



***SCI FOLLOW-UP REPORT***

**WOLVES  
IN SHEEP'S CLOTHING:  
New Jersey's SPCAs  
17 Years Later**

***State of New Jersey  
Commission of Investigation***

***October 2017***



*State of New Jersey*  
*Commission of Investigation*



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**New Jersey's SPCAs  
17 Years Later**

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October 2017

Governor Christopher J. Christie  
The President and Members of the Senate  
The Speaker and Members of the General Assembly

The State Commission of Investigation, pursuant to N.J.S.A. 52:9M, herewith submits its final report of findings and recommendations stemming from an investigation into the Societies for the Prevention of Cruelty to Animals in New Jersey.

Respectfully,

Joseph F. Scancarella  
Chair

Robert J. Burzichelli  
Commissioner

Frank M. Leanza  
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Rosemary Iannacone  
Commissioner



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# ***SUMMARY***

Nearly two decades ago, the State Commission of Investigation conducted an inquiry into the activities and financial practices of the various Societies for the Prevention of Cruelty to Animals in New Jersey. The investigation's final report, completed in 2000, exposed a range of waste, abuse and malfeasance so widespread as to render many of these entities incapable of fulfilling their primary statutory obligation: the enforcement of state laws designed to prevent cruelty to animals.<sup>1</sup>

Along with uncovering substantial – in some cases criminal – wrongdoing, the investigation also revealed that New Jersey remained mired in an archaic legislative scheme allowing unsupervised groups of private citizens to enforce animal cruelty laws. These volunteers are empowered to carry weapons, investigate complaints of criminal and civil misconduct, issue summonses and effect arrests. The Commission further found that some of these SPCAs became havens for gun-carrying wannabe cops motivated by personal gain, or the private domain of a select few who discarded rules on a whim.

The Commission concluded that the delegation of such broad power to private citizens may have been understandable, indeed, a necessity in the 1800s when the laws creating the New Jersey and county SPCAs were written. That arrangement, however, is not workable in the highly stratified and professionalized law enforcement system of the 21<sup>st</sup> Century, and the Commission recommended turning over the enforcement role to government.

Six years later, the Legislature finally acted – but not on a measure to implement the Commission's recommendation. Instead, it enacted a law that did nearly the opposite, and, as a result, solidified the SPCAs as the primary enforcers of the animal cruelty statutes. While the new law required humane law enforcement officers to undergo much needed state-certified police and firearms training, it also permitted the volunteer-led SPCAs to remain autonomous with next to no state oversight. All of this transpired, it later became clear, with the aid of a well-connected

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<sup>1</sup> At the time of the investigation, there were 16 county SPCAs and one-state level SPCA in New Jersey.

Trenton lobbying firm retained for years and paid tens of thousands of dollars by the NJSPCA, the parent non-profit corporation of the county societies.

In the years since, the SCI periodically received complaints about ongoing abuses at some of the SPCAs, particularly the NJSPCA. Prompted by a new round of allegations from various sources about mismanagement and abuse of power inside the NJSPCA, the Commission launched this follow-up inquiry early this year. These complaints coincided with news media reports in November 2016 that revealed not only had the NJSPCA lost its 501(c) (3) tax-exempt status from the Internal Revenue Service (IRS) for failing to submit federal tax forms for three consecutive years, but that it had also kept that information secret – even from its own members, and, for a period of time, from donors who may have given money believing it was tax-deductible. <sup>2</sup>

It soon became clear to Commission investigators that these allegations were merely a snapshot of a much broader array of dysfunction within the SPCA system, particularly at the NJSPCA, and that many of the issues identified by the SCI years ago persist, and, in fact, may have even gotten worse. During this follow-up inquiry, the Commission made new findings that re-emphasize the need for systemic reform and the assumption by government of enforcement duties so that New Jersey’s animal cruelty laws can be enforced in a responsive, uniform and proficient manner. These findings include evidence that the NJSPCA is an organization that:

- Fails to consistently respond to serious allegations of animal cruelty complaints—its core mission – in a timely manner and keeps records that are so sloppy it was often impossible to determine specific action taken on cases.
- Spends more money on legal bills – racking up more than \$775,000 over the past five years – than for any other expense, including funds that directly support animal care.
- Circumvents the spirit of a 2006 law to establish effective and transparent governance at the NJSPCA by adopting bylaws that exclude the board of trustees – which has three members appointed by the Governor – from having any supervision of its law enforcement activities.

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<sup>2</sup> The IRS restored the NJSPCA’s tax-exempt status in June 2017 and made it retroactive to May 2016.

- Remains a haven for wannabe cops, some of whom believe they may exercise police powers beyond enforcement of the animal cruelty statutes, such as conducting traffic stops.
- Allows nearly a third of its approximately 20 humane officers to carry firearms despite the fact that those individuals do not hold up-to-date authorization to do so from the New Jersey State Police, which by law, must be renewed every two years. They are also exempt from the requirement to obtain a firearms permit.
- Lacks the ability to estimate how much revenue it is entitled to receive from animal cruelty fines – a major source of its funding – and has no apparatus to collect those monies.
- Allows top-ranking members access to certain questionable perks, such as cars for personal use, and other financial benefits – at the expense of unwitting donors, and tolerates blatant conflicts of interest that profit its key officials.

Rendering these findings particularly problematic is that the NJSPCA – even though operating as a not-for-profit organization – is also supposed to be the steward of substantial amounts of public monies in the form of fines collected through animal cruelty violations and donations from citizens. Additionally, it is empowered to enforce laws that impact every New Jersey citizen. Therefore, it has an obligation to uphold this public trust by safeguarding the integrity of its funds and operations, and ensuring that donations primarily support activities that bear upon the protection of animals.

The Commission fully recognizes that there are many committed volunteers at the NJSPCA who truly care about animal welfare. Unfortunately, the Commission found that the altruistic mission of the organization became secondary to those who controlled the NJSPCA and subverted it for their own selfish ends and self-aggrandizement. The findings of this inquiry make plain that permitting a part-time policing unit staffed by private citizens to serve as the primary enforcers of New Jersey's animal cruelty laws is illogical, ineffective and makes the entire system vulnerable to abuse. Moreover, the government apparatus to perform this function is already in place – in the form of municipal and county animal control officers working in coordination with local police. Neighboring jurisdictions, including Delaware and New York City, recently came to

this conclusion and turned over responsibility for enforcement of animal cruelty laws to government employees and *bona fide* police.

## **NJSPCA Background**

Created in 1868, the NJSPCA, along with the county SPCAs, is empowered under Title 4 of the New Jersey Statutes, which encompass the State's animal cruelty provisions.<sup>3</sup> The NJSPCA's primary purpose is to serve as a statewide law enforcement agency that responds to and investigates complaints of animal abuse and neglect, and, if warranted, charges individuals with criminal and civil violations of the State's animal cruelty statutes. The organization also hosts and participates in events across the state to educate the public on humane animal treatment and responsible pet ownership. The NJSPCA and county societies have no affiliation with the American Society for the Prevention of Cruelty to Animals, also known as the ASPCA.

Organized as a charity under state and federal law, the NJSPCA relies primarily on donations and the collection of fines for its funding. On paper, a 15-member board of trustees oversees the NJSPCA, but, in reality, in its day-to-day operation, the entity is run by a select group of board members who hold leadership positions both on the board and in the organization's humane law enforcement unit.<sup>4</sup> The executive officers who hold dual roles include the group's president, vice president, treasurer and secretary.<sup>5</sup> The individual exerting the most power at the organization is Chief Humane Law Enforcement Officer Frank Rizzo, who was also the NJSPCA's longtime treasurer until resigning from the post in April. This meant Rizzo was in charge of both the entity's finances and its policing operation. When the 2006 law expanding the NJSPCA's statutory authority initially took effect, the organization drafted bylaws that gave the board – including the three members appointed by the Governor – some say over policing matters and the ability to remove the Chief Humane Law Enforcement Officer for cause.<sup>6</sup> But that check on the chief's power was eliminated in subsequent versions of the bylaws. Recently, Rizzo's power

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<sup>3</sup> N.J.S.A. 4:22-10 et. seq.

<sup>4</sup> It has dues-paying general members who may vote in elections if they attend 50 percent of meetings in the prior year. Typically, about 20 members meet this criteria and are able to vote, according to NJSPCA personnel.

<sup>5</sup> Members of the board of trustees serve six-year terms.

<sup>6</sup> Currently, two of the three Governor's appointee positions on the board are vacant.

in the law enforcement capacity became absolute under a December 2016 bylaw revision which precludes the president and board from having any oversight in most policing matters. Meanwhile, Steve Shatkin, who, as president, is the highest elected officer, testified that his interest was in the law enforcement function – where he is deputy chief – but that he ran for the post after the prior president’s departure created a leadership vacuum at the NJSPCA. During sworn testimony before the Commission, Shatkin seemed removed from and unfamiliar with certain NJSPCA policies, including recent changes to its bylaws.

Altogether, the NJSPCA’s law enforcement unit is staffed by approximately 55 investigators, including about 20 humane law enforcement officers authorized to carry firearms and some 35 agents. Agents are authorized to investigate suspected acts of cruelty and write summonses but, unlike officers, they do not carry weapons.

The NJSPCA, which is headquartered in New Brunswick, does not operate a shelter or rescue league, and its officers and agents do not handle or transport animals. Local animal control officers or other entities that house rescued animals provide that service.

Title 4 dictates that the NJSPCA has oversight of the State’s eight active county SPCA chapters, which must pay annual charter fees and follow certain administrative requirements.<sup>7</sup> The NJSPCA may grant new county charters and holds the power to suspend or revoke a charter for failure to pay dues or non-compliance with any statutory provisions set forth in the 2006 law. Each county society must also appoint a Chief Humane Law Enforcement Officer from its officer ranks.

## **Lack of Responsiveness to Complaints**

The Commission’s prior investigation found that timeliness in response to complaints involving animal cruelty and related matters had long been a problem at the SPCAs. During the course of this follow-up inquiry, SCI investigators found that the NJSPCA remains unable to

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<sup>7</sup> The eight currently operating county SPCAs are Atlantic, Bergen, Burlington, Cumberland, Middlesex, Monmouth, Passaic and Somerset.

respond to complaints in a timely manner, at times taking weeks or longer to investigate what constitute – in some instances – egregious allegations of animal neglect and abuse.

For example, it took more than a month for NJSPCA investigators to respond to a complaint involving two Yorkshire terrier puppies covered in motor oil and fleas. It was even longer – 36 days – before an officer took action on another complaint about dogs that were sometimes left unfed or tied up with a rope outside an apartment, and, according to the caller making the complaint, in obvious distress.

The Commission found that 75 percent of the cases examined from the NJSPCA's computerized complaint and report system database, in which response times could be determined, indicated that response time far exceeded the organization's own policies and procedures, which require a written record of action taken within 24 hours of receipt of the complaint.<sup>8</sup> On average, it took 12 days for an officer or agent to make an initial response in the cases reviewed by the SCI.

The Commission found that the NJSPCA's record-keeping in general was so poor it was impossible to determine the full extent to which some cases were addressed or were marked closed without further investigation – a universe of cases, which based on conflicting information provided by NJSPCA personnel, may be limited to dozens or possibly even thousands over the past decade.

Dozens of the 120 cases reviewed by the Commission were missing key data, such as details about the nature of the complaint, the lead officer answering it, the time it was received or other information related to the organization's response. In a number of instances it was obvious that NJSPCA personnel altered and updated a portion of the records after receiving the Commission's subpoena. Approximately 18 percent of the case records received through the subpoena, many of which had been dormant for several weeks or months prior, saw a surge of activity in the days immediately following the organization's receipt of the subpoena. It is

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<sup>8</sup> NJSPCA personnel told the SCI they receive about 5,000 complaints each year but that about 70 percent of those complaints are unfounded.

noteworthy that during this phase of the SCI's inquiry, the NJSPCA also stepped up its efforts to publicize enforcement actions taken by investigators in cruelty cases.

Top-ranking NJSPCA personnel also gave conflicting testimony as to whether its officers and agents are "first responders" to complaints of animal cruelty. Depending on the nature of the call, particularly if it involves an injured animal or emergency situation, police or the local animal control officers are often the first responders to animal abuse calls. NJSPCA personnel typically take over the case to investigate cruelty allegations, and if warranted, issue summonses. Sometimes those duties overlap. New Jersey law effectively makes the SPCAs the primary enforcers of the animal cruelty statutes. Police and local animal control officers – who complete state-certified animal cruelty investigator training and receive authorization from the municipal or county governing body – may also detect, apprehend and arrest offenders, and write tickets for animal cruelty violations.

Permitting part-time volunteers – most of whom work full-time, paid jobs – to serve as the primary enforcers of New Jersey's animal cruelty laws means that many complaints will go unanswered until personnel can address the calls in their off hours. The NJSPCA and county SPCA organizations also lack sufficient personnel to adequately answer complaints. In some cases, personnel failed to update the computerized complaint system to indicate action taken on complaints.

Elsewhere, lack of timely response to complaints was the main reason that New York City turned over responsibility for enforcement of animal cruelty laws to police in 2014. Since the New York City Police Department began taking the lead in responding and investigating animal cruelty complaints, response times to non-emergency calls have significantly improved with most calls now answered within eight hours instead of the days or weeks it took in the past.

The NJSPCA's failure to respond in a timely manner to what are, in some cases, grave complaints means the organization is not simply ignoring its own policies and procedures, and being derelict with regard to its core mission, but it also is putting animal welfare in jeopardy.

## Exorbitant Legal Bills

The number alone is staggering – more than \$775,000 in legal fees, including interest charged against unpaid bills, incurred by the NJSPCA over the last five years. The organization spends far more on legal fees than for any other expense, and based on its most recent tax filing, it spent eight times more on legal costs than for direct animal care, such as hospitalizations.<sup>9</sup> Yet, even more startling is the fact that those responsible for the NJSPCA’s finances continued to incur further expenses and blindly paid the outstanding legal debt despite failing to review bills and invoices to the point of not even knowing the total amount the organization owed for years.

For the past two decades, Harry Jay Levin, managing partner and founder of the Toms River-based law firm Levin Cyphers, has served as the NJSPCA’s legal counsel. He has represented the NJSPCA in extensive litigation – as both plaintiff and defendant – in matters ranging from disputes with county SPCA chapters over charter revocations to infighting between rival factions inside the organization and a squabble over whether the NJSPCA was subject to New Jersey’s Open Public Records Act.

Despite the enormity of its legal financial outlays, senior NJSPCA personnel told the Commission they kept limited records related to the legal bills and relied primarily on figures provided by Levin’s own firm as to the accuracy and legitimacy of the fees incurred. The NJSPCA’s bookkeeper, Joseph Biermann, testified that he only occasionally received invoices since he started paying the bills in 2012. Longtime treasurer Frank Rizzo, who held that position for the past 14 years, stated under oath that he had not seen a complete package of bills and did not know the amount owed on specific cases until he requested that information from the law firm in March. That request came soon after the NJSPCA received an SCI subpoena seeking legal billing records and other financial documents.

Based on the SCI’s review of Levin Cyphers’ billings, Levin charges the NJSPCA at an hourly rate of \$475 for litigation-related matters. That rate is more than double what state government proposed to pay for general litigation services in retaining outside counsel for legal

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<sup>9</sup> The NJSPCA’s federal tax filing for 2015 shows it spent \$18,296 for animal care expenses, which includes services related to vaccinations and similar animal care activities. By comparison, it spent \$159,612 on legal costs.



representation.<sup>10</sup> In addition, the Commission found the firm also charged the NJSPCA more than \$71,000 in interest for late payment of bills. Currently, the NJSPCA pays Levin \$3,000 a month to pay down its outstanding legal debt even as it continues to accumulate expenses for new legal work done by the firm. In addition, Levin recently received a \$100,000 payment after the NJSPCA received a large bequest from the estate of a deceased donor.

Meanwhile, the records from Levin Cyphers reviewed by SCI investigators raise questions about the law firm's own internal bookkeeping practices. For instance, while the NJSPCA's records show that it paid Levin Cyphers nearly \$250,000 between 2013 and 2016, the Commission could not verify how all those funds were applied to the total amount owed because the firm's billing records reflect only a portion of the monies it was paid. Further, the review of the billings revealed that Levin failed to provide proper written notification of an increase in the hourly rate charged for handling litigation-related matters. The firm charged the NJSPCA at the higher rate for four years before documenting the increase in writing, and even then, the contract stated it was only supposed to be for one specific matter, not a blanket increase.<sup>11</sup>

The earliest document provided to the Commission outlining the terms of the work-for-hire arrangement between Levin Cyphers and the NJSPCA is a June 2006 retainer agreement. It required the organization to make a "quarterly payment of \$4,500 payable at the beginning of the months of [sic] July, October" to cover routine legal matters, such as telephone advice on any topic, legal research, legal interpretation of documents and legislation, review and interpretation of policies and procedures, and written legal opinions. For litigation-related matters, Levin agreed to charge \$295 per hour, which according to the agreement, was below his customary rate range between \$395 and \$450 per hour. Other attorneys or paraprofessionals at the firm were to handle less complicated legal matters at an hourly rate between \$95 and \$225 per hour. Finally, the agreement specified that invoices paid later than seven days after receipt would carry an interest rate of 1.5 percent per month.

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<sup>10</sup> Based on recent requests for qualifications sent out by the state Attorney General's Office and other state government entities seeking special counsel for general litigation matters.

<sup>11</sup> Levin told the Commission that the document mistakenly stated that the new rate would only apply to legal work done on the Hunterdon receivership matter and was intended to cover all billings.

No written agreement indicates Levin's rate had increased until January 2014, yet billings show he was charging the NJSPCA at an increased rate of \$475 per hour as early as 2010. A January 2014 letter agreement, which was the only other retainer-type document provided to the SCI, stated Levin's hourly rate would rise from \$295 to \$475 for legal work specifically related to the Hunterdon Humane Animal Shelter receivership. However, the billings reveal that from 2010 forward Levin charged at the higher rate for across-the-board matters. Based on an SCI analysis of the legal billings, Levin charged the NJSPCA for more than \$100,000 in legal fees at the \$475 an hour rate for work done before 2014. Under the old rate, that work would have cost nearly \$63,000 – a lost opportunity for savings of more than \$38,000.

Facing mounting legal debt and a request from at least one board member for the NJSPCA to find new counsel, the organization's leadership considered other firms to find cost effective ways to handle litigation in 2009 but decided to continue its relationship with Levin.<sup>12</sup> Rizzo testified that NJSPCA personnel asked the Attorney General's Office to provide legal representation for the organization on more than one occasion, but he could provide no written documentation verifying such requests.

Rizzo testified that he successfully negotiated with Levin over the years to reduce the NJSPCA's legal debts and claimed to have recently orchestrated the removal of \$62,500 in fees from a bill. However, billing records reviewed by the Commission, spanning January 2013 to August 2017, reflect only one instance of a fee reduction when NJSPCA paid \$25,000 and received credit for \$50,000 in 2015. Records indicate that Levin agreed to waive nearly \$48,000 in charges related to older legal matters in 2012 and 2013, although the interest charged for late payments – over \$71,000 – more than offsets the waived fees. Further, the billing records reviewed by the Commission indicate that Levin ceased the practice of charging interest for late payment of legal bills in 2013.

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<sup>12</sup> The Disciplinary Review Board of the Supreme Court of New Jersey, which reviews ethics complaints against attorneys and determines appropriate forms of discipline, has censured Levin. In 2012, the board found Levin had a conflict of interest when he signed on as a partner in a client's lucrative real estate transaction, failed to provide a retainer agreement and failed to communicate properly with his client.

The following cases comprise the bulk of the NJSPCA's legal fees over the past several years:

- More than \$350,000 worth of billings are related to a protracted legal battle over the closure of the Hunterdon County SPCA chapter, which began with the arrest in handcuffs of the chapter's 84-year-old operator for failure to properly feed cats at the county-operated shelter. The NJSPCA revoked Hunterdon's charter for not complying with the statutory requirement to appoint a Chief Humane Law Enforcement Officer and other infractions. The criminal charges were later dropped; however, a judge upheld the charter revocation and put the assets of the Hunterdon chapter into a receivership under the control of the NJSPCA's legal counsel.
- It cost the NJSPCA more than \$100,000 to contest a citizen's complaint that the organization was required to provide financial records under New Jersey's Open Public Records Act. After months of legal wrangling, the NJSPCA finally conceded that it *is* a public agency subject to the law but that it would need to charge a production fee for the records. The court ordered that the NJSPCA provide the documents without a fee and to pay attorney expenses of more than \$43,000 for the plaintiff.
- The NJSPCA was charged \$23,000 in interest fees related to the 2007 settlement of a civil dispute between two rival factions inside the organization. The plaintiffs, who included individuals previously in control of the NJSPCA, alleged that a faction led by Rizzo, Shatkin and Biermann, among others, pushed them out as part of a plan to take over the organization.

## **Wannabe Cops**

The Commission's 2000 investigation found the existence of a "wannabe cop" culture at some of the SPCAs, particularly at the Bergen County chapter, where several members of the current leadership of the NJSPCA got their start as humane law enforcement officers. The enthusiasm for policing, and the trappings that go along with it, has only intensified at the NJSPCA in recent years.

The group of former Bergen County members that migrated to the NJSPCA in the early 2000s included Rizzo, Biermann and Shatkin. Some of the group had once considered full-time law enforcement careers and wanted to transform the NJSPCA into more of a policing entity.

After winning seats on the board and prevailing in a power struggle with the rival faction, the group created new policies, procedures and guidelines, many of which it borrowed from *bona fide* police entities, notably the New Jersey State Police. Chief Rizzo, for instance, uses the titles colonel or superintendent, which is the rank and title given to the head of the State Police.

At times, however, the fervor for policing has gone too far. The Commission discovered several instances in which a number of NJSPCA officers actively exceeded their statutory authority into the realm of traffic stops that had nothing to do with enforcement of animal cruelty laws. Not only are humane police not legally permitted or trained to conduct motor vehicle stops, the practice also violates NJSPCA policy, which specifically forbids it. In at least one instance, NJSPCA leadership disciplined the offending officer.

In the years since the SCI's prior inquiry, the NJSPCA has nearly doubled the size of its force to include approximately 20 gun-carrying officers and 35 agents, a stark contrast from what the Commission found in its earlier investigation when the then-chief law enforcement officer shrunk the force from 13 to seven officers because he did not want too many individuals carrying firearms. Even with this additional manpower, the agency lacks enough personnel to adequately respond to calls across the State.<sup>13</sup>

The NJSPCA has also built a fleet of approximately 30 vehicles – more than seven times as many as it had two decades ago.<sup>14</sup> At that time, the four NJSPCA vehicles – only one of which was equipped with police lights on the roof – remained parked at its New Brunswick headquarters. Now, many officers keep their NJSPCA-issued vehicles – the majority of which sport the NJSPCA logo and a lights and siren package – at home. The vehicles are equipped with advanced policing technology, including leased New Jersey State Police radios and law enforcement software. Several high-ranking members testified they have used the lights and sirens only a handful of times, and most of those occasions had nothing to do with animal cruelty complaints. Those

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<sup>13</sup> Under N.J.S.A. 2C:39-6c, humane law enforcement officers are exempt from the permit requirements for carrying a weapon.

<sup>14</sup> The vehicles include a mix of newer vehicles financed by the NJSPCA and decommissioned cars donated by police departments.

instances involved the use of lights to alert police to an auto accident scene or to assist other law enforcement at a vehicle crash site.

The NJSPCA's policies and procedures lean heavily on law enforcement practices and policing techniques. These guidelines dictate everything from the proper procedure for carrying a police baton and the use of handcuffs to how to properly transport a prisoner and the use of deadly force. Internal guidelines require officers responding to calls to wear a specific uniform (a summer or winter version depending on the season), and to carry a weapon, an identification card with name, rank and shield number. Even attorney Levin, who is not a commissioned officer, carries a NJSPCA-issued shield – which he showed to Commission investigators during the service of a subpoena – that identifies him as a special prosecutor. The NJSPCA holds no legal authority to appoint an individual as a prosecutor or to issue a shield with that designation.

Against this backdrop, the Commission found that the NJSPCA has been negligent in ensuring that its own officers are properly certified under, and lawfully adhere to, statutory provisions that allow them to carry weapons and enforce laws for the protection of animals. Six out of its approximately 20 humane police officers operate with expired “commissions,” which means that, by law, those individuals are not permitted to carry firearms or make arrests. Under Title 4, humane law enforcement officers, in addition to undergoing training and firearms qualifications, must pass background checks and be “duly commissioned by the Superintendent of State Police.”<sup>15</sup> Officers are required to get their commissions renewed every two years, but the SCI found that several officers – including some in supervisory roles – have let their commission renewals lapse for years.

The Commission found that during the past several years, the NJSPCA spent tens of thousands of dollars on law enforcement-related accessories, such as customized lettering for NJSPCA vehicles and for specialty policing equipment. In fact, in 2014, the NJSPCA's costs for ammunition – \$25,102 – were more than for direct animal care expenses, such as vaccinations and hospitalizations, which totaled \$23,004, according to the organization's federal tax forms.

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<sup>15</sup> Humane law enforcement officers are exempt from mental health assessment or record checks which are required for other law enforcement personnel and for private citizens who seek to carry or purchase a weapon in New Jersey.

The organization also spent nearly \$1,100 in 2016 for four police body cameras – typically used by law enforcement to provide video evidence in the event of a shooting or other use of force. Deputy Chief Shaktin testified that the cameras had never been used by the NJSPCA.

Since the 2006 passage of the law expanding the NJSPCA’s authority, humane law enforcement personnel now appropriately undergo background checks and receive specific training on the proper enforcement of New Jersey’s animal cruelty statutes and in the use of firearms. However, humane officers are only authorized to engage in law enforcement activity within the narrow legal confine of animal cruelty, and it is inappropriate for them to participate in policing practices in which they have no training in or power to enforce, such as conducting motor vehicle stops.

## **An Insiders Game**

The Commission found that the leadership of the NJSPCA has access to certain perks – such as use of organization vehicles for personal business – and that some top-ranking members even hold business interests that have financially benefitted from their association with the NJSPCA.

Under its policies and procedures, top-ranking humane police officers (those with a rank of captain or above) who are assigned a vehicle are permitted to “use the vehicle for personal business throughout the state and within the northern and southern tri-state areas.”<sup>16</sup> Further, the policy allows those individuals to drive an NJSPCA vehicle to the officer’s out-of-state day job – so long as it is within 20 miles of the assignee’s residence and provided that the officer is handling NJSPCA business during the day or immediately after work.<sup>17</sup> Those vehicles also come complete with gasoline purchase cards paid for by the NJSPCA. The Commission found that the NJSPCA conducts little to no due diligence to ensure that personnel are appropriately using vehicles and gas cards.

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<sup>16</sup> New Jersey State SPCA Humane Police, Guidelines, Policies and Procedures, Vehicle Policy VI.

<sup>17</sup> Shatkin’s home is approximately 20 miles from his New York City-based job. Records obtained by the Commission indicate he drove his NJSPCA vehicle to New York more than 100 days in the past year.

The Commission also found that several current and former board members personally benefitted by profiting from ownership interests in businesses that provided services or items to the NJSPCA. Premiums & Promotions Inc., a Hackensack-based company owned by Rizzo, received more than \$93,500 between 2013 and 2017 for providing promotional items, such as t-shirts and other paraphernalia with the NJSPCA logo. Further, the SCI found that businesses owned by other former trustees, or that employed a family member of a former trustee, received more than \$108,000 for expenses related to vehicle repairs and for supplying NJSPCA merchandise.

In that same time period, the NJSPCA paid \$40,350 to JB Broadcast Media Inc. (JBBMI), a business owned by former vice president Biermann, who is the lieutenant in charge of the NJSPCA's Zone C patrol division, for certain administrative duties. Biermann receives \$500 a month to provide bookkeeping services, maintain the operating cash account, and manage accounts receivables with municipal courts to collect monies owed on fines ordered by the courts. In addition, he receives \$20 per hour to fulfill open public records requests for the NJSPCA under a contract that requires an annual minimum payment of \$500. Biermann also receives \$100 a month to keep records and make payments on the NJSPCA's insurance policies.

In another move that raises questions about potential conflicts of interest, the NJSPCA board of trustees voted in December 2016 to place its longtime spokesman, Matt Stanton, on the organization's governing board. Stanton's employer is MBI GluckShaw, an influential Trenton lobbying firm that has been paid more than \$85,000 by the NJSPCA during the past four years for lobbying and public relations services. The firm played a critical role in securing passage of the 2006 law that solidified the SPCAs as the primary enforcers of the state's animal cruelty laws. Records show that between 2006 and 2007, the NJSPCA paid nearly \$75,000 to MBI GluckShaw "for lobbying the legislature and governor's office for legislation protecting the legal mandate of the organization, and for protecting animal rights." This included a one-time \$25,000 "honorarium" paid to the firm in the months after enactment of the law.

The NJSPCA disclosed some but not all of the relationships that present real or potential conflicts of interest on federal tax forms submitted to the IRS. A statement submitted with its most recent tax forms for 2015 stated that an NJSPCA committee reviewed a sample of these transactions and found they were “conducted on terms equivalent to arm’s length” based on standards accepted under general accounting practices.

During the course of the Commission’s inquiry, the NJSPCA adopted a new conflicts of interest policy which stipulates that a person who has a direct or indirect financial interest must disclose that information to the board of trustees, which then may review the matter. The policy concludes that “a person who has a financial interest may have a conflict of interest only if a majority of the board of trustees decides that a conflict of interest exists.”

## **Questionable Financial Practices**

The Commission found that the condition of the NJSPCA’s finances is so dismal that even its own bookkeeper testified that given the totality of its expenses – including its legal bills – the organization is effectively bankrupt.

The Commission’s examination of the finances confirmed that the organization’s expenses far exceed revenues from fines and donations. Moreover, the NJSPCA lacks proper oversight of its finances and relies on funding sources that are unpredictable and irregular. The NJSPCA has a statutorily-mandated revenue stream – in the form of fines from animal cruelty violations – but the Commission found the organization has no clue about how much it is actually owed in fine monies because it lacks an adequate method for tracking it. Additionally, the NJSPCA lacks a mechanism to pursue the revenue generated from tickets for animal cruelty violations which it is lawfully owed and entitled to collect. <sup>18</sup>

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<sup>18</sup> Under N.J.S.A. 4:22-55, the NJSPCA and county SPCAs are entitled to all fine monies that are a result of any actions brought by their personnel. The NJSPCA or county chapter is also entitled to half of any fines collected through investigative actions handled primarily by an animal control officer.



Further, the Commission found that Rizzo, the organization's treasurer for the past 14 years, was treasurer in name only and provided little oversight of the NJSPCA's finances. Despite bylaws that specify the treasurer is to create and manage a budget, oversee the board's finance committee and ensure the proper and timely filing of all financial reports, those duties were mostly disregarded during his tenure.

Rizzo testified that his primary duties as treasurer involved monitoring account balances online and authorizing payments. Meanwhile, bookkeeper Biermann explained that his main responsibilities revolve around keeping track of outstanding bills, presenting a list of those bills to the president or treasurer and then issuing checks after leadership authorizes payment. As treasurer, Rizzo was ultimately responsible for the NJSPCA's failure to file its federal tax forms for 2013, 2014 and 2015, which resulted in the loss of its 501(c)(3) tax-exempt status. Rizzo blamed the organization's former accountants, one of whom suffered a stroke in 2012, and a subsequent one who assured him that the NJSPCA's paperwork was up-to-date, for failing to submit the 990 tax forms, which must be filed annually with the IRS for certain non-profits to maintain their tax-exempt status.

Based on its most recent 990 tax forms, filed with the IRS in January 2017, the NJSPCA had \$804,920 in total expenses and \$630,240 in total revenue in 2015 – a funding gap of nearly \$175,000. Rizzo told the Commission that the organization is always a few months away from not having enough money to operate.

The SCI did not perform a forensic audit of the organization's finances. However, the Commission's analysis of financial records, including tax forms, bank records and other documents from 2013 to 2016, and its review of NJSPCA's fiscal policies, indicated the organization lacks internal controls and has poor record-keeping practices. It further revealed that personnel regularly failed to provide sufficient supporting documentation for expenditures. The following specifics are noted:

- The NJSPCA's 990 tax forms indicate it operated at deficits of \$67,059 in 2014 and \$241,739 in 2015.

- It paid an \$850 fee to the IRS for an application to get the organization’s tax-exempt status designation reinstated after failing to file federal 990 tax forms for 2013, 2014 and 2015.
- The organization made frequent late payments to vendors, which in some cases caused it to pay late fees as well as interest fees.
- In violation of its own bylaws, the NJSPCA has no annual budget.
- The organization’s bookkeeper regularly relied on e-mails from the president or treasurer to authorize the payment of bills. In one example, the Commission found an \$8,500 check issued to attorney Levin – not his firm – without an invoice and paid based only on e-mail from Rizzo indicating it was “newer work.”
- The NJSPCA does not require expense reimbursement forms for employees/volunteers.
- The NJSPCA has no centralized system for tracking finances. Both the bookkeeper and treasurer use separate accounting software, and each is responsible for separate bank accounts.

## **Lack of Accountability**

As noted throughout this report, the NJSPCA habitually violates the bylaws and internal guidelines that govern the management of its finances and law enforcement activities, and has demonstrated a pattern of taking corrective measures to address shortcomings only when it is subject to outside scrutiny and criticism.

Even when required by New Jersey law to report information about its activities to state government, the Commission found the NJSPCA frequently took a cavalier approach to accountability and transparency. Fueling this lax approach was the fact that no significant consequences exist for a failure to comply with these filing requirements, making most of the oversight mechanisms established under the 2006 law essentially meaningless.

Under the 2006 law that expanded the NJSPCA’s statutory authority, the organization must submit an annual financial audit and provide quarterly reports on its law enforcement

activity to the state Office of the Attorney General. But those reports often have been filed late and, occasionally, not filed at all.

The law enforcement activity reports, which are required by law to be submitted on a quarterly and annual basis by the state and county societies, record data such as the number of complaints received, cases opened and closed, summonses issued, fines imposed and monies collected as a result of fines. A review of the law enforcement activity reports on file with the state Attorney General for the past five years indicate that, in addition to a pattern of lateness, there were no reports filed for at least two quarters in 2015. The statute is silent on what is supposed to happen in the case of the failure to file the reports. As noted earlier in this report, the Commission also raised concerns about the reliability and integrity of the data used by the NJSPCA to populate these reports based on poor record-keeping practices.

The NJSPCA was also negligent in filing annual audits, and, as a result, is not in good standing with the Charities Registration section of the state Division of Consumer Affairs (DCA).<sup>19</sup> The Commission's review of records on file with the state indicate that since 2011, the NJSPCA was frequently deficient in providing the documents required with CRI-300R, the state's charity registration renewal form, that must be filed annually by a charity to lawfully operate in New Jersey. Earlier this year, soon after the Commission sent a letter to the state and the organization inquiring about the status of the filings, NJSPCA personnel submitted audits and other legally required paperwork for years 2013, 2014 and 2015.

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<sup>19</sup> N.J.S.A. 45:17A-18 *et. seq.* "New Jersey Charitable Registration and Investigation Act."

## ***Referrals and Recommendations***

The Commission refers the findings of this inquiry to the following agencies of government for whatever action is deemed appropriate:

- Office of the Attorney General of New Jersey
- New Jersey Division of Criminal Justice
- New Jersey Division of Consumer Affairs
- New Jersey Supreme Court – Office of Attorney Ethics

\* \* \*

The Commission's decision to undertake this inquiry has demonstrated the value and importance of an independent investigative agency following up on the results of prior inquiries. Nearly two decades ago, this agency presented clear evidence to support a recommendation for a complete restructuring of the system used by New Jersey to enforce its animal cruelty laws. Unfortunately, that recommendation was left unheeded, and so, the core findings at that time mirror the core findings now: The NJSPCA and its county-based affiliates are incapable of doing the job properly and effectively. In part, that is because they are built to rely on part-time volunteers who often lack the time, ability and wherewithal to respond appropriately to complaints of animal cruelty. As years of troubling and inconsistent enforcement experience in this area have shown, and given the unique challenge of enforcing any laws or statutory requirements, it is plain that this responsibility should never have been made the domain of amateurs. But the problem runs deeper. The NJSPCA – as constituted and governed, then and now – is and has been a dysfunctional organization. It has engaged in and tolerated waste and abuse, conflicts of interest and self-aggrandizement, and has routinely taken a cavalier approach to financial and operational accountability – all at the expense of unwitting donors and volunteers whose only motivation is to help abused animals.

It is long past time for substantive action to set this system straight. As outlined below, the Commission again recommends that responsibility for enforcing the animal cruelty laws be placed, by statute, where it belongs: within the appropriate confines and control of government.

The Commission also recognizes that aside from the operational and managerial ineptitude of the NJSPCA in this regard, the organization's reason for being embodies a fundamental spirit of humane volunteerism that extends well beyond the matter of who enforces the cruelty laws. That spirit should be nurtured in productive ways in conjunction with entities of similar mission around the State, and a strategy for harnessing and directing it into the future should be developed by a task force made up of volunteers, citizens and experts in the field of humane animal treatment.

Pursuant to these objectives, the Commission recommends the following:

## **1. Remove SPCAs as Enforcers of the Animal Cruelty Laws**

The Commission recommends the immediate repeal of statutes empowering the SPCAs to enforce New Jersey's animal cruelty laws. This function, like other legitimate elements of law enforcement, should be placed within the qualified framework of government and performed by trained professionals. Only in this way will there be a realistic opportunity for adequate and consistent funding and resources, including fully qualified personnel, in order to provide for the enforcement of animal cruelty laws in a professional, uniform, responsive and responsible manner.

Repeal of the statutes authorizing the SPCAs to enforce the cruelty laws will have the additional salutary effect of eliminating troubling incongruities in the current statutory scheme, including provisions that empower members of the state SPCA to make arrests; allow SPCAs to obtain search warrants under a reasonable belief standard, as opposed to the constitutionally mandated probable cause standard; and seemingly authorize SPCAs to execute search warrants. It would also remove the exemption granted to SPCA officers from permit requirements for carrying a weapon under *N.J.S.A. 2C:39-6c*.

## **2. Assign Enforcement to Local Government**

Legislation should be enacted transferring responsibility for the enforcement of New Jersey's animal cruelty statutes to local government authorities. This is appropriate for a number

of reasons. Municipalities are required by law to employ animal control officers. If those officers complete state-certified animal cruelty investigator training and receive authorization from the local governing body, they are legally empowered to enforce the animal cruelty statutes as well as the appropriate ordinances of the municipality.<sup>20</sup> Not only will certified animal control officers be familiar with the surrounding community and responsive to the complaints of local residents, they also possess the necessary resources, including the equipment to properly handle animals and the support of the police and other municipal departments. Neighboring municipalities, where appropriate, should also consider adopting a shared regional approach to this matter in order to maximize efficiency and save tax dollars.

Once this transfer of enforcement authority occurs, municipalities will have to decide whether the animal control officers should report to the local police department or the municipal health department. It is important to note, however, that if they are included in the health department, procedures must be instituted at the local level to ensure proper coordination with the police department.

At the county level, those that operate and maintain animal shelters should consider providing animal control services as well, and those that already do so should incorporate the enforcement responsibility as part of their routine operations. Any legislative changes made pursuant to this recommendation should include appropriate language that would apply to the counties.

Further, the state-sponsored training course to enable local animal control officers to become certified animal cruelty investigators should be made available to all who have not yet received the training.<sup>21</sup> Further, all police officers in New Jersey should receive specific training to ensure familiarity with the animal cruelty laws.

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<sup>20</sup> N.J.S.A. 4:19-15.16b

<sup>21</sup> Of the 3,092 certified animal control officers in New Jersey, 657 are also certified animal cruelty investigators, according to the state Department of Health.

### **3. Provide Revenue from Violation Fines to Municipalities**

Under this recommendation, municipalities would retain all fines imposed on those found to have committed violations of the animal cruelty statutes. Current law mandates that any fines or penalties resulting from cases brought by a local animal cruelty investigator be split evenly between the municipality in which the violation occurred and the NJSPCA or the county SPCA, depending on which entity is involved in a particular case.

### **4. Boost Licensing Fees and Dedicate Revenue**

Local government should identify areas to increase revenues in order to further defray taxpayer costs associated with the absorption of the cruelty enforcement function. The Commission recommends that local governments increase their current dog licensing fees by up to 25 percent.<sup>22</sup> Dog licensing fees are set by local ordinance and cost up to \$21 per animal and may be issued for a duration of between one and three years.<sup>23</sup> Municipalities that license cats should also raise those fees by up to 25 percent, and those that don't yet require licenses for cats should establish a licensing program. Additionally, surcharges should be added to fines imposed for both civil and criminal violations of the animal cruelty laws. Recovering investigative costs from violators in these cases will also produce revenue.

All monies raised from these various sources should be placed in a segregated municipal fund dedicated to costs associated with animal cruelty law enforcement.

### **5. Establish a Task Force on Animal Welfare**

The volunteer spirit associated with the SPCAs, along with the important work done by those dedicated to promoting animal welfare, should not be lost if the core mission of these organizations – the enforcement of animal cruelty laws – is removed from their purview. To ensure that the many devoted volunteers at these organizations are not forgotten, the

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<sup>22</sup> N.J.S.A. 4:19-15.12.

<sup>23</sup> On top of local licensing fees, the state Department of Health also imposes certain licensing fees (a maximum of \$4.20 per dog owner) to help cover the cost of prevention and control of rabies and for a low cost spay and neuter program.

Commission recommends that the Governor and Legislature establish a special task force to examine issues surrounding animal welfare and protection in New Jersey, and also to consider the role that the SPCAs should play once the cruelty law enforcement function is transferred to local government. Many of the societies already maintain programs to educate the public on responsible pet ownership and humane animal practices, facilitate pet adoptions, or operate clinics for pet spaying, neutering and vaccinations. These are vital services that promote animal welfare and should not be eliminated. Members of the task force should include individuals with knowledge and expertise in animal welfare issues, such as directors of animal shelters and humane organizations in New Jersey, animal welfare advocates, SPCA volunteers, and members of the public.



# APPENDIX



**N.J.S.A. 52:9M-12.2 provides that:**

- a. The Commission shall make a good faith effort to notify any person whose conduct it intends to criticize in a proposed report.*
- b. The notice required under subsection a. of this section shall describe the general nature and the context of the criticism, but need not include any portion of the proposed report or any testimony or evidence upon which the report is based.*
- c. Any person receiving notice under subsection a. of this section shall have 15 days to submit a response, signed by that person under oath or affirmation. Thereafter the Commission shall consider the response and shall include the response in the report together with any relevant evidence submitted by that person; except that the Commission may redact from the response any discussion or reference to a person who has not received notice under subsection a. of this section.*
- d. Nothing in this section shall be construed to prevent the Commission from granting such further rights and privileges, as it may determine, to any person whose conduct it intends to criticize in a proposed report.*
- e. Notwithstanding the provisions of R.S. 1:1-2, nothing in this section shall be deemed to apply to any entity other than a natural person.*

The following material was submitted pursuant to those statutory requirements.



MATTHEW STANTON  
15 DRAKE ROAD  
MENDHAM, NJ 07945  
(973) 699-3115

RECEIVED  
2017 SEP - 7 PM 12:34  
STATE COMMISSION  
INVESTIGATION

September 7, 2017

Ms. Lisa Cialino  
Counsel  
State of New Jersey  
Commission on Investigation  
28 West State Street  
Trenton, New Jersey 08625-0045

**RE: NOTICE OF PROPOSED REPORT  
DISEMINATION NUMBER 17-08-005**

Dear Ms. Cialino:

I am in receipt of your August 23, 2017 correspondence concerning the Commission on Investigation report on the New Jersey Society for the Prevention of Cruelty to Animals (NJSPCA). Below you will find my response as it relates to materials you provided.

**Conflict of Interest**

The portion of the report, with the heading "An Insiders Game," appears to have been drafted to attempt to lead the reader to the conclusion that my acceptance to serve on the Board of Trustees of the NJSPCA is a conflict of interest. That fact of the matter is it is not. Allow me to take this opportunity to provide some facts to clear up any notion of a conflict of interest.

In November 2016 I was approached by the leadership of the NJSPCA Board of Trustees to determine whether I would be interested in filing a vacancy on the Board of Trustees. Having been involved with the NSJPCA since 2004 the Board of Trustees I felt would be an asset.

To avoid any real or perceived conflicts of interest, I agreed to accept the position on the NJSPCA Board of Trustees base on two conditions:

1. The \$500 per month media relations contract between MBI GluckShaw and the NJSPCA would be terminated.
2. At any time the NJSPCA Board of Trustees discussed the NJSPCA's contractual relationship with MBI GluckShaw, I would recuse myself from that discussion, state my reasons for recusal and leave the room.

**Ms. Lisa Cialino**  
**NOTICE OF PROPOSED REPORT**  
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**September 7, 2017**  
**PAGE 2**

Both of my conditions were agreed to by the NJSPCA Board of Trustees and I accepted the position on the Board of Trustees.

In terms of background, when I joined MBI GluckShaw in 2003 the NJSPCA was already a client of the firm. I believe the NJSPCA first retained MBI GluckShaw in 1994 at a retainer of \$1,250 per month to serve as the NJSPCA's Government Agent in Trenton. The retainer agreement, at the same rate of \$1,250 per month, remains in effect today in 2017.

It is important to understand that while I am in fact a registered Government Affair Agent in the State of New Jersey and have a number of clients that I do lobby for, I have never lobbied on behalf of the NJSPCA. My role has always been limited to the media relations. Direct lobbying on NJSPCA matters has been and continues to be handled by other member of the firm.

My direct involvement with the NJSPCA began in 2004, just before the release of Governor McGreevey's Animal Welfare Task Force Report – a comprehensive review of New Jersey's Animal Welfare Infrastructure with recommendations. In March 2004, I was retained by the NJSPCA, at a rate of \$3,000 month, to build a media relations infrastructure that did not exist and serve as the NJSPCA's spokesperson. That agreement remained in place until March 2006. From April 2006 through December 2016, the monthly retainer was set at \$500 per month.

**The SPCA Act of 2006**

Your report is correct that MBI GluckShaw did spend a great deal of time and effort in Trenton advocating for the NJSPCA as well as the cost effective enforcement of New Jersey's animal cruelty statutes. In fact, MBI GluckShaw had been working with the NSJPCA on drafting a passing comprehensive reform legislation since 1994 proactively trying many of the issues the SCI highlighted in its first report in 2000.

To fully understand the NJSPCA, one must understand how it was created and the legislative changes that have occurred since 1868. The NJSPCA was created by the NJ Legislature in 1868, almost 150 years ago, with the mandate of enforcing New Jersey's animal cruelty statutes. Since 1868, the NJSPCA has existed as a public law enforcement agency staffed by private citizens that receives no financial assistance from the State of New Jersey whatsoever. The NJSPCA survives solely on donations, fundraising and a percentage of the fines that are imposed and collected by the courts related to animal cruelty prosecutions.

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Since 1868, the State of New Jersey has not provided one dollar of financial aid to the NJSPCA and, since that time, the NJSPCA has been enforcing New Jersey's animal cruelty statutes at no cost to New Jersey taxpayers. The NJSPCA focuses its efforts strictly on law enforcement and does not own or operate an animal shelter. The NJSPCA works closely with a network of both public and private animal shelters to house animals as necessary.

In the mid-1990, as a result of a number of difficulties the NJSPCA was experiencing with County SPCA's throughout New Jersey, the NJSPCA approached the Legislature to consider and pass legislation that would rationalize the NJSPCA – County SPCA relationship by requiring more oversight, more training, restriction on weapons and more reporting requirements. Stated simply, the NJSPCA requested that the Legislature take action to reorganize the NJSPCA – County SPCA relationship to reign in out of control and unresponsive County SPCAs. That effort failed.

With no action from the Legislature, the NJSPCA approached the Legislature once again with a new request; if you are not going to help the NJSPCA reorganize and rationalize the NJSPCA – County SPCA relationship, please grant the NJSPCA a divorce from County SPCAs. Unfortunately, that effort also failed.

Between 1994 and 2000, following two failed attempts to get legislation passed, the NJSPCA finally got the Legislature's attention. In early-2000, the NJSPCA began working with the Legislature on a comprehensive reform bill to bring the NJSPCA and County SPCAs into the 21<sup>st</sup> Century. The NJSPCA began crafting legislation that would create new training requirements, more robust reporting requirements, limitations the number of weapons at the State and County levels, require more oversight from the Attorney Generals Office, require "commissioning" of officers by the Superintendent of the State Police and reconstitution of the NJSPCA Board of Trustees.

By 2005, after working with the Legislature, the Governor's Office and multiple stakeholders on a bill that would bring the NJSPCA into the 21<sup>st</sup> Century, the bill pass the Legislature in late-2005 and was signed into law in early-2006 by Governor Codey. The bill became known as the "SPCA Act of 2006" and was a ground breaking piece of legislation driven by the NJSPCA that professionalized the NJSPCA-County SPCA structure in the State of New Jersey.

Ms. Lisa Cialino  
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September 7, 2017  
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If you have any questions or require additional information, please contact me at (973)-699-3115.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matt Stanton', with a long horizontal flourish extending to the right.

Matt Stanton



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- ♦ Also admitted in New York
- Also admitted in Virginia and District of Columbia
- Qualified Rule 1:40 Mediator

*Via Email and FedEx Overnight Delivery*

September 7, 2017

Lisa Cialino, Esq.  
State of New Jersey  
Commission of Investigations  
28 West State Street  
P.O. Box 045  
Trenton, NJ 08625-0045

Re: Notice of Proposed Report  
Dissemination Number 17-08-0001

Dear Ms. Cialino:

## Preliminary Statement and Response

I do not believe that the SCI has jurisdiction over me or my law firm. Frankly, and we are researching into this, my preliminary beliefs are that the SCI may not have jurisdiction over the NJSPCA. Even if it does, that jurisdiction certainly does not extend to me or my firm. The pretext apparently is that since we provide legal services to the NJSPCA, we come under the auspices of the SCI. In my view, that is contrary to the statute, rules and regulations.

First, the fact that I was only provided selected excerpts affects my response.

Furthermore, my copy included multiple references that significant portions of your Report are redacted. If we are entitled to submit a reaction to the draft, then surely an un-redacted version is appropriate; without that language, it is impossible to provide a cogent response, as the context is missing and prejudices any response.

Lisa Cialino, Esq.  
Page -2-  
September 7, 2017

For some inexplicable reason, the SCI has chosen to “cherry pick” statements without providing the context. This impedes the search for truth and fails to provide the respondent with a fair opportunity.

I see absolutely no reason the SCI has chosen this secret procedure. Having represented other targets of the SCI in the past, those targets were given the “entire” report.

This methodology is likewise applied to my client and its representatives and I object to this method on their behalf as well.

The approach is not only highly prejudicial, it is contrary to the stated mission of the SCI, which is to provide transparency in New Jersey. The SCI tactics fly in the face of that duty.

Any comment I make is, therefore, subject to me being afforded the opportunity to review the Report in its entirety.

I object in the strongest possible manner regarding your unsubstantiated and exaggerated headline. The word “exorbitant” is a relative term; exorbitant as compared to what?

The SCI has not spent a single minute reviewing our files. The Staff does not have any insight into the extent or to the complexities of the matters we have handled over the 20 years of representation to the NJSPCA. In several notable instances, the cases we handled were matters of first impression, requiring the interpretation of statutes and the implementation of regulations.

The use of the label “exorbitant” is pandering, provocative and akin to yellow journalism designed to mischaracterize and exaggerate.

I have been practicing law for almost 40 years. I am a published legal author, formerly a professor of business law, chair of New Jersey and Ocean County Bar Committees, and have argued cases before every state and federal court in New Jersey. My hourly rates are competitive and, in fact, are lower than other lawyers with similar experience and expertise.

Citing to what other lawyers charge is misleading and improper, especially since there is absolutely no insight as to the complexity of the matters or what lawyers are the source of the information.

While it may be true that the state of New Jersey retains lawyers for general litigation for less, that ignores the expertise necessary on the subject matter required.

Lisa Cialino, Esq.  
Page -3-  
September 7, 2017

The information I am aware of is completely contrary to the inference the SCI is trying to draw. I am certain that scores of lawyers representing the state of New Jersey charge at higher rates. To compare our rates to others is misleading without the context. The SCI Report is misleading since what they cite in comparison, intentionally ignores and mischaracterizes the fact that the rates for lawyers with specialization and for specialized legal services is not ½ of what Levin Cyphers charges.

It is a bold face misrepresentation and a misleading statement.

It is noteworthy that the footnote on page 1, is not backed up with a citation or copy of the solicitation.

The Report erroneously complains of the extent of our representation over the years. This is not within the purview of the SCI. How is it relevant to Levin Cyphers the number of times the NJSPCA has been sued and needs to provide a defense. The inference is just plain incorrect.

The bias within the Report can readily be found by the SCI's characterization of a good faith litigation concerning the applicability of OPRA that is now before the Appellate Division as a "squabble."

That case incorporates questions of first impression of the applicability of OPRA as it relates to the NJSPCA. The use of this label once again demonstrates lack of understanding of the matter and, therefore, undermines its conclusions.

The Report simply tosses out the fact that Levin Cyphers charged interest on unpaid bills, suggesting that charging interest is improper and that is just not true. This was included in the retainer agreement and since the NJSPCA did not have current funds to pay, Levin Cyphers should not be the private "Lender" for the NJSCPA. If Levin Cyphers is denied use of fees earned, interest is appropriate. The way this was inserted suggests some impropriety where there is none.

The SCI completely ignored any review or analysis as to the extent of the litigation the NJSPCA has been forced to defend. With the exception of one recent litigation involving the revocation of the Hunterdon County Charter, the NJSPCA and its officers have been the Defendants. This revocation was based on uncontroverted evidence of animal cruelty, some of which had been on going for many years.

The SCI "raises questions" about billing, yet never once did the SCI either ask for an explanation OR REVIEW BILLING FILES.

Lisa Cialino, Esq.  
Page -4-  
September 7, 2017

The SCI is flatly wrong by stating that there was no communication regarding billing rates they were reflected in the bills themselves, discussed with the officers of the NJSPCA and presented to the Board. (See the attached Board of Trustees resolution where it affirms that the billing rates of Levin Cyphers were communicated and known to the Board and the letter from the NJSPCA Treasurer).

Levin Cyphers provided retainer agreements dating back to 2006. Over the years, due to the frequency of legal services required and the inability of the NJSPCA to pay, Levin Cyphers necessitated a modification, which was communicated in a subsequent retainer.

The SCI erroneously and prejudicially states that no communication occurred and that is untrue. Every one of the persons who testified (Shatkin, Rizzo and Bierman), all said they knew what the billing arrangement was, yet the SCI ignores that sworn testimony and casts aspersions on Levin Cyphers.

The so-called "lost opportunity savings" on page 3 is untrue. It assumes facts that are not confirmed and taken completely out of context and so as they say, "garbage in, garbage out."

One of the more outrageous statements in the SCI Report is in a footnote on page 3; it is a completely misrepresentation. That matter dated back to 1998, at that time there was no requirement to have an agreement. The requirement for a writing came into effect years after through a rule change.

Nonetheless, what does this action have to do with the good faith investigation of the NJSPCA. That matter is completely irrelevant to anything before the SCI.

I believe this was included in violation of the law and merely as an example of continuing abuse of discretion. Whether I was disciplined for actions arising out of a real estate transaction in 1998 has nothing to do with the NJSPCA. This, like other comments, were thrown in just to make me look bad, as once again what does this have to do with the current SCI investigation.

The reference at the end of page 3 about an undisclosed Board member seeking a change of counsel is likewise unsupported. Where is the reference to what was said, who said it, and when was it said? This reeks of McCarthyism.

Page 4 revisits billing issues, though not for a second did the SCI ask Levin to explain or did they come to Levin Cyphers offices to review the billing records. They simply looked at billing summaries and jumped to the conclusion.

In terms of the credentials, once again the SCI Report is misleading and incomplete. Those who issued the credentials to Levin, a long time ago, all testified the reasoning behind providing Levin with credentials. It is interesting that the SCI ignored that sworn testimony.

The testimony provided was this: For a time Levin was serving as special counsel and prosecuting animal cruelty charges throughout the state. These matters were all in municipal court, and since the prosecution of such matters fell to part time lawyers, Levin was asked to step in under the Storm case.

These credentials were issued because when appearing in small local municipalities some judges were questioning Levin's status to prosecute. The Board determined that the best way to avoid questioning was to give Levin credentials identifying him as a "special prosecutor" to facilitate him prosecuting animal abusers.

The SCI apparently initiated an investigation due to allegations of mismanagement of operations and mishandling of funds.

It is believed that the allegations emanated from a disgruntled former officer who was terminated from service.

The initial statements from the SCI was that there were allegations of systemic misuse of funds. After scores of hours of testimony and review of thousands of documents the "redacted" Report did not find any misuse of funds. I highlight that the partial Report was "redacted" as the SCI failed to provide the entire Report. This failure robs the NJSPCA from a full and fair opportunity to comment on the Report. This is an irreparable flaw in the investigatory process and undermines the credibility of the Report.

The use by the SCI of provocative headlines and uncorroborated assertions likewise impacts on the validity of the conclusions.

The SCI has misused its authority by including irrelevant and unsubstantiated conclusions in the Report.

What appears to be lost on the SCI is that when it incorporates statements into its Report the inference is that there is something untoward being done. One example, is the issuance of credentials to facilitate the prosecution of animal cruelty. There is absolutely nothing improper about an agency issuing credentials to its lawyers. Every Deputy Attorney

Lisa Cialino, Esq.  
Page -6-  
September 7, 2017

General in this state is issued credentials that is a fact. Yet the mentioning of the issue "suggests" some impropriety.

On behalf of my clients, and others who have been brought into the net of this SCI investigation, I register my strongest possible objection to the investigatory process, the actions of the SCI and the conclusions reached in the Report.

These actions ignore the incredible service the NJSPCA and its associates deliver to the state of New Jersey.

They are devoted, committed and focused individuals who, without compensation, enforce the animal cruelty laws of this state. They are part-time volunteers, who give their personal time to protect New Jersey's animals.

It is ironic that the Report does not have a positive word to say about the benefits and the importance of the work of the NJSPCA.

The public should also know that the state of New Jersey provides absolutely no financial support to the NJSPCA. Not a penny of public tax dollars is budgeted, not a penny.

Neither are NJSPCA officers provided any training or operational assistance from the government, yet the SCI Report criticizes their financial management and their organizational skills.

One must ask why is the NJSPCA excluded from receiving the same support and assistance other "state agencies" receive?

The SCI Report seems to hold the NJSPCA to the same standards as other funded agencies, like Department of Transportation ("DOT") but unlike the DOT, the NJSPCA does not get a single dollar of funding.

Does not fundamental fairness and justice require that the NJSPCA be judged against a fair standard?

One of my clients here stated that the Report is a "hatchet" job merely designed to take unfair pot shots.


As stated time and time again in the testimony phase of the SCI investigation, the officers of the NJSPCA have asked for help from the state of New Jersey and all of this had fallen on deaf ears.

Lisa Cialino, Esq.  
Page -2-  
September 7, 2017

In recent years, the NJSPCA has handled tens of thousands of complaints of animal cruelty, yet the SCI has determined in its infinite discharge of their duties to criticize this philanthropic organization.

Very truly yours,

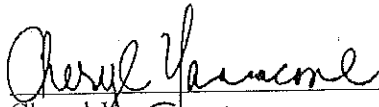
LEVIN CYPHERS



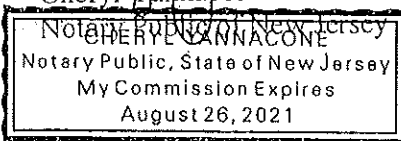
Harry Jay Levin  
HJL:cg

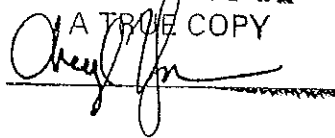
STATE OF NEW JERSEY)  
COUNTY OF OCEAN)

On this day 7th day of September, 2017 before me personally appeared Harry Jay Levin, Esq. and known to me to be the person described in and who executed the foregoing instrument and he acknowledged that he executed the same as his act and deed for the uses and purposes therein mentioned.



Cheryl Yannacone



CERTIFIED TO BE  
A TRUE COPY  


RESOLUTION OF THE BOARD OF TRUSTEES  
New Jersey Society for the Prevention of Cruelty to Animals ("NJSPCA")

WHEREAS, Harry Jay Levin has served the NJSPCA faithfully for more than twenty (20) years, and

WHEREAS, under any and all circumstances during the period of his representation, Mr. Levin has unwaveringly advanced and protected the interest of the NJSPCA and the animal owners of the State of New Jersey, and

WHEREAS, his commitment to this charitable organization includes immeasurable amounts of time, effort and energy devoted to the NJSPCA without compensation, and

WHEREAS, during his multi-decade years of representation, Mr. Levin has donated tens of thousands of dollars in either or both free legal services or reduced legal fees, and

WHEREAS, the Board recognizes that without the attention and services of Mr. Levin, the NJSPCA would have experienced substantial impediments, and

WHEREAS, Mr. Levin's services have also included his advice and counsel on business and operational matters, without charge, and

WHEREAS, frequently Mr. Levin provides pro bono counsel to members of the NJSPCA, which counsel is invaluable to the members and builds a sense of community, trust and confidence among the membership, and

WHEREAS, not once in the entire time he has represented the NJSPCA has Mr. Levin ever refused to represent the NJSPCA whether or not he would be compensated, and this financial commitment also includes Mr. Levin advancing costs and expenses, and

WHEREAS, Mr. Levin has served as special prosecutor on behalf of the NJSPCA and municipality on matters of animal cruelty and as a consequence



was issued credentials to be used exclusively in line with those municipal prosecution duties, and

WHEREAS, it was through Mr. Levin's focused attention and skill, that the NJSPCA was successful, for the first time ever, in obtaining the revocation of a county charter which was charged with animal cruelty and his Firm's invoices remain unpaid, and

WHEREAS, on the occasion where the NJSPCA can afford to pay the legal bills of LevinCyphers, Mr. Levin has provided a substantial pro bono credit, the most recent example of this is his reduction of \$62,500 with a payment of \$100,000 and

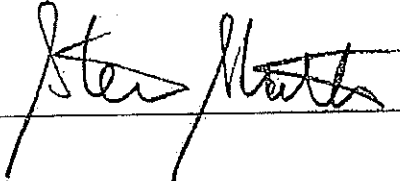
WHEREAS, as a direct consequence of his work and association with the NJSPCA Mr. Levin has been forced to defend himself against untrue commentary by the public, and

WHEREAS, over the years Mr. Levin has attended many, many Board meetings without charge and has attended multiple public demonstrations in support of the NJSPCA, and

WHEREAS, Mr. Levin published an article in the New Jersey Law Journal informing the bar and the public about the work of the NJSPCA and animal cruelty laws of this state,

NOW, THEREFORE, it is our desire to express our support of Mr. Levin and wish to recognize his superior legal services and philanthropy to the NJSPCA and the citizens of New Jersey.

BE IT RESOLVED that this Resolution is adopted by all members of the Board.

  
\_\_\_\_\_  
Chair

9-7-17  
Date



## New Jersey State S.P.C.A.



### HUMANE POLICE

1119 LIVINGSTON AVENUE  
NEW BRUNSWICK, NJ 08901  
1.800.582.5979



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Steven Shatkin  
President

Larry Donato  
Vice President

August 30, 2017

Commissioner Robert J. Burzichelli  
State of New Jersey  
Commission of Investigation  
28 West Street  
Trenton, New Jersey 08625-0045

Dear Commissioner:

I have known Harry Levin from the moment he became our lawyer 20 years ago. During that time, I have come to know him exceedingly well and not once has he failed to support me, the Board, the Officers, or the members of the NJSPCA.

In addition to being extraordinarily talented as a lawyer, he has unfailingly been there for us, regardless of the situation and even in the face of personal embarrassment from members of the public. He faced those indignities with class and professionalism.

During much of the time, and certainly within the very recent past, as I served as Treasurer of the NJSPCA, I came to rely on his counsel and "presence" on a regular basis.

I know full well without the fear of contradiction that he has delivered substantial and constant services without being compensated.

Though we tried over the years to obtain the assistance of the Attorney General's Office to provide counsel, without Mr. Levin's unwavering commitment, I doubt whether the NJSPCA could have survived. Over the years, there have been serious and monumental problems, civil and criminal and Harry has been there for us.

During the 20 years, there have been adjustments to the amounts and manner in which the NJSPCA paid LevinCyphers invoices. Frequently, the NJSPCA did not have the funds to pay those fees and Mr. Levin did not falter and continued to represent us without hesitation. On many, many occasions I asked him to step in and help the organization and I knew at that time we did not have the funds to pay him, but legal services were needed.

It was through his singular efforts that the NJSPCA was able, through judicial process, to revoke the charter of the Hunterdon County SPCA after charges of animal cruelty were lodged. Mr. Levin had to face the efforts of multiple adversaries in his successful journey. His uncompensated services included working with the Hunterdon County Prosecutor and resolving pending criminal charges.

I now serve as the Chief Humane Law Enforcement Officer of the NJSPCA. It was upon my recommendation that Mr. Levin be issued "special prosecutor" credentials to assist him in his efforts to participate in prosecution of animal cruelty charges.

I want to make this perfectly clear, during all the years I served as Treasurer, I routinely received and reviewed invoices from LevinCyphers. I was always aware of billing rates and scope of services delivered as his invoices are detailed.

Every time there needed to be an adjustment to either his billing rates or our payment, it was fully discussed. I, along with the Board members who had access to invoices, was always aware of his charges.

It is important that it is known that Mr. Levin, with regularity, has discounted his bills, written off balances or provided pro bono legal services. Ironically, if we were to calculate all of the free work he has done, the discounts he has provided and the costs he has advanced, he might be the largest donor of the NJSPCA.

It must also be placed on the record that the extent of Mr. Levin's experience and talents has made him a constant source for business counseling. He not only defends the organization, especially where there is no insurance, he prosecutes cases (Storm) and protected individual members of the NJSPCA who have been sued.

I understand that the SCI has issued a report on Mr. Levin and his Firm and I disagree with their conclusions.

First, I do not believe Mr. Levin's fees are exorbitant or unreasonable. He has been practicing for almost 40 years, was a professor of law at Ocean County College, served as Governor's counsel, published scholarly articles and has represented some of the

state's largest corporations. Moreover, he served as the chair of a State Bar Association committee. Though there may be lawyers who charge less, but on occasion when we did use the services of another lawyer we were sorely disappointed. His rates are commensurate with lawyers in similar experience.

I am a business owner and I understand the invaluable benefit to have a lawyer like Mr. Levin at your fingertips. Frankly, Mr. Levin should be congratulated for his work.

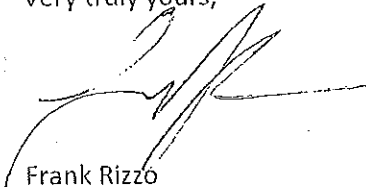
Let me be clear, incorrect media reports have said that I have not seen or reviewed legal bills or even more absurd that I threw his bills in the trash. As I testified, those reports are categorically denied.

I do not agree that Mr. Levin's bills are exorbitant. Admittedly they are large, but that is because the NJSPCA continues to be frequently sued and at any time there are as many as 6 separate pieces of litigation he is handling. If anyone contends that his bills are exorbitant they do not appreciate that it is because of the many suits and complaints filed against the NJSPCA. This work also includes extensive practice before regulatory agencies of the State of New Jersey.

Make no mistake, Mr. Levin shows up at night, on weekends and wherever he is needed from Warren to Cape May County on a moment's notice.

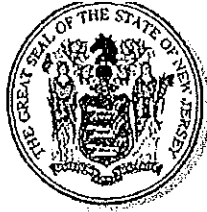
One of the major flaws in the SCI report is that they completely and improperly ignore the sheer extent of the legal matters the NJSPCA faces. Ignoring the scores of cases and matters he has handled and only focusing on the fees, misrepresents reality and casts Mr. Levin in an untrue and false light. It is unconscionable for the SCI to make outrageous conclusions on irrational facts.

Very truly yours,



Frank Rizzo  
Superintendent & Chief Officer

**Affirmation: I do solemnly, sincerely and truly declare and affirm that the statements made in this response are the truth, the whole truth and nothing but the truth.**



2017 SEP -8 AM 7:43

# New Jersey State S.P.C.A. Humane Police



1119 Livingston Avenue  
New Brunswick, NJ 08901



1.800.582.5979

Steven Jay Shatkin  
President

Larry Donato  
Vice President

August 29, 2017

## SCI Rebuttal

The NJSPCA has been entrusted by the NJ Legislature and the people of New Jersey since 1868 to protect and serve those without a voice - the animals. It is a mission we undertake every day, 24/7, 365 days a year, for no pay. It is an unfunded mandate by the state of New Jersey. We do not receive any financial support from the state yet are held to the same standard as every other state agency. That model might have worked in 1868, but it does not work today. Our biggest liability is the legal expenses we are forced to expend as the result of defending the NJSPCA in lawsuits that are brought against us by rogue county chapters who are non-compliant with the rules of charter ownership. Our requests to the Attorney General to assign a DAG to us have fallen on deaf ears so we are forced to defend ourselves in court. Despite this, the SCI has focused with laser-like precision on our high legal expenses. Sorry. You can't have it both ways. You can't complain about our legal expenditures yet offer no solution. Having a DAG assigned to the NJSPCA would remove an enormous amount of financial pressure we constantly face and allow us to redirect those funds back towards serving the animals we are sworn to protect.

The men and women of the New Jersey SPCA give selflessly and tirelessly of themselves to help others. This, on top of their full time jobs and family obligations. They are commissioned every two years by the State Police ensuring they are squared away. The law enforcement officers of the NJSPCA are held to a higher standard than any other law enforcement officer in the state. Despite this, we are denied equal footing when it comes to grants for safety equipment to protect our officers. The Attorney General's office has decided that a Humane Law Enforcement Officer is not equal to a Law Enforcement Officer. When asked to explain the difference, the silence was deafening. That distinction prevents us from applying for grant money which would save the NJSPCA a tremendous amount of money. The SCI would be better served by redirecting their attention to the SPCA County Charters that are non-compliant and cost the NJSPCA a tremendous amount of money.

The SCI Commission focused on my use of an SPCA vehicle to drive to work. If I had driven to our headquarters in New Brunswick from my house every day and done the same exact work I performed while at my job, there would be no issue. Driving to New Brunswick is 50 miles from my house. My New York office is 17 miles from my house. I use my personal E-ZPass for every single trip into New York. It cost the NJSPCA nothing. New York is my satellite office where a tremendous amount of work is accomplished every day. The Commission is trying to make this into an issue when in fact it is not. As President, I have meetings both before and after work. Using my SPCA vehicle is both practical and efficient, time wise.

As to your assertion that I am unfamiliar with aspects of our bylaws, I would say that it is you, the Commission, who are out of touch and unfamiliar with the NJSPCA and how it operates. During testimony, you asserted the board should have a role in law enforcement policy decisions. There are non-law enforcement members on the board. Why would you entrust law enforcement decisions to individuals with no law enforcement training or experience?

The SCI owes the hard working men and women of the NJ SPCA a debt of gratitude for remaining focused on the mission despite all the 'background noise' generated by unsubstantiated claims of wrongdoing.



Steve Shatkin  
President  
New Jersey Society for the Prevention of Cruelty to Animals  
201-954-3583

Affirmation: I do solemnly, sincerely and truly declare and affirm that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth.



New Jersey State S.P.C.A.



HUMANE POLICE

1119 LIVINGSTON AVENUE  
NEW BRUNSWICK, NJ 08901  
1.800.582.5979



STATE COMMISSION  
INVESTIGATION

SEP 8 AM 7:43

Steven Shatkin  
President

Larry Donato  
Vice President

September 6, 2017

Lisa Ciolino, Esq.  
State of New Jersey  
Commission of Investigation  
28 West Street  
Trenton, NJ 08625-0045

RE: Notice of Proposed Report  
Dissemination Number 17-08-004

Ms. Ciolino,

**NJSPCA Background**

As a member of the New Jersey SPCA since 1998, I have dedicated thousands of hours to ensuring the safety of the domestic animal population of New Jersey. This has included investigating more than 2000 animal cruelty complaints and taking off many days from my full-time job and spending time in Trenton and various other cities statewide in an effort of make the NJSPCA the most modern and advanced animal cruelty enforcement department in the nation. We have succeeded on many fronts.

The limited resources possessed by the NJSPCA to fight animal cruelty have hampered our administrative abilities at times, but not our spirit, willingness or desire to protect animals from abusers. Unlike all other state agencies, the NJSPCA receives zero funding from the state, but is statutorily mandated to provide a public service to the states' residents. That is unheard of; however, the dedicated men and women of the NJSPCA answer more than 5,000 cruelty complaints annually. All of this is accomplished on limited resources and through the generosity of the public.

As is the case in many organizations, the majority of work is done by a small number of individuals. This has been the case at the NJSPCA. Because the NJSPCA is our avocation, and not our full-time occupation, we make time during our normal work day in other careers, often to our own detriment, to accomplish our mission of fighting animal

Ms. Lisa Cialino  
NOTICE OF PROPOSED REPORT  
DISEMINATION NUMBER 17-08-004  
September 6, 2017  
PAGE 2

cruelty. This mission continues every day and evening of the week and on weekends, 365 days per year.

Many years of hard work and planning went into changing the laws surrounding the SPCA concept and the 2006 legislation reconstituting the NJSPCA and the county societies has been successful. Our members are properly trained and academy certified law enforcement professionals. The lone failure of the legislation is the lack of funding by the state for this mandated service.

#### **An Insider's Game**

The commission is holding the NJSPCA to the same standard as any full time, fully funded and paid agency of state government and frankly, that is unfair. Because of the lack of funding the NJSPCA is forced to rely on its members to raise the funds necessary to support the organization. That includes more than 40 weekend and full week events promoting the NJSPCA through the sale of merchandise. You have raised the issue of trustees benefitting and profiting by providing goods and services to the organization yet you make no mention of the funds raised by sale and use of these goods and services. You merely make it sound dirty and underhanded and nothing could be further from the truth. I notified the Board in writing of my ownership in my company and advised them in writing on my business transactions with NJSPCA. There was never any doubt that I was providing the organization with the highest quality merchandise at reasonable and fair prices. Just the same as any other vendor.

#### **Exorbitant Legal Bills**

You make reference to the NJSPCA Legal bills. As I testified and re-affirm here, all of the litigation faced by the NJSPCA, except for one instance, was filed against the NJSPCA as a defendant and required legal counsel. **All of these lawsuits were filed by former county spca branches that failed to carry out their statutorily mandated functions.** I have been sued personally in several of these cases because the NJSPCA and I did our job. Because the State of NJ will not provide a deputy attorney general to assist our organization, we did what any reasonable person or organization would do. We had no choice but to obtain private representation. Levin & Cyphers has always agreed to defend the NJSPCA and its members, in spite of the fact that we have limited resources and no help from the state. They have been generous with large reductions on their invoices and have successfully defended us for many years.

#### **Questionable Financial Practices**

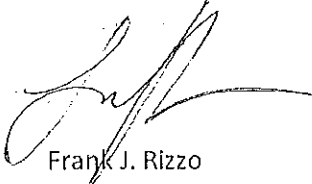
During my tenure as Treasurer the NJSPCA managed to stay in business and solvent in spite of extremely limited financial resources. In December 2011, Mr. Yocum, the president at the time, chose to take over responsibility for financial matters. In February



Ms. Lisa Cialino  
NOTICE OF PROPOSED REPORT  
DISEMINATION NUMBER 17-08-004  
September 6, 2017  
PAGE 3

of 2016, I resumed responsibility for financial matters and immediately instituted reporting all organizational transactions to the Board. In January 2017, all accounting functions were merged into a single department. Lastly, I address the 501(c)3 status of the NJSPCA. The loss of the non-profit status was a difficult time for the organization. We hired accounting professionals to ensure the organization was up to date on filings and we were assured all extensions were properly filed. Clearly the accountants failed the NJSPCA and put us in a tenuous position. Furthermore, the IRS did not send any notice or correspondence and never contacted us. As soon as it was discovered in October 2016, we took immediate steps to complete and file all 990 Forms. That was accomplished in three short months with it culminating in submission of the application for re-instatement on January 27, 2017. On June 22, 2017, the Internal Revenue Service re-instated the NJSPCA's non-profit status. There should be some mention of that in your report as well.

Sincerely,



Frank J. Rizzo

**Affirmation: I do solemnly, sincerely and truly declare and affirm that the statements made in this response are the truth, the whole truth and nothing but the truth.**



JB BROADCAST MEDIA, Inc.

RECEIVED

2017 SEP -8 AM 7:43

STATE COMMISSION  
INVESTIGATIONS

September 05, 2017

State of New Jersey  
COMMISSION OF INVESTIGATIONS  
28 West State Street  
P.O. Box 045  
Trenton, NJ 08625-0045

**Attn: Ms. Lisa N. Cialino – Esq.**

Dear Ms. Cialino:

This response is based on the limited pages of the SCI report supplied to us as of 9/5/17.

In 2012 JBBMI initiated a modernization of the NJ State SPCA financial records. Prior to that the agency was antiquated maintaining boxes of paper records. JBBMI took over processing the majority of their Accounts Payables and upgrading their record storage to digital. As a result, invoices are digitally stored and can be recalled via a simple computer search function.

At the same time JBBMI also began handling the majority of the NJSPCA Accounts Receivables. This involved processing thousands of receivables from statewide Municipal courts in the way of fines collected as well as donations made directly to the NJSPCA and other income.

In 2017 the NJSPCA asked JBBMI to take over and implement the same systems for their Community Services Division and we agreed to do so at no additional cost to the NJSPCA.

Since 2012 JBBMI has collected over \$452,000 in receivables on behalf of the NJSPCA and processed thousands of checks in payables to vendors.

JBBMI also maintains the Agency's various insurance policies in addition to handling OPRA requests from the public seeking documents from the NJSPCA.

When the SCI requested tens of thousands of documents regarding the NJSPCA for the period between 2012 and 2016, these documents were digitally transmitted within hours of the request.

As indicated in the SCI report, JBBMI performed these services for a very reasonable total cost of \$40,000 over a period of five years. We would also like to point out that the \$40,000 was inclusive of expenses such as software, stationery and stamps.

...(page 2)...

JBBMI is proud to have implemented these new procedures on behalf of the NJSPCA. We continue to process the NJSPCA Accounts Receivables and Payables ensuring that payments are deposited and/or distributed in a timely manner, track insurance policies, fulfill all Open Public Records Act requests and, most importantly, maintain accurate records for historical review.

We are pleased to have had minimal issues in the compliance of this SCI audit and reserve further comment pending the review of the complete SCI document.

Cordially yours,

*Joseph F. Biermann*

Joseph F. Biermann  
President

**Affirmation: I do solemnly, sincerely and truly declare and affirm that the statements made in this response are the truth, the whole truth and nothing but the truth.**







*State of New Jersey  
Commission of Investigation*