entities, as well as a member of the Board of Directors of FEI, until he separated from Feld in the mid-1990's. Sowalsky acted as a senior Vice President and stockholder of various Feld entities, served on the Board of Directors of FEI, had check signing authority, and purportedly gave legal advice in furtherance of the conspiracy. Such alleged "legal advice," however, would not be privileged

under the crime fraud exception as he was acting in furtherance of a criminal conspiracy. Upon information and belief, Sowalsky's presence as "General Counsel" was used as a means to attempt to shield, under the guise of "privilege," the conspiracy's illegal activities. Upon information and belief, Dugan acted in providing financial and other advice. Ireland, as a senior officer of Feld entities, met with Froemming in furtherance of the conspiracy. Upon information and belief, all of these co-conspirators met with Froemming regarding his activities relating to the conspiracy, reviewed Froemming's reports, letters and/or memoranda, and participated in approving and effectuating contracts with various other conspirators including, without limitation, Joel Kaplan, Clair George and Richard Froemming in furtherance of the criminal conspiracy. All worked under the direction and supervision of defendant Feld.

I. Joel Kaplan, a private investigator in Virginia, was employed by or on behalf of defendant Feld and/or FEI beginning in 1980 as a contractor. Mr. Kaplan had previously been convicted of three felony counts of criminal wiretapping in both Washington, D.C. and Virginia. As part of the conspiracy, Kaplan consulted with Froemming and provided investigative services, material and advice with regard to electronic surveillance. Kaplan was directly supervised by both Smith and defendant Feld, as was Richard Froemming. Kaplan had a consulting contract with Sells-Floto from the inception of the conspiracy in approximately 1987 until approximately ten years later when he and Smith both terminated their business relationships with Feld and Feld entities in approximately 1997. Kaplan has previously provided detailed testimony, under oath, of various illegal acts committed by the conspirators. He knows that the conspiracy was run directly by defendant Feld, who oversaw all details of the conspiracy. Indeed, Kaplan had a history of helping to conceal and cover up matters for Feld and the Feld entities including, *inter alia*, illegal drug use and sales, rapes, pedophiles in the circus, smuggling of international funds,

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illegal wiretapping within the Feld entities; illegal wiretapping outside the Feld entities; break-ins; and theft of documents

J. Clair George was previously Deputy Director of Operations and in charge of international covert operations for the Central Intelligence Agency, ranking as third in charge of the Agency. In or about 1990, he left the employ of the CIA and was later convicted (although later pardoned) for providing untruthful testimony to Congress related to the Iran-Contra matter. On behalf of defendant Feld and the Feld entities, George oversaw the infiltration of various animal rights groups, including, without limitation, PeTA, PAWS and The Elephant Alliance, as well as the effort to destroy the writer Jan Pottker. The matters are inter-related in that George used some of the same personnel and means to accomplish both within the conspiracy. George had a consulting contract which was reviewed and directly approved by defendant Feld. George reported directly to defendant Feld and conspirator Smith in furtherance of the conspiracy, and he and other conspirators, including Robert Eringer, made reports directly to defendant Feld, Smith and others. He met directly with defendant Feld and/or Froemming and sometimes jointly with defendant Feld, Smith, Froemming, and others. Upon information and belief, George received several million dollars for the services he provided.

K. Jerry Grunner was another ex-CIA operative who was brought in by Clair George to assist in the conspiracy. He operated through a group called J.A. Grunner & Associates and met with defendant Feld, sometimes individually and sometimes with others, to report on his progress in helping the conspiracy against animal rights organizations, including PeTA.

L. Robert Eringer was another independent operative brought in by Clair George to assist with the conspiracy, both against Pottker and PeTA, in trying to tie them up with phony publishing contracts and other fraudulent activities that would interfere with PeTA's work. He made reports to and

was directed by defendant Feld.

M Putting People First (hereinafter "PPF") was an independent organization that was covertly funded by defendant Feld and Feld entities through the direct supervision of defendant Feld. It was a group run by Katherine Marquardt, and was chiefly devoted to interfering with the business and operations of PeTA and other animal rights groups on behalf of defendant Feld and Feld entities. Co-conspirator Steven Kendall, a member of and key figure in PPF, was, in actuality, an operative paid by and on behalf of defendant Feld and Feld entities, and acted in furtherance of the criminal conspiracy for defendant Feld's behalf.

N. John Does – Upon information and belief, Putting People First ("PPF") stopped functioning actively within the last several years and has been replaced by other organizations – including Go Ape – which, upon information and belief, are funded by and used by defendant Feld to effect the same operations as part of the conspiracy as did PPF.

6. Other parties of interest who were also objects and victims of the conspiracy are:

A. Performing Animal Welfare Society ("PAWS"), The Elephant Alliance, and officers, directors and members of these organizations. These are independent organizations which exist to the benefit and betterment of exotic animals, particularly elephants. Like PeTA, defendant Feld focused on them in the conspiracy because of their opposition to the use of elephants and the brutal practices against elephants in the circus and entertainment facilities run by Feld; and

B. In Defense of Animals, The Fund for Animals, Animal Voice, and Cleveland Amory, among other individuals, officers, directors, and members of these organizations, all of which existed and or worked for the benefit and betterment of animals and who were targeted by defendant Feld because of their stands against the use of animals in entertainment.

II. VENUE

7. Venue is appropriate in this court pursuant to Virginia Code § 8.01-262. The tortious conduct engaged in by these and other conspirators, caused or contributed to injury to PeTA within the Commonwealth of Virginia.

III. FACTS

A. Defendants Have Acted To Harm And Destroy PeTA

8. People for the Ethical Treatment of Animals ("PeTA") is the world's largest international animal rights organization. PeTA's credo is: "Animals are not ours to eat, wear, experiment on, or use for entertainment," and, as such, PeTA is opposed to the use of animals in circuses, such as Ringling Bros. Ringling Bros. has conspired with the conspirators herein. PeTA has actively opposed and protested many components of Ringling Bros.' operations, particularly with respect to its abhorrent record of treating the animals, and especially elephants, in its care.

9. Ringling's treatment of its elephants includes abusing and separating elephant babies from their mothers, and forcing these endangered animals to perform in utterly unnatural ways. PeTA has frequently exposed Ringling's abusive treatment of its animals, including through publicizing videotapes showing beatings and other abuse of elephants. These disclosures have drawn the ire of Kenneth Feld and others due to Ringling Bros. use of its elephants as a "draw" for circus audiences.

10. Ringling Bros. has been cited for violating the Animal Welfare Act with respect to its treatment of the elephants in its care. In 1998, USDA formally charged Ringling Bros. with violating the Animal Welfare Act related to the death of "Kenny," a baby elephant who was forced to perform while ill and who subsequently died. Ringling paid the USDA \$20,000 and took additional steps to settle these

charges to avoid a public hearing on the matter. It was a major object of the conspiracy to cover up these type of matters.

11. In 1999, the USDA, in conducting a routine inspection of one of Ringling's elephant centers, noted lesions on the legs of two baby elephants. According to two trainers interviewed during the inspection, the young elephants—Doc and Angelica—suffered rope burns while being forcibly separated from their mothers. Ringling Bros. called the separation method "standard industry practice," but the USDA consulted with six elephant experts about the inspection and, thereafter, communicated to Feld Entertainment that "we consider the handling of these two elephants as reported on our inspection report of February 9-10 to be noncompliant with the Animal Welfare Act regulations . . . we believe there is sufficient evidence that the handling of these animals caused unnecessary trauma, behavioral stress, physical harm and discomfort to these two elephants . . ."

12. Due to PeTA's active and vocal opposition to Ringling Bros.' activities, particularly the cruelty perpetrated on its elephants as well as its other animals, the defendants have engaged in attacks on animal protection organizations including, without limitation, PeTA, The Elephant Alliance and PAWS. The illegal nature of these actions has included stealing private and confidential ~~and trade secret~~ documents and information from PeTA and others as set forth herein.

13. Defendant Feld and others, with virtually no financial constraints, have used a variety of means in an attempt to harm PeTA. These activities included even hiring ex-CIA operatives to spy on PeTA, PAWS, The Elephant Alliance, and other animal protection organizations, and their employees and steal information and documents from them.

14. Specifically, upon information and belief, beginning in or around 1987, the conspirators planned and conspired to find means through which to harm PeTA and other animal protection

organizations and deter their animal protection activities.

15. The conspirators' plan involved *inter alia*, the hiring of operatives to infiltrate PeTA, as well as other animal protection organizations. Upon information and belief, Richard Froemming, by and through his entities including Richlin Consultants and Shamus, hired at least two individuals to volunteer and/or procure employment at PeTA. Upon information and belief, one of these individuals is named Julie Lewis. The goal for Ms. Lewis and other operatives, was to obtain information from, without limitation, PeTA, PAWS, The Elephant Alliance, In Defense of Animals, The Fund for Animals, and others, so that this information could be used against them by the defendants in various ways for illegal and immoral purposes.

16. As part of their plan and conspiracy, the Feld conspirators also sought to infiltrate and harm other animal protection organizations that were opposed to the use of animals in circuses. These other organizations included, without limitation, the Performing Animal Welfare Society ("PAWS") and The Elephant Alliance. The conspirators, as part of their pattern and practice of tortious activity against animal protection organizations, upon information and belief, stole confidential information from PAWS and the Elephant Alliance, among others, and engaged in other illegal acts such as wiretapping.

17. Upon information and belief, other individuals who conspired with these defendants were Douglas Martin, an independent contractor who procured employment at PAWS by representing that he had a prior relationship with PeTA, Steven Kendall, who also has publicly claimed participation in the conspiracy and who was/is not a Feld entity employee, and Kirk Breed, who, upon information and belief, was to monitor and attack animal rights groups in furtherance of the conspiracy. Due to Martin's misrepresentation, he was able to obtain employment with PAWS, and thereafter he stole PAWS' confidential documents and information and provided them to the conspirators. Froemming, Kendall and

their operatives were also able to steal material from The Elephant Alliance for improper purpose, including extortion

18 Upon information and belief, Feld and his co-conspirators have conspired with and/or otherwise enlisted the aid of former top government spies to engage in these activities, including Clair George, former deputy director of the Central Intelligence Agency, who was responsible for the CIA's worldwide covert operations. In an affidavit filed in litigation in the United States District Court for the Eastern District of Virginia, Clair George admitted that as part of his "consulting work for Feld Entertainment" he reviewed reports by investigators "based on their surveillance of, and efforts to counter, the activities of various animal rights groups. I have discussed these reports in meetings in which Mr. [Kenneth] Feld was present." Upon information and belief, one of the "animal rights groups" referred to by George is PeTA

19 In 2001, PeTA filed a detinue suit against Kenneth Feld, Feld Entertainment and Ringling Bros. in the Circuit Court of Fairfax County, seeking the return of documents stolen from PeTA that were in the possession of the defendants or their agents.

20 Although the defendants in that case fought to keep any documents from being produced, they ultimately disgorged a number of documents that were taken unlawfully from PeTA. The defendants therein virtually admitted those documents were stolen. The documentation included, *inter alia*, highly sensitive and extraordinarily detailed internal PeTA financial documents, detailed phone records, and other highly detailed internal memoranda

21 Feld and his co-conspirators were well aware that the information and documents were obtained from PeTA through their surreptitious and illegal means. Indeed, because the information and documents are not publicly available or otherwise distributed to or discussed with the public, defendants

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had to engage in surreptitious and illegal means through which to obtain these documents and information.

22. The means that the conspirators took to obtain the information and documents were improper, as they involved, *inter alia*, theft, misrepresentation, breaching and inducing a breach of a duty to maintain secrecy, and espionage. As part of the conspiracy, the conspirators contracted, both with and for Feld and Froemming to, among other things, conceal the true identity of the undercover agents and the identity of the employer, destroy all evidence, and destroy all paper documentation of their efforts.

23. The actions taken by the defendants were malicious and willful and were done in knowing and intentional violation of law and PeTA's rights

24. Information about defendants' tortious activities was first indicated by and through the filing of a Verified Complaint in the United States District Court for the Eastern District of California in a case styled *Performing Animal Welfare Society, et al. v. Feld Entertainment, Inc., et al.*, Civil Action No. 00-1259.

25. As set forth in the PAWS lawsuit, Feld Entertainment and Ringling Bros., as organizations critical of, and in philosophical opposition to PAWS, PeTA and other animal protection organizations, "implemented a scheme or schemes to defraud, spy upon, and steal confidential information and documents." Both Feld Entertainment and Ringling Bros. were active members of the conspiracy herein with Feld, Froemming, Kaplan, Smith, Clair George and others not employees of any Feld corporations.

26. As part of these schemes, PAWS alleged that Feld Entertainment and Ringling Bros. utilized various personnel, including Richard Froemming, to infiltrate and then steal information from PAWS, due to the organization's animal protection activities. The stolen information included financial records and highly personal documents belonging to PAWS and its personnel. These schemes came to

PAWS' attention when PAWS was contacted by certain purported private investigators who eventually permitted the President of PAWS, Pat Derby, to review the reams of documents that were stolen from PAWS, PeTA and other organizations. Some of these documents were subsequently destroyed, presumably in an attempt to hide the defendants' tortious and illegal actions as to PeTA, among others. PAWS initiated the above federal lawsuit in California alleging, *inter alia*, violation of federal racketeering laws. PAWS also filed two lawsuits in the United States District Court for the District of Columbia in order to attempt to preserve and prevent the spoliation of the stolen documents.

27. PAWS and the defendants in the PAWS lawsuit ultimately reached a global settlement of all claims PAWS had against those defendants in its lawsuit, as well as other lawsuits PAWS filed against Feld Entertainment, Ringling Bros., Richard Froemming and others. Upon information and belief, pursuant to the settlement, the defendants therein are providing PAWS with animals owned by Feld entities and paying PAWS substantial funds. Upon information and belief, Ringling Bros. and Feld Entertainment settled the PAWS lawsuit in order to avoid public disclosure of their illegal investigatory and surveillance activities against PAWS, PeTA and other organizations.

28. Independent verification of the defendants' tortious actions towards animal protection organizations was detailed in a two-part article at www.salon.com published August 30 and 31, 2001, in part entitled "The Greatest Vendetta on Earth." These articles lay out the lengths to which Feld Entertainment, Kenneth Feld, and others have gone in order to thwart their perceived enemies, such as PeTA. One person described in the article is co-conspirator Joel Kaplan, who was a former contractor (characterized in the article as "private security man and wire-tapper") with Sells-Floto. As set forth in this article (taken in part from sworn testimony of Kaplan):

But Kaplan wasn't a lone ranger, he said. Richard Froemming was the real

go-to guy at the circus for clandestine ops — spying, break-ins, surveillance and more dirty tricks against the animal-rights crowd. (Froemming said he had “no comment” when reached by phone.)

“The major assignment when he came into the company was to try to destroy People For The Ethical Treatment of Animals and create some illusionary diffusion [sic] . . . every time we had a protest,” Kaplan said of Froemming, amplifying the claims made in Clair George’s original affidavit about spying on animal rights groups. “So I was involved in all that,” Kaplan testified. “I was in the middle of it. I was involved.”

And not just in the United States, he testified “I have knowledge of the fact that Richard Froemming and his group broke into an office in Toronto, Canada and stole paperwork relating to a council meeting that they were having to ban elephants from performing in circuses,” Kaplan said.

“The Greatest Vendetta On Earth,” www.salon.com, page 10.

29. Additional means through which the conspirators have engaged in a pattern and practice of conspiratorial and tortious activities against PeTA is by funding and supporting other individuals and organizations that sought to damage or destroy PeTA. These means included funding and providing confidential information about PeTA to Bobby Berosini, a now-discredited animal trainer in Las Vegas who was then suing both PeTA and PAWS.

30. These attempts also included funding and directing actions by a separate organization called “Putting People First.” Putting People First has vociferously attacked animal protection organizations such as PeTA, clearly in part at the prompting of the conspirators. The conspirators also established and funded a group called “GoAPE” or “APE” for the same purposes.

31. Upon information and belief, in addition to conspiring with “Putting People First,” the conspirators have conspired with other anti-animal protection organizations in an attempt to coordinate their attacks and tortious activities towards PeTA, and others.

32. Upon information and belief, the conspirators have intentionally destroyed and spoliated

documents that were previously stolen by the conspirators, as well as their own internal documents, in order to conceal their illegal actions

33. The universe of documents stolen by these conspirators is unknown. The value of these documents is immeasurable in that the internal working papers -- are highly confidential. There is no reasonable market price that can be placed upon such confidential documents, most particularly since they cannot be identified specifically because, at this point in time, PeTA is uncertain as to the nature and identity of all of the PeTA documents that were illegally obtained by conspirators and how they were specifically used. These papers have great value to the defendants and the co-conspirators, who expended millions of dollars to sustain the conspiracy.

B. Defendants Have Engaged In A Pattern And Practice Of Illegal Activity

34. Defendant Feld and his conspirators have engaged in a pattern and practice of surreptitious and illegal behavior with respect to surveilling and investigating individuals and entities such as, without limitation, PAWS, PeTA, and The Elephant Alliance. These activities apparently stem from defendant Feld's personal paranoias and his personal vendettas to destroy anyone that criticizes him, his family, or his corporate empire.

35. In addition to the infiltration and surveillance of animal protection organizations such as, without limitation, PeTA, PAWS, and The Elephant Alliance, and the litigation that has stemmed from such activities, Feld Entertainment and others, have been sued and been found liable for taking similar illegal actions against private individuals.

36. For example, in May 2001, Feld Entertainment and Charles Smith were found liable for, *inter alia*, the illegal wiretapping of a former Feld Entertainment employee, Shan Sparshott. See Sparshott

v. Feld Entertainment, et al., Case No. 1999CV00551, United States District Court for the District of Columbia. The case was reversed on appeal on procedural grounds.

37. Shan Sparshott alleged in her lawsuit against Charles Smith and Feld Entertainment (and others), that they, *inter alia*, installed bugging and videotape equipment not only in her office, but her home. The defendants thereafter kept audiotape and videotape records of Ms. Sparshott's personal and professional activities, all out of a paranoid fear and desire for control.

38. The jury initially ordered Feld Entertainment and Smith to pay Ms. Sparshott \$250,000 in compensatory damages, and awarded \$250,000 in punitive damages against Mr. Smith.

39. In another well-known example of the defendants' illegal activities, Feld and others, including Feld Entertainment and Ringling Bros., are defending a lawsuit pending in the Superior Court for the District of Columbia styled *Jan Pottker, et al. v. Kenneth Feld, et al.*, Case No. 9CA008068.

40. In that lawsuit, Ms. Pottker, a freelance writer, is suing the defendants for trying to destroy her career in response to an article Ms. Pottker authored about the Feld family, which was published in *Regardie's* magazine. Defendant Feld, apparently incensed about Ms. Pottker's descriptions of his family, hired Clair George and other operatives to destroy her career, including taking actions to thwart possible writing contracts and other related matters. The conspirators herein made these activities a part of their scheme and illegal enterprise against animal protection organizations.

41. Ms. Pottker's lawsuit alleges that Feld hired a cadre of private investigators to follow Ms. Pottker, investigate her and her family, take photographs and other records of her activities, befriend her and discover personal details of her life, tap her telephone, break into her home, and other similar illegal actions. The defendants in that lawsuit even went to the lengths of deliberately torpedoing publishing opportunities for Ms. Pottker and supporting additional phony publishing opportunities in order to prevent

Ms. Pottker from investigating and writing further about defendant Feld, his family and company. Feld has employed some of the same schemes and personnel used to get Pottker against PeTA personnel.

42. Upon information and belief, these lawsuits expose activities by these defendants and co-conspirators that are just the tip of the iceberg. Due to the vast assets of Feld and Feld Entertainment, their methods of operation, and the directives of its CEO, Kenneth Feld, upon information and belief the conspirators in this case have engaged in other surreptitious activities similar to those disclosed in the *Sparshott*, *Pottker*, and *PAWS* lawsuits. Defendant Feld has directed the conspiracy and is liable for all the actions of his co-conspirators listed herein and in furtherance of the conspiracy.

43. The conspirators have, in furtherance of the conspiracy, engaged in extortion against one or more elected officials; stolen government documents; made false reports to government agencies; engaged in felonious fraud against the Internal Revenue Service, and sought to cover all this up by destroying the evidence.

COUNTS

COUNT I: CIVIL CONSPIRACY

44. Paragraphs 1 through 43 are incorporated herein

45. As set forth above, numerous people were involved in the conspiracy which was masterminded and directed by defendant Feld. The purpose of the conspiracy was to destroy animal protection groups, including, without limitation, PeTA, PAWS and The Elephant Alliance, among others, and stop their opposition to the use of large animals (particularly elephants) in the circus and entertainment industry. As set forth above, the groups had been able to demonstrate over a period of time the brutal treatment of elephants and other circus animals. This included tearing young elephants away

from their mothers and families at a tender age, contrary to the customs and life styles of elephants, which are very family and socially oriented. This particular practice had been censured, including the long term chaining of elephants, which caused serious injury to some young elephants. In 1999, the United States Department of Agriculture sanctioned field entities for chaining baby elephants. Other practices included the use of bull hooks, which is very cruel, and long-term chaining and restraint of all elephants, contrary to the welfare and ordinary practices of these beautiful creatures. Elephants could be chained, almost immobile, for practically twenty-three hours a day, otherwise kept in railroad cars for long periods (contrary to their nomadic lifestyles in the wild) – all of which were highly oppressive and cruel. Further, a large number of elephants within the Feld entities had contracted tuberculosis, which can be transmitted to humans. These infected animals were nonetheless transported, contrary to the laws of the State of Florida, to other places throughout the state and elsewhere. Defendant Feld and his entities made an effort, as part of the conspiracy, to conceal the animals' illness, which could jeopardize the entire circus industry. Accordingly, he had Joel Kaplan find a veterinarian who would provide phony documentation and other services in order to allow these sick and infectious animals to travel.

46. As indicated above, the central purpose of the conspiracy directed at animal rights groups was to cut off their opposition to the use of elephants and other exotic animals and to cut off the negative publicity about the circus.

47. In approximately 1984, after his father died, defendant Feld took over operation of the Feld entities comprising the circus and other show businesses. Within three years, he initiated this conspiracy, beginning in or about 1987. Upon information and belief, the conspiracy continues until the present. At the initiation of the conspiracy, defendant Feld, the Feld entities, and Smith hired Froemming and his businesses to engage in undercover operations against animal rights groups. Over the period of the

conspiracy, various contracts were entered into with Froemming. Defendant Feld personally reviewed these contracts and, upon information and belief, was signatory to some. Froemming was paid millions of dollars by various Feld entities, including I&K Production, Sells-Floto, Ringling Bros. and others. Froemming, Froemming's entities, and other co-conspirators (such as the undercover operatives) were paid several thousand dollars or more weekly to engage in illegal activities towards the animal rights groups and principally towards PeTA. As set forth above, conspirator Clair George was paid several million dollars. Froemming was specifically charged to interfere with and harm the business of PeTA in helping animals and effectuating animal rights.

48. In furtherance of the conspiracy, Froemming supplied, among other writings and billings, frequent and regular confidential and/or covert reports, sometimes called, among other things, Animal Activist Activities Reports, PeTA/PAWS Reports, or PPF Reports, which were provided to, *inter alia*, defendant Feld and to co-conspirator Feld entity employees, officers and directors, including Smith, Bloom, Ireland, Sowalsky, Galvin, and Dugan, as well as to other co-conspirators. Upon information and belief, at least Feld, Smith, Sowalsky, and/or Bloom participated in the review of contracts of Froemming, Froemming entities, Kaplan, George and others involved in the illegal conspiracy.

49. Froemming, directly supervised by defendant Feld and Smith, not only used his independent businesses, but employed the operatives Martin, Lewis, Kendall, Breed, Fleming and others, to further the infiltration, stealing of documents and information, and other illegal efforts against animal rights groups and principally against PeTA.

50. Defendant Feld had personally known Clair George during his employment at the CIA. Defendant Feld thereafter induced George to enter into a contract joining the conspiracy. Smith, apparently with the advice of Sowalsky, drafted, negotiated and effectuated the contract with George for

his services and other ex-CIA operatives, to engage in illegal activities both towards PeTA and other animal rights groups. George has admitted that one of his jobs was to review the reports made by Froemming and some of the activities of Froemming and others towards the animal rights groups, which were supervised by defendant Feld and Smith. George met directly with Froemming, with Smith and defendant Feld, and sometimes with Bloom and defendant Feld, as did Jerry Grunner. George also hired Eringer on behalf of the conspiracy and with the direct authority of defendant Feld to engage in and further the criminal conspiracy against PeTA and other animal rights groups. Eringer was specifically hired to try to induce key people at PeTA to engage in false book contracts and other activities that would detract from their animal rights activities and opposition of Feld and Feld entity activities. Eringer also was to do this with writer Jan Pottker, whom Feld was personally committed to destroying.

51. George and Eringer made written reports to Smith and defendant Feld of their various activities. Upon information and belief, many of these reports, as well as other information relating to and documenting the conspiracy, have been destroyed in order to conceal the defendants' illegal actions.

52. Defendant Feld, acting through some of the other co-conspirators and individually, funded the group Putting People First ("PPF"), whose sole object was to destroy and impede the activities of animal rights groups and principally PeTA. When various activities of PPF were finally exposed and opened to public scrutiny – including the improper taking of funds by senior personnel at PPF – that group became ineffective and, upon information and belief, has been replaced by other groups funded by Feld for the same improper purposes. One such replacement group was/is known as "GoAPE" or "APE" (also known as Animals Protected in Entertainment). In furtherance of the conspiracy, this group was instituted by Froemming on behalf of defendant Feld, and defendant Feld funded its founding and operation.

53. Defendant Feld directly ran every element of the conspiracy. He personally received copies

and approved contracts with various independent contractors of the conspiracy, including Froemming, Froemming entities, George, Kaplan, and others. As Chief Executive Officer of various Feld entities – including FEI, I&K Trading, I&K Productions, Sells-Floto, and Ringling Bros. – Feld personally approved and directed the activities of various employees, including Smith, Bloom, Sowalsky, Ireland, Galvin, Froemming and Dugan, in their actions in furtherance of the conspiracy as employees of the corporations. As Chief Executive Officer and major stockholder or partner of the various Feld entities, he approved substantial payments to Froemming and various businesses and undercover operatives employed by Froemming, including Lewis, Martin, Kendall, and Fleming, among others. He approved the payments to George and his entities, Grunner, J.A. Grunner & Associates, and Eringer from various of these entities, as well as payments to Kaplan and to others. He was made aware of and approved payments through concealed means to various entities, including such groups as PPF and GoAPE, from various of these conspirators to conceal them from the public and regulatory agencies. In putting together and directing the conspiracy, Feld received reports directly from co-conspirators including, Froemming and his entities; George and his entities, Grunner, Eringer and their entities; Kaplan and his entities; and others including, upon information and belief, PPF and GoAPE. Feld met directly with Smith, Froemming, Kaplan, Bloom, George, Grunner, Eringer, Sowalsky, and various others in effecting the conspiracy. Feld was and is the chief operating officer and chief executive officer of the conspiracy and not only was he the one who was reported to, but he gave directions in furtherance of the conspiracy and approved actions in furtherance of the conspiracy.

54. In furtherance of the conspiracy, the conspirators illegally solicited and exchanged information from banking institutions, the Internal Revenue Service, the Federal Bureau of Investigation, and others.

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55. Defendant Feld and the other conspirators have destroyed and spoliated documents, information and evidence as part of the conspiracy to cover up their criminal and otherwise illegal activities. Efforts were made to conceal activities wherein undercover operatives did not know either the true identity of the client (defendant Feld) or even the identity of the other operatives. In fact, Froemming went so far as to pretend that the client was based in another city in order to deceive his and Feld's own operatives. Such activities were clearly done in an effort to conceal what was and is known to be a criminal conspiracy involving illegal acts.

56. At no time during the relevant time frame has Feld ever withdrawn from said conspiracy. Indeed, and upon information and belief, the conspiracy has continued to harm PeTA.

57. The activities engaged in by the defendants were designed to harm and perhaps destroy PeTA.

58. The activities engaged in by defendants were willful, wanton, and done in conscious disregard of PeTA's legal rights.

WHEREFORE, PeTA hereby demands compensatory damages in the amount of \$250,000 and punitive damages in the amount of \$350,000 against Defendant Feld.

COUNT II: VIOLATION OF VIRGINIA CODE §§ 18.2-499 AND -500

59. Paragraphs 1 through 58 are incorporated herein.

60. The actions of the defendants as described herein were undertaken by them in concert with each other and their other co-conspirators.

61. The actions of the defendants were undertaken intentionally, maliciously, and without lawful justification. The defendants intentionally and willfully conspired to infiltrate and steal materials

and information from PeTA as one of a group of animal protection organizations, in a widespread and coordinated effort to counter and harm them

62. The actions of the defendants herein were performed with the purpose of injuring PeTA in its trade and business, in violation of Virginia Code §18.2-499.

63. As a proximate and direct cause of the defendants' tortious and conspiratorial actions, PeTA has been damaged by, *inter alia*, expending financial resources to obtain the return of the information that was stolen by the defendants, and expending funds to learn the scope of infiltration into its affairs and protect against it

64. Accordingly, PeTA is entitled, pursuant to Virginia Code §§ 18.2-499 and -500, to recover treble damages, plus interest, as well as its costs and attorneys fees.

WHEREFORE, PeTA hereby demands trebled damages, in an amount to be determined, plus its attorneys fees and costs.

WHEREFORE, People for the Ethical Treatment of Animals, Inc., respectfully requests that this Court ORDER:

1. An injunction prohibiting and terminating any tortious and/or illegal activity by defendants and anyone acting in concert with them towards this plaintiff;

2. Compensatory damages against defendant Feld in the amount of \$250,000, pursuant to Count I;

3. Punitive damages against defendant Feld in the amount of \$ 350,000, pursuant to Count I;

4 Treble damages against defendant Feld, plus interest, and attorneys' fees and costs, pursuant to Virginia Code §§ 18.2-499 and -500, as set forth in Count II;

5 Any additional relief this Court deems meet and just.


JURY DEMAND

Plaintiff demands trial by jury.

Respectfully submitted,

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.
By Counsel

COUNSEL FOR PLAINTIFF:



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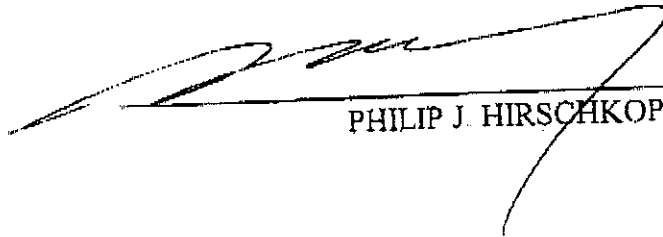
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was sent via facsimile and first class mail
this 24th day of June, 2004. to:

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