

## EXHIBIT "B": ANALYSIS IN SUPPORT OF MOTIONS

Based upon the information that has now come to light, I have analyzed the facts as follows:

In March of 1999, Ms. Rose Anne Fierro filed a complaint with animal control authorities concerning conditions that she observed at the home of Theresa Wilds. Ms. Fierro thereafter cooperated with animal control authorities in their ongoing investigation into those conditions, including supplying information to those authorities when requested to do so and making herself available to testify as a witness should that be necessary<sup>1</sup> .

After Ms. Fierro filed her complaint with the animal control authorities, Ms. Wilds, along with Ms. Athleen J. Conigliaro, Treasurer of DARE and a member of the DPCA COPE committee, and Ms. Sharon Hildebrand, chairperson of the DPCA COPE committee, filed formal charges under the DPCA disciplinary rules (set forth in Article VI of the DPCA By- Laws) against Ms. Fierro. The DPCA Board of Directors voted to "entertain jurisdiction" and to hold a hearing based upon the "re-stated" version of those charges which were presented to the Board in the latter part of June, 1999 (and which alleged, among other things, that by reason of the "public statements" made by Ms. Fierro she was interfering in legitimate Doberman Rescue activities and was causing Dobermans to be needlessly euthanized<sup>2</sup>). By that time, Ms. Fierro had also filed formal charges against Wilds, Conigliaro, and Hildebrand and the Board voted to entertain jurisdiction on those charges as well<sup>3</sup> .

The "public allegations" made by Ms. Fierro prior to and including the date of the hearing included, among other things, contact by way of letter with the DPCA President David Horton<sup>4</sup> ; contact with the DPCA Grievance Committee chairperson (yours truly) via email and letter<sup>5</sup> ; the establishment of a web site entitled "My Story: Rose Anne Fierro"<sup>6</sup> ; and her communications in conversations and over the internet with individuals during which she expressed her opinions and feelings concerning the proceedings in which she was involved, including the DPCA disciplinary hearing. The statements made in the web site are, in my opinion, factual in nature and do not cast the DPCA in a negative light. While I can only guess at what the statements made in private conversations may have been, under the First Amendment right to free speech Ms. Fierro is as entitled as the next person to her opinions, and to the freedom to express those opinions, even though others may take umbrage at the manner of her expression or disagree with her opinions.<sup>7</sup> Her communications also included responses to information requests from the animal control authorities who were involved in an ongoing investigation into the conditions at the Theresa Wilds residence, and her stated willingness to serve as a witness in any legal proceeding that might follow the conclusion of that investigation<sup>8</sup> . Such communications are most usually considered under the law to be privileged statements that cannot serve as the basis for claims for defamation so long as they are made in the good faith belief that they are true<sup>9</sup> .

The critical issue for purposes of the determination by the hearing committee of the charges brought against Ms. Fierro was whether or not Ms. Fierro's statements had the effect of interfering with legitimate rescue activities and causing dogs to be needlessly euthanized<sup>10</sup> . It is quite clear, from the correspondence that we now have from the animal control authorities that no dogs were euthanized as a result of any activities on the part of Ms. Fierro<sup>11</sup> and further that if there was a breakdown in relations between Doberman Rescue organizations in the Maryland and Virginia area and the animal control authorities in that area, it is the perception of the animal control personnel that the breakdown was due to the conduct of representatives in those rescue organizations<sup>12</sup> , and not as the result of any actions taken by Ms. Fierro.

Further, if anything caused the DPCA to be placed in a bad light in the eyes of the animal control authorities and the public at large, it was the conduct of its committee chairperson and a committee member who - in their "official" communications with these animal control authorities - used the position that they held on behalf of the DPCA to enhance their credibility in an apparent effort to bolster the case and to validate the actions of a person who repeatedly refused entry to animal control authorities and who failed to clean up her premises despite being given the opportunity to do so by the animal control authorities, and who was ultimately suspended from the DPCA because of her conduct.<sup>13</sup> The conduct of our Committee Chairperson and committee member in "using" the DPCA in this fashion, in my opinion, reflects poor judgment and the willingness to sacrifice the welfare of the DPCA, its members, and the breed that we are

sworn to protect, and the legitimate and important programs of the DPCA, to serve personal ends. As a member of the Board entrusted with the welfare of this organization and the breed, I feel that it is imperative for the Board to investigate this situation and to take appropriate action to assure that this type of situation cannot happen again. It is also my opinion that the COPE committee needs to be restructured so that there are oversight and reporting requirements that are enforced and so that the "official" actions of the committee are strictly controlled by the Board.

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1 See Exhibits 1, 2, 3, 4, 5 & 6 attached hereto.

2 See Footnotes 1 and 2 to Preamble and Motions.

3 This statement is based upon the file that I have maintained on this matter including copies of the "re-stated" charges in my possession (with the envelope they came in, post marked June 29, 1999) as well as materials sent by Rose Anne Fierro to "Mr. David Horton and Members of the Board of Directors, DPCA" dated July 3, 1999; the official DPCA records maintained by the Recording Secretary would be the primary source for these materials.

4 An "email copy" of Ms. Fierro's letter dated March 15, 1999 to Mr. Horton is attached as Exhibit 7; the attachments referenced therein should be in the official DPCA records.

5 See Footnote 7.

6 See Exhibit 8.

7 During our email communications, Ms. Fierro indicated that she wanted certain communications maintained in confidence, and I have therefore honored that request. However, the "public" communication that was transmitted to Mr. Horton on March 15, 1999, to the Board of Directors on July 3, 1999, and the letter from Ms. Fierro's attorney regarding the hearing procedures to be followed are a fair representative of the nature of the topics covered by her communications and the types of opinions being expressed, although not necessarily in exactly the same language. These documents should be part of the official DPCA file on this matter. Further, I think I can guess about the content of her statements to others because Ms. Fierro and I carried on an email correspondence over an approximate four months time period during which she expressed to me on numerous occasions her utter frustration and bewilderment over the DPCA procedures and why she was being made the object of charges, and also expressed, quite strongly at times, her opinion that the procedure she was being subjected to was wrong and misdirected and her concerns over the fairness of the procedure.

8 See Exhibits 1 through 6.

9 See, for example, California Civil Code § 47.

10 See footnotes 1 and 2 to Preamble and Motions. I am informed that the primary reason why the hearing committee voted to sustain charges against Ms. Fierro was the belief that Dobermans might be dying due to her activities causing interference with rescue. Unfortunately at the time the hearing on these charges was scheduled, animal control authorities would not disclose any information about the nature, extent, focus or goals of their ongoing investigation to the DPCA, though requested to provide this information by the DPCA Board. Similarly, the AKC would not provide information to the DPCA that would have assisted the DPCA in determining facts pertinent to this matter, although requested to do so by DPCA Board members.

11 See Exhibit 4 in which K.J. Umberger, Coordinator, Chesapeake Animal Bureau states: "Any insinuation that an investigation of Ms. Hildebrand's property by Chesapeake Animal Bureau caused her rescue operation to be 'shut down for 3 days' is false. No animals at Chesapeake Animal Bureau were euthanized due to its investigation or its outcome." Similarly, in Exhibit 5, Mr. George Whiting, Associate Director of Prince Georges County Animal Management Division, states, in reference to these allegations: "At no time did they refuse animals or stop working with the DARE representative. No Dobermans were

destroyed during that period. We have been accused of killing two Dobermans by refusing to work with DARE. This is not true, a good family adopted one dog and the other went to a rescue in the County who placed it in short order."

12 Mr. Whiting states, in his letter of November 10, 1999 to Dr. DiNardo: "There has been a battle on the internet and a letter writing campaign setting forth all kinds of accusations and false statements regarding me personally, the Animal Management Division, Chesapeake Virginia Animal Control, the Humane Investigator for the Prince George's County SPCA/Humane Society and one of the complainants, a Rose Anne Fierro. What amazes me most is that groups and individuals who profess to care for and protect these beautiful animals spread rumors, innuendos and make threats in support of an individual who is maintaining animals under inhumane conditions as defined by the law and by reasonable standards. When we work with rescues or foster groups we ask only that they abide with standards in keeping the animals and that they let us inspect locations where animals are being housed. If a Doberman Foster Group comes forth and meets these requirements, we will work with them in helping to save Doberman Pinschers. " See Exhibit 5.

13 In the letters and other communications provided to Dr. DiNardo by the animal control authorities in response to his request for information (some of which has already been incorporated into his report to the Board concerning this matter, Exhibit "A") those persons repeatedly point out the use by both Ms. Hildebrand and Ms. Conigliaro of "official" titles linking them to the DPCA COPE Rescue committee.