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"Aaron Green"
[redacted]@humanesociety.org

To <foia.officer@aphis.usda.gov>

cc

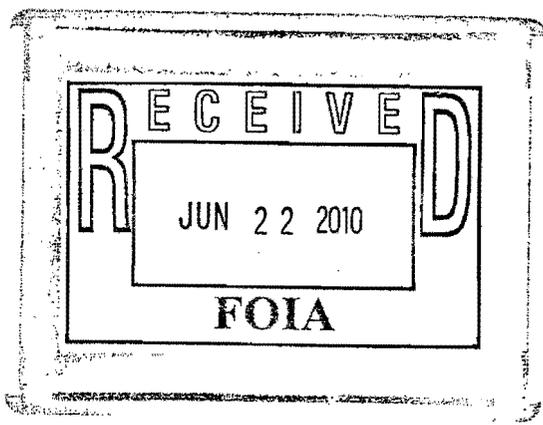
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Subject FOIA Request

June 22, 2010

Tonya Woods, FOIA/PA Officer
4700 River Road, Unit 50
Riverdale, MD 20737-1232
(via email)



Freedom of Information Act Request

Dear Ms. Woods:

On behalf of The Humane Society of the United States ("The HSUS"), I am requesting records under the Federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, et seq. If you are not the appropriate official to handle this request, please forward this letter to the appropriate person, and let me know that you have done so.

JUL 20 2010

A. Records Request

This request is for all records created or received in the last 5 years related to the licensure and inspection of Isaac Martin by USDA Animal Plant Health Inspection Service ("APHIS").

Specifically, this request is for and should include:

1. All records received and/or created by APHIS in the last 5 years related to the application for a USDA license by Isaac Martin, AWA License No. 31-A-0015. These records should include, but not be limited to, any and all initial and renewal applications, including any approved or denied applications.
2. All records related to any inspection of Isaac Martin, AWA License No. 31-A-0015, carried out by APHIS during calendar year 2010. These records should include, but not be limited to, any and all Inspection Reports created by APHIS.
3. All records of any communications between USDA, APHIS and Isaac Martin, AWA licensee 31-1-0015, and/or any agents of the same during the past 5 years. - *my letters emails, records of telephone calls.*

For this request, the term "records" includes, but is not limited to, correspondence of any kind, memoranda, letters, notes, schedules, electronic mail, telephone logs, minutes of meetings, work papers, reports, studies, videos, DVDs, CDs, or data. If any information is withheld, please identify all such information with specificity and state the FOIA Exemption under which the information is being withheld. The FOIA provides that if portions of a document are exempt from release, the remainder

must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any otherwise exempt records. 5 U.S.C. § 552(b). Please explain any redactions by reference to specific FOIA exemptions.

B. Statutory Fee Waiver Requests

1. Representatives of the News Media

The HSUS qualifies for the preferred fee status of “representative of the news media.” See 5 U.S.C. § 552(A)(ii); 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 5(c). The FOIA was amended to include a definition of the term “representative of the news media” that is in line with the previous interpretation applied by the courts. OPEN Government Act of 2007, Pub. L. No. 110-175; See *National Security Archives v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1388 (D.C. Cir. 1989). As such, an entity is a “representative of the news media” if it “gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience.” 5 U.S.C. § 552(a)(4)(A)(ii) (2008).

The HSUS is unquestionably a “representative of the news media.” The HSUS has extensive and well-exercised means to investigate and keep the public informed about the operations and activities of the United States government and has invariably done so for many years. The HSUS does not merely obtain information and then contact members of the press to relate that information. Rather, The HSUS independently collects and analyzes information, drafts its own reports and articles on the issues by putting facts and issues into context, and disseminates the information broadly through its own publications to interested persons, legislators, its members and the public at large. As a result of its longstanding advocacy and work on companion animal issues, The HSUS has developed a substantial level of expertise about puppy mills which commands public attention when such information is disseminated.

For instance, The HSUS Stop Puppy Mills Campaign maintains a website, <http://www.stoppupmills.org/>, where frequently asked questions about puppy mills are addressed and where the public and interested parties are provided with the results of The HSUS’s research and investigations. As an end result of synthesizing such research and investigations, the public is informed about puppy mills and the effect USDA licensing and inspection has, or fails to have, on the same. Through these efforts, The HSUS also serves to inform and protect consumers by alerting them to false and misleading statements made by puppy sellers. In addition to maintaining the website, The HSUS also publishes materials such as the *Canine Chronicle* newspaper which exposes the conditions of puppy mills, discusses the laws that regulate them and covers the USDA’s role in inspecting such facilities and enforcing the Animal Welfare Act (“AWA”). The HSUS, “Behind the Scenes: What Investigators Found,” *Canine Chronicle*, 2006, pg. 3. Given its independent and extensive public dissemination of information pertaining to policies and activities relating to problematic dog dealers, The HSUS meets the criteria for a representative of the news media.

2. Public Interest Fee Waiver

In addition to granting preferred fee status, under federal law, records are to be furnished completely without charge when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of government and is

not in the commercial interest of the requestor.” 5 U.S.C. § 552(a)(4)(A)(iii); see also 7 C.F.R. Pt. 1, Subpt. A, App. A, Sec. 6. Pursuant to this requirement, The HSUS seeks a waiver of any search and copy fees for this FOIA request.

As a threshold matter, the information sought in this request is in the public interest. The issue of problematic dog dealers is of intense and ongoing interest to the public at large, due to the inhumane conditions in which these dogs are kept, the illnesses and congenital defects suffered by many puppy mill puppies, the rampant consumer deception in the dog breeding industry, and the risk to human and animal health posed by the transmissible diseases often carried by these puppies. National mainstream newspapers, television shows and other mass media have run stories discussing these issues, demonstrating that the interest in preventing egregious cruelty to animals is commonly held by the public generally, and is not limited to merely a subsection of the population. See, e.g., Jeanette Trompeter, “I-TEAM: Inside A Minnesota Puppy Mill,” WCCO (available at <http://wcco.com/pets/i.team.puppy.2.872927.html>); The Oprah Winfrey Show, April 4, 2008; Jane Weaver, “Pet store chain linked to puppy mills,” MSNBC, Nov. 20, 2008. A recent audit conducted by the Office of Inspector General of USDA indicated major deficiencies with APHIS’ administration of the Animal Welfare Act including inspectors failing to appropriately document or cite violations. United States Department of Agriculture, Office of Inspector General, “Animal and Plant Health Inspection Service Animal Care Program Inspections of Problematic Dealers,” Audit Report 33002-4-SF (May 2010). This audit was featured in numerous news stories and the highlighted deficiencies are certainly newsworthy. See, e.g., Wayne Pacelle, “Federal audit, lawmakers spotlight puppy mill problems,” The Examiner (available at <http://www.examiner.com/x-45071-Animal-Protection-Examiner~y2010m5d26-Federal-audit-lawmakers-spotlight-puppy-mill-problems>); “Feds: Puppy mill problems growing across U.S.,” Chicago Sun-Times (available at <http://www.suntimes.com/news/nation/2332598,CST-NWS-puppy30.article>).

i. Operations & Activities of the Government

All of the requested information significantly contributes to the public’s understanding of the “operations and activities of the government,” because it details the USDA’s efforts in enforcing the Animal Welfare Act and holding violators of the law accountable.

ii. Public Understanding

The HSUS is a non-profit organization dedicated to animal protection and has focused its efforts on puppy mills for over four decades. The HSUS has devoted substantial time and resources to monitoring activities of the federal government and keeping the public abreast of these activities, as well as educating the public about puppy mills and the role of the USDA in regulating and inspecting commercial breeding operations.

The HSUS contributes to the public’s understanding of companion animal issues generally, as well as the controversy surrounding problematic dog dealers, due to its size and proven ability to disseminate information to a large segment of the public. The HSUS disseminates information to the general public through various sources including its websites, media outlets, litigation, legislation and public education. See, e.g., <http://www.stoppupmills.org>; <http://www.hsus.org/pets>. The information sought in this request will enable The HSUS to further educate the public about the role USDA plays in regulating breeders as well as the seemingly absent oversight of non-licensed breeders.

iii. Significant Contribution

The contribution of this information to the public understanding of how APHIS enforces the AWA and how such acts comport with the deficiencies and/or recommendations of Audit Report 33002-4-SF.

iv. No Commercial Interest

The HSUS does not have a commercial, trade, or profit interest in the information requested.

C. Conclusion

Therefore, The HSUS asks that any search and duplication fees in this case be waived or reduced. If the fee waiver request is denied, please notify me by telephone at 202-676- [REDACTED] or by email at [REDACTED]@hsus.org, so that The HSUS may decide whether to pay the fees or to appeal the denial of the request for waiver or reduction. If you have any questions or need additional information regarding this request, please contact me. I look forward to receiving your reply within 20 business days as required by law. Thank you for your assistance.

Sincerely,

Aaron D. Green, Esq.
Animal Protection Litigation
The Humane Society of the United States
2100 L Street, NW
Washington, DC 20037

[REDACTED]@humanesociety.org
t 202.676 [REDACTED] f 202.676.2357

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