



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

SUPPLEMENTAL CIVIL INVESTIGATIVE DEMAND  
AND REQUEST TO EXAMINE

November 16, 2007

Ms. Karen Maxfield  
Chairperson, Board of Directors  
Animal Sanctuary of the United States

*Via Certified Mail- Return Receipt Requested*

San Antonio, Texas

Ms. Carol Asvestas  
President/Chief Executive Officer and  
Member, Board of Directors  
Animal Sanctuary of the United States

*Via Certified Mail- Return Receipt Requested*

San Antonio, Texas 78254

*courtesy copy:*

Mr. Sumner Matthes  
Member, Board of Directors  
Animal Sanctuary of the United States  
Board Designated Liaison with Attorney General

*Via Certified Mail- Return Receipt Requested*

Sarasota, Florida 34241

Dear Ms. Maxfield and Ms. Asvestas:

Animal Sanctuary of the United States (ASUS) is a Texas 501(c)(3) non-profit corporation and represents to the public that Wild Animal Orphanage, Primate Sanctuary of America, Chimp-Aid, Cat Haven, Feral Cat Rehab Center, and Whisker's and Wag's Humane Society are divisions of Animal Sanctuary of the United States.

The Office of the Attorney General is charged under Texas law with the responsibility and authority to protect and enforce the public interest in nonprofit organizations, foundations and charitable trusts. In this capacity, this Office reviews the operations of charitable entities to determine compliance with Texas law, including but not limited to, the Texas Business Organizations Code, the Texas Non-Profit Corporation Act, the Texas Miscellaneous Corporation Laws Act, the Texas Property Code, the Texas Deceptive Trade Practices-Consumer Protection Act, and the common law duties of trustees, officers, directors and employees of nonprofit organizations.

Under the authority of the Texas Miscellaneous Corporation Laws Act, TEX. REV. CIV. STATS. Article 1302-5.01, et seq. (now the Texas Business Organizations Code, Tex. Bus. Org. Code, Section 12.151), the Texas Deceptive Trade Practices-Consumer Protection Act, including,

but not limited to Sections 15, 17.60 [Reports and Examinations] & 17.61 [Civil Investigative Demand], and the common law of Texas, Animal Sanctuary of the United States, including all divisions thereof, is hereby directed to produce the documentary material specified in Attachment "A," for inspection and copying. This material is relevant to an investigation of possible violation(s) of the Texas Miscellaneous Corporation Laws Act, the Texas Non-Profit Corporation Act, the Texas Business Organizations Code (to the extent it may be applicable), the Texas Deceptive Trade Practices-Consumer Protection Act, and the common law relating to breach of fiduciary duty and other duties relating to non-profit corporations.

ASUS shall produce and make available the documents and records requested in Attachment "A" to the undersigned or to Chris Krhovjak, Authorized Agent for the Charitable Trusts Section of the Office of the Attorney General. **This material shall be produced and made available on Friday, December 7, 2007 for inspection and copying at (a) your place of business, 9626 Leslie Road, San Antonio, Texas 78254, or (b) at such other location or in such other manner as may be agreed upon in writing by the undersigned.**

#### **ATTORNEY GENERAL'S NOTICE TO BOARD MEMBERS AND OFFICERS**

##### **Duty to Supplement:**

ASUS, its board and officers are provided notice that this Civil Investigative Demand and Request to Examine remains effective until the Attorney General's Investigation is completed and that ASUS has a continuing duty to supplement its responses and to continue the production of documents and records that are within the scope of these requests.

##### **Production of Documents and Records Self-Authenticating:**

ASUS, its board and officers are provided notice that the production of a record or document by ASUS in response to this Civil Investigative Demand and Request to Examine authenticates the record or document for use against ASUS in this investigation or any other subsequent proceeding authorized by law unless ASUS objects to the authenticity of the record or document, or any part of it, stating the specific basis for objection. An objection must be in writing and have a good faith factual and legal basis.

##### **Document and Record Use by Attorney General:**

ASUS, its board and officers are provided notice now that any and all records or documents produced by ASUS in response to this Civil Investigative Demand and Request to Examine will be, or shall potentially be, used in this investigation or any other subsequent proceeding authorized by law.

##### **Control or Possession of Documents or Records:**

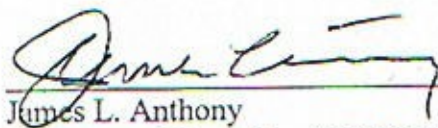
If ASUS, its board and officers are provided notice that if ASUS does not control, have any right of control, or right of possession of the documents and records requested, then ASUS shall expressly respond to each request, or portion thereof, indicating so, and provide the identification of the individual or person who has control of the document or record. Further provide an affidavit that ASUS has requested in writing the production of these documents and records to ASUS for inclusion in response to this Civil Investigative Demand and Request to Examine.



TAKE NOTICE THAT pursuant to §17.62, TEX. BUS. & COM. CODE A... any person who, with intent to avoid, evade, or prevent compliance, in whole or in part, with this Civil Investigative Demand, removes from any place, conceals, withholds, or destroys, mutilates, alters, or by any other means falsifies any documentary material or merchandise or sample of merchandise may be guilty of a misdemeanor and on conviction may be punishable by a fine of not more than \$5,000 or by confinement in the county jail for not more than one year, or both. Further, pursuant to Article 1302-5.05, of the Tex. Misc. Corp. Laws Act, any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Attorney General, or his authorized representative or representatives, to examine or take copies of any of its said books, records and other documents, shall forfeit its right to do business in this State; and its permit or charter shall be canceled or forfeited, and any president... agent or other officer... shall be fined not less than one hundred nor more than one thousand dollars, and be imprisoned in jail not less than thirty nor more than one hundred days. Each day of such failure or refusal shall be a separate offense.

FURTHER TAKE NOTICE THAT pursuant to Article 1302-5.05, of the Tex. Misc. Corp. Laws Act, any foreign corporation doing business in Texas under a permit granted under the laws of this State, or any officer or agent thereof, or any domestic corporation which shall fail or refuse to permit the Attorney General, or his authorized representative or representatives, to examine or take copies of any of its said books, records and other documents, shall forfeit its right to do business in this State; and its permit or charter shall be canceled or forfeited, and any president... agent or other officer... shall be fined not less than one hundred nor more than one thousand dollars, and be imprisoned in jail not less than thirty nor more than one hundred days. Each day of such failure or refusal shall be a separate offense. Also, pursuant to Sections 12.155 - 12.156 of the Tex. Bus. Org. Code, a foreign filing entity or filing entity that fails or refuses to permit the attorney general to examine or make copies of a record, without regard to whether the record is located in this or another state, forfeits the right of the entity to do business in this state, and the entity's registration or certificate of formation shall be revoked or terminated. Further, a managerial official or other individual having the authority to manage the affairs of a filing entity or foreign filing entity commits an offense if the official or individual fails or refuses to permit the attorney general to make an investigation of the entity or to examine or to make copies of a record of the entity. An offense under this section is a Class B misdemeanor.

Issued November 16, 2007



James L. Anthony  
State Bar of Texas No. 01269000  
Assistant Attorney General  
Charitable Trusts Section  
Consumer Protection and Public Health Division  
(512) 475-4178 Telephone DD  
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Chris Krhovjak  
Authorized Agent and Investigator  
Charitable Trusts Section  
Consumer Protection and Public Health Division  
(512) 475-4175 Telephone DD  
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## ATTACHMENT "A"

### DEFINITIONS APPLICABLE TO ATTORNEY GENERAL REQUESTS

1. "You" and "Your" shall mean Animal Sanctuary of the United States, specifically including Wild Animal Orphanage, Primate Sanctuary of America, Chimp-Aid, Cat Haven, Feral Cat Rehab Center and Whisker's and Wag's Humane Society. You and Your shall additionally include persons acting or purporting to act on your behalf, including any attorney, director, officer, agent, employee, consultant, volunteer or other representative.
2. "And" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of this CID and RTE any document that might be deemed outside its scope by another construction.
3. "Bank account" shall mean any savings, checking, or investment (certificate of deposit) account held in your name.
4. "Compensation" shall mean and include all benefits of any value, monetary or otherwise, including but not limited to, salary, pay for unused sick leave and vacation leave, overtime, number of days off, including both sick and vacation time, reimbursements, deferred tuition, privileges, memberships, and use of Animal Sanctuary of the United States' property and assets.
5. "Contribution" or "Donation" shall mean any gift of money or tangible real or personal property or service of any kind.
7. "Document" and "Record" shall be used in the broadest sense and construed most liberally. Document and Record shall include all written, printed, typed, recorded, computer-generated, computer-stored, or electronically stored matter or graphic matter of every kind and description, both originals and copies, and all attachments and appendices thereto, that are in your possession, custody or control. Without limiting the term "control," a document is deemed to be within your control if you have ownership, possession or custody of the document, or the right to secure the document or copy thereof from any individual or person, or public or private entity having control thereof.
8. A "person" shall include any individual, institution, corporation, joint venture, firm, proprietorship, agency, board, authority, commission or other entity.
9. To "identify" any "person" means ASUS shall state:
  - (i) full name;
  - (ii) current or last known telephone numbers at business and home; and
  - (iii) current or last known business and home address.
10. To "identify" any document, record or other tangible thing means:
  - (I) to identify what it is, giving a reasonably detailed description thereof;
  - (ii) to state when, where, and how it was made, if applicable;
  - (iii) to identify who made it, if applicable; and
  - (iv) identify its current custodian or the person in last known possession, custody, or control.



**DOCUMENTS AND RECORDS TO BE PRODUCED:  
JUNE 1, 2007 TO AND UNTIL CONCLUSION OF ATTORNEY GENERAL  
INVESTIGATION UNLESS OTHERWISE STATED IN THE REQUEST(S)**

PRODUCE AND COMPILE THE DOCUMENTS AND RECORDS IN THE SAME ORDER AS THE NUMBERED REQUEST(S) TO WHICH EACH ARE APPLICABLE:

1. Kids on the River program as reported in ASUS Annual Report for 2003 and 2004 including program description and activities, and all underlying support of (a) statements and representations and (b) income and/or expenses
2. Feral Cat Exchange program as reported in ASUS Annual Report for calendar years 2003 through 2006 and January 1 through September 30, 2007, including program description and activities, and all underlying support of (a) statements and representations and (b) income and/or expenses
3. April 2004 ASUS newsletter regarding weekend raffle/fund raiser and underlying support of (a) statements and representations and (b) income and/or expenses
4. ASUS newsletters from November 1, 2006 through October 31, 2007 and underlying support of (a) statements and representations and (b) income and/or expenses with respect to each reported ASUS activity or program
5. Petty Cash transactions for period January 1 through October 31, 2007 including underlying support of description as presented on General Ledger of ASUS
6. Identification of Petty Cash transactions for period January 1 through October 31, 2007 including underlying support for transactions in cash and not evidenced by check as reported on General Ledger of ASUS
7. Reconciliation of all Petty Cash Transactions, whether in cash or by check, for period January 1 through October 31, 2007
8. Underlying documents supporting compliance of ASUS with its procedures and policies pertaining to Petty Cash Transactions
9. Accounting of cash income and disbursements with supporting documentation for period January 1 through October 31, 2007
10. Agendas and Minutes of ASUS Board meetings beginning February 24, 2007, including all information presented to board members prior to or during each board meeting
11. Salary increases of Ron Asvestos and Carol Asvestos during calendar year 2007, including (a) policy for board's decision making process, (b) board's decision(s), and (c) information reviewed or otherwise relied upon by board
12. Current Articles of Incorporation and Amendments, and By-Laws of ASUS
13. ASUS Budgets for calendar years 2006 and 2007 as originally prepared, revised and



approved by board, with identification of each revision and reasons therefor

14. Compliance with ASUS policies and procedures as approved by board, including underlying support and documents to evidence compliance in specific areas of (a) charitable gifts and donations, (b) credit and charge card expenditures, (c) reimbursements, (d) petty cash, (e) salaried employees and (f) board's organizational assessment of performance and effectiveness
15. ASUS employee benefits for all employees, whether salaried or not, including underlying support and evidence of payment in cash or otherwise, and reporting of benefits on ASUS financial records and to employees for personal income tax requirements
16. Insurance policies and plans providing benefits of any kind to ASUS officers and employees, including required notices and forms to and from employees
17. Insurance policies and plans providing employee benefits for medical expenses and loss of wages as a result of an on the job injury or death.
18. ASUS posted notices and executed employee forms, including waivers, with respect to items 16 and 17, *supra* as may be required by Texas law pertaining to Workers' Compensation and Employers' Liability
18. ASUS Profit and Loss Statement for calendar year 2006 and for period January 1 through September 30, 2007
19. Scope of Authority and Responsibility of the Chairperson of Board of Directors and of the President/Chief Executive Officer of ASUS, including underlying support of compliance
20. Accounting and organizational policies and procedures by which expenses of ASUS are determined, characterized and booked as (a) expenses of education or (b) expenses of fund raising as reported on the General Ledger, Annual Financial Statement/Annual Report and IRS Form 990 for calendar years 2005 and 2006, and for period January 1 through September 30, 2007.
21. Current Animal Inventory of ASUS
22. Current status of all pending or anticipated complaints against ASUS from or by any federal, state or local governmental entity or agency
23. Non-Profit organizational experience and/or knowledge of each board member and officer of ASUS with underlying support
24. Internal and Third Party/Outside Risk Management Analysis and Evaluations of ASUS with underlying support