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February 20, 2001

NEW JERSEY BAR
NEW YORK BAR

Leslie Z. Celentano, Chair
New Jersey Commission of Investigation
28 West State Street
PO Box 45
Trenton, New Jersey 08625-0045

Re: John Hughes and Harriet Hughes

Dear Ms. Celentano:

I represent Mr. John Hughes and Mrs. Harriet Hughes, who are husband and wife and who have been provided with a portion of the proposed report of the New Jersey Commission of Investigation (the "Commission"), concerning the Hudson County Society for the Prevention of Cruelty to Animals ("HCSPCA"), during the years 1993 through 1999. These portions of the report were provided to Mr. and Mrs. Hughes under the authority of N.J.S.A. 52:9M-12.2 which requires that, prior to the release of the Commission's report, "a copy of the relevant portions of the proposed report" be disclosed by the Commission whenever the proposed report is "critical of a person's conduct". That same statute, N.J.S.A. 52:9M-12.2, confers on Mr. and Mrs. Hughes the right to submit a written response to the proposed report "which the commission shall include in the report together with any relevant evidence submitted by that person". Should the Commission make any changes in its proposed report, Mr. and Mrs. Hughes ask that they be afforded an opportunity to review those changes and to

Leslie Z. Celentano, Chair
New Jersey Commission of Investigation
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revise this submission prior to any publication.

Harriet Hughes

Harriet Hughes assumed the duties of Treasurer of the HCSPCA at the request of the Board of Directors in 1988 following the death of the previous treasurer. She has continued as Treasurer for the last twelve years as a volunteer receiving no compensation whatsoever. When Thomas Hart, noted animal welfare activist and municipal administrator, assumed the post of Executive Director of the HCSPCA in August, 2000, he asked Harriet Hughes to continue as Treasurer and she agreed.

As Treasurer, Mrs. Hughes received the daily and other receipts of the HCSPCA, personally deposited them into the HCSPCA operating account, attended board meetings, sought approval for payment of expenses and saw to it that the HCSPCA's expenses were paid. She did her best to insure that that large donations and bequests were held in conservatively managed investment accounts, safe interest bearing money market accounts, government securities, and certificates of deposit. No speculative investments were ever made, not a penny of this portfolio was ever lost. In 1988, when she became treasurer, the HCSPCA was virtually bankrupt, it now holds over a million dollars in its investment accounts. She has done all this work and more for twelve years as a volunteer while also holding down a full time job working between 50 and 60 hours per week as a bank branch manager.

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2001 FEB 26 AM 9:35
STATE COMMISSION OF
INVESTIGATION

The Weekly Routine

Generally, once per week Edward Pulver, the President of the HCSPCA, would meet with Harriet, either at his office in Jersey City or at her place of employment, and would give her the shelter's cash and check receipts for the week. Along with these funds, Mr. Pulver gave Mrs. Hughes a copy of the "Daily Receipts" ledger, which was a hand-written accounting, prepared by the shelter employees each day, listing the day's income from adoptions, donations, surrenders, and the like. Mrs. Hughes would double check the figures on the Daily ledger to insure that they matched the amount of money she received, then she would deposit the cash and checks in the shelter's operating account. John Hughes would then enter the amount of the deposit, broken down by the amount of each day's receipts as itemized on the "Daily Receipts" ledger, into the computerized bank account record.

Payment of Bills

Harriet Hughes generally prepared the checks in payment of operating expenses other than payroll and animal food. She generally consulted first with Ed Pulver regarding significant expenditures then, after receiving Pulver's approval, she sought and received the approval of at least two additional members of the HCSPCA Board of Directors before spending money or obligating the HCSPCA. Inexplicably, the proposed report is critical of this procedure, stating in its report that Mrs. Hughes "admitted" that she telephoned board members until she got the approval of two of them for an expenditure after receiving Ed Pulver's approval.

Harriet Hughes and Ed Pulver were both board members, thus with the approval of two additional board members, no less than four board members were aware of, and had approved, all of Harriet Hughes' actions as Treasurer. Her "admission", which the drafters of the proposed report somehow find so damning, is nothing more than the statement of a business-like and legitimate method of proceeding only with the full knowledge and approval of a significant portion of the Board of Directors - a method of proceeding which the Board obviously approved of, since it has continued Mrs. Hughes as Treasurer for the past twelve years. Moreover, this telephone method was used only when the wait until the next board meeting was too long. Where feasible, Mrs. Hughes would present proposed expenditures at the next board meeting. It is worth noting, as well, that Mrs. Hughes' Treasurer's Report was always presented at board meetings, so all expenditures were well publicized and ratified.

The proposed report mischaracterizes some HCSPCA's expenditures as "items wanted by Edward Pulver or the treasurer". It includes in this category holiday gifts for volunteers and bonuses for shelter employees. The proposed report begrudges these volunteers, including Harriet Hughes, any material acknowledgment or recognition whatsoever for their years of work. The report condemns the spending in 1998 of a grand total of \$339.00 for Holiday Baskets, which were divided among seven volunteer women. The proposed report also objects to the giving of small bonuses to shelter employees at holiday time. This is, of course, is an expression of the report drafter's moral, not legal, judgment. These were not "items wanted by

Edward Pulver or the treasurer". Do the drafters of the report actually believe that Harriet Hughes proposed giving holiday baskets to six other people just so she could get one?

Ed Pulver and Harriet Hughes, and others, thought long and hard about ways to maintain the interest and loyalty of the society's volunteers and employees. These rather modest holiday gifts and bonuses are an entirely legal and normal method of acknowledging loyal service everywhere in the not-for-profit and the for-profit economy, but perhaps not at the New Jersey State Commission of Investigation.

Multiple Operating Accounts

The Commission is highly critical that the HCSPCA held funds in thirty four operating accounts between 1993 and 1999. First, the society maintained individual operating accounts for different distinct purposes. There was a payroll account, two separate building fund accounts, an account for animal food, a general operating account, and so on. Since she made most of the deposits, the operating accounts were ordinarily maintained at the bank where Harriet Hughes was employed as a convenience to her. When her employment changed, the accounts moved with her with the full knowledge and consent of the Board of Directors. In fact, the Board was only too happy to let Harriet Hughes do as much work as possible on her own and saw no reason to inconvenience her by requiring that accounts be held in any particular location.

During one five month period, from November 1998 through March

1999, Harriet Hughes was not employed by a bank. Rather, she worked at the Bayonne Economic Development Agency in Bayonne, New Jersey. The operating accounts were located at the Statewide Savings Bank in Jersey City. Since the shelter's funds Mrs. Hughes received from Mr. Pulver included cash, the bank deposits had to be made during business hours. Rather than take time off from her job to drive to Jersey City, thereby also incurring an \$8.00 parking charge which the HCSPCA would not reimburse, Mrs. Hughes deposited the shelter's cash receipts into her own nearby checking account, then immediately wrote a check to the HCSPCA representing that amount and mailed it together with any checks the shelter had received to Statewide Savings in Jersey City. That Statewide Savings Bank took up to a week to receive and credit each deposit is no great surprise. None of the society's receipts were lost as the proposed report concedes, yet the drafters view Mrs. Hughes actions through their own uniquely jaundiced eyes as "COMMINGLING OF MONIES".

When the Commission's investigator appeared at Harriet and John Hughes' home unannounced in December, 1999 and asked for financial records, Mrs. Hughes invited the gentleman in and proceeded to copy and turn over all the financial records held on the computer, including her own personal bank accounts. She had, and has, nothing to hide. The investigators have seen her personal books. They know she sent all of these funds to the society's operating account.

The report is also critical of Mrs. Hughes' having authorized the cashing of shelter employees' payroll checks in the employee's absence and

the cashing of a contractor's check on one occasion "even though the person cashing it was not related to the company". Apparently, the report's drafters live in another world. Checks are cashed all the time by people other than the payee, when the payee calls the bank and requests it. No money is missing. No employees ever complained or lost anything. The contractor - whoever he is - lost nothing, and Harriet Hughes never authorized the cashing of any check without the prior approval of the rightful payee of that check.

Two serious errors were made during this period for which Harriet Hughes takes full responsibility and which she intends to bring to the attention of the Board of Directors as soon as the prohibition against her divulging any portion of the proposed report is lifted. In 1995 \$1,560.00 received by the shelter between May 18 and May 25 in the form of cash and checks was entered on the Daily Receipts ledgers, entered into the society's computerized bank record, and, apparently, disappeared. These funds cannot be found listed in the bank statements or listed on any deposit slip. Mrs. Hughes does not remember anything about these funds after so long a time. She obviously had no intention of stealing these funds since all the paperwork and computerized records concerning these funds have been preserved and given to the Commission by her. She is very upset by this discovery and will do whatever the Board wishes her to do in consequence, including repaying the money with interest. The proposed report contains the additional revelation, also quite distressing to Mrs. Hughes, that on December 27, 1995 a deposit was made to Hudson United Bank using a

deposit slip containing a misprinted account number - it omitted one digit from the society's correct operating account number. A single check in the amount of \$1,575.00 was listed on that misprinted deposit slip. That \$1,575.00 was never credited to the society's bank account, or to any other account to our knowledge. What happened to it is simply a mystery. Careful reconciliation of the account at the time could have revealed the error, but this obviously was not done.

These errors must be understood as innocent, having apparently been committed by a volunteer treasurer who works between fifty and sixty hours or more per week in the high stress environment of retail banking. The investigators found two such errors out of all the thousands of transactions performed over the years for the society by Mrs. Hughes, who obviously has not benefited in any way from them.

It is also true, as the proposed report states, that substantial sums were sometimes held in non-interest bearing accounts and that, at times, individual accounts held funds in excess of the \$100,000.00 F.D.I.C. insured limit. These were facts readily available and apparent to any board member who chose to review the Treasurer's reports or to inquire. Nothing would have pleased Harriet Hughes more than to have had the assistance of a finance committee to assist her in monitoring the investment of these funds. It is worth noting that Harriet Hughes benefited in no way from either of these circumstances. It should also be noted, however, that the funds in the bond and equity investment accounts were not without professional management. Portfolio managers at PNC Bank and Hudson United Bank oversaw these

investments. None of these funds were ever lost.

John Hughes

John Hughes worked as a salaried part-time bookkeeper for the HCSPCA from 1993 through 1999. Mr. Hughes assisted his wife by entering HCSPCA financial data into a personal computer in their home. Mr. Hughes was only employed by the HCSPCA after approval by the Board of Directors. The minutes of the October 6, 1993 Board meeting reflect the Board's approval.

Mr. Hughes' initial salary was \$100.00 per week. He received no increases until April 23, 1999, four and a half years later, when his salary was increased by \$5.00 to \$105.00 per week. During this seven year period, his gross earnings were \$33,085, or less than \$4,800 per year, all of which was reported for tax purposes.

John Hughes was never an Officer, Director, or Member of the Board of Directors of the HCSPCA.

The HCSPCA did not have a computer at the Johnston Avenue location. The computer was kept in the Hughes home as a convenience with the knowledge and approval of everyone involved. Before John Hughes was employed to make bookkeeping entries, Mrs. Hughes had done all the work of treasurer and bookkeeper herself, as a volunteer, while also holding down her full time job. After this went on for five years, from 1988 through 1993, the Board saw the wisdom of hiring a part-time bookkeeper as recommended by the society's certified public accountant, to take some of the pressure off

of Mrs. Hughes. John Hughes' primary function was to enter financial data into the computer. Since the HCSPCA's financial information was recorded on a computer at their home, Mr. Hughes could update that information regularly, in consultation with Mrs. Hughes, if necessary. This arrangement afforded great convenience to all concerned.

The report implies that it was somehow corrupt for the HCSPCA to hire John Hughes in 1993 as part-time bookkeeper since he was unemployed at that time and had no formal accounting training. This criticism is unwarranted because it overlooks the unskilled nature of Mr. Hughes' work. John Hughes was not hired as an accountant or as a treasurer. All he did was enter financial data into a personal computer, a tedious and time consuming activity made relatively straightforward by the use of the widely known, home office computer program - Quicken. He made no accounting decisions and exercised no discretion. His bookkeeping work consumed several hours per week, far more than could be expected of a volunteer.

It is equally absurd to suggest that Harriet Hughes volunteered to become Treasurer of the HCSPCA in 1988, and spent countless uncompensated hours on this task, in order to get a \$100.00/week part-time job for her husband five years later.

Undoubtedly John Hughes made some bookkeeping errors over the years, as all bookkeepers occasionally do. But he never did so intentionally or with any bad motive. Any errors by John Hughes in the financial records were mistakes and were not the result of intentional omissions or intentionally misrecorded data.

Leslie Z. Celentano, Chair
New Jersey Commission of Investigation
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Conclusion

John and Harriet Hughes did a great deal of good for the Hudson County Society for the Prevention of Cruelty to Animals and for the people of Hudson County. John, as a low paid clerical employee, and Harriet, as Treasurer for over twelve years, responsible for thousands of transactions and concerned with the investment of what has become over one million dollars in endowment, all as a volunteer. Had she not continued to volunteer the society would have been forced to hire a professional comptroller, there being no other volunteers to take Mrs. Hughes place. Over the years the cost of such a professional would have cost the society far more than the infrequent errors of Mrs. Hughes, and there is no guarantee that such a professional comptroller would not have made errors, as well.

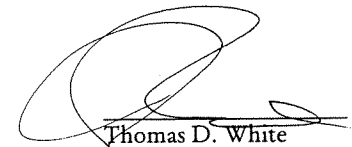
Harriet Hughes kept no secrets from the Board. She did what she was asked to do without complaint or compensation. Few volunteer organizations can boast of such loyalty and continuity particularly from someone who also has to make a living, working fifty to sixty hours per week and more.

John and Harriet Hughes may lack perfection but they have not lacked commitment, effort, or achievement on behalf of the Hudson County Society for the Prevention of Cruelty to Animals.

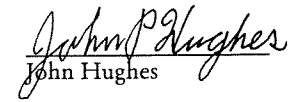
Leslie Z. Celentano, Chair
New Jersey Commission of Investigation
February 20, 2001
Page 12

Thank you.

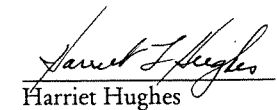
Very truly yours,



Thomas D. White



John Hughes



Harriet Hughes

Raymond Lampart
102 Vine Street
Browns Mills, NJ 08015

December 12, 2000

State of New Jersey
Commission of Investigation
P.O. Box 045
Trenton, NJ 08625-0045
Attn: Ileana N. Saros,
Council

RE: Notice of Proposed Report

Dear Ms. Saros:

In regards to your letter dated 12/1/2000, please note , during 1995-1998, I have only received two checks, as follows:

- 1) I submitted a voucher for time and mileage for approximated \$300.
- 2) A check for \$40.00, issued by the secretary for reimbursement of dinner at a membership meeting, at a diner, in which I paid for all when other's funds were unavailable.

Should you need any further information, please contact me.

Very truly yours,


Raymond Lampart

RL/agm

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2000 DEC 14 AM 10:28
STATE COMMISSION OF
INVESTIGATION

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2000 DEC 13 AM 10:26
STATE COMMISSION OF
INVESTIGATION

State Of New Jersey
Commission of Investigation
PO 045
Trenton, NJ 08625-0045

To: Ileana Saros, Counsel

Written Response to letter Dated 12/1/00 for Warren County SPCA

Never at any time was there a scam regarding motor vehicle purchases for the SPCA. My wife and I purchased with our own money a vehicle for the use of the Warren County SPCA. Prior to this purchase/donation the SPCA needed a vehicle to answer animal cruelty calls. The vehicle that they had was in need of repairs. This vehicle was purchased at no cost to the SPCA, the County of Warren, the State of New Jersey, or any other person or group. The SPCA attorney advised that this was legal due to the fact that the Warren County SPCA is a non-profit 501(c) 3 volunteer organization. My wife and I also personally paid out of our own pockets for all of the insurance on this vehicle, all of the repairs for this vehicle, and any gas charges for this vehicle. The vehicle was available for any and all members to use for calls at all times. The vehicle was used on literally hundreds of calls to investigate animal cruelty. One time I even hauled hay that I purchased with my own money to feed several starving horses. When the SPCA no longer needed the vehicle it was sold and all applicable sales taxes were paid, as per the law.

No person was ever paid any money or offered anything else when I purchased the car. The statements in the report are bold lies and I never told Investigator Dancisin the comments that he has put into this report.

It is interesting to note that all the State Commission of Investigation does is criticize the SPCA, and they never once talk of the animals that we have helped save. You people should be ashamed of yourselves.

December 12, 2000

Jack Mace



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2001 FEB -5 AM 10:50
STATE COMMISSION OF
INVESTIGATION

State of New Jersey
Commission of Investigation
PO 045
Trenton, NJ 08625-0045

To: Ileana Saros, Counsel

Written Response to letter dated 1/19/01 for Warren County SPCA

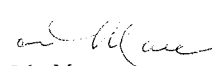
Never at any time was there a scam regarding motor vehicle purchases for the SPCA. My wife and I purchased with our own money a vehicle for the use of the Warren County SPCA. Prior to this purchase/donation the SPCA needed a vehicle to answer animal cruelty calls. The vehicle that they had was in need of repairs. This vehicle was purchased at no cost to the SPCA, the County of Warren, the State of New Jersey, or any other person or group. The SPCA attorney, James Berado advised that this was legal due to the fact that the Warren County SPCA is a non-profit 501 (c) 3 volunteer organization. My wife and I also personally paid out of our own pockets for all of the insurance on this vehicle, all of the repairs for this vehicle, and any gas charges for this vehicle. The vehicle was available for any and all members to use for calls at all times. The vehicle was used on literally hundreds of calls to investigate animal cruelty. One time I even hauled hay that I purchased with my own money to feed several starving horses. When the SPCA no longer needed the vehicle it was sold and all applicable taxes were paid, as per the law.

No person was ever paid any money or offered anything else when I purchased the car. I never gave a sworn statement to Investigator Dancisin. Investigator Dancisin took many notes while I was cooperating with the investigation. When he was finished he asked that I just sign the bottom of his notes. I never read the notes, nor did I ever give any type of sworn statement as to the correctness of his notes. The day he took the notes my wife and I were under extreme duress.

At this point is time I must recant any and all statements which you now believe to have been made as a sworn statement. Obviously, your report reflects many inaccurate statements, and I must advise you that it now appears that Investigator Dancisin has put incorrect or inaccurate statements into his report (including mileage estimates for the vehicle in question).

It is interesting to note that all the State Commission of Investigation does is to criticize the SPCA, and they never once talk of the animals that we have helped. The way your agency terrorizes people you should be ashamed of yourselves.

January 31, 2001


John Mace

Certified Mail

December 12, 2000

State of New Jersey
Commission of Investigation
PO Box 045
Trenton NJ 08625-0045

Ileana N. Saros
Counsel

Re: Proposed Report – Burlington County SPCA

Dear Ms: Saros

In regards to net wages paid to me in 1993 by the Burlington County SPCA. I was asked to do a typing job. To the best of my recollection this was typing of correspondence and a draft of proposed changes to their by-laws and also making copies for each member at the Society's annual meeting. This was done by me because Lorraine Smith was unable to do the work at that time, as I was informed.

This was legitimate on my part as a time card was filled out and sent to Burlington County SPCA from whom I received a check for \$68 in net wages.

As far as approval of payment by the Board in their minutes this is not my problem or responsibility, but the responsibility of Burlington County SPCA treasurer to submit it to the Board of Directors for approval.

A person hired to do the work is responsible to do the work. The person hiring the worker should be the one to show just cause.

I have no evidence as the completed work was handed over for proper signatures and to be mailed by them and also copies for Burlington County's files, which could be identified by my initials on all letters as the typist.

Sincerely,



Anna M. Modica

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2000 DEC 14 AM 10:25

STATE COMMISSION OF
INVESTIGATION

RECEIVED

2000 DEC 13 AM 10:27

STATE COMMISSION OF
INVESTIGATION

December 11, 2000

Ileana M. Saros, Esq.
State of New Jersey
Commission of Investigation
P.O. Box 045
Trenton NJ 08625-0045

RE: Notice of Proposed Report

Dear Ms. Saros:

I am writing this letter in response to your communication of December 1, 2000. The portion of the report which you had forwarded to me contains various inaccuracies and admissions which I feel must be addressed.

The dog referred to in the report was only obtained by the SPCA after thorough discussion and approval by the Board of Directors. We also received the approval of the New Jersey Attorney General's Office prior to having the dog trained by the New Jersey State Police. The training was paid for through a drug enforcement grant obtained by the State Police.

The main thrust of obtaining the dog was not that we would share in the proceeds of successful drug seizures, but rather as a good will ambassador for the association. In this regard, the dog has been a tremendous success. For example, we use the dog in many educational programs in local schools. In these lectures we combine lessons on drug detection with lessons on animal cruelty. We demonstrate to the children how the dog can be used to discover illegal drugs. This is an important lesson for the children and brings a great deal of attention and favorable publicity to the SPCA.

Numerous municipalities besides Jamesburg have utilized the services of the dog in connection with law enforcement. I enclose copies of various letters from different municipalities thanking us for using the dog in both the areas of education and law enforcement. I also enclose a list of municipalities which have used our dog.

Ileana M. Saros, Esq.
December 11, 2000
Page -2-

You have many more similar testimonials in the dogs' personnel file which you took as part of your investigation.

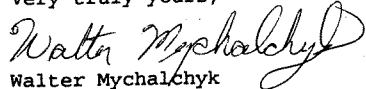
All of the municipalities which have utilized the dog's service have been greatly appreciative. As to the dog's effectiveness, I can only state that his services are constantly being requested. If his value to the police is in question, it certainly seems unlikely that they would continue to request his use. I note that you state that "opinions differed as to whether the dog was of any value". Could you please provide me with the source of these opinions. All of the conclusions set forth in your report seem to be without a factual foundation.

I would also like to state that your report does not appear to be based on any concrete evidence. It merely sets forth that conclusions are based on opinions without identifying the source of those opinions. As you can see from the correspondence which I have included, there are many opinions that are favorable. You also do not indicate why you think the use of this dog is a "questionable activity" for the SPCA, when it has been approved by the New Jersey Attorney General's Office. On what basis do you make this determination.

It is also implied in the report that there is something improper in having my personal dog certified for tracking and/or narcotics discovery. I would note that many State Police personnel also have their personal dogs trained and utilized for these services.

Further, I would like to state that all of the hours put in with the dog are done free of charge and without any cost to the Association other than a daily allowance for food for the canine.

Very truly yours,


Walter Mychalchyk

MUNICIPALITIES WHICH HAVE UTILIZED OUR DOG

MERCER COUNTY

Hightstown

MONMOUTH COUNTY

Englishtown
Manalapan Township

MIDDLESEX COUNTY

Monroe Township
Perth Amboy
Spotswood
Jamesburg
Rutgers Police
Boy Scouts
Middlesex County Prosecutors Office

New Brunswick
South Amboy
Helmetta
Cranbury
FBI
Lions Club

Old Bridge
South River
Piscataway - State Dare
Middlesex Borough
Middlesex County Sheriff
Girl Scouts

LAW OFFICES

BRESLIN AND BRESLIN, P.A.

41 MAIN STREET

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(201) 342-4014

FAX (201) 342-0068/3077

2305 GRAND AVENUE
BALDWIN, N.Y. 11510
(914) 686-1533

CHARLES RODGERS
E. CARTER CORRISTON * ■
DONALD A. CAMINITI ■ ♦ †
ANGELO A. BELLO

■ Certified by the Supreme Court of New Jersey as
a Civil Trial Attorney

♦ Certified by the National Board of Trial
Advocacy as a Civil Trial Advocate

* N.J. & N.Y. Bars
† N.J., N.Y. & D.C. Bars

TERRENCE J. CORRISTON *
KEVIN C. CORRISTON *
KAREN BOE GATLIN
LAWRENCE Z. FARBER *
E. CARTER CORRISTON, JR. *

JOHN J. BRESLIN, JR. (1935 - 1987)
JAMES A. BRESLIN (1969 - 1980)

Reply to Hackensack

December 8, 2000

Ileana N. Saros, Esq.
State of New Jersey
Commission of Investigation
P.O. Box 045
Trenton, New Jersey 08625-0045

Re: Jason Peters - Response to Notice of Proposed Report

Dear Ms. Saros:

Enclosed herewith please find Mr. Jason Peters' response to your proposed report together with supporting documentation.

In my opinion, any adverse inference suggested in your report which arises from my client's invocation of his Fifth Amendment privileges pursuant to my advice is clearly improper. An individual's assertion of his constitutional privileges is a time honored and cherished principal of our legal system, particularly when undertaken upon advice of counsel.

"Comment on the refusal to testify is a remnant of the 'inquisitorial system of criminal justice.'" See Griffin v. California, 380 U.S. 609 (1965). In addition, the New Jersey Supreme Court has held an individual's right not to testify to be inviolable and has so advised our state government. See State v. Dent, 51 N.J. 428 (1968).

I must also express my surprise that at the time of his testimony you failed to question my client regarding any of the many serious improprieties which occurred at the Bergen County SPCA and which were revealed to you by Mr. Peters during his interview on September 6, 2000.

December 8, 2000

Page 2

As you are aware Mr. Peters was fully cooperative in regard to your investigation and has provided reasonable explanations to all of your inquiries. Furthermore, your apparent unwillingness to conduct an investigation into the actions of other Bergen County SPCA Officers as well as a prominent State legislator revealed to you by Mr. Peters is bewildering, if not unconscionable.

It is difficult for Mr. Peters to understand why instances of forgery, dereliction of duty, firearms violations, official misconduct, influence peddling and/or outright bribery as revealed by him are of no interest to you particularly when same can be confirmed by other individuals.

Please be so kind as to include this correspondence with Mr. Peters' response.

Thank you for your anticipated courtesy and cooperation in this regard.

Very truly yours,

BRESLIN AND BRESLIN, P.A.


Kevin C. Corriston

KCC/mro

BRESLIN AND BRESLIN

RECEIVED

December 4, 2000

2000 DEC 12 PM 12:43

STATE COMMISSION OF
INVESTIGATION

State of New Jersey, Commission of Investigation

Dear Ms. Saros:

This letter is in reference to allegations made by The Commission against me. On numerous occasions both you and Special Agent Dancisin have accused me of theft and deception from the Bergen County S.P.C.A. Your report contains half-truths, statements taken out of context as well as out right lies.

1. In regards to your statements concerning the \$750.00 paid by the SPCA to PC Computer Consultants, this invoice was a consolidation of various items, which I had purchased and installed on Society computers. Not as alleged to satisfy my own purchases or debts.

The reason I chose to invoke my Fifth Amendment Right was due to my experiences with investigators of your Commission taking statements out of context and using them to draw fallacious conclusions from them. I was denied the right to confer with council concerning the tone and inference in several of the questions I was asked. It was for these reasons upon advise of council that I asserted my Fifth Amendment Right and not as you have implied, an admission of guilt.

2. I have testified that I have never paid for handguns with personal checks nor have I paid for them in one lump sum. I have always paid cash or bought them on a layaway plan. Agent Dancisin has obtained statements to this fact from the storeowner I have purchased these items from, but has chosen to disregard these statements in his report. His assertion that the storeowner believes that the SPCA actually paid for my gun is **an outright lie**. See attached affidavit from the storeowner.
3. Your third allegation concerning the Society's policy about uniforms is an example of the many half-truths in your allegations. While uniforms themselves were not supplied many other items such as radios, badges, etc. were supplied. It was also common practice for members to have the Society purchase items such as holsters, handcuffs, and other law enforcement paraphernalia for them. I have never ordered \$13,000.00 worth of clothing items as you have stated for either the BCSPCA or myself. I was authorized by the Chief of Law Enforcement, Bob Cicala, and the President Douglas Baker to purchase equipment to outfit our vehicles. I have never seen any documentation or invoices proving that I did and I know that none exist. It is entirely possible that individuals may have used my name in ordering from various vendors. As President, Douglas Baker initiated a policy of purchasing replacement uniform articles, which were damaged while in the performance of duty. He personally submitted bills for such items.

It is not surprising to me that any or all of the current members of the Society claim that they never requested or received any items from

• Page 2

December 4, 2000

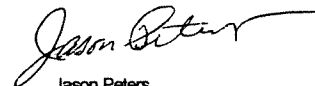
me. These are the same people who would not recognize the Attorney General's authority over them and saw nothing wrong with the President and a Lieutenant drinking alcohol while in uniform, carrying a gun in a local diner. It is primarily for that reason that they took the unprecedented action of not accepting the Chief of Law Enforcement's recommendation of my promotion to succeed him. See enclosed affidavits from former Chief Robert Cicala, and Stuart Rhodes.

4. Your last allegation is a general statement concerning \$1298.00 in reimbursements. It is quite likely that over a 3 year period I laid out over \$1,300.00 for various items and expenses including gas for the 1989 Dodge Ram Charger for which I was responsible, as well as reimbursement to other officers. The fact that I cannot be more specific is that all of the receipts were turned over to the Society as they were incurred.

It seems apparent to me that Agent Dancisin's report is biased and slanted against me. He has chosen to ignore facts and statements, which would dispute the allegations, made against me in his report and have used those, which tend to support his preconceived objective of blaming me for all of the failings of the current members of the BCSPCA.

It is my hope and prayer that the Commission will review Mr. Dancisin's findings in this report in light of the lack of evidence and contradicting testimony on these issues.

Respectfully yours,



Jason Peters

To: NJ State Commission of Investigation

Subject: Report on Jason Peters

To whom it may concern:

I have been shown the report on Jason Peters by Jason Peters for my review as I have extensive knowledge of Bergen County SPCA; it's practices, policies, procedures and individuals involved in the organization.

I had served as President for 9 years. I was a member for 31 years and served as a Board of Director, Chairman of the Bylaws Committee in 1972, Chairman of the Finance Committee and member of the Badge and Membership Committee at the time of my retirement in March of 2000.

The report submitted misstates many of the facts, practices and procedures followed by the Bergen County SPCA as run by President Howard Herman. If anyone has abrogated their authority, it was the President, who is charged by the bylaws with overseeing the day-to-day operations of the Society.

I was present on many occasions when both Presidents Herman and Douglas Baker authorized Jason Peters to make various purchases for the BCSPCA. It was only after an abortive attempt to bring Officer Herman and then Lt. Douglas Baker up on charges for drinking while in uniform while carrying a firearm that allegations against Jason Peters started.

It had long been the practice for our Quartermaster, Hugo Treveri, to purchase various and sundry items and clothing, which were charged to the SPCA to be purchased by the members of the Society. I personally purchased many items from Hugo, paying him in cash at the time of purchase. It was a common practice to have the Society purchase items for various members who were supposed to reimburse the Society. These items were often shipped to Jason Peters, as he was available to sign for them.

Common purchases for items which were supplied to all members included, ASPs, radios, statute books, raid jackets, uniform hats, uniform accoutrements, training manuals, courtesy cards and carry badges to name just a few.

I have personal knowledge that Douglas Baker, Michael Crowe, Howard Herman and Hal Diexler all obtained hi-cap mags from the SPCA.

It was, in my opinion, due to a disintegration of discipline, contempt for the laws and lack of concern for animal welfare exhibited by a majority of the members that caused a schism to develop and for those members of conscience to retire or resign. It is to be noted that we were all gladly accepted into the NJ State SPCA.

I had granted an extensive interview to your investigator, Michael Dancisin, who made copious notes at that time. I find it incongruous that he presented only the information given to him by the current members and officers of the BCSPCA and presented them as undisputed facts, choosing to disregard my statements concerning these matters.

This report lacks the disciplined objectivity, which one should expect from a State Commission. It appears to be long on innuendo and short on verifiable fact and is grossly inaccurate.

Sincerely yours,


Stuart M. Rhodes

December 5, 2000

State of New Jersey, Commission of Investigation

This letter is in response to a request from Jason Peters concerning the report submitted to him by the SCI making certain allegations concerning several purchases made by both the BCSPCA and himself.


Mr. Peters has been one of our customers since the store opened. He has purchased several firearms from us and always pays in cash. Quite frequently we have place items on layaway while he payed for them over a period of time.

Sometime in September 1998 we received an order for 5000 rounds of ammunition from Jason Peters for use by the BCSPCA. We issued an Order/Invoice to the BCSPCA for \$1750.00 confirming the order. When the ammo was received it was noted we had received 20 round boxes instead of the requested 50 rounds. We had ordered 5 cases expecting each to contain 20 boxes of 50 rounds each. Instead we received 5 cases containing 400 rounds each for a total of 2000 rounds. When I informed Jason Peters about the change he told me he needed the ammunition within a weeks time as it was being used to qualify members of BCSPCA. The date for the qualification had been set and could not be changed. I informed him it might be necessary to incur additional shipping charges to insure it would be here on time. At that time he placed an order for the additional ammo as well as a case of FBI Q Targets. This resulted in an increase in the original Order/Invoice to \$2399.00. As I recall the ammunition was picked up by Jason Peters in time for the qualifications along with appropriate paperwork

The Glock pistol referred to in the report, had been ordered by Jason Peters personally, not for the BCSPCA. He paid in cash as was his custom for all his personal purchases. The sales person who delivered the Glock is no longer with us and we cannot locate any of the sales paperwork other than the required Federal and New Jersey State Police Records.

All of the above information was given to your investigator, Mr. Dancisin on several occasions. At no time did I indicate that any of the funds from the BCSPCA payment paid for personal purchases of Mr. Peters. In fact, I advised to the contrary when asked by your investigator and I do not know why he attributes the opinion to me. I felt it was necessary to restate the information given to him to correct the inaccuracies in the report.

Sincerely your,


David Cameron
Bates Gun & Tackle, Inc.

SCI

State of New Jersey

Trenton, New Jersey

Dear Sir,

Although I haven't seen a copy of your report, I just wanted to make a few points known to you. For the last 14 months of my time with the SPCA of Bergen County, I was training Jason Peters who I believe was going to the next Chief. I had authorized Jason to use his discretion to purchase items that the SPCA needed. While he did not consult me for every purchase, I did give permission to order safety and investigative equipment for each car. When he told me he could get ammunition at a cheaper price than we were paying, I gave him permission to do so as well as permission to develop a Class B overall uniform. Since I had to sign a letter to Glock for permission to buy Glock magazines, I believe Jason also handled those purchases. Along with James LaGroesa, he was also allowed to purchase walkie-talkies for each officer. It has always been my impression that Doug Baker and Hugo Triveri bought t-shirts, sweaters and other off-duty items that were re-purchased by each member of the society.

Sincerely,


Robert S. Cicala

December 11, 2000

State of New Jersey
Commission of Investigation
PO Box 045
Trenton, NJ 08625

RECEIVED
2000 DEC 15 AM 10:32
STATE COMMISSION OF
INVESTIGATION

Dear Ms. Saros:

After receiving your "Notice of proposed report" concerning your investigation of the Society of the Prevention of Cruelty to Animals in general and in particularly to the Bergen County SPCA, I feel I must address the following sections as they pertained to my involvement:

One page one of the report sent to me you stated that information detailed in your report were factors that led to the Bergen County SPCA removing me from the position of Treasurer. This is simply not true. I have enclosed a copy of the November 1999 minutes of the Bergen County SPCA Board of Directors meeting which clearly state that a letter of resignation was received from me at which time I voluntarily resigned from that position.

On page two you state the role of the Treasurer as I assume you are attributing to statements made by me. As I stated in my interview with the Commission, when I was approached to take over the position of Treasurer I asked what my duties and responsibilities would be. Two individuals, Robert Cicala, the current treasurer at the time, and Howard Herman, the President of the Board of Directors said to me that the duties were quite simple. I was told to pay all the bills when I received them and to deposit any incoming funds into a SPCA account that I was to establish at a bank convenient to me. If the duties were to be more inclusive than that, it was never explained to me what additional procedures or discretion were expected of me.

On page two you also stated that the Society's funds were to pay only for an individual's badge, case, and identification. As long as I had been a member, (approximately 14 years) the Bergen County SPCA paid out of its funds for numerous items that was issued to the membership. Among these were; ammunition, pepper spray, ASP's, raid jackets, an annual holiday dinner, two way radios, and many other item that I could list but will not in order to keep this letter as brief as possible. I feel that if the Commission is going to list only a few of the items that the SPCA paid for and not all of them, it creates the image that all of the above purchases and others I haven't mentioned were inappropriately paid for by me.

On page three of your report it is stated that there was no record of checks or cash received. It is my contention that there was a passbook savings account maintained by the Bergen County SPCA during my tenure as Treasurer. This passbook clearly lists each and every cash and check deposit made during this period. These deposits reflected all moneys received by the Bergen County SPCA through donations, fines, dues, or bequeathments.

On page three of the report it is stated that an approximate amount of \$100.00 was kept which typically paid for food or drinks after meetings. This statement apparently had been taken out of the context in which it was spoken. I had stated that on occasion after a requalification meeting where most if not all of the members were always present, we as a group would sometimes go out for lunch afterwards. It was during these times that the membership would decide that the SPCA would cover the cost of the lunch. The actual purpose of the aforementioned \$100.00 was declared to the Commission during my interview. As I had stated, the Bergen County SPCA checking account that was maintained during my tenure, was classified by the bank as an account for a non profit organization. As such it was exempt from certain fees but also had many limitations. One such limitation was that we were limited to

writing only eight checks in any one monthly cycle. If we went over that eight check limit, the SPCA would be assessed a fee or service charge for each and every check that exceeded the limit. In an attempt to limit the amount of checks that were being issued I decided to maintain a small amount of cash to pay for items such as pens, pencils, paper clips, envelopes and other relatively inexpensive items that the SPCA needed. It was my reasoning that it would be foolish to incur an added expense by paying for such items with an SPCA check when paying for them with cash could eliminate that added cost.

- 6) With regards to the inability of the Commission to locate the spiral notebook that was used as a petty cash journal to keep track of the above-mentioned transactions, I had stated that I had turned it in. On at least three different occasions the members of the Bergen County SPCA were asked to bring in any and all SPCA related documents, materials, and papers to be collected and turned over to the Commission under subpoena. In addition I had also delivered numerous records to the accountant. It was during one of these occasions that this journal was handed in. I can not attempt to suggest where this book is now since I had no control over the chain of custody of this evidence and through how many different sets of hands it may have passed.
- 6) On page three of the report it is mentioned that I had used a SPCA check to pay for a privately incurred expense. I believe the amount was \$25.00 or \$30.00. This statement I do not dispute, my explanation was stated to the Commission and it was also stated that I reimbursed the Bergen County SPCA immediately after this occurred.

In conclusion I feel that my actions while Treasurer of the Bergen County SPCA were consistent with the duties of the position as they were explained to me by both the previous Treasurer and the President of the Board of Directors. I have faithfully given over fourteen years of my life as a **volunteer** to the Bergen County SPCA serving the people of the State of New Jersey to the best of my ability. At no time did I ever put my own interests over those of the SPCA. I thank you for the opportunity to address these points.

Sincerely,

Todd Peters
Todd Peters

Enclosure; November 1999 Board of Director meeting Minutes of the Bergen County SPCA

Subj: Todd, Here are the November 1999 meeting minutes for the SPCA. Jim Date: 12/7/2000 2:05:47 PM Eastern Standard Time From: jim053@nuts.kanebridge.com To: ACCESSINV@aol.com

Minutes of the BERGEN COUNTY S.P.C.A.
November 10, 1999

Municipal Number: 0296

Monthly meeting called to order 7:45 pm by President Baker

Minutes were accepted as amended.

Chief's Report

Dep. Chief Peters recommended promotions to Agent for Ed Rossi, Frank Rizzo, and Joe Biermann

By-Laws Committee Report

Howard Herman discussed the new By-Laws and will review the specifics in Old Business.

Badge & Membership Committee

Recommended that two prospective members, Donald Castellitto and Tony Silano, be accepted as A/Ts and that Warren Kaufman be accepted as a general member. The board agreed.

Treasurer's Report

10,980.96 opening balance
1,500.00 closing balance

Correspondance

A letter from Todd Peters' was read to the board, in which he resigned his position as Treasurer and his position on the board of directors. Later, the letter was amended to only resign as Treasurer retaining his place on the board of directors.

Old Business

Howard Herman discussed the By-Laws and suggested that all officers should have to obtain a doctor's note every two years to attest that the officer is in general good health. Discussion ensued.

New Business

A motion was made by Jason Peters that attorneys make up a contract for Officers to cover a good-health agreement waiver. The motion was amended by Howard Herman that a doctors' note be required every two years for law enforcement officers. The motion was seconded by Tom Cafarella. The amendment failed, but the motion to investigate the good-health agreement waiver passed.

A motion was made by Howard Herman to accept the By-Laws as amended with the

Thursday, December 07, 2000 America Online: AccessInv

small corrections reviewed and noted by the By-Laws committee during the meeting. The motion passed unanimously.

A motion was made by Howard Herman to change to ten members being a quorum which passed unanimously (Section III #2 in the By-Laws).

Deputy Chief Peters discussed doing dispatch from his house. A motion was made by Howard Herman to pay \$250 to Jason's wife to do dispatch. The motion passed unanimously.

Deputy Chief Peters mentioned that the NexTel telephones were cancelled due to high costs. They were replaced by AT&T cell phones for Jason, Bob Cicala, and Stu Rhodes. Anyone interested in the NexTel phones should contact the Treasurer.

A motion was made by Howard Herman that NexTel phones be put up for sale with all phones costing the same reasonable price of \$100. The motion was seconded by Jason Peters and passed unanimously.

A motion was made by Tom Cafarella to keep only two of the AT&T phones for the Chief and Deputy Chief and was seconded by Bob Metzdorf. The motion passed unanimously.

Jason Peters mentioned that pagers can be obtained for \$50/year.

A motion was made by Howard Herman that give pagers be given to the day officers. The motion was seconded by Bob Metzdorf and passed unanimously.

Jason Peters discussed the equipment needed for dispatch which included a corded phone, a cordless phone, and an answering machine.

A motion was made by Howard Herman that \$350 be spent for the phone system for dispatch. The motion passed unanimously.

The nominating committee was nominated by the board which included five members: Bob Metzdorf, Howard Herman, Tom Cafarella, Steve Shatkin, and Jim Lagrosa

President Baker appointed Tom Cafarella as Treasurer upon approval of the board.

Todd Peters amended his resignation letter to only resign as Treasurer but to remain on the Board of Directors.

President Bakers made the following promotions on the recommendation of the Chief and Deputy Chief: Ed Rossi, Frank Rizzo and Joe Biermann were promoted to Agent.

GOOD AND WELFARE

George Alfano was welcomed back from his hip replacement surgery.

If anyone wants to get a picture taken for the new ID, a uniform shirt should be brought to the December meeting. Howard Herman will take the pictures.

Bob and Tom Metzdorf will look into arranging the holiday party.

Meeting adjourned at 10:00 pm by President Baker.

Respectfully Submitted,
Jim Kierstead, Secretary

----- Headers -----
Return-Path: <jim053@nuts.kanebridge.com>
Received: from rly-ye04.mx.aol.com (rly-ye04.mail.aol.com [172.18.151.201]) by air-ye01.mail.aol.com (v77.14) with ESMTP; Thu, 07 Dec 2000 14:05:47 -0500
Received: from smtp.kanebridge.com ([63.115.70.2]) by rly-ye04.mx.aol.com (v77.27) with ESMTP; Thu, 07 Dec 2000 14:04:46 -0500
Received: by SMTP with Internet Mail Service (5.5.2650.21) id <XVS2JVAJ>; Thu, 7 Dec 2000 14:00:29 -0500
Received: from nuts.kanebridge.com (63.115.70.104 [63.115.70.104]) by smtp.kanebridge.com with SMTP (Microsoft Exchange Internet Mail Service Version 5.5.2650.21) id XVS2JVA2; Thu, 7 Dec 2000 14:00:22 -0500
From: jim053@nuts.kanebridge.com
To: ACCESSINV@aol.com
Date: Thu, 07 Dec 2000 14:04:37 -0400
Message-Id: <00120714043713@nuts.kanebridge.com>
Subject: Todd, Here are the November 1999 meeting minutes for the SPCA. Jim
X-VMS-To: ACCESSINV@AOL.COM
X-VMS-Cc: JIM053

EPSTEIN & WEIL
ATTORNEYS AT LAW
225 Broadway
New York, New York 10007

(212) 732-4888
LLOYD EPSTEIN
JUDITH H. WEIL

February 20, 2001

VIA FAX (609) 633-7366 AND UPS OVERNIGHT MAIL

Ms. Leslie Z. Celentano, Chair
New Jersey Commission of Investigation
28 West State Street
Trenton, New Jersey 08625-0045

Re: **SCI Investigation and Report
Concerning the Hudson County
SPCA and Edward Pulver**

RECEIVED
2001 FEB 21 AM 9:58
STATE COMMISSION OF
INVESTIGATION

Dear Ms. Celentano:

This office represents Edward Pulver. Mr. Pulver has been notified by the Commission that his conduct "will be criticized in a proposed Commission report" ("the report"). The report arises from the Commission's investigation into Mr. Pulver's 15 years as head of the Hudson County Society for the Prevention of Cruelty to Animals ("HCSPCA"). This letter is submitted pursuant to N.J.S.A. 52:9M-12.2(a)(b), which permits a criticized person to submit a response correcting any errors in the Commission's proposed report, and to adduce "any relevant evidence . . . which is of any exculpatory nature or which tends to exonerate the person criticized." This response must be included in the report if the Commission, upon final consideration, decides to issue one.

The report, as it currently stands, consists primarily of scurrilous, unsubstantiated attacks on Mr. Pulver, highlighted by false and misleading commentary. The report accuses Mr. Pulver of fraudulently skimming HCSPCA fees, but conspicuously fails to point to a single document or witness who would testify that money unlawfully ended up in Mr. Pulver's hands or bank account. The report charges that the HCSPCA provided the animals with substandard care under Mr. Pulver's administration based on allegations by unnamed informants, who clearly have axes to grind, but conveniently omits any mention of the unrefuted sworn testimony of a health inspector who testified that the HCSPCA's services were more than satisfactory. The report completely ignores that the HCSPCA was virtually bankrupt when Mr. Pulver took charge, and now has a bank account of more than \$1,200,000.

Objective observers have recognized the HCSPCA's ability to offer high quality care, despite a lack of financial or technical support from state and local authorities. In 1988, for instance, several years after Mr. Pulver took over the organization, Richard L. Abel, Program Coordinator for the Humane Society of the United States visited the shelter. Mr. Abel wrote:

Ms. Leslie Z. Celentano, Chair
February 20, 2001
Page 2

... I made an inspection of the Hudson County SPCA shelter on Johnston Avenue (sic) in Jersey.

I found the facility clean, orderly, free from any obnoxious odors and the animals cared for reasonably well. Pete Tejada was courteous enough to lead me through the shelter and answer all my questions regarding the shelter and answer all my questions regarding the shelter's operation. At the end of my inspection, I went over my findings in detail, with Mr. Tejada. Prior to leaving the SPCA, I did meet Frank Pulver [sic] manager, and briefly discussed my visit.

It is ironic, to say the least, for the State and certain groups to now complain that the HCSPCA's care was substandard. The HCSPCA is a small, non-profit organization whose goal was, and is to serve the less well to do municipalities, and the citizens who are unable to afford the upscale pet shops and animal service facilities found in the wealthy suburbs. The work of the HCSPCA became especially vital and taxing during the past several years when these municipalities made "animal control," i.e., the removal of stray animals from the streets, a major part of their agendas. Although Mr. Pulver was able to raise a seemingly large sum of money, there is little question that the HCSPCA was grossly underfunded during Mr. Pulver's administration. As early as 1991, animal rights activists estimated that it would take a \$900,000 initial investment, and \$500,000 yearly to run the HCSPCA as a state of the art animal care facility.¹ The HCSPCA never had access to this type of funding, and neither the government nor any private group was able or willing to provide it.

To the contrary, the HCSPCA's effort to achieve financial stability was substantially hindered during much of this period by Jersey City, the primary beneficiary of the HCSPCA's services. Jersey City was contractually obligated to pay the HCSPCA nearly \$400,000, but refused to do so until the HCSPCA sued. The animal rights groups, which criticized the HCSPCA's inability to provide the type of state of the art services found in the more wealthy suburban counties, were never able secure enough funding to provide these types of services or, for that matter, any service equal to that offered by the HCSPCA. Only the HCSPCA was willing to undertake a thankless task which everyone wanted done, but for which almost no one wanted to pay.

The proposed report chooses to ignore these realities, and to evaluate the HCSPCA as though it were a well financed, contemporary corporation, able to hire the highly skilled technicians and professionals at every level. It is not surprising that the HCSPCA is found wanting when measured by this impossible standard. The HCSPCA's management was comprised entirely of volunteers who had other full-time occupations. The organization could not afford to pay substantial wages, and its employees were inevitably drawn from the lower echelons

¹Jersey Journal article by Peter Weiss, December, 1991.

of society, with all their attendant problems. None of the shelter's employees were trained bookkeepers or clerks, and most lacked high school education. They were primarily concerned with caring for the animals and keeping the shelter clean and were, perhaps, not as sensitive as they might have been to the need for more precise paperwork. The proposed report measures the HCSPCA as though it were Microsoft or General Motors. It is striking that the report makes no effort to compare the HCSPCA's state today to the dismal and nearly bankrupt entity that existed when Mr. Pulver took over.

Edward Pulver's Success in Building the HCSPCA

When Edward Pulver, 76, became President of the HCSPCA in the mid-1980's, he brought with him a wealth of experience from years of work in the labor movement and service to the community. Although Mr. Pulver lacked any formal education or training in animal care, he and his late wife shared a love of pets. Soon after Mrs. Pulver passed away, Mr. Pulver joined the board of the HCSPCA as a way of perpetuating her memory. Under Mr. Pulver's administration, the HCSPCA modernized its facilities, upgraded the quality of its services, and achieved a measure of financial growth. He worked ceaselessly to improve the HCSPCA's public image.

Mr. Pulver was not, however, a hands-on, day-to-day administrator. He delegated many of the HCSPCA's routine responsibilities to others, and relied heavily on the professionals, such as accountants and veterinarians he hired. He paid little attention, for instance, to the process by which the HCSPCA collected and recorded its daily receipts. He freely admitted in his testimony before the Commission that this was an oversight which he truly regrets. There is absolutely no evidence that Mr. Pulver personally benefitted from the irregularities in bookkeeping, and it is defamatory to suggest that he did.

Mr. Pulver's failure to pay attention to all of the daily details of the HCSPCA's operation is hardly surprising. He was a volunteer, never a paid employee, and his primary concern was how to best provide for the welfare of the animals in his charge within the confines of HCSPCA's extremely limited budget, especially in the early years. Mr. Pulver was not concerned with running the HCSPCA as a business. During his entire tenure, he had other obligations which consumed most of his waking hours. From 1982 to 2000, he held the position of Secretary Treasurer for the New Jersey State AFL-CIO. Mr. Pulver still devotes almost all of his day to union activities. His evenings are devoted to community activities. As member of the Hudson County Labor Council, he interviews potential candidates for political office. He is an Executive Board member of the A. Philip Randolph Institute; an Executive Board Member of the Labor Council for Latin American Advancement; Executive Vice President of Filipinos and Americans As One; Vice President of the Command of Pilotage for the State of New Jersey; a director of the county Committee on Political Education; and a member of the Community Board on the building of the light rail. A cancer survivor, Mr. Pulver organizes the yearly Rudy D'Angelo Foundation Cancer dinner. The funds collected go to the American Cancer Society, Sloan Kettering Hospital, a host of other groups, and to needy children suffering from cancer.

Mr. Pulver relied on his experience and contacts to raise funds for the HCSPCA, invigorate its public image, and renovate its plant. He placed ads in the journals of other non-profit organizations, increased the participation and morale of his board through small acknowledgements of appreciation, and issued press releases extolling the HCSPCA's services to pet owners and the community at large.

Mr. Pulver's efforts were successful. The HCSPCA was virtually bankrupt when he took charge in 1985. Its physical plant consisted of a single, out of date, beaten up building. As a result of several large donations, the HCSPCA now has funds amounting to approximately \$1,200,000. Under Mr. Pulver's leadership, the HCSPCA acquired a new building, and renovated its old building. During his tenure, the HCSPCA installed new fencing and gates, a new sidewalk, soundproof ceilings, a new heating system, a new bathroom, new heaters, and a complete set of automatic water feeders in the old building. Mr. Pulver made sure that it was painted every six months.

The new building was completely empty at the time of its acquisition. It now accommodates up to 40 animals, and has storage areas for food and supplies. During Mr. Pulver's tenure, the HCSPCA installed a new heating and electrical system, a new bathroom, a kitchen, ceilings, and new stainless cages in the new building.

Even more significantly, Mr. Pulver advanced the central purpose of the HCSPCA by upgrading the quality of its services. In a sworn deposition given in 1998, the chief of the Animal Control Bureau for Jersey City, testified that he had daily contact with the HCSPCA since 1991, and that, in his opinion, the HCSPCA runs a "good operation." The chief's opinion is corroborated by New Jersey State inspectors, who, except for a few isolated periods, regularly gave the HCSPCA its highest rating, "satisfactory".

The HCSPCA Provided Sound Animal Care

The Commission asserts that animals were poorly treated by the HCSPCA during Mr. Pulver's entire fifteen year tenure. This charge is untrue and defamatory. The authors of the proposed report know full well that virtually every complaint listed in the report was made during a short, isolated period in 1993. The tenor of the report can only be described as disingenuous and peculiar. The report criticizes the HCSPCA, for instance, for having an "adequate disease control program employing a licensed veterinarian" (See, Report, p. 37, emphasis in original). The report also, quite conspicuously, fails to note the sworn, unrefuted testimony of a health inspector who testified that the HCSPCA's services were more than satisfactory.

The allegation that the HCSPCA provided substandard care has been soundly rejected by the courts. This charge was first advanced by Jersey City as an excuse for its failure to pay the fees it owed the HCSPCA. When the City claimed that the nonpayment was due to conditions at the shelter, the court questioned why then the City continued to use the facility and why, moreover, the City continued to license the facility, the City did not have any truthful or valid

response. The City's claim was exposed as a fabrication by its own witnesses.

In September, 1998, the chief of the Animal Control Bureau for Jersey City, testified in a civil deposition concerning the HCSPCA's contractual dispute with Jersey City. The chief testified that he observed the HCSPCA's operations on a daily basis between 1991 and 1998, and that, in his opinion, the HCSPCA runs a "good operation," and provides proper care for all animals that enter the facility.

The court awarded more than \$400,000.00 to the HCSPCA in 1999, and the HCSPCA, because of its desperation for funds and a desire not to prolong the litigation, eventually settled for a sum of \$300,000.00, thus "saving" the City more than \$100,000.00 for the City's failure to meet its responsibilities. The City continues to use the HCSPCA since that court action, but has again reverted to its habit of not paying its bills. This tends to explain the City's continuing interest in fueling rumors about the HCSPCA which it knows are not true.

The conclusion that the HCSPCA is a "good operation" is buttressed by the State officials who regularly inspected the HCSPCA's shelter during the past fifteen years. On August 6, 1986, August 27, 1988, August 22, 1989, June 27, 1990, July 26, 1990, January 18, 1991, March 31, 1993, and August 18, 1997, the State Department of Health rated the HCSPCA's shelter as fully "satisfactory," its highest rating. The Jersey City Department of Health conducted inspections additional inspections in 1993, 1997, 1998, and 1999, and rated the shelter "satisfactory" on each occasion. On May 7, 1993, June 1, 1993, December 9, 1993, January 28, 1993, April 17, 1996, January 28, 1997, June 23, 2000, and August 24, 2000, the Department of Health rated the shelter as "conditionally satisfactory". The only time any inspector found the facility "unsatisfactory" was in July, 2000. All inspections were based on the State's "Rules and Regulations Governing the Operations and Maintenance of Kennels, Pet Shops, and Shelters," and include checks for "compliance with local certification requirements", "facilities -- general", "facilities -- indoor", "facilities -- outdoor", "primary enclosures", "feeding and watering", "sanitation", "disease control", "holding and reclaiming animals", "euthanasia", "transportation", and "records and administration".

The SCI report's assertion that the HCSPCA received "12 ratings of unsatisfactory or conditional" can, most charitably, be characterized as misleading, and suggests that the Commission has an agenda which is other than uncovering the truth. The Commission knows full well that "conditional" means "conditionally satisfactory", and that a minor insufficiency with respect to any of the major categories of inspection may be cause to withhold the "fully" satisfactory rating. No agency ever sought to close the HCSPCA, and no agency or activist group ever proposed a *practical* alternative. Given the limited resources available, the HCSPCA's services exceeded all reasonable expectations.

The [SCI] report dwells at length on a wide variety of complaints that were allegedly lodged against the HCSPCA "by eyewitnesses . . . *during the last several years*" (See, Report, pp. 23-24) (emphasis furnished). This allegation is seriously misleading, and calls into question the

report's objectivity. Virtually all of the complaints listed in the report were filed in the late Spring or early Summer of 1993 by a tiny group of animal rights activists. Similarly, the laundry list of violations detected by inspections (See, Report, pp. 30-33), which the report suggests were found over a period of years, were also, not so coincidentally, found during this isolated period. The very absence of significant complaints during any other period strongly suggests what the inspector's unrefuted testimony and the vast majority of inspection reports confirm: the HCSPCA was a "good operation".

The report contains other, spurious allegations which are refuted either by documents in the SCI's own possession or common sense. The report complains, for instance, that the HCSPCA was unable to produce a written contract with H.H. Syed, D.V.M., the veterinarian who supervised the shelter in the late 1990's, and infers that the HCSPCA, in fact, never had a veterinarian who regularly visited the premises (See, Report, p. 20). The reason the HCSPCA was unable to produce the contract could not be more simple: the contract was seized by SCI investigators when they raided the shelter in December, 1999. Why the SCI's investigators failed to recognize the document is equally plain. The contract simply does not fit with their preconceived view that something must have been wrong with the HCSPCA.

Finally, the report charges that state and local inspectors abandoned their responsibilities by failing to issue contemporaneous reports more critical of the shelter. These charges are refuted by the facts contained in the report itself. The inspectors merely suggested that they might have imposed higher standards on the HCSPCA if a state of the art alternative existed. Neither the State nor any private organization was about to erect one, and it is difficult to understand why the volunteer management of the HCSPCA should have been more critical of its own performance when trained professionals, appointed by the State, were not. It is difficult to comprehend why the report's authors alone are unwilling or unable to recognize the constraints under which the HCSPCA operated.

During Edward Pulver's administration, the HCSPCA received many unsolicited letters of appreciation from pet owners who had adopted their pets through the HCSPCA. Many of these pet owners come from the lower income brackets, and could not afford the prices of the more up-scale pet stores. One typical letter is as follows:

August 6, 1998

Dear Mr. Pulver

I am writing to you to thank you for all your help. A few months ago I had come to you for assistance in helping me find a dog. . . I couldn't afford the outrageous pet store prices and I did want a puppy.

You referred me to the ASPCA, I must say, I was a little hesitant at

first. I have a baby at home and wasn't sure if that was the way to go. You assured me that I would be given the right dog to fit our family's needs.

I was very impressed with the treatment I received when I went and visited the ASPCA. The animals were well taken care of and I felt comfortable being around them. It was a very hard decision to make, I wanted to take them all home! The dog that did come home with us has been a blessing. She is not only big enough to scare away potential intruders but gentle enough to sleep next to our 9-month old on the rug at nap time.

I cannot thank you enough for steering us in the right direction. The small donation that was required was the best investment as far as I am concerned. I have referred our neighbors to go there who were looking for a cat. . . I applaud you and everyone at the ASPCA for all your hard work and dedication . . .

Sincerely,

Adriane & Kevin Moore

The HCSPCA Grew Financially Under Ed Pulver

The HCSPCA grew financially under Ed Pulver. Despite the report's allegations of large scale financial mismanagement, the facts show that the HCSPCA was virtually bankrupt when Ed Pulver joined the organization in the mid-1980's, and that its net assets grew from \$773,862.00 at the end of 1993 to \$1,290,453.00 by the end of 1999.

Ed Pulver's achievement is all the more impressive because it was accomplished despite difficulties engendered by the very municipalities the HCSPCA served. The HCSPCA operated at a deficit in five out of seven years between 1993 and 1999, primarily because Jersey City failed to pay its bill. During this period, the HCSPCA served as reception center for thousands of strays brought in by Jersey City law enforcement officials, despite the city's unconscionable failure to pay. Eventually, the HCSPCA was forced to sue the municipality. The suit was settled in 1999, with Jersey City making a payment of more than \$300,000. Had Jersey City made its payments at the prescribed times, the HCSPCA would have turned a profit in each of these years, and the could have invested these funds to further improve the quality of its care.

Mr. Pulver is the first to acknowledge that the HCSPCA's finances, despite all his efforts, were barely adequate to its task. Ideally, he would have liked to spend more money upgrading the quality of the HCSPCA's plant and staff. Given his budgetary constraints, Mr. Pulver was

forced to hire almost all of his staff from society's least skilled and least educated workers. But Mr. Pulver recognized that if he spent \$900,000 on upgrading the shelter, and budgeted \$500,000 a year for expenses, as certain animal rights activists suggested in 1991, or the far greater amounts that would be required in subsequent years, the HCSPCA would go bankrupt, and Hudson County would be left with no animal care facilities. It is hardly surprising, given the limits of available funding, that no other self-proclaimed animal care organization, when confronted with the pragmatic realities of running a shelter, was able to take the HCSPCA's place. It is certainly unfair for the State, the municipalities, and certain animal rights activists to now complain that Mr. Pulver should have done more.

Certainly, there were oversights in the way the HCSPCA managed its money. The SCI report correctly notes that the HCSPCA's "investment policies" were, *on occasion*, deficient, in that the treasurer allowed funds to remain in non-interest bearing accounts for short periods of time, and that certain account balances were, at times, in excess of FDIC limits. These oversights typify those that are likely to arise in an organization whose management consists entirely of volunteers. The Report makes no allegation that Ed Pulver, the treasurer, or anyone associated with the HCSPCA benefitted or profited from these errors.

The Report is Bereft of Any Evidence that Ed Pulver Stole or Misappropriated Funds from the HCSPCA

The proposed report baldly asserts that Ed Pulver and his brother, Frank Pulver ("Frank") personally profitted in connection with the surrender of dogs and cats for euthanasia. What the report lacks in factual support, it makes up for in innuendo. The report contains no factual basis for this accusation. To the contrary, the report's few factual allegations strongly suggest an overwhelming likelihood that, if indeed money was taken, it was taken by others, long before Ed Pulver or Frank handled any of it. Rather than being a perpetrator, Ed, as President of the HCSPCA, was a victim of the theft.

According to the report, Frank Pulver, a volunteer manager of the shelter, and a second unnamed HCSPCA employee were responsible for picking up animals for euthanasia. At the time of the pick-up, the report contends, a fee was collected from the pet owner. "Staff" at the facility would also collect fees from owners who brought their animals to the HCSPCA for euthanasia, and from owners who surrendered or adopted pets (*See*, Report, pp. 4-5). An employee (not Frank Pulver) would hold the receipts throughout the day. At the end of the day, the employee would give the money to Frank, who would complete a sheet and categorize certain sums as for "adoptions" or "surrenders." The remaining money, including fees for euthanasia or "disposition," would be categorized as "donations," as would any other miscellaneous income, i.e., fees from dog food sales. Frank brought the money to Ed's office, where Ed would count it.

The report concedes that Ed was never present when owners surrendered their animals, never took any money from the owners, and was not present when money was taken. The report further concedes that Ed never held any of the HCSPCA's receipts during the business day, and

was not personally responsible for recording them. The funds were collected by one of the employees, held throughout the day by a second employee, and tallied at the end of the day by Frank. Ed received a bulk sum of money at the end of the day, along with a sheet which attempted to break down the receipts into general categories. His sole function was to count the money, reconcile it with the sheet, and transfer it to Harriet Hughes, the HCSPCA's treasurer, for deposit. There is no allegation that the money Ed handed to Mrs. Hughes and the sheet failed to tally. If receipts were missing, they were missing long before they reached Ed, and certainly without his knowledge.

It also appears that the proposed report's accusation regarding the amount of any missing money is wildly exaggerated and cannot be substantiated by the facts. These allegations appear to be based largely on extrapolations, estimations, and projections made from the HCSPCA's 1999 "disposition" sheets, which reflect animals either picked up from owners' homes or brought by the owners into the shelter, primarily for euthanasia. The overwhelming majority of these dispositions reflect pick-ups by law enforcement officials employed by the various municipalities with which the HCSPCA had contracts. Only a small fraction came from private owners. It clear that the report's "interpretation" of these documents is based on several flawed and incorrect assumptions, and that if money was missing, it was of such a low amount that it was unlikely to come to Mr. Pulver's attention.

The Report notes, for instance, that an owner was supposed to pay \$55 for a "pick up," or \$35 if he brought the dog to the shelter. The Report erroneously *assumes* that the vast majority of the dispositions were for "pick ups," and that the owners almost always paid the standard fee. Based on these *assumptions*, as well as the *assumption* that the \$4,600 listed under "donations" was *not* for dispositions, the Report extrapolates that as much as \$14,000 was missing in 1999. The Commission should know, based on the records seized from the HCSPCA, that these assumptions have no basis in reality. These records show that no more than 25% of the dispositions resulted from "pick-ups," and that in numerous instances, the owners paid less than the standard fee, or nothing at all, or promised to pay the standard fee and never did. The Commission should be aware that it was the HCSPCA's long-standing official policy not to collect fees where the owners could not afford them. The HCSPCA recognized that it served a lower-income constituency, and that requiring fees from people who could not afford them would result in the owner's abandoning, rather than surrendering their animals.

In 1987, the HCSPCA published a "Discourse on Hudson County SPCA," which described the organizations goals and policies. The "Discourse," which was seized, and should have been read, by the SCI's investigators, expressly states:

Please take note! Despite the fact that owners surrendering pets may declare they are without funds and therefore unable to leave a donation or make a contribution, Hudson County District S.P.C.A. has never refused to accept an animal brought into the shelter.

The continued existence of this policy is corroborated by several independent sources. A 1993 letter from a member of one of the rival animal leagues to the Jersey City Department of Health pointed out that fees were not standard and appeared to be based on a person's affluence. When Tom Hart took over the HCSPCA in the 2000, he expressly perpetuated this policy, concluding that the alternative was to discourage poor people from availing themselves of the shelter, and encourage them to abandon their dogs in the streets.

It is apparent, contrary to the report's assumption, that a large number, if not the vast majority, of owners who designated their dogs for "disposition" paid significantly less than the standard fee, if they paid anything at all. In light of Ed Pulver's testimony that, to the best of his knowledge, the source of at least \$4,600 under the "donation" category was from "dispositions", and the Report itself concedes that there is no better explanation, it appears that the amount that *possibly* could have been taken by employees before the money was turned over to Mr. Pulver was less than 1% of the HCSPCA's budget, an amount so small that it would be extraordinarily difficult for Mr. Pulver to detect. Every month Mr. Pulver divided the disposition sheets by municipalities, regardless of whether the dispositions were from a private owner, or strays picked by law enforcement. This was part of Mr. Pulver's seemingly perpetual task of persuading the municipalities to pay their contractual fees. Given Mr. Pulver's continuing responsibility for the HCSPCA's budget, and his preoccupation with Jersey City's failure to pay the HCSPCA several hundred thousand dollars, it is easy to see why such a small amount, if in fact it were missing, escaped his attention.

Moreover, there is an absurd element to the Report's *speculation* if money was stolen, it must have been stolen by Ed and Frank Pulver. Frank worked at the shelter on a full time basis. Ed was the organization's de facto Executive Director. No one would have objected if they were on the HCSPCA's payroll. If either was in it for the money, he could have accepted a legitimate salary.

Mr. Pulver is certainly aware that the HCSPCA's record keeping should have been more systematic, and that he should have spent more time supervising this facet of the organization's operation. The report all but concedes that Mr. Pulver made a significant effort to remedy this problem once the Commission brought it to his attention. There is little question that Mr. Pulver can be criticized for inattentiveness to the HCSPCA's daily record keeping problems. But it is unfounded and defamatory to suggest that he is guilty of theft.

The HCSPCA's Board of Directors Successfully Administered the Organization in Accordance With State and Federal Law.

The proposed report criticizes the HCSPCA's board as being Mr. Pulver's "rubber stamp." The report alleges that the board had no by-laws, rarely met, never approved major expenditures, and that board members unfairly profited by accepting tokens of appreciation from the organization. These charges are completely unfounded, and reflect the Commission's ignorance of basic not-for-profit and tax law, and the reality of how a volunteer board is supposed

to work. The HCSPCA was managed by well-intentioned volunteers, rather than bureaucrats more interested in "making a record" than in performing a public service.

The proposed report, for instance, criticizes Mr. Pulver and the Board for its supposed failure to formally adopt by laws. N.J.S.A. 4:22-7 makes it clear, however, that the Board was not required to do so. The Board properly relied on the by-laws of the New Jersey State SPCA as a guide for transacting business. A copy of the "Laws of the State of New Jersey for the Prevention of Cruelty to Animals" was always kept at the shelter for reference and relied upon in conducting business related to the shelter. The report erroneously assumes that because the HCSPCA used the New Jersey State SPCA By-Laws as a guide, the HCSPCA was required to strictly adhere to its provisions. This is wrong.

The Board of Directors was hardly a "rubber stamp," and was well aware of all major financial transactions affecting the organization. The Board held meetings at least four times in virtually every year. Minutes of each meeting were documented and later submitted to all directors for their review and approval. Board minutes reflect that the Treasurer's report was read and voted on at meetings.

The proposed report claims that the Board of Directors established no procedure for approving significant expenditures. This is untrue, and belied by the HCSPCA's records. Members of the board approved the expenses upon reading the treasurer's report and often signed off on receipts, statements, invoices, etc. The report suspects the worst simply because the Board's secretary neglected to itemize each and every expenditure. The report overlooks the fact that the secretary, like all other Board members, was an untrained volunteer.

The report also criticizes the HCSPCA's decision making practice. Once again, contrary to the report, the HCSPCA acted pursuant to statute. If necessary business decisions needed to be made prior to the next scheduled meeting, the Treasurer, after discussing the matter with the President, would contact members of the board until she obtained two additional affirmative votes on the current proposal which constituted a quorum of four (President, Treasurer and 2 other board members) required for transacting business. N.J.S.A. 15A:2-7(b).

The report suggests that it was unlawful for Mr. Pulver to approve modest bonuses and gifts for employees, board members or others who provided services to the HCSPCA, and donations to other charitable organizations. This charge typifies the report's tendency to see evil where there is none. These expenditures were all lawful, were duly recorded in the HCSPCA's books. These modest gifts, of which the preliminary report is so critical, included a total \$339 for "Holiday Baskets" in December, 1998 for all female board members, or less than \$60.00 per woman. All expenditures were paid for by check, and receipts for holiday gifts were received.

The rationale for the HCSPCA's donations to other charitable organizations and tokens of appreciation to its volunteers is virtually self-evident to anyone familiar with operation of a not-for profit organization. Tokens of appreciation encourage volunteers to devote additional time to

organizational work, and donations to other groups raise the organization's profile in the community, create good will, and increase the likelihood that the organization itself will become the object of charitable bequests. The HCSPCA's ability to attract charitable bequests during Ed Pulver's tenure is testimony to the wisdom of this approach.²

The Report notes several inconsequential errors in the HCSPCA's tax filings. Each year the accountants for the HCSPCA conducted an audit of the HCSPCA's financial statements and issued a report. The accountants had all financial information at their disposal when conducting these audits. The accountants' report stated, "the financial statements referred to above present fairly, in all material respects, the financial position of the Hudson County District S.P.C.A., Inc. as of December 31, [year of audit], and the results of its operations, changes in net assets and its cash flows for the year ended in conformity with generally accepted accounting principles."

It was Ed Pulver's understanding that all bookkeeping records kept by the HCSPCA's unpaid, volunteer treasurer, were turned over to the organization's accountant for preparation of the tax returns. This was not his personal responsibility. To the extent that the HCSPCA's tax returns neglected to reflect these items, or the accountant made errors, the organization was sloppy, but not criminal. No one hid any of these items, and no one stood to gain by doing so. Ed Pulver is not an accountant, nor does he proclaim to know the rules of taxation. He can hardly be faulted for relying on the accountant to accurately prepare the tax returns.

The HCSPCA's Hiring of a Questionable Employee

The HCSPCA briefly employed Jersey City Animal Inspector Joseph Franks on a part time basis in 1994. There is no dispute that Mr. Franks worked openly at the HCSPCA, performed legitimate services, and received his salary under his own social security number. There is no proof that Mr. Franks' employment by the HCSPCA affected his work as an inspector.

Mr. Franks was apparently unaware that his employment at the HCSPCA created a conflict of interest. According to the proposed report, Mr. Franks casually and openly mentioned his work for the HCSPCA to his supervisor in late 1994, learned, for the first time, that this employment was improper, and immediately quit.

Mr. Pulver testified that he too was insensitive to this conflict of interest, and admitted that this was a mistake in judgment on his part. Mr. Pulver hired Mr. Franks because he believed that the addition of a skilled employee to HCSPCA's staff would upgrade the quality of its services, and because Mr. Franks told him that he was seeking a part-time job. There is no allegation that the HCSPCA received any special treatment from inspectors during Mr. Franks'

²New York Governor George E. Pataki recently instituted a plan to reward state volunteers with small tokens of appreciation. This policy was unanimously approved by the courts. Schulz v. Pataki, 272 A.D.2d 758, 708 N.Y.S.2d 177 (3d Dept. 2000), leave denied ____ N.Y.2d ____, 2000 Lexis N.Y. 3805.

period of employment. There is no allegation of any corruption on Mr. Franks' part.

According to the report, Mr. Franks was apparently paid under a false name. It is difficult to understand what Mr. Franks, or anyone else, hoped to accomplish by this. It was certainly not an attempt to conceal the fact that he worked for the HCSPCA. Mr. Franks worked for the HCSPCA in an open and public manner. Anyone entering the facility knew who he was. Mr. Franks openly discussed his employment with his supervisor, and the HCSPCA duly reported his income to the IRS.

The Proposed Report's Allegation That the HCSPCA Concealed Records Is Demonstrably False

Starting in early, 1998, the SCI issued a series of subpoenas to the HCSPCA. The subpoenas were initially served on Ed Pulver, who would immediately forward them to the HCSPCA's attorney, and later directly on the attorney himself. The attorney would instruct Mr. Pulver as to what had to be done, and Mr. Pulver would then tell the work staff at the HCSPCA to gather the required documents. The same work staff that was responsible for cleaning, feeding, and euthanizing animals was also responsible for maintaining the HCSPCA's records. There were no professional clerical or secretarial employees. The staff would throw what it believed were the appropriate records into large paper or plastic bags, and forward them to the attorney who, in turn, would Bates stamp, copy, and produce them to the SCI. Given the sloppiness of this system, records were often produced in a piece meal manner, and errors in document production inevitably occurred.

In December, 1999, while the HCSPCA's attorney was on vacation, SCI investigators raided the HCSPCA warehouse, and discovered records which were in the process of being compiled in groups, placed in bags, and forwarded to the attorney for production.

The discovery of the bags confirms that the HCSPCA's manner of production may have been something less than wholly professional. It also confirms that this volunteer organization, with no professional administrative staff, was making a good faith effort to comply with the SCI's inquiry. A review of the documents seized shows that they were largely innocuous. Many of the documents dated back as many fifteen years and some, such as correspondence between the HCSPCA and its veterinarians, place the HCSPCA in a highly favorable light.

Documentary Evidence Refutes the Commission's Charge that Ed Pulver Paid for the Filipino-American War Memorial with HCSPCA Funds

The fairness and objectivity of the SCI's investigation is belied by its treatment of the relationship between Ed Pulver and the Filipino-American War Memorial project. Ed Pulver, through his union and communal work, played a major role in integrating Filipino-Americans into the American work force. He is a long time contributor to Filipino-American charities, and participant in Filipino-American communal organizations.

The report's alleges that Ed Pulver paid Sterling Technology \$6,900 in August, 1993 to build the War Memorial. This accusation is demonstrably false.

In August of 1993, the HCSPCA contracted with Sterling Technology to replace barbed wire, erect gates and panels at the HCSPCA facility for \$11,500. On August 16, 1993, a check in the amount of \$4,600 was tendered to Sterling Technology and upon completion of the work the remaining \$6,900 was paid. This is documented by both the checks and Sterling's bid letter, both of which were produced to the Commission.³

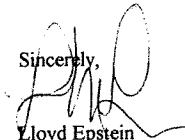
Conclusion

The proposed report is, by and large, an unsubstantiated personal attack on Ed Pulver and the other volunteers to helped manage the HCSPCA. It is ironic, to say the least, for the State and certain animal rights groups to now complain that the HCSPCA's care was substandard. Neither the State nor the groups ever offered a practical alternative to the HCSPCA, given the limited funding the State made available. Only the HCSPCA was willing to undertake a thankless task which everyone wanted done, and for which almost no one wanted to pay.

The report smacks more of "yellow journalism" than legal analysis, and is unworthy of the Commission.

It is our hope that the Commission will consider these objections, and substantially revise the report prior to publication. In the event that the Commission does so, I request an opportunity to revise these comments.

Sincerely,


Lloyd Epstein

LE:pc

cc. Commissioners of the SCI
James M. Morley, Esq.
Ileana N. Sarros, Esq.
Thomas J. Giblin, Esq. (via e-mail)
Jean D. Barrett, Esq. (via e-mail)
Thomas D. White, Esq. (via e-mail)
Mr. Edward Pulver

³Copies of the bid letter and payment checks are attached hereto as Exhibit A.

1308

HUDSON COUNTY SOCIETY FOR
PREVENTION OF CRUELTY TO ANIMALS
480 JOHNSTON AVE.
JERSEY CITY, NJ 07304

PAY TO THE ORDER OF *Sterling Technology*

FOR *4600 - 16900 - 11500*

10001308 021201503100 0208105279 0000690000

9/11/93 \$6000.00 DOLLARS

Hudson United Bank
300 Regentline Avenue
Union City, N.J. 07087

Edward Pulver
Harriet J. Hughes

STERLING TECHNOLOGY INC.
CONSTRUCTION CONTRACTING

266 GRIFFITH ST. • JERSEY CITY, NJ 07307
TELEPHONE 201-656-0048
FAX 201-656-2169

August 16, 1993

Mr. Edward Pulver
SPCA
480 Johnston Avenue
Jersey City, NJ

RE: Fence Repair

Dear Edward:

As per our conversation, Sterling would be pleased to tender a proposal for the above mentioned project. Please refer to the attached drawing for the proposed scope of work. The price to complete the intended scope is \$11,500.00, (Eleven thousand five hundred dollars).

Thank you for your time, consideration, and request in this matter.

Very truly yours,
Sterling Technology, Inc.

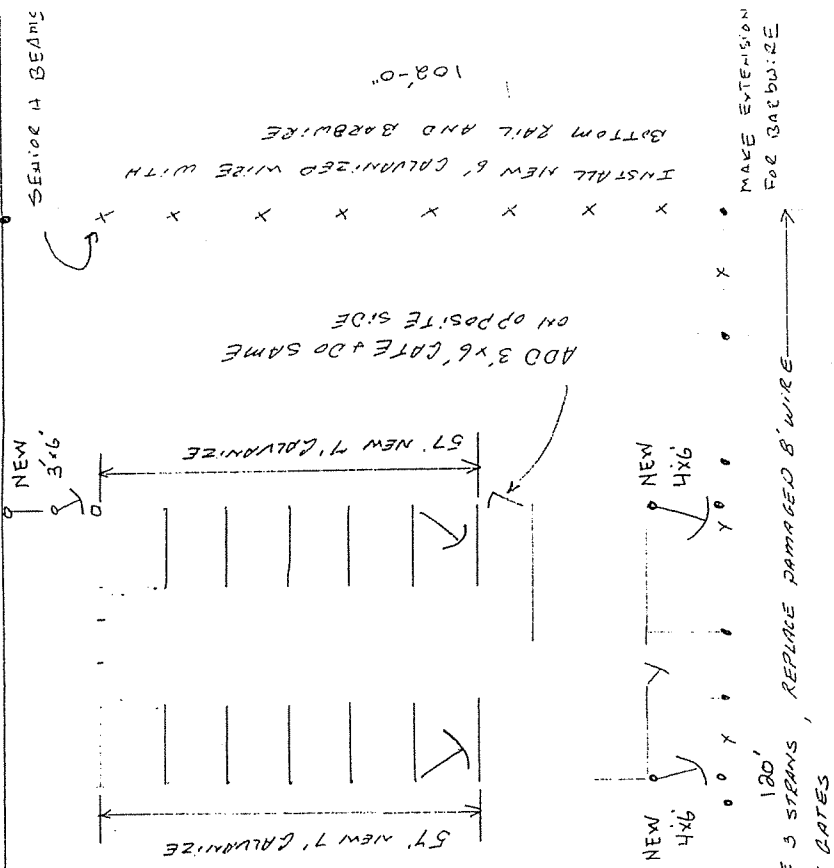
Michael DiGiacomo
Michael DiGiacomo
President

approved
Harriet J. Hughes

PR 9/1/93
#1308

SPCA JOHNSTON AVE. JERSEY CITY

1. ADJUST GATES FOR PROPER OPERATION
2. REPLACE KENNEL GATES
3. REPLACE 2 SEPARATOR PANELS
4. REPAIR KENNEL GATES & SEPARATORS WHERE WIRE IS OPEN
5. RESECURE SEPARATOR PANELS TO WALL
6. RETIE WIRE WHERE NECESSARY
7. A NEW GATES ENTERING INTO KENNELS
- BRING UP ALL OUTSIDE POSTS TO FULL HEIGHT



1' = BARB WIRE

HUDSON COUNTY SOCIETY FOR PREVENTION OF CRUELTY TO ANIMALS 480 JOHNSTON AVE JERSEY CITY, NJ 07304		1302
PAY TO THE ORDER OF <i>Shelley Technology Inc</i> <i>Shirley Howard</i> <i>for</i> <i>Standard Dollars & Cts</i>		8/16 1993
HUDSON UNITED BANK 1100 Broadway Ave Union City, N.J. 07087		55150212
FOR <i>Harriet & Joseph</i> 1100130211 10212015031001 020810627911		1302
1100130211 10212015031001 020810627911		1100130211 10212015031001 020810627911

STERLING TECHNOLOGY INC
CONSTRUCTION CONTRACTING

July 16, 1993

266 GRIFFITH ST. • JERSEY CITY, NJ 073
TELEPHONE 201-656 00

SPCA
Johnston Avenue
Jersey City, New Jersey
Attn: Ed Pulver

This invoice is for cost to install an acoustical
ceiling at the above mentioned location.

\$4600.00

Total

\$4600.00

RUHNKE & BARRETT
ATTORNEYS AT LAW
47 PARK STREET
MONTCLAIR, NEW JERSEY 07042

DAVID A. RUHNKE
MEMBER N.J. AND NEW YORK BARS
JEAN DESALES BARRETT
MEMBER N.J. AND COLORADO BARS

(973) 744-1000
FAX: (973) 746-1490
E-MAIL: RNBARR@EMAIL.MSN.COM

February 20, 2001

BY FAX AND UPS NEXT DAY

Leslie Z. Celentano, Chair and Commissioners
State of New Jersey, Commission of Investigation
28 West State Street
CN-045
Trenton, New Jersey 08625

Re: Investigation of the Society for the Prevention of Cruelty to Animals

Dear Commissioners:

I represent Frank Pulver, who has been notified by Counsel to the Commission that his conduct "will be criticized in a proposed Commission report" and, consequently, has been provided with a portion of the proposed report in the above-captioned investigation. Having reviewed the proposed report's allegations and comments about my client, I now write on Mr. Frank Pulver's behalf to object to the report's improper and unconstitutional use of his invocation of his privilege against self-incrimination and to respond to the accusations made about him in the report. This letter supercedes previous submissions to the Commission. In the event that the Commission revises the report in the areas covered by these comments, Mr. Pulver requests the opportunity to revise these comments expeditiously.

The sections of the report disclosed to Frank Pulver via counsel contain unsupported allegations, based solely on supposition and speculation, not on provable facts. The overall

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STATE COMMISSION OF
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app Pulver
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pd
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premise, that Frank Pulver stole money from the Hudson County SPCA while he functioned as an unpaid manager of an animal shelter in Jersey City, has no basis. As the investigative staff of the Commission knows full well, Frank Pulver is a 78-year-old retired warehouseman who lives alone in North Arlington. Mr. Pulver never attended high school. His only assets are his home and an old sedan. After his retirement, he found his pension to be more than sufficient for his simple needs. He decided to occupy his time as a volunteer manager at the animal shelter run by the Hudson County SPCA, an organization in which his brother Ed was involved.

The proposed report's accusation that Frank Pulver fraudulently diverted money by "skimming shelter fees" is unsupported by the facts and in reckless disregard of the truth of the character, capacity and nature of Frank Pulver. As manager of the shelter, Frank was one of a number of people who had access to funds collected from the surrender, placement or disposition of animals. The adoption, surrender and disposition fees were paid by the public to a shelter employee, not Frank, and the employee who received those funds completed the accompanying paperwork. Only the adoption and surrender forms listed the fee collected, the disposition forms did not. A shelter employee, not Frank, was designated to hold all the cash received during each day. At the close of the day, Frank copied the information supplied by the employees on the respective forms onto a "Daily Receipts" form which was divided into three categories: adoptions, surrenders and donations. He turned the list and cash over to his brother. It is at this point that the proposed report wanders from

known, provable facts into the land of baseless speculation.

The proposed report claims that, because investigators have discovered lapses in the accounting of so-called disposition fees, that Frank Pulver "skimmed" money from the shelter. It goes without saying that there is no *direct* evidence that this is so. Consequently, the proposed report relies on speculation which goes something like this: Frank Pulver tallied the funds at the end of the day and made the lists, therefore Frank Pulver must have stolen the money. This reasoning is meritless where, as here, a number of others handled these funds both before and after Frank did. Furthermore, Frank had no *motive* to appropriate shelter funds to himself, since he could have been paid for his daily efforts by the HCSPCA. That being the case, the accusations made in the proposed report become nothing more than wildly speculative. Frank Pulver may have had failings as a manager, but to call him a thief, as the proposed report does, is both reckless and false.

The report also accuses Frank Pulver of "siphoning off" bags of dog food to sell to a local junkyard owner who kept dogs to protect his business. The bags were delivered to the junkyard by Frank or a shelter employee in a shelter van. The report conveniently omits two important facts: (1) the shelter regularly sold dog food and other pet supplies to the public, with the proceeds turned over at the end of each day; and, (2) the junkyard owner was a disabled man, who had difficulty loading and unloading large bags of dog food. The sale was not improper and the delivery was an act of kindness.

The proposed report is structured so that the accusations against Frank Pulver are

RUHNKE & BARRETT

ATTORNEYS AT LAW

Leslie Z. Celentano, Chair and Commissioners
February 20, 2001
page 4

followed by a statement asserting that he cited his Fifth Amendment privilege against self-incrimination to all questions regarding that particular topic. This is misleading since it is stated in a way to make it appear that he testified regarding other matters, which is not the case. Furthermore, the only reason for including this information in the report is to convey by inference what the report could not lawfully state directly: that one who invokes his privilege against self-incrimination does so because he is guilty. This runs contrary to a fundamental principle of justice.

Part and parcel of the Fifth Amendment's protection is the long-standing prohibition against using its invocation to infer guilt, whether done implicitly or explicitly. See *Wainwright v. Greenfield*, 474 U.S. 284, 291 (1986); *Doyle v. Ohio*, 426 U.S. 610, 618-19 (1976); *Griffin v. California*, 380 U.S. 609 (1965); *State v. Lyle*, 73 N.J. 403 (1977); *State v. Deatore*, 70 N.J. 100 (1976). Here, the Commission used its subpoena power to compel Frank Pulver to attend and give testimony in an accusatory setting. Knowing full well that SCI investigators were predisposed to accuse him of wrongdoing, Frank alerted Commission staff in advance through his attorney that he would decline to answer questions about this investigation and requested that the subpoena be withdrawn. Nevertheless, Frank was compelled to appear in person, apparently for the sole purpose of using his invocation of his constitutional right to remain silent to make him appear guilty.

It is well known that people often assert the Fifth Amendment privilege because they lack education or articulateness, and are embarrassed, or too intimidated, to defend their

RUHNKE & BARRETT

ATTORNEYS AT LAW

Leslie Z. Celentano, Chair and Commissioners
February 20, 2001
page 5

actions in a formal setting. Indeed, the United States Supreme Court has recently emphasized that people often "too readily assume that those who invoke the privilege are either guilty of crime or commit perjury in claiming the privilege." *Mitchell v. United States*, 526 U.S. 314, 330 (1999), quoting *Ullmann v. United States*, 350 U.S. 422, 426 (1956). The Commission should not be among those inviting inferences of guilt from the exercise of a constitutional right.

Very truly yours,

Ruhnke & Barrett
Attorneys for Frank Pulver

By: 
Jean D. Barrett

JDB

cc: Frank Pulver

Michael Russo
8 Strawberry Point
Andover, NJ. 07821

December 13, 2000

RECEIVED
2000 DEC 18 AM 10:24
STATE COMMISSION OF
INVESTIGATION

State of New Jersey
Commission of Investigation
P.O. Box 045
Trenton, NJ. 08625-0045

Commissioners:

Leslie Z. Celentano
M. Karen Thompson
W. Cary Edwards
Audriann Kernan

Honorable Commissioner:

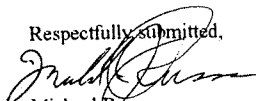
I am in receipt of the relevant portions of the proposed Report, which will criticize my conduct as a member of the Warren County SPCA. I have filed my response with Ms Saros of your office in a timely matter, and have enclosed the proposed report and my written responses for your review.

It is obvious from the excerpt of the proposed report that the SCI intends to do a hatchet job on myself and other members of the Society for the Prevention of Cruelty to Animals. Members of the SPCA are volunteers and are committed to do the best job they can under what are usually difficult circumstances.

I have been a professional law enforcement officer for many years and I have never heard of or experienced an Investigative Government Agency conducting business in such a reckless and unprofessional manner as the SCI did. The allegations as stated in the proposed report are misleading, misstated, taken out of context, or outright false.

I hope you will carefully review the proposed report and our responses and reconsider your findings before publishing a false, inaccurate and libelous report, causing irreparable damage to myself and other members of the SPCA

Respectfully submitted,


Michael Russo

RECEIVED

2000 DEC 15 AM 9:38

STATE COMMISSION OF
INVESTIGATION

8 Strawberry Point
Andover, NJ 07821
December 13, 2000

State of New Jersey
Commission of Investigation
28 West State Street
10th floor
Trenton, NJ 08608

ATTN: ILEANA N. SAROS, COUNSEL

RE: MICHAEL RUSSO - NOTICE OF PROPOSED REPORT

Dear Ms. Saros:

Pursuant to your letter dated November 30, 2000 (received by my attorney's office on December 1, 2000) and N.J.S.A. 52:9M-12.2, the following response is submitted to the Commission, which will include same in its report.

Page 1, paragraph 1: This allegation is false. The SPCA officers that were authorized to carry weapons were trained and certified. Authorized officers qualified with their weapons twice a year, in a manner approved by the NJ Police Training Commission and the results are then forwarded to the County Prosecutor. The individual that qualifies the officers twice a year is a retired New Jersey State Trooper and former Chief Sheriff's Officer. He is a certified firearms instructor by the NJ Police Training Commission and still conducts qualifications for local active and retired police officers. Investigator Dancision knows these facts and this individual, and the Commission, still alleges this falsehood.

Page "2"
Commission of Investigations
RE: MICHAEL RUSSO
December 13, 2000

Page 2, paragraph 2 (the officers who): The Commission refers to another SPCA officer, an attorney. This statement is false, no conversation happened, and we were never advised of any alleged impropriety.

Page 2, paragraph 3: This is a falsehood. The vehicle that was donated to the SPCA was sold, and the money deposited in the SPCA account. The person donating the vehicle is allowed to take a tax deduction for the fair market value. I recall that I called around to several car dealers to ask what a similar vehicle would retail for, in order to come up with the amount for the donation in-kind. This is a common donation practice to non-profit corporations.

Page 3, paragraph 3: Invoices that I saw did have the vehicles identified on them. As I stated before, the members reimbursed all expenses incurred concerning the vehicles and there is documentation of same. The documentation exists in the records seized by the Commission.

Page 4, paragraph 1: I do not recall any such statement and there was never a "Heated Discussion".

Page 4, paragraph 2 (abuse of gasoline credit cards): I have no way of disputing the Commissions numbers since they are in possession of the records, but I can say that all of the gasoline put into the vehicles that I drove, whether SPCA business or other, whether cash purchases or credit card, were paid by me personally. The Commission knows this because they have the records that match the bills and they have copies of cancelled checks from my personal checking account that they also seized.

Page "3"
Commission of Investigations
RE: MICHAEL RUSSO
December 13, 2000

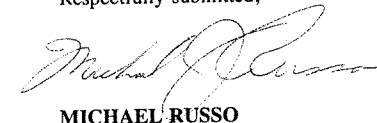
Page 5, paragraph 2 (firearms related equipment): I have no knowledge of what the Commission is talking about here. I do know that any practice ammunition that was purchased by the SPCA for officer's use, was reimbursed by the officers. I have no knowledge about the other equipment mentioned, except for the one day Glock armorers course that I did attend.

Page 5, paragraph 3 (telephones, car radios and pagers): I cannot verify the amounts that the Commission states since they have all the records, but I can simply state that any cost incurred for telephone service or pager service for myself was paid by me personally. The Commission knows this and they have the documentation. This allegation like the other by the Commission is ridiculous.

Page 6, paragraph 2: We bought the Packard Bell computer at a yard sale for, I believe, \$100. and an in-kind donation. The donors were given a receipt for the fair market value (at the time) of \$650. for donation purposes. The computer was kept in the SPCA office in the basement of my parent's house and was used primarily for word processing and available for use by all members. Although hopelessly outdated, the SPCA is still in possession of the computer in question. I had previously addressed questions about the computer with Investigator Dancision in an interview so the Commission was aware of this.

Page 6, last paragraph: In 1992, the SPCA was renting a small office on Main Street in Hackettstown. I sold the SPCA a used air conditioner for \$150. When the office became too expensive to maintain we moved the office to the basement of my parents house. The furnishings of the office, including the air conditioner, was sold to the new occupants "Rocky Roofing" and the proceeds were deposited in the SPCA account.

Respectfully submitted,



MICHAEL RUSSO

RECEIVED

2001 FEB -2 AM 10:11

STATE COMMISSION OF
INVESTIGATION

Michael J. Russo
8 Strawberry Point
Andover, NJ. 07821

January 27, 2001

State of New Jersey
Commission of Investigation
P.O. Box 045
Trenton, NJ. 08625

Ms. Saros:

My attorney has forwarded a copy of your letter dated January 19, 2001, and the revised notice of the Commission's proposed report. I still strongly disagree with virtually everything in your "Revised" Report.

In response to your letter I hereby direct that my original response, my letter to the Commissioners dated December 13, 2000, and a copy of this letter be included in the Report.

Submitted,

Michael Russo
Michael Russo

cc: William T Petrina Esq.

RECEIVED

2000 DEC 14 AM 10:24

STATE COMMISSION OF
INVESTIGATION

Dec. 11, 2000

Dear Ms. Saros

I just want to say that greed was not the reason for payment. I picked up the mail for at least 18 years, the person before me was paid \$15.00 per week and the person after me was paid mileage and postage, I was not. The SPCA telephone was in my home for approximately sixteen years. The listing was Burl Co. SPCA with my address because the telephone company would not list it with a P.O. Box number. People knocked on my door at all times asking if this was the shelter, etc. Members of the board found this amusing because it didn't affect them. I have been advised that my home was considered an office so I discussed these things with Mr. Whitmore and he agreed that I should be paid even though he denies any knowledge of this now.

I did not take it upon myself to stop taking taxes from an agent's pay. The board instructed me to reimburse this agent for mileage, film, and court appearances, etc.

I just want to say that the surgery for the dog was approved because I did call board members for approval and did expect the money to be repaid. I want to make it clear that this was not my daughter's dog as Mike (I don't know his last name) inferred when he and Jean Jackson came to my home.

I could go on and on but I don't feel it would serve any real purpose because I have been warned once again not to discuss this with anyone just as I was told when I had my meeting with Jean and Mike that I had to be alone and could not discuss it with anyone.

The board members criticized me (I know I should have done things differently) and I have just one question which is "Did they admit that most of them expect to be paid for everything they do?" Also, I wonder why ^{did} the president of the board call me on Wed, Dec 6, 2000, and asks me if I needed a lawyer? I told him no but I really do wonder why he did this.

Respectfully,

L. Lorraine Smith

RECEIVED

2000 DEC 14 AM 11:10

STATE COMMISSION OF
INVESTIGATION

Ms. Arlene Swarer
327 Webster Avenue
Seaside Heights, NJ 08751

December 11, 2000

Ileana N. Saros, Counsel
State of New Jersey
Commission of Investigation
Post Office Box 045
Trenton, NJ 08625-0045

RE: Notice of Proposed Report

Dear Ms. Saros:

I am writing in response to your letter to me of December 1, 2000.

In response to criticisms set forth in the SCI's proposed report, please include my response:

Because the SCI seized control of our records and minutes, without permitting us to make copies, I cannot be sure of dates, however, it is my recollection that the Assistant Treasurer did not sign checks until the unfortunate death of our Treasurer, Phyllis Buergerneiss, in 1996.

If there were isolated occasions before then when the Assistant Treasurer co-signed a check, she did so with the authority of the Treasurer and the Board, because of the Treasurer's unavailability. Checks were occasionally pre-signed by the Treasurer and President. There is nothing in the by-laws which specifically prohibits the Board from pre-approving certain anticipated expenses and authorizing the pre-signing of checks, so that bills can be paid promptly. While our minutes may not have been clear on this point, our intention was simply to avoid late charges and interest penalties. All expenses paid with pre-signed checks were approved by the Board.

Chief Oraboni was authorized to purchase gasoline for two vehicles. The Board was satisfied that the Chief used both the SPCA vehicle and his personal vehicle in the discharge of his official duties. For example, on many occasions the Chief would use his own unmarked

vehicle for surveillance and photographs. On several occasions, the SPCA vehicle was out of service for repairs, and Chief Oraboni used his own vehicle for routine SPCA business.

Chief Oraboni was authorized by the Board to use a gasoline credit card. The card itself was presented to and approved by the Board on July 7, 1994, but while the application for the card was pending, the Board authorized Chief Oraboni to purchase gasoline for his vehicles. That is why the letter of June 2, 1994 was written to the local gas station.

Again, it is probable that not all of these details are reflected in our minutes. Like many informal volunteer-driven organizations, our minutes were often less than detailed. However, I have checked these facts with our Board members and confirmed their accuracy. The Ocean County Chapter of the SPCA was a very active and busy organization run by volunteers. We are satisfied that we have always acted in the best interest of the organization without impropriety or dishonesty. Likewise, we believe that Chief Oraboni's integrity and dedication to the organization are above reproach and we commend his service to the Ocean County Chapter of the SPCA. Chief Oraboni, in our experience, always obeyed the law and operated within the organization's and New Jersey's guidelines. We regret that the SCI investigation seeks to cast a cloud over a dedicated public servant who is currently battling a grave illness.

Very truly yours,



ARLENE SWARER

Ms. Margaret Wolf
829 Bellwood Drive
Toms River, NJ 08754

December 11, 2000

Ileana N. Saros, Counsel
State of New Jersey
Commission of Investigation
Post Office Box 045
Trenton, NJ 08625-0045

RE: Notice of Proposed Report

Dear Ms. Saros:

In response to your letter of December 1, 2000, I offer the following responses for inclusion in your report:

1. I only signed checks that I was authorized to sign. If I co-signed any checks as an assistant treasurer, I did so with the Board's authority. Any pre-signing of routine expense checks was done to avoid interest and late charges, and was a practice known and approved by the Board.
2. While it is true that I did receive approximately \$2,300.00 a year for six years from 1993 - 1999, this was approved by the Board for reimbursement of expenses routinely incurred: postage, gas, mileage, phone, etc. In fact, the organization's accountant, Patricia Kay Grigg, apparently treated these payments to me as reimbursement of expenses, more than "salary". I was not issued any tax forms, nor advised that I had to treat this minimal payment as "income" by our accountant. I admit that I came to think of these payments as "salary" but, in fact, most of the money was used for reimbursement of expenses incurred by me.

3. Chief Oraboni did advise me of sick days. There was no requirement at the time for any particular recording mechanism; we have more carefully tracked sick time during the past year.
4. I do not believe that Chief Oraboni ever submitted a "phony invoice", nor would I ever knowingly pay such an invoice. The two illustrated incidents do not warrant the implication: in one case, a \$50.00 camera was broken and replaced, and on another occasion a car battery was purchased but apparently not installed by the seller of the battery. My experience with Chief Oraboni is that he was an honest and dedicated public servant, dedicated to the mission of the organization. He cared about animals, and, to my knowledge, never took advantage of his position or the organization.

Very truly yours,

A handwritten signature in cursive script that reads "Margaret Wolf".

MARGARET WOLF