

## THE HSUS "LOBBYGATE" COVER-UP

The U.S. Tax Code and Internal Revenue Service (IRS) Regulations set out the following limitations on lobbying by a 501 (c) (3) tax-exempt public charity, such as the Humane Society of the U.S. (HSUS):

- *"No organization may qualify for 501 (c) (3) status if a substantial part of its activities is attempting to influence legislation (commonly known as lobbying)."*
- *"A 501 (c) (3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status."*
- *"Legislation includes actions by Congress, any state legislature, any local council or similar body, with respect to acts, bills, resolutions . . . or by the public in referendum (or) ballot initiative."*
- *"An organization will be regarded as attempting to influence legislation if it contacts or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation."*
- *"The IRS considers a variety of factors, including the time devoted by both compensated and volunteer workers and the expenditures devoted by the organization to the activity, when determining whether the lobbying activity is substantial."*
- *"Under the substantial part test, an organization that conducts excessive lobbying in any taxable year may lose its tax-exempt status, resulting in all of its income being subject to tax."*
- *"Under the Internal Revenue Code, all section 501 (c) (3) organizations . . . are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for political office. . . . Violation of this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes."*

**As of October 29, 2010, the IRS has received a total of over 1,400 pages of documents, including extracts from the Tax Returns filed by the Humane Society of the U.S for the years 2004-2009, which conclusively establish that the HSUS not only has devoted 30-40% of "the time devoted by both compensated and volunteer workers and the expenditures devoted by the organization to the activity," but that it has engaged in prohibited activities, such as "money laundering" and actively supporting and opposing political candidates; has under-reported the magnitude of its lobbying activities; and has potentially failed to report over \$500 Million of Membership dues as revenue.**

The highlights of the 1,400+ pages of incriminating documents include:

1. Although the HSUS claims to have over 11 Million Members, and its Annual Membership dues is \$10 per year, **the HSUS reported ZERO - -ABOSLUTELY NO REVENUE - - from "Membership dues" on its Tax returns for 2005, 2006, 2007, 2008 and 2009. Cumulatively that could amount to over \$500 Million of unreported revenue income. What happened to \$500+ Million?!?!?!?!?!?**
  
2. The BIO of Mr. Pacelle, which is posted on the HSUS Website, explicitly states that he ***"helped to defeat some of the strong anti-animal welfare politicians in the United States, including Rep Richard Pombo of California (2006) and Rep. Chris John of Louisiana (2004)."*** **Significantly, the Internal Revenue Code states that such activity is "absolutely prohibited."**
  
3. Mr. Pacelle **founded** the Humane USA Political Action Committee (PAC), which has contributed Millions of Dollars to the political campaigns of hundreds of candidates, as evidenced by the fact that it has submitted over 2,300 pages of lobbying information to the Federal Election Commission. It is also most relevant that Mr. Pacelle simultaneously serves on the Board of Directors of the Humane USA PAC while serving as the President and CEO of the HSUS. Additionally, Mr. Pacelle was the "Chief Lobbyist" for the HSUS before he became the President and CEO of the HSUS in 2004.
  
4. There is an **"incestuous-like"** interrelationship between the "Family" of Affiliated HSUS organizations and the HSUS, which simply commingles the lobbying activities of all such organizations in a way that seemingly is designed to **"COVER-UP"** the magnitude of the Lobbying Activities of the HSUS. For example, Mr. Pacelle simultaneously serves as:
  - President and CEO of the HSUS;
  - A Member of the Board of Directors of the HSUS;
  - **Vice President of the Humane Society Legislative Fund, which he founded and which serves as the principle lobbying organization of the HSUS;**
  - Vice President of the Doris Day Animal League, another lobbying organization that was merged into the HSUS in 2006, and which **"launders"** money by making contributions to the Humane Society of the U.S. (\$278,230 in 2008) and to the Humane Society Legislative Fund (\$588,816 in 2008), and to the Ballot Initiative Campaign in Missouri (\$80,000 in 2010);
  - Vice President of the Fund for Animals, which was merged into the HSUS in 2004, and which was used to **"launder"** contributions to Ballot Initiative Campaigns in California (\$250,000) and Missouri (\$110,000);
  - **A Member of the Board of Directors of the Humane USA PAC, which he founded; which has submitted over 2,300 pages of documents to the Federal Election Commission; and which**

- ***“(G)ave direct contributions to 115 Federal candidates who ran for election in 2008.”***
  - ***“(C)hanneled more than \$400,000 to candidates through direct PAC contributions and through fundraising events that we hosted.”***
  - ***“(W)ill be involved in hundreds of races at the state and federal level during the primary and general elections.”***
5. The “incestuous” and inextricably interrelated responsibilities of Mr. Markarian, the “Number Two” Officer of the HSUS, is equally revealing in that he serves as:
- Chief Operating Officer (COO) of the HSUS, with direct oversight over the Vice President of Government Affairs, who oversees the lobbying activities of the HSUS;
  - Significantly, the BIO of Ms. Perry, the HSUS Vice President of Government Affairs, includes two revealing quotes:
    - ***“She oversees lobbying efforts in state legislatures, including ballot measure campaigns, and Congress and directs grassroots activities nationwide. She also lobbies directly for federal animal protection legislation.”***
    - ***“The HSUS has lobbied in all 50 states for animal protection legislation and secured felony cruelty provisions in 41 states (including Washington, D.C.)”***
  - A Member of the Board of Directors of the HSUS;
  - President of the Fund for Animals which made lobbying contributions to the Ballot Initiative Campaigns in California and Missouri;
  - President of the Humane Society Legislative Fund, which is the principle “Lobbying Affiliate” of the HSUS;
  - A Member of the Board of Directors of the Humane USA Political Action Committee (PAC);
  - **Chairperson of the Humane USA PAC, which has submitted over 2,300 pages of documents to the Federal Election Commission.**
6. The “incestuous” and inextricably interrelated responsibilities of Ms. Coupe is equally revealing in that she serves as:
- Chairman of the Board of Directors of the HSUS;
  - A Member of the Board of Directors of the Humane Society Legislative Fund;

- A Member of the Board of Directors of the Doris Day Animal League;
  - President of the Doris Day Animal League, another lobbying organization that was merged into the HSUS in 2006, and which **“launders”** money by making contributions to the Humane Society of the U.S. (\$278,230 in 2008) and to the Humane Society Legislative Fund (\$588,816 in 2008), and to the Ballot Initiative Campaign in Missouri (\$80,000 in 2010).
7. Even though over 52% (\$2.4 Million) of the contributions (\$4.6 Million) reported by the Missourians for the Protection of Dogs to the Missouri Ethics Commission through November 2, 2010 came from the HSUS “Family” of Affiliate Organizations and from Senior Members of the HSUS Staff and the HSUS Board of Directors, Ms. Judy Peil, the Treasurer of the Campaign who submitted the reports to the Missouri Ethics Commission did not accurately report the **“actual source of all contributions,”** as is required by Section 130.031.3 of the Missouri Revised Statutes. In this regard, Ms. Peil, was in a position to know the true sources of the contributions because she is a Member of the Board of Directors of the HSUS, and was in a position to know how the HSUS **“launders”** money through its Affiliated Organizations. This knowledge would suggest that she may have violated Section 130.031.3 of the Missouri Revised Statutes by failing to report the **“actual source of all contributions.”** **Furthermore, this is yet another example of the incestuous infrastructure of the HSUS which serves to mask the magnitude of the lobbying activities of the HSUS.**
- Significantly, neither the Travel Expenses of Mr. Pacelle, who made multiple trips to Missouri in support of the Ballot Initiative Campaign, including his trip to Missouri on November 2<sup>nd</sup> so that he could be in the Campaign Headquarters in St. Louis on Election Night; the expenses associated with the HSUS “fund raising” efforts that generated nearly \$2 Million in contributions from residents who resided outside of the State of Missouri; nor the expenses associated with his ROBO call on September 6, 2010, and his Teleconference Call with over 15,000 supporters on September 7, 2010, which included his acknowledgement that **“This is a political campaign;”** nor the salary of Barbara Schmitz, the HSUS State Director who served as the **“Campaign Manager” of the Ballot Initiative Campaign in Missouri,** nor the volunteer time of Judy Peil, the HSUS Member of the Board of Directors who served as the **Treasurer for the Ballot Initiative Campaign,** were reported to the Missouri Ethics Commission.
  - **As an aside, it is noteworthy that there is no indication that the HSUS contributed a single dime to any animal shelter in Missouri in 2010.**
  - It is also noteworthy that early in January, 2010 the Parent Company of the Ringling Brothers Circus filed a lawsuit in a Court in the District of Columbia, and **alleged that the HSUS violated the RICO (Racketeering-related) Statute and “laundered” money.**
8. **The repeated claim, with braggadocio, that the HSUS was responsible for the passage of over 500 State Statutes, over 25 State Ballot Initiatives; and over 25 Federal Statutes corroborate the fact**

that the HSUS is a dominant lobbying organization. Here it is noteworthy that the “lobbying successes” of each and every one of the Multi-Billion Corporations in the U.S. pale in comparison to the lobbying track record of “successes” of the HSUS.

9. Since the HSUS has directly contributed over \$8 Million to the three recent Ballot Initiative Campaigns in California, Ohio, and Missouri, it is quite possible that the HSUS cumulatively contributed over \$20 Million to the other 22 successful Ballot Initiative Campaigns, which raises a question as to whether approximately \$30 Million Dollars in support of 25 Ballot Initiatives has, in itself, exceeded the **“TOO MUCH LOBBYING”** threshold for a tax-exempt, public charity. **It also raises the question as to how much was spent by the HSUS in support of the lobbying efforts that resulted in over 500 State Statutes and over 25 Federal Statutes being passed.**
  
10. The Successful lobbying track record of the HSUS is attributable to a focused agenda that ignores the IRS prohibitions on lobbying, and with unequalled arrogance, as if it is “above the law,” simply disregards the IRS requirements for all tax-exempt, public charities to comply with the U.S. Tax Code and the IRS Regulations by reporting all of the time and expenditures used by the HSUS in support of its “lobbying machine” in order to avoid a determination by the IRS that the HSUS has exceeded the **“Substantial Part Test”** for Lobbying. **In this regard, if a proper allocation of lobbying activities and expenditures of its paid staff and volunteers were made, it would show that HSUS devotes at least 30-40% of its time and expenditures to lobbying.** Examples of the excessive, under-reported and non-reported lobbying activities include:
  - **The 2008 Tax Returns of the Humane Society Legislative Fund and the Doris Day Animal League document that the following Senior Staff of the HSUS devote 27 ½% of their time on the lobbying activities of those two HSUS lobbying organizations:**
    - **Mr. Pacelle, President and CEO**
    - **Mr. Markarian, COO**
    - **Ms. Coupe, Chairman of Board of Directors of the HSUS**
    - **Mr. Waite, Treasurer**
    - **Ms. Berge, Assistant Treasurer**
    - **Mr. Kindler, General Counsel**
  - **Its unfounded assertion in its Tax Returns prior to 2008 that none of its Paid Staff or Volunteers “lobbied.”**
  - **Its failure to assess a “lobbying value” on the tens of thousands of hours that its “volunteers” lobbied on behalf of the HSUS each year.**

- **Its failure to account for the lobbying activities of its HSUS State Directors, who are “Registered Lobbyists” in nearly 40 States.**
- **Its failure to account for the volunteer work by members of its Board of Directors, such as:**
  - Judy Peil who currently serves as the Treasurer for the Ballot Initiative Campaign in Missouri.
  - Ms. Probst, who also serves as a Member of the Board of Directors of the Doris Day Animal League, and as Chairman of the Board of Directors of the Fund for Animals that made political contributions of \$250,000 for a Ballot Initiative Campaign in California and \$110,000 for the Ballot Initiative Campaign in Missouri.
  - **Mr. McDonnell, the Nationally Syndicated Cartoonist who repeatedly used his MUTTS Cartoon Strip in support of the Ballot initiative in Missouri, and who supported the HSUS Nationwide Fund Raising Campaign for the Missouri Ballot Initiative by citing “Missourifordogs.com” in his Cartoon that appeared in newspapers throughout the U.S. on October 24, 2010.**

- 11.** The Staff of the HSUS and its State Directors conduct hundreds of Lobbying 101 Workshops each year in order to **train its thousands of volunteers on how to lobby in support of the HSUS Legislative Agenda**, as well as facilitating the Lobby Day Events that the HSUS orchestrates each year in State Capitols and in the U.S. Capitol. However, there is no indication that the lobbying efforts of these volunteers are being allocated by HSUS as “lobbying activities,” as it is required to do, in order for the IRS to be able to determine if the HSUS has exceeded the **“substantial part test,”** and has engaged in **“TOO MUCH LOBBYING.”**
- 12.** Ms. Jennifer Fearing, an overzealous HSUS State Director in California, “crossed the line,” and obviously violated a specific IRS prohibition about lobbying against specific candidates when she sent out an E-Mail to HSUS Members in California and stated that **“Elected officials need to be held accountable for their actions. Remember this when you vote.”** **This raises a collateral question as to whether other HSUS State Directors have made similar, “prohibited” statements.**
- 13.** Up until 2009, most of the HSUS Lobbying-Related Links were prominently posted on the HSUS Home Page. They have now disappeared, but may still be found. The “coincidental” disappearance of the prominent links suggests a **suspicious “PATTERN OF CONDUCT”** that was designed to **“COVER-UP”** and mask the dominant role that lobbying plays in the HSUS Agenda. For example, the **Humane Scorecard**, which tracks how every Member of Congress votes with respect to the HSUS Legislative Agenda, and identifies which Members of Congress support the HSUS Legislative Agenda, was readily available on the HSUS Website until November 2009. Now it is “conveniently” found on the Website of the Humane Society Legislative Fund. Significantly, Mr. Markarain serves as

President of this Organization and **Mr. Pacelle, who founded the “lobbying” organization** during the same year that he became President and CEO of the HSUS, serves as its Vice President. According to the 2008 Tax Return for the Humane Society Legislative Fund, Mr. Pacelle and Mr. Markarian devote 25% of their time to operation of this lobbying organization.

**14.** During the 30 days before the November 2<sup>nd</sup> Election, the HSUS and Mr. Pacelle seemingly became obsessed with the Ballot Initiative Campaign in Missouri and sent E-Mails or posted on the HSUS Website a daily call for action to the Millions of HSUS Members. This was a non-stop, daily lobbying effort that seemingly preoccupied 100% of Mr. Pacelle’s time and attention as he encouraged everyone to support the Missouri Ballot Initiative; and to make “online donations” in order to buy “TV ads.” He even resorted to being a fundraising “huckster” with his E-Mail dated October 14, 2010 when he sent out, over his signature, a Humane Action E-Mail and stated that **“everyone who reaches \$200 will get a YES! On Prop B hoodie.”**

**15.** The HSUS included the following statements on its 2008 Tax Return:

- **“With staff of our Government Affairs Section in Washington DC, Regional Staff in our Field Services Section across the country, and a network of volunteers, we are active in ALL 50 State Capitols across the country.**
- **“Also at the State level, the HSUS is active in citizen-initiated ballot measures.”**
- **“HSUS training is offered to citizens . . . who wish to participate in the legislative process. . . . In 2008, the HSUS organized and taught “Lobbying 101” workshops in more than 40 States. We also communicate with online advocates and provide information and training remotely.”**
- **“The HSUS sent electronic updates to nationwide volunteers, members, and other interested parties. In addition, the HSUS assisted in sending constituent EMAILS and FAXES to lawmakers through a functionality on the Society’s website.”**
- **“Lobbying on these issues included direct contact with legislators and their staff.”**

**16.** Most significantly, each of the HSUS Tax Returns prior to 2008 contained similar representations to those quoted above. However, none of the above types of quotes appeared in its 2009 Tax Return, and the words “lobby” or “lobbying” were never mentioned. This “absence” suggests yet another **“PATTERN OF CONDUCT”** that was consciously designed to **“COVER-UP”** the magnitude of the excessive lobbying activities of the HSUS.

**17.** Other direct quotes from Mr. Pacelle and from the Federal Legislation Website Link include:

- *“We employ teams of lobbyists.”*
- *“We got legislation enacted.”*
- *“And in 2009 state legislation sessions, The HSUS worked to introduce anti-puppy mill bills in more than 30 states.”*
- *“And don’t forget that you can see how all legislators in the 110<sup>th</sup> Congress scored on animal protection issues at [www.humanescorecard.org](http://www.humanescorecard.org).”*

**18.** Based on representations made by the HSUS on its 2008 Tax Return, it is reasonable to assume that in the last four years the HSUS has generated over 1.1 Billion “TAKE ACTION E-MAILS” “through a functionality on the Society’s website.” To put 1.1 Billion Lobby-related E-mails in perspective, if they were stacked on top of one another, the stack would be

**OVER 69 MILES HIGH!!!**

This fact alone would suggest that the HSUS has far, far, far exceeded the “substantial part test” for lobbying by a tax-exempt, public charity, which fact is further exacerbated by the absence of any indication that the enormous cost associated with generating 1.1 Billion “TAKE ACTION E-MAILS” has never been allocated to lobbying activities in determining whether the HSUS has engaged in **“TOO MUCH LOBBYING.**

The above illustrative examples of excessive lobbying represent less than 25% of the lobbying activities of the HSUS that have been substantiated in the more than 1,400 pages of incriminating documents that are now in the possession of the IRS. The IRS has assigned a Case File Number (29-92012) to its on-going investigation of the lobbying activities of the HSUS, and the Office of the Inspector General for Tax Administration in the Department of the Treasury has assigned a Case File Number to the HSUS Investigation (55-1005-0025-C).

If the IRS were to determine that the HSUS under-reported Millions of Dollars of Membership Dues Revenue; and if the IRS determined that the HSUS has “laundered” money and lobbying activities through its “Family” of Affiliated Organizations in order to mask the magnitude of its lobbying activities; and if the IRS determined that the HSUS had engaged in a “PATTERN OF CONDUCT” to “COVER-UP” the magnitude of the lobbying activities of the HSUS; and if the IRS determined that the HSUS had engaged in “TOO MUCH LOBBYING;” will the IRS revoke the tax-exempt, public charity status of the HSUS, and assess back taxes, penalties and interest????????????????????