



UNITED SCHUTZHUND CLUBS OF AMERICA
For the German Shepherd Dog

October 4, 2020

To: USCA Board Of Inquiry
From: Vadim Plotsker, USCA President
Date: October 5, 2020
Re: BOI Charges against USCA Vice President Mark Scarberry

I am filing this Disciplinary Charge against Mark Scarberry for knowingly false testimony as a witness to the Board of Inquiry in my capacity as President of USCA as I am required to do by the Bylaws.

FACTS:

On January 9, 2020 USCA Secretary filed Board of Inquiry charges against USCA VP Mark Scarberry on behalf of USCA for conduct prejudicial to the interests of USCA as provided in Article XI, Section 1 of the bylaws. On April 16, 2020 the Board of Inquiry submitted their findings and recommendation regarding the charges. In the Board of Inquiry Report and Recommendations, "less than truthful" was numbered as Finding #1.

CHARGES:

Per USCA Bylaws Article XI, Section 3, Subsection h: In the event that Board of Inquiry determine that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter, and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interest of USCA.

REQUEST:

Mark Scarberry's actions of providing false testimony to the Board of Inquiry are a clear violation of the USCA Bylaws. Under Article XI, Section 3, subsection h of the Bylaws, providing false testimony to the Board of Inquiry is prejudicial to the interests of USCA. The Board of Inquiry can protect this organization and members from such future acts and conduct. Reference 2008 General Board meeting minutes, Item #7, in which the General Board unanimously ruled that the discipline for false testimony by a witness to the BOI is "suspension from all USA privileges for a minimum of one year." (Full GBM 2008 7text below)

"7. Dishonesty During BOI Investigations Motion by Sandy Purdy that in the event the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), and the Executive Board upholds the determination, the discipline shall be suspension from all USA privileges for a minimum of one year. Motion carried unanimously."

Attachment A: BOI Findings
Attachment B: BOI Interviews
Attachment C: Scarberry Response to BOI Charges
Attachment D: Scarberry Appeal

Sincerely,

Vadim Plotsker, President United Schutzhund Clubs of America

John J. CiFrino, Notary Public
My Commission Expires
July 19, 2022

ATTACHMENT A

April 16, 2020

To: UScA Secretary Michelle Clubb

Re: BOI investigation of VP Mark Scarberry

Charges/Investigation

Charges were filed on January 9, 2020 by Michelle Clubb that Vice President Mark Scarberry on 10/17/19 visited the office of UScA in St. Louis, MO and conducted an investigation of financial wrongdoing involving but not limited to, President Vadim Plotsker, Treasure James Alloway, UScA Judge Frank Phillips and member Kjersti Daabakk.

The charges also state that the unauthorized investigation took up to 4 hours of "company business" time away from the staff's duties without proper clearance by UScA President Plotsker.

Because of these charges and the actions therein VP Scarberry is also charged with "conduct unbecoming" of an Executive Officer, that is, conduct prejudicial of the interest of the Organization.

Michelle Clubb is seeking upon sustaining the charges that VP Scarberry be removed from office and prevented from further seeking any position of authority in UScA.

The BOI conducted interviews of UScA staff Deb Sweeney and Jody Donaldson as well as Executive Board members Plotsker, Alloway, Clubb and respondent Scarberry.

Based on these interviews and review of VP Scarberry's past behavior (removal of committee membership Track Layers/Helper) we, the BOI unanimously, find the following:

- 1) Scarberry was less than truthful in his interview. It was determined this investigation was solely done to benefit Scarberry and not in the best interest of UScA.
- 2) Scarberry could have easily asked for or assembled himself, a committee to look into any potential improprieties. The information was easily obtainable through other responsible and professional means, thus avoiding any conflict with the office staff.
- 3) Scarberry showed poor judgement and leadership skills in conducting an unauthorized investigation based on rumors. (Scarberry was asked who provided the information and refused.)
- 4) Scarberry did damage the reputation of the Executive Board by conducting the investigation.
- 5) Scarberry did distract staff from their assigned duties without proper authorization.

- 6) Scarberry's past behavior clearly has shown poor judgement, poor leadership and conduct unbecoming of an officer.
- 7) Scarberry by his actions has damaged the working ability and trust of the Executive Board.

The BOI has unanimously concluded that Scarberry has shown extremely poor judgement with this and prior behavior and because of this, the BOI is recommending Scarberry be immediately removed from his current position on the Executive Board and further be denied the opportunity to run for any position of authority in UScA for a period of three years from the date of this decision.

Sincerely,

John P Horan
Acting Chair, BOI

ATTACHMENT B

Jodi Donaldson Interview:

She said that nothing like this situation with Mark had ever happened in her 11 years with UScA and she felt uncomfortable with Mark's inquiries about other people not her. She told us that there was another person sitting there (who has since left UScA) while questions were being asked about credit card charges, etc. She said that she sat with Mark for 1 - 1½ hours and that Vadim called when Mark was in the office. Mark never said why he was looking into the information. She said that he did not bring Sieger Show paperwork and that he has not reached out to her since the office visit.

Debbie Sweeney Interview:

Debbie said that while she didn't feel uncomfortable, she felt that Mark was "fishing for something". She explained that while she was told that Mark might stop by in the future, she was surprised that he showed up so soon. She also said that Mark did not bring Sieger Show paperwork to the office. After Mark inquired about the credit card bills and the checks, Debbie offered to show him such paperwork. In regards to the check registry, she said "if you need a copy of it, I can print one for you". Debbie explained in details how she handles the treasury, accounts, and reports.

Jim Alloway Interview:

Jim said that he was aware of Mark's visit as Debbie called him 10-20 minutes after Mark departed. Jim said that Mark called in within the hour of leaving the UScA office, but Jim spoke just briefly to him since he had an urgent business phone call. They spoke again shortly before the GB meeting in Pittsburgh. Mark told him that he was investigating rumors about Jim and would not disclose the sources. Jim did not know that BOI charges were being filed prior to their submission. Jim felt that Mark's actions diminished the functioning of the EB and that Mark never shared any information with the EB that he learned during his visit.

Michelle Clubb Interview:

Michelle said that she learned of Mark's visit within a day or two from Debbie who conveyed to Michelle that she was made to feel uncomfortable by the visit. Michelle acting within her authority as the UScA Secretary filed the charges. Michelle noted that Mark's participation in EB matters are inconsistent with him not voting on 12 of the last 45 votes.

Vadim Plotsker Interview:

Debbie informed Vadim of Mark's visit and that Mark inquired about Vadim's and Jim's credit card statements. Mark told Vadim that he was investigating the possibility that Frank Phillip was funneling money to his ex-wife in regards to her participation in the Malinois world championship. Mark never mentioned an investigation regarding Jim Alloway based on rumors.

Mark Scarberry Interview:

Mark said that he stopped by the UScA going to a seminar in the Kansas City area in part to take Debbie out to lunch since she had announced her retirement. He also said that he dropped off Sieger Show paperwork. He said that he was interested in the magazine contract and in Frank Phillip was funneling money to his ex-wife. He said that Debbie printed out the check registry on her own volition. He inquired about some large charges and Debbie explained each. He stated that he did not violate any Bylaws by visiting the office. He said that some of the rumors/information that concerned him came from other EB members but would not elaborate. He spoke of the distant relationship and lack of communication between Vadim (UScA President) and himself (UScA Vice President). Near the close of the interview Mark stated "you (BOI) can make me go away". It was unclear what that meant. He also claimed that Michelle Clubb had given false information regarding the Bylaws to the BOI in her charging statements.

ATTACHMENT C

Basil Mangano

To: Mark Scarberry
Subject: Clubb and Scarberry USCA BOI Charges - Response of Mark Scarberry
Attachments: Scarberry Response to BOI Charges.pdf; Declaration of Mark Scarberry.pdf; Ex. A (Dec MS) Bylaw-2018.pdf; Ex. B (Dec MS) USCA Check Register#1.pdf; 2018 GBM Minutes.pdf; 2008 GBM Minutes.pdf; EB Motion 35-19.pdf

VIA UPS OVERNIGHT

Ms. Clubb:

Attached please find Mark Scarberry's response to your Charge. Also attached are the following:

Declaration of Mark Scarberry
Ex. A - Dec. of Scarberry - Constitution and Bylaws of USCA
Ex. B. - Dec. of Scarberry - Check Register
USCA 2008 GBM (Relevant Portions)
USCA 2018 GBM (Relevant Portions)

Please confirm receipt.

Regards,

+++++

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**BEFORE THE BOARD OF INQUIRY
UNITED SCHUTZHUND CLUBS OF AMERICA**

MICHELE CLUBB, USCA Secretary

Charging Party

and

MARK SCARBERRY, USCA Vice President

Respondent.

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BOI CASE NO.

**RESPONSE OF
MARK SCARBERRY**

Pursuant to Article IX, Section 2(e) of the USCA Constitution and Bylaws, Mark Scarberry ("Scarberry" or "Respondent") files this response to Michelle Clubb's ("Clubb" or "Charging Party") charges dated January 9, 2020. For the reasons stated below, the Board of Inquiry ("BOI") should not sustain the charges. A copy of this Response was mailed via electronic mail and overnight mail to the USCA Secretary, 744 Mt. Rushmore AV, Tracy, CA 95377 on February 10, 2020.

s/Mark Scarberry

I. PARTIES

Charging Party is the United Schutzhund Clubs of America ("USCA") Secretary. Respondent is a USCA member and Vice President of USCA.

II. PROCEDURAL FACTS

Charging Party preferred charges against Respondent on January 9, 2020, alleging violations of the Article VIII, Section 3(a) and (b) of the USCA Constitution and Bylaws ("Bylaws") and certain fiduciary duties ("Charges"). The Charges also appear to refer to certain regulations – which do not exist in the USCA Rules and Regulations or the Constitution and Bylaws of the USCA.¹ To the extent Charging Party knowingly characterized these as a part of the Bylaws, or the Rules and Regulations, her charges would be false, and deemed an abuse of the disciplinary process in violation of Article XI, Section 3 of the Bylaws, and Board resolutions. The relevant portions of the 2008 General Board minutes provide as follows:

7. Dishonesty During BOI Investigations Motion by Sandy Purdy that in the event the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), and the Executive Board upholds the determination, the discipline shall be suspension from all USA privileges for a minimum of one year. Motion carried unanimously. Motion by Mark Przybylski to adjourn.

Attached to the Charges are an email dated October 25, 2019 from President Vadim Plotsker to Respondent and a Memorandum dated November 10, 2016 from Jim

¹ Charging Party states "No member of USCA may take unauthorized time from the office staff. This includes the Executive Board members." Charge further states "Any member must get approval from the President when taking time away from USCA staff for non-primary work-related activities. This includes Executive Board members."

Alloway to Mark Scarberry.² The Charges do not contain any witness statements or any other evidence in support of the allegations and conclusions reached in the Charges. The Charges were received by Scarberry on January 13, 2020.

III. STATEMENT OF FACTS

On October 17, 2019, Mark Scarberry ("Scarberry" or "Respondent") visited the USCA office in St. Louis, Missouri. Respondent arrived around 9:30 a.m. and left roughly three and a half hours later. Prior to his visit, he was not aware of any regulation which prohibited him from visiting the USCA office or speaking with staff without authorization from the President. During his visit, Respondent was able to see the office space and visit with the office staff. Scarberry also inquired about two important matters — 3P Inc.'s contract, which has never been presented to the Executive Board for review³, and a rumor related to unauthorized expenditures.

While the Executive Board requires it to use a competitive bid process to select a company for the production of the USCA magazine, a competitive bid process was not used in selecting the current firm. Moreover, the Executive Board has not reviewed any contracts since at least 2010. The contract should have been reviewed in 2014, 2016 and 2018. When Respondent asked if he could see the current contract, he was told it was not available.

Scarberry also inquired about whether FMBB Team member Kjersti Dabakk was reimbursed for Team participation for the April 2018 FMBB Championship in France. In

² The BOI should not consider the Memorandum as it is not relevant to the Charges, and concerns conduct which occurred more than one year before the Charges were filed.

³ EB Ballot #02-12.

response, Debbie Sweeney checked the register but could not find any checks issued to Dabakk. Debbie said, "if any large checks were written, it would be under Frank Phillips name, because it was a family membership." Scarberry never mentioned Frank, and said nothing about investigating Frank Phillips. On her own accord, Debbie printed the check register sheet, April 1, 2018 through July 1, 2018. On pages 1 and 2 of the check register, there were two large monthly credit card bills in the amounts of \$7,794 and \$12,022. Scarberry asked Debbie who/what those charges were for. She said, "one was the Office card to pay the SV expenses." I said, "OK, I understand." Satisfied with her response, Scarberry did not ask for itemized credit card statements.

On October 18, 2019, Vadim Plotsker called Scarberry at 1:00 p.m. CST leaving a message for Scarberry to return his call. When Scarberry returned the call, Plotsker was very agitated and aggressive and said, "if I want to be President of USCA – beat me in an election." He said, "I had no business going to the Office and asking questions about finances of the organization." Scarberry explained that he delivered paperwork for the Siegler show, observed how the office handles day to day affairs, learned about how new software, which the Executive Board approved \$15,000 to update improved the old software, talked with the staff to hear their thoughts, and inquired about Dabakk reimbursement for FMBB Team and magazine contract. Plotsker did ask me to name the 'sources' for the rumors surrounding Dabakk. Scarberry did not name any sources. Scarberry explained he did question the largest credit card bill after Debbie printed the report. He made it clear that he was not looking into anything he did as Treasurer, or President. After his explanation Vadim seemed much calmer, he reiterated, "I have nothing to hide." The phone call ended in a friendly outcome.

On October 25, 2019, Plotsker sent an email to the members of the Executive Board. Contrary to the allegations in the Charges, Plotsker noted Scarberry "got to see the new space and visit with Jody and Debbie." He also noted he "had a chance to talk with Mark earlier this week about his experience, what he learned about our bookkeeping and accounting. Finally, he stated "I know many of us don't get a chance to come to the office . . . Mark, what knowledge gleaned can you share with the board? Are there any follow-up actions that we need to address? Thanks... V" Scarberry did not respond to his email as he had already spoken with Plotsker.

Scarberry also reached out to Jim Alloway to report his visit to the USCA office. He told much the same he told Plotsker. The call was short and ended with Jim telling Scarberry he had an emergency at work and would call him when he was finished. Jim never returned the call. On October 31, 2019 prior to the General Board Meeting, Scarberry asked to speak with Alloway, because he had heard 'through the grapevine' that he was upset with him for visiting the Office. Jim said, " he was very angry with me regarding that visit." He told Alloway about the Dabakk matter. Alloway asked, "who were those people." When Scarberry did not disclose the names, Alloway became more agitated and angrier. Scarberry did say, "that my visit would be a benefit if his office was ever criticized." He just walked away without comment.⁴

⁴ The Statement of Facts is supported by the Declaration of Mark Scarberry. (Exhibit A, Dec. of Scarberry.)

IV. ARGUMENT

A. *Summary of Argument*

Article XI of the of USCA Bylaws provide that “[a]ny full member of the USCA may prefer charges against any USCA club and/or USCA member for violating USCA *regulations* or for conduct that is prejudicial to the interests of the USCA.” Because the Charges do not state a violation of a “regulation,” and fail to demonstrate “conduct prejudicial to the interests of the USCA,” the Board of Inquiry should not sustain the Charges.

B. *The Charging Party Failed to Demonstrate a violation of USCA Regulations or Bylaws.*

The Charges fail to state a violation of the Bylaws. The Charges allege a violation of Article VIII, Section 3(a). This provision sets forth the duties of the President. Specifically, it provides the President exercises supervision over the association and its activities and employees. . . . The President employs and manages all the paid staff for USCA.” The stated obligations are those of the President, and therefore, any violation of the provision must be limited to the President, not the Vice President. Likewise, Section 3(b) states the obligations of the Vice President. Had Respondent failed to assume the duties of the President, a violation might be alleged, but no such facts are present here. Contrary to the Charging Party’s assertions, neither provision prohibits a USCA officer or member from:

- Visiting the USCA office
- Speaking with staff at the USCA office “without authorization”
- Inquiring about expenses or unauthorized contracts
- Taking “unauthorized time” from the office staff, or for that matter,
- Conducting a “secret” investigation

Indeed, Charging Party attempts to glean violations of the Bylaws by asserting Respondent violated certain office rules, i.e., he took unauthorized time from the office staff, and failed to get approval from the President for his visit or taking time from office staff. To be clear, nothing in the Bylaws or the Rules and Regulations proscribes this activity, and therefore, cannot serve as a basis of any charge.⁵ If the BOI were to sustain such a charge, it is clear it would deny Respondent of an essential due process right – advance notice of conduct which may lead to discipline. Even so, Scarberry was not aware of any such office rules, and therefore did not act deliberately. Accordingly, the BOI should not sustain the Charges.

C. The Charging Party Failed to Allege, Let Alone Demonstrate, Conduct Prejudicial to the Interests of the USCA.

Conduct prejudicial to the interests of the USCA must serve to humiliate, embarrass or expose the association in the public realm. A mere internal dispute, which remains private, cannot prejudice the interests of the USCA. Even if an internal dispute could rise to the level of prejudicial conduct, Charging Party has not demonstrated, or even alleged, how Respondent's visit harmed the interests of the USCA. It cannot be

⁵ More significantly, to the extent Charging Party has characterized these alleged rules as Bylaws, her statement would be false and misleading in violation of Article XI, Section 3(h) of the Bylaws. Section 3(h) provides, in part, as follows:

In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.

stressed enough that the Charging Party offered *no* evidence in the form of witness statements which demonstrate harm to the USCA. The Charges only state conclusions without facts or support, and even then, do not allege harm to the USCA, but only to current and former Executive Board members and office staff. For example, "Mark Scarberry's actions have damaged the reputation of Executive Board members . . . Mark Scarberry's actions also implicate and smear the reputation of our office staff."⁶ These allegations are highly ironic, given the Charging Party devoted an entire paragraph to Respondent's history of "poor judgment and poor conduct," which is entirely irrelevant to these charges, and cannot serve the basis of any charge.

More importantly, the reaction to one Board member's visit to the USCA office, his inquiry into a \$15,000 software purchase, the magazine contract and expenses should be one of transparency, rather than retaliatory BOI charges. Contrary to the allegations in the Charges, Respondent, as a Board member, had a right to request information regarding the software, the magazine contract and expenses. More significantly, he has a fiduciary obligation to ensure the Association's treasury is spent for its stated purposes.

Members and officers are permitted to inquire, to obtain information and seek out the truth. The USCA and its Boards must encourage this of its members and officers and be vigilant in ensuring the organization is entirely transparent. Contrary to Charging Party's allegations, the act of seeking information from an office employee did not cripple

⁶ The latter allegation is especially troubling as it is based on an assumption of the Charging Party. Astoundingly, the Charging Party concludes Respondent smeared the office staff's reputation because no officer could misappropriate funds without cooperation and complicity from the office staff. A conclusion entirely drawn by the Charging Party without any evidence, and certainly not supported by any acts or statements of Respondent.

the organization, or the operation of the Board. Protests, anger or indignant attitudes in response to such inquiries, however, are suspicious, and will sadly breed distrust.

V. CONCLUSION

For the reasons stated above, the BOI should not sustain the Charges.

s/Mark Scarberry

SWORN DECLARATION OF MARK SCARBERRY UNDER 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct:

1. On October 17, 2019, I, Mark I, visited the USCA office in St. Louis, Missouri. I arrived around 9:30 a.m. and left roughly three and a half hours later.
2. Prior to my visit, I was not aware of any regulation or bylaw which prohibited me from visiting the USCA office or speaking with staff without authorization from the President. As far as I know, there has never been any such rule, regulation or bylaw. (Exhibit A, Constitution and Bylaws of USCA.)
3. During my visit, I was able to see the office space and visit with the office staff. I also inquired about two important matters — Jorry [Heinrich-Rode's — 3P Inc.] contract, which has never been presented to the Executive Board for review¹, and a rumor related to unauthorized expenditures.
4. While the Executive Board requires it to use a competitive bid process to select a company for the production of the USCA magazine, a competitive bid process was not used in selecting the current firm. Moreover, the Executive Board has not reviewed any contracts since at least 2010. The contract should have been reviewed in 2014, 2016 and 2018. When I asked if he could see the current contract, I was told it was not available.
5. I also inquired about whether FMBB Team member Kjersti Dabakk was reimbursed for Team participation for the April 2018 FMBB Championship in France. In response, Debbie checked the register but could not find any checks issued to Dabakk.

¹ EB Ballot #02-12.

Debbie said, "if any large checks were written, it would be under Frank Phillips name, because it was a family membership." I never mentioned Frank, and said nothing about investigating Frank Phillips. On her own accord, Debbie printed the check register sheet, April 1, 2018 through July 1, 2018. On pages 1 and 2 of the check register, there were two large monthly credit card bills in the amounts of \$7,794 and \$12,022. I asked Debbie who/what those charges were for. She said, "one was the Office card to pay the SV expenses." I said, "OK, I understand." Satisfied with her response, I did not ask for itemized credit card statements. (Exhibit B, Check Register.)

6. On October 18, 2019, Vadim Plotsker called me at 1:00 p.m. CST leaving a message for me to return his call. When I returned the call, Plotsker was very agitated and aggressive and said, "if I want to be President of USCA – beat me in an election." He said, "I had no business going to the Office and asking questions about finances of the organization." I explained that he delivered paperwork for the Siegler show, observed how the office handles day to day affairs, learned about how new software, which the Executive Board approved \$15,000 to update improved the old software, talked with the staff to hear their thoughts, and inquired about Dabakk reimbursement for FMBB Team and magazine contract. Plotsker did ask me to name the 'sources' for the rumors surrounding Dabakk. I did not name any sources. I explained he did question the largest credit card bill after Debbie printed the report. I made it clear that he was not looking into anything he did as Treasurer, or President. After his explanation Vadim seemed much calmer, he reiterated, "I have nothing to hide." The phone call ended in a friendly outcome.

7. On October 25, 2019, Plotsker sent an email to the members of the Executive Board. Contrary to the allegations in the Charges, Plotsker noted I "got to see

the new space and visit with Jody and Debbie." He also noted he "had a chance to talk with [me] earlier this week about his experience, what [I] learned about our bookkeeping and accounting. Finally, he stated "I know many of us don't get a chance to come to the office . . . Mark, what knowledge gleaned can you share with the board? Are there any follow-up actions that we need to address? Thanks... V" I did not respond to his email as I had already spoken with Plotsker.

8. I also reached out to Jim Alloway to report his visit to the USCA office. I told him much the same thing I told Plotsker. The call was short and ended with Jim telling me he had an emergency at work and would call me when he was finished. Jim never returned the call. On October 31, 2019 prior to the General Board Meeting, I asked to speak with Alloway, because I had heard 'through the grapevine' that he was upset with me for visiting the Office. Jim said, "he was very angry with me regarding that visit." I also told Alloway about the Dabakk matter. Alloway asked, "who were those people." When I did not disclose the names, Alloway became more agitated and angrier. I did say, "that my visit would be a benefit if his office was ever criticized." He just walked away without comment.


Mark Scarberry

Dated: 2/9/20

ATTACHMENT D

BEFORE THE EXECUTIVE BOARD UNITED SCHUTZHUND CLUBS OF AMERICA

MICHELE CLUBB, USCA Secretary)	BOI CASE NO.
)	
Charging Party)	
)	
and)	APPEAL OF
)	MARK SCARBERRY
MARK SCARBERRY, USCA Vice President)	
)	
Respondent.)	

Pursuant to Article IX, Section 4 of the USCA Constitution and Bylaws, Mark Scarberry ("Scarberry" or "Respondent") files this Appeal to the Executive Board's approval of the BOI's recommendation concerning Charges filed by Michelle Clubb dated January 9, 2020. For the reasons stated below, the Executive Board and BOI decision should be overturned. Also, as explained in the body of this Appeal both the Secretary (Charging Party), the President (an admitted witness with an axe to grind), and Member Alloway (witness) must be recused from any roll whatsoever in this appeal. A copy of this Response was mailed via electronic mail and overnight mail to the USCA Secretary, 744 Mt. Rushmore AV, Tracy, CA 95377 on May 11, 2020.

Respectfully submitted,

s/Joseph J. Guarino III

Joseph J. Guarino III (0079260)
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jguarino@bmanganolaw.com

Counsel for Respondent

I. PARTIES

Charging Party was the United Schutzhund Clubs of America ("USCA") Secretary. Respondent is a USCA member and Vice President of USCA.

II. PROCEDURAL FACTS

Charging Party preferred charges against Respondent on January 9, 2020, alleging violations of the Article VIII, Section 3(a) and (b) of the USCA Constitution and Bylaws ("Bylaws") and certain fiduciary duties ("Charges"). The Charges also referred to non-existent regulations in the USCA Rules and Regulations or the Constitution and Bylaws of the USCA.¹ To the extent Charging Party knowingly characterized these as a part of the Bylaws, or the Rules and Regulations, her charges would be false, and deemed an abuse of the disciplinary process in violation of Article XI, Section 3 of the Bylaws, and Board resolutions. The relevant portions of the 2008 General Board minutes provide as follows:

7. Dishonesty During BOI Investigations Motion by Sandy Purdy that in the event the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), and the Executive Board upholds the determination, the discipline shall be suspension from all USA privileges for a minimum of one year. Motion carried unanimously. Motion by Mark Przybylski to adjourn.

Attached to the Charges are an email dated October 25, 2019 from President Vadim Plotsker to Respondent and a Memorandum dated November 10, 2016 from Jim

¹ Charging Party states "No member of USCA may take unauthorized time from the office staff. This includes the Executive Board members." Charge further states "Any member must get approval from the President when taking time away from USCA staff for non-primary work-related activities. This includes Executive Board members."

Alloway to Mark Scarberry.² The Charges contained no witness statements or any other evidence in support of the allegations and conclusions reached in the Charges. The Charges were received by Scarberry on January 13, 2020. The matter was referred to the Board of Inquiry. During the BOI's investigation, Respondent submitted a position statement, evidence, and participated in a telephone interview.

Appearing to have ignored Scarberry's evidence and argument in their entirety, on April 16, 2020, a clearly erroneous report and recommendation was made. The BOI's Report and Recommendation notes that three executive board were interviewed in addition to Scarberry—Charging Party, and Secretary Clubb, President Plotsker, and Alloway. Then, without any explanation or reasoning for how its factual findings related to conduct specifically within the past year could reasonably constitute a violation of Article III of the Bylaws or constitute conduct prejudicial of the interests of the organization, it found Scarberry guilty and then sought to impose a punishment never levied against any member or officer in the history of the organization—a removal from office and a debarment from holding office for three years.

That Report and Recommendation was then delivered to the Executive Board to deliberate whether to accept, modify, or reject as per its duties under the Organization's Bylaws. Once the matter progressed to the Executive Board to review the BOI Findings under Article XI, Section 3(C), the Board undertook, apparently, an email chain

² The BOI should not consider the Memorandum as it is not relevant to the Charges, and concerns conduct which occurred more than one year before the Charges were filed.

deliberations, some of which came to be in the possession of the Respondent. Each of those email chains demonstrate clear impropriety in the proceedings below.

The first email chain was from April 19, 2020. It reads:

On Sun, Apr 19, 2020 at 5:31 PM foxtal <foxtal@aol.com> wrote:

Sorry-- trying to work this all out from an evidentiary point of view. One more question:

Did Mark make a response to the charges? Do we get to see that? We see only in the charges that he was "less than truthful" but what was his response? Thanks again.

Debra Krsnich

* * * *

On Apr 19, 2020, at 6:29 PM, Dennis Vander Linde <fullgripga@gmail.com> wrote:

Hi Deb,

Our process does not provide for the EB to receive any of the evidence, including Mark's response. All of that is considered confidential to the BOI. We have historically allowed the complaint to come forward to frame the situation and give context. We can only assume that evidence was gathered by the BOI from both sides of the issue. That EB will not be privy to that evidence nor should we be.

As it always has, this creates an odd situation for the EB. The EB is tasked with evaluating the BOI recommendation, in this case guilty, but we are not to retry the case. If EB were to do that, there would be no need for the BOI. The EB is to presume that the BOI did its job thoroughly and got it right. Being a DAL and part of several appeals of BOI findings, I found myself needing to explain to my fellow DALs (when one has not been through a BOI findings appeal before) that on an appeal we are not to retry the case as that again would lead to no need for the BOI.

The questions you pose are good and need to be answered for the benefit of all of us. Thanks for asking and I will try to answer of them that I can.

Regards,

Dennis

* * * *

On Sunday, April 19, 2020, Vadim Plotsker <workhardplayhardv@gmail.com> wrote:

All,

I appreciate very much all your honest discussion. I was one of the people the BOI interviewed. I was truthful and honest with the BOI.

I was and am still disgusted with what happened. I personally confronted Mark after his visit and told him: "If you want to be President this bad, you don't need to stoop this low." Mark said to me that it wasn't about me, It was about Frank Phillips taking USCA money to pay for his wife's FMBB trip, which never happened.

This is where I stand:

- As President of USCA, I travel a lot to Europe and domestically; I don't submit my travel for reimbursement, it's a donation I make to USCA.
- As a USCA Judge, there's been times when I've paid my own travel and hotel. I've never charged any club a judging fee, ever.
- I always try to sponsor a trophy at every regional and national event.
- The legal battle with FCI/VDH, I never used USCA money and paid from my family's savings for all travel and all legal expenses to get SV judges back and win respect for WUSV.

Attached please find my USCA credit card statements for 2019. If you have questions regarding any charges I will answer them. (The GoDaddy and Wix charges are transfers from Charlie after he passed away.)

What transpired is beneath all of us and as BOI states "It was determined this investigation was solely done to benefit Scarberry..."

Long live the German Shepherd and USC

A second email chain also came to be in possession of the Respondent. It reads:

On Thu, Apr 23, 2020, 9:31 AM Dena McGowan <dvmtxschh@aol.com> wrote:

Sorry to be missing from the discussion. We have been crazy busy at the clinic. I think folks are at home and noticing more what their dogs and cats are doing :-)

Robin makes some good points. We must also remind ourselves to base our decision only on this case and not past behavior.

The question is "Did Mark break the rules?". It would seem according to the bylaws that he did.

Dena

* * * * *

-----Original Message-----

From: Diane OBrien <dianerdnw@gmail.com>

To: Dena McGowan <dvmxschh@aol.com>

Cc: Michele Clubb <1k9uzi@gmail.com>; Al Bartlson <abartelson@me.com>; foptal <foptal@aol.com>; fullgripga <fullgripga@gmail.com>; don <don@rebelyelle.com>; dyelle3 <dyelle3@yahoo.com>; mcgillig <mcgillig@bellsouth.net>; huttwo34 <huttwo34@comcast.net>; uscajudgetheis <uscajudgetheis@yahoo.com>; allowayusca <allowayusca@gmail.com>; k9diehl <k9diehl@aol.com>; mdsweeney3 <mdsweeney3@yahoo.com>; workingdogs <workingdogs@sbcglobal.net>; pjimenez5 <pjimenez5@verizon.net>; rmshook <rmshook@hotmail.com>; robin.m.ayling <robin.m.ayling@gmail.com>; teresacowart <teresacowart@hotmail.com>; workhardplayhardv <workhardplayhardv@gmail.com>

Sent: Thu, Apr 23, 2020 6:32 pm

Subject: Re: ****CONFIDENTIAL**** EB Motion #11-20 - Accept the BOI findings regarding charges filed against Vice President Mark Scarberry

If you haven't gone and reread the bylaws yourself, I suggest everyone do.... what was presented are little pieces and a lot of prejudicial commentary to attempt to sway one's decision. At first blush, I thought wow this is in the bylaws? But most is not. Read it and determine if you can extrapolate out the same that was presented in the complaint.

In my line of work, we have a saying, "The power of the pencil" ... meaning if you are a good writer and can add your opinion and interpretation and make it sound like its the law, you can persuade many to take your side. This complaint was written very cleverly!!

Additionally, this process needs a lot of work! As I stated to a few individually, the actions of this EB need to be above reproach. I do not feel this has been above reproach! I was told that no new information was given that the BOI didn't already know, so what's the harm?..... well if you are telling us we can only see the BOI's recommendation, then that's all we should see from both sides! But that was not there case here.

I was also told the EB was able to amend the BOI decision if we felt the penalty was not appropriate.... I see no avenue for this. So was that bad information?? If this is available, what is the process??

I have heard, "this is how its always been done" by several. I ask, does that make it right?? I believe it was Pedro that said if this goes to a law suit, the whole EB is involved.. something to think about.... just because this is SOP doesn't make it fair and equitable for all involved. ... doesn't make it above reproach....

Thanks

Diane

* * * *

On Thu, Apr 23, 2020 at 8:03 PM Dena McGowan <dvmtxschh@aol.com> wrote:

It was done to a recommendation of the BOI when I was the chair in 2000 at the GBM. In that case the penalty was made stiffer. It is also the reason that I quit the BOI saying that if the Board was going to overrule the BOI, why did we bother to have a BOI?

Can whoever who made the original post about the bylaws? I and some others would like to reread it or look up the relevant parts without having to dig through the entire bylaws.

Dena

I was also told the EB was able to amend the BOI decision if we felt the penalty was not appropriate.... I see no avenue for this. So was that bad information?? If this is available, what is the process??

* * * *

On Friday, April 24, 2020, Dennis Vander Linde <fullgripga@gmail.com> wrote:

All:

A little more on our process regarding the EB approving BOI findings.

- Once the BOI findings are presented to the EB, we should not be swayed in our vote based on specific facts of the case. There is no way we will ever be able to get a complete version without retrying the case. Even if Mark did provide statement(s), they are not considered by us if they involve a reiteration of facts already presented. Conversely, none of us should have been swayed or moved by what Michelle wrote and that is why the USCA attorney supported conversation within the EB including Michele.
- We are only to review the BOI findings for egregious mistakes. Examples are: (i) the BOI gave a consequence that was not available to us; (ii) there was a huge disparity

between findings and consequence (e.g., a person called a judge a jerk and the BOI banned person for life); and (iii) the EB had info that the BOI was unfairly influenced. Again, the EB is to not retry the case. To answer one of Pedro's earlier questions, this is how the American court system works too. For example, higher courts (i.e., Appellate and Supreme) do not hear all of the facts of the case again.

- We would be violating our own Bylaws to retry this case. That would create much greater legal exposure than us supporting the BOI findings.
- All of the above have been completely reviewed, approved, and defended by the USCA attorney.
- To my knowledge, and perhaps Nathaniel can speak to this more accurately since he has been on the EB longer than me, the process has been the same for a long time. I do not recall concerns of this magnitude regarding this process once everyone on the EB understood the process. I hope that sharing information about the process is helpful. An observation to share. This EB recently approved the BOI findings regarding Chris Greene without questioning the process. Other BOI cases over the past couple of years that also did not question the process were related to members:
 - Anjuli Kolarik
 - Abhai Kaul
 - Christopher Lucas
 - Chris Thompson

Lastly, I would like to mention that in this BOI case, the findings of the BOI were unanimous. That is significant to me as there is diverse representation on the BOI, which is great including a past Secretary of USCA, and that generates varying and diverse points of view. That gives me confidence in the BOI's findings regarding this case.

Regards,

Dennis

Finally, a third email chain now in the possession of Respondent demonstrates the extent of Michelle Clubb's impermissible involvement in the Executive Board's deliberations. These emails read:

On Monday, April 20, 2020, Michele Clubb <1k9uzi@gmail.com> wrote:

Since I provided the EB with the charges I filed and all details I had, I wasn't planning to say anything further as I don't want to someone to feel I was trying to persuade their vote either way. However I do want to share a few things with everyone why I did file the charges.

I personally have never had any issues with Mark. He has been nothing but nice and professional with me. Filing the charges was NOT personal. And obviously I took time to think about filing the charges as I learned of his visit shortly after and I didn't file the charges until mid January. So this was not done without lots of thought.

- The office staff felt intimidated by Mark being in the office. It was clear to them he was there not for the good of USCA. He clearly stated to them "do not tell anyone about my visit, lets just keep it between us". If Mark was doing an investigation in the best interest of USCA, there would be no need to make this comment. I did speak to office staff myself and even at Nationals one was still very uncomfortable about the visit.
- Regarding Deb's statement she hasn't heard any USCA member talking about Mark's visit so how does this reflect negatively on USCA? It is my thought and only my opinion since Mark didn't find what he was looking for he didn't "talk" to people about his visit. However, if it was to ever get out to the membership he made this visit and people questioned the violation of the Bylaws and I didn't act on the violation, then it would look like a "cover-up". For as long as I have been involved in USCA I have heard several times the EB just covers "things" up or its the good old boys club or the Missouri Mafia is at it again. So I felt it was in the best interest of USCA to have the BOI, an independent (elected by the membership) committee to investigate the violation.
- Had Mark came to any other member of the EB and expressed his concerns and his desire to look into the allegations that had been brought to his attention it would have shown he was not doing this investigation to solely benefit himself. However, to my knowledge he never contacted anyone. His lack of response to Vadim's email about his visit to me showed that again this visit was purely to benefit Mark. He didn't respond regarding anything good or bad on what he found about the way the office functions. Remember this was about the time the EB had voted on approving \$15,000 for a new database for the office, however he didn't even comment to the EB on what he saw regarding the database even when Vadim asked him in the email.
- If Mark had questions about expenses why didn't he bring it up after the treasurer report was sent out? Why didn't he ask questions at the GBM? Again to me shows he was not there for the right reasons.
- Yes Mark did respond to the charges and then was interviewed by the BOI

The below comments played NO part in my decision to file the charges:

- When his club hosted Nationals in 2014, I did witness him yell, scream and degrade his own club members and friends in front of others.
- At Nationals 2019 I was approached by two USCA members who expressed their concerns with him and how he had handled a regional meeting recently. I advised them that they should consider filing BOI charges against him if they felt there were violations of the Bylaws. Based on what they told me there was a clear violation. Out of fear retaliation they decided not to file the charges. They advised me of their decision not to file was AFTER I had filed charges. I was under the impression all along they were going to file. I even have their statement, was just waiting for a notarized letter and filing fee.

Again these comments are not to persuade you to vote either way. I just wanted to answer a couple questions that Deb had that Dennis hadn't already covered in his response to her other questions. If you have further questions please feel free to give me a call.

Michele Clubb
USCA Secretary

Way Out West Schutzhund Club President

Northwestern Assistant Regional Director

Cell# 209-610-3502

* * * *

On Tuesday, April 21, 2020, Michele Clubb <1k9uzi@gmail.com> wrote:

The BOI found that Mark could have assembled a committee if he felt there was any wrong doing. However our Bylaws already have in place a committee that is elected by the membership to look over our records. To my knowledge and based on the BOI findings Mark did not consult with them before going to the office. Had he done that, it would have again shown he was looking out for the best interest of USCA and not himself.

Michele Clubb
USCA Secretary

Way Out West Schutzhund Club President

Northwestern Assistant Regional Director

Cell# 209-610-3502

Sent from my iPhone - please excuse misspellings, grammatical errors, and occasional brevity.

As would be expected based upon the misconduct demonstrated in the foregoing correspondence, which includes but was not limited to presentation of additional evidence by the President, the consideration of only one side of the story, and the inclusion of the Charging Party in correspondence related to the Board's deliberation, on April 25, 2020 the Executive Board approved the BOI's Report and Recommendation. In delivering notice of that decision to the Respondent, which was received April 28, 2020, the Charging Party signed the letter on behalf of the Board. The Notice also failed to indicate the vote total, and more importantly, the number of votes cast. Clearly, given the Charging Party's role in bringing the Complaint, the President's role as a witness and provider of testimony directly to the Executive Board, and Mr. Alloway being a witness there should have been at minimum three recusals. Yet, no such recusals were noted in the documents delivered to the Respondent, and only an April 23, 2020 recusal by

the President is present in the deliberations. Of course, that recusal was well after presenting testimony to the Board during its deliberations.

III. STATEMENT OF FACTS

On October 17, 2019, Mark Scarberry (“Scarberry” or “Respondent”) visited the USCA office in St. Louis, Missouri. Respondent arrived around 9:30 a.m. and left roughly three and a half hours later. Prior to his visit, he was not aware of any regulation which prohibited him from visiting the USCA office or speaking with staff without authorization from the President. During his visit, Respondent was able to see the office space and visit with the office staff. Scarberry also inquired about two important matters – 3P Inc.’s contract, which has never been presented to the Executive Board for review³, and a rumor related to unauthorized expenditures.

While the Executive Board requires it to use a competitive bid process to select a company for the production of the USCA magazine, a competitive bid process was not used in selecting the current firm. Moreover, the Executive Board has not reviewed any contracts since at least 2010. The contract should have been reviewed in 2014, 2016 and 2018. When Respondent asked if he could see the current contract, he was told it was not available.

Scarberry also inquired about whether FMBB Team member Kjersti Dabakk was reimbursed for Team participation for the April 2018 FMBB Championship in France. In response, Debbie Sweeney checked the register but could not find any checks issued to Dabakk. Debbie said, “if any large checks were written, it would be under Frank Phillips

³ EB Ballot #02-12.

name, because it was a family membership.” Scarberry never mentioned Frank, and said nothing about investigating Frank Phillips. On her own accord, Debbie printed the check register sheet, April 1, 2018 through July 1, 2018. On pages 1 and 2 of the check register, there were two large monthly credit card bills in the amounts of \$7,794 and \$12,022. Scarberry asked Debbie who/what those charges were for. She said, “one was the Office card to pay the SV expenses.” Scarberry said, “OK, I understand.” Satisfied with her response, Scarberry did not ask for itemized credit card statements.

On October 18, 2019, Vadim Plotsker called Scarberry at 1:00 p.m. CST leaving a message for Scarberry to return his call. When Scarberry returned the call, Plotsker was very agitated and aggressive and said, “if [Scarberry] want[s] to be President of USCA – beat me in an election.” He said, “[Scarberry] had no business going to the Office and asking questions about finances of the organization.” Scarberry explained that he delivered paperwork for the Siegler show, observed how the office handles day to day affairs, learned about how new software, which the Executive Board approved \$15,000 to update improved the old software, talked with the staff to hear their thoughts, and inquired about Dabakk reimbursement for FMBB Team and magazine contract. Plotsker did ask Scarberry to name the ‘sources’ for the rumors surrounding Dabakk. Scarberry did not name any sources. Scarberry explained he did question the largest credit card bill after Debbie printed the report. He made it clear that he was not looking into anything he did as Treasurer, or President. After his explanation Vadim seemed much calmer, he reiterated, “I have nothing to hide.” The phone call ended in a friendly outcome.

On October 25, 2019, Plotsker sent an email to the members of the Executive Board. Contrary to the allegations in the Charges, Plotsker noted Scarberry “got to see

the new space and visit with Jody and Debbie.” He also noted he “had a chance to talk with Mark earlier this week about his experience, what he learned about our bookkeeping and accounting. Finally, he stated “I know many of us don’t get a chance to come to the office . . . Mark, what knowledge gleaned can you share with the board? Are there any follow-up actions that we need to address? Thanks... V” Scarberry did not respond to his email as he had already spoken with Plotsker.

Scarberry also reached out to Jim Alloway to report his visit to the USCA office. He told much the same he told Plotsker. The call was short and ended with Jim telling Scarberry he had an emergency at work and would call him when he was finished. Jim never returned the call. On October 31, 2019 prior to the General Board Meeting, Scarberry asked to speak with Alloway, because he had heard ‘through the grapevine’ that he was upset with him for visiting the Office. Jim said, “he was very angry with [Scarberry] regarding that visit.” He told Alloway about the Dabakk matter. Alloway asked, “who were those people.” When Scarberry did not disclose the names, Alloway became more agitated and angrier. Scarberry did say, “that my visit would be a benefit if his office was ever criticized.” He just walked away without comment.⁴ Nothing more transpired until January 9, 2020 when the USCA Secretary preferred charges against Scarberry.

IV. ARGUMENT

A. *Standard for Review*

⁴ The Statement of Facts is supported by the Declaration of Mark Scarberry. (Exhibit A, Dec. of Scarberry.)

Art. XI, Sec. 4 governs the appeal of a BOI Report and Recommendation. Here, the Executive Board reviews the Board of Inquiry file, including the charge, the response of the charged party, witness statements, documentary evidence, and any other independent evidence developed by the Board of Inquiry. The purpose of review is to determine whether the BOI made a reasonable decision based upon the evidence and chose to implement a reasonable penalty. Here, however, there was nothing reasonable about the Board of Inquiry's Finding and Recommendation, or the Executive Board's initial approval of the BOI's F&R.

B. Summary of Argument

The underlying proceedings were corrupted by Charging Party's participation, the withholding of information from the Board while rendering its initial decision to sustain the BOI Findings and Recommendation, the misconduct of Charging Party before the BOI and Board, and the blatant misconduct of the President in providing comment on his interviews with the BOI and providing evidence to the Board directly. It was made even worse by the apparent failure of both the Charging Party to recuse herself in a matter that involved her. Because of those failings, no deference should be given to the BOI determination of guilt or to the recommended punishment.

Even if this Board were to disregard the foregoing and chose to review the decision for reasonableness, the appeal still must be sustained. Article XI of the of USCA Bylaws provide that "[a]ny full member of the USCA may prefer charges against any USCA club and/or USCA member for violating USCA *regulations* or for conduct that is prejudicial to the interests of the USCA." Because the Charges do not state a violation of a "regulation," and fail to demonstrate "conduct prejudicial to the interests of the USCA," it was an abuse

of discretion to determine guilt under Article XI. Coupled with that unreasonable position regarding the conduct alleged to be a violation, the punishment imposed itself was unheard of and unreasonable.

C. The Process Utilized by USCA Deprived Respondent of Due Process of Law.

Any discipline that results from a disciplinary process that fails to provide sufficient safeguards against arbitrary, discriminatory, and/or biased administration of discipline must be overturned. Here, the Executive Board's deliberation of whether to accept, modify, or reject the Board of Inquiry's Findings and Recommendation foreclose any ability to claim that this disciplinary process met even the most minimum standards of due process and/or fairness. The included correspondence from the Executive Board's deliberations indicates severe and palpable nonfeasance and/or malfeasance by several parties on the Board in ruling on whether to accept, modify, or reject the BOI Report and Recommendation. For those reasons, this appeal must be sustained.

First, there is no justification for allowing either the Charging Party or witnesses in the BOI investigation to be directly engaged in the Board's decision-making process. Charging Party was notoriously included in emails while the Board deliberated a complaint she filed. And, the President declared himself to have been a witness during the investigation. Plus, Mr. Alloway was also interviewed. Neither should have been participating in the deliberations. Second, the direction given to various Board members demonstrates a clear and unmistakable attempt to trigger a proverbial rubber stamp vote approving the BOI findings and recommendation. The Bylaws undoubtedly permit the Executive Board to modify the penalty in the first instance. Here, the Board was misled that they could only approve or reject. Third, Dennis Vander Linde's April 24, 2020 email claiming the facts of the case are irrelevant, that Respondent's statements are irrelevant,

and that the Board was only to review for egregious mistakes strains all reason and obliterates this appeal from being deemed a fair and reasonable process. The Bylaws unmistakably permit the Board of Directors, after receiving a BOI Report and Recommendation to “sustain, modify, or reject” a BOI determination. Art. XI, Sec. 3(c). The Bylaws would not allow the Board the ability to sustain, modify, or reject a report and recommendation without permitting it the ability to read any of Respondent’s evidence. Fourth, instead, of allowing any exculpatory evidence to be reviewed, the Board only permitted review of allegedly incriminating evidence. Notably, it was permissible to allow the Board to read the biased, misleading, and “cleverly” written Complaint, (which intentionally misled board members in the contents of the Bylaws, and the BOI R&R, but ignore all of Respondent’s defenses. Finally, the President of the Board precluded Board members from reviewing any statements from Respondent, while simultaneously announcing to the group that he was interviewed, interjecting his personal opinion, testifying directly to the decision makers, and presenting one-sided evidence that he was not engaged in financial misdealing’s is both remarkable and hypocritical. There is nothing that could be more prejudicial, depriving of due process, and legally actionable than what these emails demonstrate.

Because the Process was so completely and utterly corrupted during the deliberations, this Board should sustain the appeal, refer the charge back to the Board of Inquiry, and direct that it be found to be without merit.

D. The Board of Directors Withheld Information Necessary to Determine the Vote Count and Whether Only Disinterested Parties Voted.

Respondent has not been informed of the vote tally, and more importantly, the number of recusals. Both the Charging Party and two witnesses, the President and one other, participated in the Executive Board’s deliberations. It is reasonable to presume

that each also, impermissibly, participated in the vote to accept the BOI Decision other than the President who apparently recused himself. Surely, one need not explain how this creates an impermissible conflict of interest that corrupted the process.

In case it does need explained; the Secretary brought the charges, wrote the allegations, had a transparent agenda, and should not have participated. The President declared during deliberations in an email that he was interviewed, proclaimed he told the truth, presented documentary evidence to the Board, and claimed he viewed the matter as Scarberry maneuvering to run against the President in the upcoming election. Witnesses cannot also sit on the jury, and the stench of retaliating against a political rival encircles this entire process. Because of their improper participation, this appeal must be sustained, and the charges referred back to BOI with directions to find no merit to the allegations.

Just as the Secretary, the President, and Mr. Alloway should have recused themselves in the Board's entire initial role after the BOI Findings and Recommendation, so too should they be excluded from any role in this appeal. To permit such exacerbates the bias and conflicts of interest that have permeated every aspect of these proceedings.

E. The Charges, even if Proven, Failed to Demonstrate a Violation of USCA Regulations or Bylaws.

Any reasonable reading of the Charges and the Bylaws must determine that the Charges, by their own terms, fail to state a violation of the Bylaws. The Charges allege a violation of Article VIII, Section 3(a). This provision sets forth the duties of the President. Specifically, it provides the President exercises supervision over the association and its activities and employees. . . . The President employs and manages all the paid staff for

USCA.” The stated obligations are those of the President, and therefore, any violation of the provision must be limited to the President, not the Vice President. Likewise, Section 3(b) states the obligations of the Vice President. Had Respondent failed to assume the duties of the President, a violation might be alleged, but no such facts are present here. Contrary to the Charging Party’s assertions, neither provision prohibits a USCA officer or member from:

- Visiting the USCA office
- Speaking with staff at the USCA office “without authorization”
- Inquiring about expenses or unauthorized contracts
- Taking “unauthorized time” from the office staff, or for that matter,
- Conducting a “secret” investigation

Indeed, Charging Party attempts to glean violations of the Bylaws by asserting Respondent violated certain office rules, i.e., he took unauthorized time from the office staff, and failed to get approval from the President for his visit or taking time from office staff. There is nothing in the Bylaws or the Rules and Regulations proscribing this activity, and therefore, cannot serve as a basis of any charge.⁵ If the BOI were to sustain such a charge, it is clear it would deny Respondent of an essential due process right – advance notice of conduct which may lead to discipline. Even so, Scarberry was not aware of any

⁵ More significantly, to the extent Charging Party has characterized these alleged rules as Bylaws, her statement would be false and misleading in violation of Article XI, Section 3(h) of the Bylaws. Section 3(h) provides, in part, as follows:

In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.

such office rules, and therefore did not act deliberately. Accordingly, the Executive Board should not sustain the Appeal because no reasonable reading of the Bylaws can demonstrate the alleged conduct, even if proved, violated Article III of the Bylaws.

F. Both the Charging Party and the BOI Failed to Allege, Let Alone Demonstrate, Conduct Prejudicial to the Interests of the USCA.

Conduct prejudicial to the interests of the USCA must serve to humiliate, embarrass or expose the association in the public realm. A mere internal dispute, which remains private, cannot prejudice the interests of the USCA. Even if an internal dispute could rise to the level of prejudicial conduct, Neither the Charging Party nor the BOI has not demonstrated, or even alleged, how Respondent's visit harmed the interests of the USCA.

It cannot be stressed enough that the Charging Party offered *no* evidence in the form of witness statements which demonstrate harm to the USCA. The Charges only state conclusions without facts or support, and even then, do not allege harm to the USCA, but only to current and former Executive Board members and office staff. For example, "Mark Scarberry's actions have damaged the reputation of Executive Board members . . . Mark Scarberry's actions also implicate and smear the reputation of our office staff."⁶ These allegations are highly ironic, given the Charging Party devoted an entire paragraph to Respondent's history of "poor judgment and poor conduct," which is irrelevant to these charges, and cannot serve the basis of any charge.

⁶ The latter allegation is especially troubling as it is based on an assumption of the Charging Party. Astoundingly, the Charging Party concludes Respondent smeared the office staff's reputation because no officer could misappropriate funds without cooperation and complicity from the office staff. A conclusion entirely drawn by the Charging Party without any evidence, and certainly not supported by any acts or statements of Respondent.

More importantly, the reaction to one Board member's visit to the USCA office, his inquiry into a \$15,000 software purchase, the magazine contract and expenses should be one of transparency, rather than retaliatory BOI charges. Contrary to the allegations in the Charges, Respondent, as a Board member, had a right to request information regarding the software, the magazine contract and expenses. More significantly, he has a fiduciary obligation to ensure the Association's treasury is spent for its stated purpose given the USCA's status as a 501(c) tax-exempt organization.

Members and officers are permitted to inquire, to obtain information and seek out the truth. The USCA and its Boards must encourage this of its members and officers and be vigilant in ensuring the organization is entirely transparent. Contrary to Charging Party's allegations, the act of seeking information from an office employee did not cripple the organization, or the operation of the Board. Protests, anger or indignant attitudes in response to such inquiries, however, are suspicious, and breed distrust.

G. The BOI Decision Impermissibly Based a Disciplinary Decision on Past Alleged Misconduct that Falls Outside of the Actionable One-Year Period.

Article XI, Section 1 provides that “[t]o be heard, charges must be filed within one (1) year of the date of the alleged misconduct or rule violation, or from the time it was known or reasonably should have been known that a violation or misconduct occurred.” In the Charge, the Charging Party attached materials related to actions from 2016. While she acknowledged no charges could be brought for such actions from three years prior, the BIO based part of its Report and Recommendation to Scarberry’s past conduct. See Par. 6 in the Report and Recommendation.

Because the BOI based its decision on matters occurring outside of the one-year period, its decision was unreasonable and must be overturned. Therefore, this Executive Board must sustain the appeal.

H. The Penalty Imposed Is Not Authorized by the Bylaws and Is a Clear, Unmistakably, and Impermissible Attempted Amendment of the Bylaws by the Board of Inquiry Without Adhering to Article XIII Pertaining to Amendments.

In the BOI Findings and Recommendation, it sought to have Scarberry immediately removed as a Vice President of the Organization and further impose a debarment from holding office for a period of three years. Without inquiring whether such a penalty had ever been imposed, under the guidance of the conflicted president and other misinformation, the Executive Board approved of the penalty without discussion of modification. This penalty has never been imposed against any member, or officer, in the history of the organization. If such is an available penalty, it should be reserved for matters like theft in office, entering into contracts with an apparent conflict of interest,

misusing USCA finances for personal or professional gain, or abusing staff. The allegations in this case do not and cannot rise to that level. Therefore, the BOI's imposition of punishment is clearly unreasonable, which necessitates this Executive Board sustaining this appeal and directing the BOI recommend an actually reasonable punishment.

V. CONCLUSION

For the reasons stated above, the Executive Board should sustain this Appeal.

Respectfully submitted,

s/Joseph J. Guarino III

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**BEFORE THE BOARD OF INQUIRY
UNITED SCHUTZHUND CLUBS OF AMERICA**

VADIM PLOTSKER, USCA President)	BOI CASE NO.
)	
Charging Party)	
)	
and)	RESPONSE OF
)	MARK SCARBERRY
MARK SCARBERRY, USCA Vice President)	
)	
Respondent.)	
)	

Pursuant to Article XI, Section 2(e) of the USCA Constitution and Bylaws, Mark Scarberry ("Scarberry" or "Respondent") files this response to USCA President Vadim Plotsker's ("Plotsker" or "Charging Party") charges dated October 4, 2020. For the reasons stated below, the Board of Inquiry ("BOI") should not sustain the charges. A copy of this Response was mailed via electronic mail and overnight mail to USCA Secretary Michelle Clubb, 744 Mt. Rushmore Av, Tracy, CA 95377 on November 16, 2020.

s/Mark Scarberry

I. PARTIES

Charging Party Plotsker is a member and the President of the United Schutzhund Clubs of America (“USCA”). Respondent Scarberry is a USCA member and Vice President of the USCA.

II. PROCEDURAL FACTS

Charging Party preferred charges against Respondent on October 4, 2020 (“Plotsker Charges”), and alleged that Scarberry gave “knowingly false testimony as a witness to the Board of Inquiry.”¹ The Charging Party alleged a violation of Article XI, Section 3 (h) of the USCA Constitution and Bylaws (“Bylaws”), which reads as follows:

In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. **In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.** [Emphasis added]

(See Ex. 1, USCA Bylaws.)

Attached to the Plotsker Charges were the following documents: 1) Attachment A – April 16, 2020 BOI Findings regarding the January 9, 2020 Michelle Clubb (“Clubb”) Charges, 2) Attachment B – Summary of BOI Interviews, 3) Attachment C - February 10, 2020 Scarberry Response to BOI Charges, and 4) Attachment D – May 11, 2020

¹ Notably, nothing beyond this general allegation of “false testimony” was included anywhere in the Plotsker Charges. See more on this fatal due process flaw below.

Scarberry Appeal of Executive Board's Approval of BOI's recommendation of Clubb's Charges.

The Plotsker Charges were received by Scarberry on October 19, 2020 via certified mail.

III. STATEMENT OF FACTS

To begin, Respondent incorporates his entire "Statement of Facts" section² from his February 10, 2020 Response to Clubb's January 9, 2020 Charges ("Clubb Charges") since the current Plotsker Charges against Scarberry stem from the Clubb Charges, which were filed by USCA Secretary Clubb.

Following the filing of the Clubb Charges and Scarberry's February 10, 2020 Response, the BOI conducted an investigation into the matter, which consisted of interviews of USCA staff members Deb Sweeney and Jody Donaldson, as well as Executive Board members Plotsker, Clubb, Jim Alloway ("Alloway"), and Scarberry.³ Scarberry's interview was conducted on March 26, 2020 via telephone. Respondent is not aware when and how the other interviews were conducted.

Following the BOI's investigation, they issued the following findings, in part, on April 16, 2020:

² This should be read to include the February 9, 2020 Declaration of Mark Scarberry, which was attached to his response as Exhibit A.

³ According to the BOI's April 16, 2020 Findings, the BOI's investigation also included a "review of VP Scarberry's past behavior (removal of committee membership Track Layers/Helper)," which is nonsensical because the charges must be filed within one year of the alleged misconduct. Based upon the documentation, there is no telling when this "past behavior" occurred.

- 1) Scarberry was less than truthful in his interview. It was determined this investigation was solely done to benefit Scarberry and not in the best interest of USCA.
- 2) Scarberry could have easily asked for or assembled himself, a committee to look into any potential improprieties. The information was easily obtainable through other responsible and professional means, thus avoiding any conflict with the office staff.
- 3) Scarberry showed poor judgement and leadership skills in conducting an unauthorized investigation based on rumors. (Scarberry was asked who provided the information and refused.)
- 4) Scarberry did damage the reputation of the Executive Board by conducting the investigation.
- 5) Scarberry did distract staff from their assigned duties without proper authorization
- 6) Scarberry's past behavior clearly has shown poor judgement, poor leadership and conduct unbecoming of an officer.
- 7) Scarberry by his actions has damaged the working ability and trust of the Executive Board.

The BOI has unanimously concluded that Scarberry has shown extremely poor judgement with this and prior behavior and because of this, the 801 is recommending Scarberry be immediately removed from his current position on the Executive Board and further be denied the opportunity to run for any position of authority in USCA for a period of three years from the date of this decision.

(See Ex. 2, BOI Findings re: Clubb Charges.)

Nearly six (6) months later (and following an appeals process and ultimate exoneration of Scarberry),⁴ on October 4, 2020, Plotsker filed the current charges (Plotsker Charges) against Scarberry based on the BOI's April 16, 2020 Report and Recommendations in which he alleges the BOI found that Scarberry provided "false testimony" and was "less than truthful." According to the USCA Bylaws Article XI, Section 3 (h):

⁴ See below for a discussion on the retaliatory nature of the Plotsker Charges, along with other retaliatory actions that have been taken against Scarberry.

In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter **and the President or Secretary shall file charges against that member for abusing the disciplinary process**, as such conduct is prejudicial to the interests of USCA.” [Emphasis Added.]

(See Ex. 1, USCA Bylaws.)

IV. ARGUMENT

A. These Charges are Moot Based on the September 17, 2020 Decision of the USCA Executive Board to Overturn the BOI.

As noted above, the current charges (the Plotsker Charges) against Scarberry that are the subject of this Response stem from the January 9, 2020 Clubb Charges, which were filed by USCA Secretary Clubb. According to the Plotsker Charges:

On January 9, 2020 USCA Secretary filed Board of Inquiry charges against USCA VP Mark Scarberry on behalf of USCA for conduct prejudicial to the interests of USCA as provided in Article XI, Section 1 of the bylaws. On April 16, 2020 the Board of Inquiry submitted their findings and recommendation regarding the charges. In the Board of Inquiry Report and Recommendations, "less than truthful" was numbered as Finding #1.

(See Plotsker Charges “Facts” section.)

On April 16, 2020, the BOI issued its Findings on the Clubb Charges, finding Scarberry guilty of the charges and ordering him removed from his position on the Executive Board and barring him from holding any position with the USCA for three (3) years.

Scarberry appealed this BOI decision and on May 23, 2020 the Directors at Large sustained his appeal and sent the charges back to the BOI for further investigation and consideration. On August 17, 2020, without any further investigation or analysis the BOI sustained its original April 16, 2020 Findings against Scarberry. On August 26, 2020, the

BOI submitted its Recommendation to the Executive Board. Then, on September 17, 2020, the Executive Board issued the following decision:

The USCA Board of Inquiry (BOI) submitted their recommendation to the Executive Board regarding your appeal. The BOI upheld their original recommendation that you immediately be removed from the office of Vice President and that you cannot hold any position of authority within in USCA for three years starting April 16, 2020.

The BOI's recommendation was submitted under Executive Board Motion 21-20 to the USCA Executive Board for a vote. The USCA Executive Board voted to not approve the BOI's recommendation.

(See Ex. 3, EBoard Decision to Not Approve BOI.)

Crucial to these proceedings, Plotsker charges that Scarberry has been accused of being “less than truthful” and providing “false testimony” during the BOI investigation of the Clubb Charges. Currently, and as far back as September 17, 2020, the Clubb Charges have been thrown out, which completely and effectively exonerates Scarberry of any wrongdoing. Therefore, it stands to reason that because the underlying charges (the Clubb Charges) against Scarberry have been dismissed, the Executive Board overturned the BOI decision; thus, finding Scarberry truthful. Therefore, the BOI must find these new Plotsker have no merit, and not sustain the Charges brought against Scarberry.

B. Scarberry Did Not Give Any False Testimony to the BOI.

All the testimony and evidence that Scarberry gave to the BOI during its investigation of the Clubb Charges was truthful. Simply put, Scarberry did not give any false testimony. While no specific accusations were included in the Plotsker Charges regarding what exactly Scarberry was supposedly “less than truthful” about, some notes from the BOI interviews that were conducted pursuant to the BOI investigation were

attached to the Plotsker Charges. Based on these interview notes, Respondent points out the following inaccuracies:

Jody Donaldson interview – According to Donaldson, Scarberry “did not bring Sieger Show paperwork” with him that day. This is simply not true. Scarberry’s wife, Michele, was Chairman of the 2019 Sieger Show. (See Ex. 4, Michele Scarberry Affidavit.) On October 16, 2020, Michele Scarberry had an e-mail exchange with Donaldson that proves she had the Sieger Show paperwork in her possession. (*Id.*) Subsequently, Michele Scarberry gave the Sieger Show paperwork to her husband, the Respondent, for him to deliver to the USCA office on his way to Kansas to do a seminar. (*Id.*) Just prior to this e-mail exchange, Michele Scarberry had a telephone call with Donaldson during which she informed Donaldson that she was going to give her husband, the Respondent, the Sieger Show paperwork so that he could deliver it to the office. (*Id.*) To be clear, Donaldson knew that Scarberry was going to be bringing the Sieger Show paperwork with him to the office, which he did.

Apparently, Jody Donaldson also claimed that “Vadim called when Mark was in the office.” Once again, this is not true. The telephone call came from Regional Director Mike Sweeney.

Michelle Clubb interview – According to Clubb, “Mark’s participation in EB matters are inconsistent with him not voting on 12 of the last 45 votes.” This statement appears to have no rational basis or relation to the Clubb Charges or any other charges that have been brought against Scarberry and therefore is completely irrelevant.

Debbie Sweeney interview – According to Sweeney, she claims that she said to Scarberry, “if you need a copy of it, I can print one for you.” This is notable because she does not claim that Scarberry requested a copy. Sweeney also claimed that “Mark did not bring Sieger Show paperwork to the office. As described previously, this is just not true. The Respondent did bring Sieger Show paperwork with him to the office, which he obtained from his wife.

Vadim Plotsker interview - According to Plotsker, Scarberry told him that “he was investigating the possibility that Frank Phillips was funneling money to his ex-wife in regard to her participation in the Malinois world championship.” This is not true. Scarberry did not say this (Frank Phillips was not even an officer during the time frame that Scarberry was looking into).

Mark Scarberry interview – Scarberry did not say anything about Frank Phillips funneling money. Also, Scarberry did make a comment about how the membership should be deciding the election, but he did not say “you (BOI) can make me go away.”

Finally, here are a few important facts worth reiterating:

- On October 17, 2019, Scarberry was on his way to Junction City, Kansas, to do a seminar. Robyn Aylings was the host of the seminar. On his way there, Scarberry stopped by the USCA office in St. Louis, Missouri. He arrived around 9:30 a.m. and left roughly three and a half hours later. During his visit, Scarberry gave Donaldson the Sieger Show paperwork.
- Scarberry did ask to see the Jorry [Heinrich-Rode’s – 3P Inc.] contract. (See paragraphs 3 and 4 from the Scarberry Declaration attached to his February 10, 2020 Response.
- Scarberry did ask if reimbursement was issued to Kjersti Dabakk for her FMBB participation. (See paragraph 5 from the Scarberry Declaration attached to his February 10, 2020 Response.)

- Once again, there is no USCA Bylaw stating that Scarberry could not go to the office. (See paragraph 2 from the Scarberry Declaration attached to his February 10, 2020 Response.)
- As pointed out in Scarberry's February 10, 2020 Response, Clubb's Charges appeared to refer to certain regulations – which do not exist in the USCA Rules and Regulations or in the Bylaws of the USCA. Clubb argued that "[n]o member of USCA may take unauthorized time from the office staff. This includes the Executive Board members." Clubb further added that "[a]ny member must get approval from the President when taking time away from USCA staff for non-primary work-related activities. This includes Executive Board members." To the extent Clubb knowingly characterized these as a part of the Bylaws, or the Rules and Regulations, her charges would be false, and deemed an abuse of the disciplinary process in violation of Article XI, Section 3 of the Bylaws, and Board resolutions.

Because Scarberry did not give any false testimony to the BOI, the BOI should not sustain Plotsker's Charges against him.

C. These Charges Due Not Satisfy Fundamental Due Process Rights.

Members of this organization are to be afforded, at the bare minimum, procedural due process in civil proceedings. Due process rights have been expanded to include all instances in which a citizen could lose some right or privilege. As such, basic due process rights are widely recognized in most forums, as they should be here.

One of the fundamental elements of due process, in any proceeding, is notice. Notice includes the notification to a charged party of the pendency of an action against him/her. In addition, *such notice must be sufficient to allow a charged party to understand the charges that have been brought against him/her*, what the possible ramifications of the charges are, and what he/she must do to prevent the deprivation of his/her interest.

The Charges in this matter are utterly lacking in any specificity to afford Scarberry the ability to fully understand the accusations against him. As described in the Charges,

Scarberry has been accused of giving “knowingly false testimony.” The Charges also state that Scarberry was “less than truthful.” No other details were provided in the Charges. There are no specific references to exactly what Scarberry testified too that was “knowingly false.” Likewise, there are no specific references to what Scarberry said that was “less than truthful.” As such, it is impossible for Scarberry to know, without guessing, as to what exactly he is being accused of being “less than truthful” about. Obviously, this makes it impossible for him to defend himself in an intelligent and reasonable manner.

These shortcomings regarding the lack of specificity in the charges against Scarberry are a fatal flaw in the case against him. Scarberry has not been afforded the most basic and fundamental due process rights. Because of that, the BOI should not sustain the charges against the Respondent.

D. These New Charges are, Once Again, Retaliatory in Nature.

Throughout 2020, Scarberry has been the target of an obvious and blatant retaliatory campaign. Over this entire year, Scarberry has been targeted in three (3) different charges and one (1) appeal. To understand the full magnitude of this concerted campaign against him, here is a timeline of the various charges/appeal (and related actions) against him:

- January 9, 2020 – Clubb files her charges (“Clubb Charges”) against Scarberry
- February 10, 2020 – Scarberry files his response to the Clubb Charges
- April 16, 2020 – BOI issues its Findings from the Clubb Charges (Scarberry is found guilty of charges and removed from his position)
- May 11, 2020 – Scarberry appeals the April 16, 2020 BOI Findings regarding the Clubb Charges

- May 12, 2020 – Staci Murphy (“Murphy”) files new charges (“Murphy Charges”) against Scarberry⁵
- May 23, 2020 – Directors at Large sustain Scarberry’s May 11, 2020 appeal of the Clubb Charges
- June 24, 2020 – Scarberry files his response to the Murphy Charges
- August 17, 2020 – BOI issues its Reconsideration of the Clubb Charges and sustains its original April 16, 2020 Findings against Scarberry
- August 26, 2020 – BOI submits its Recommendation to the Executive Board regarding the Clubb Charges
- September 10, 2020 – Murphy appeals the May 12, 2020 BOI Findings regarding her charges against Scarberry⁶
- September 17, 2020 – Executive Board decides not to approve the BOI Recommendation, which effectively ends the Clubb Charges in Scarberry’s favor
- October 4, 2020 – Plotsker files new charges, the Plotsker Charges, against Scarberry⁷
- October 26, 2020 – Executive Board approves BOI denial of Murphy’s appeal regarding the Murphy Charges

The Murphy Charges were clearly brought against Scarberry in retaliation for the dismissal of the Clubb Charges. Following the filing of the Clubb Charges against him, Scarberry filed his response on February 10, 2020. The Clubb Charges against Scarberry

⁵ On this very same day that the Murphy Charges were filed, May 12, 2020, the BOI issued its Findings regarding the Murphy Charges! Scarberry received a copy of these same BOI Findings but dated May 14, 2020. Scarberry did not even respond to the Murphy Charges until June 24, 2020, so obviously the BOI did not conduct a fair and impartial investigation into these charges since they issued their Findings on the same day the charges were filed and long before Scarberry even responded to the charges.

⁶ In this regard, the USCA did not follow the proper procedures regarding the processing of the Murphy charges. The BOI’s Findings were supposed to go to the E-board for them to either accept, modify, or deny. That appears to have not happened. It appears like the E-board may not have voted on anything prior to Murphy’s appeal. Reviewing the USCA website, shows that there is no “EB Motion” (or E-Ballot) that happened regarding the BOI Findings.

⁷ These are the charges that are the subject of this Response.

were sustained and on May 11, 2020 Scarberry appealed. On May 23, 2020, Scarberry was informed, via e-mail, that:

The Directors at Large have Sustained your appeal from the Charges filed on January 9, 2020. As provided in Article XI, Section 4 c of the Bylaws, the Charges are returned to the Board of Inquiry for further investigation and consideration. When the BOI has completed its additional investigation and consideration and has rendered a new recommendation in accordance with the Bylaws, you will be advised of the BOI's recommendation on the Charges.

(See Ex. 5, Scarberry Appeal Sustained (Clubb Charges).)

The timing of the Murphy Charges stinks of retaliation. As stated above, on May 11, 2020 Scarberry appealed the Executive Board's approval of the BOI's recommendation concerning the January 9, 2020 charges. Scarberry's appeal was sent to the USCA Secretary on May 11, 2020 via e-mail and by overnight mail. The very next day, May 12, 2020, is the date that the Murphy Charges were signed and notarized. This is an obvious and blatant act of retaliation following the filing of Scarberry's May 11, 2020 appeal of the January 9, 2020 Clubb Charges.⁸

Following this blatant act of retaliation, the witch hunt continued. On September 17, 2020, the Executive Board "voted to not approve the BOI's recommendation [to remove Scarberry from office and to ban him from holding any position for three years]," which effectively ended the Clubb Charges in Scarberry's favor. However, just 17 days

⁸ Respondent incorporates his May 11, 2020 appeal of the Executive Board's approval of the BOI's recommendation concerning the January 9, 2020 Clubb Charges into this response. Most importantly from that appeal is the argument that Clubb, Plotsker, and Alloway should have all been recused from participating in the decision-making process of all these cases, for obvious reasons. Once again, in case the reasons for recusal do need explained; Clubb brought the charges, wrote the allegations, had a transparent agenda, and should not have participated. Plotsker declared during deliberations in an email that he was interviewed, proclaimed he told the truth, presented documentary evidence to the Board, and claimed he viewed the matter as Scarberry maneuvering to run against the President in the upcoming election. Witnesses, like Alloway, cannot also sit on the jury. The stench of retaliation against a political rival encircles this entire process.

later Plotsker filed new charges – the current Plotsker Charges – against Scarberry, in another act of obvious retaliation.

The Plotsker Charges are based on the BOI's April 16, 2020 Report and Recommendations in which they found that Scarberry provided "false testimony" and was "less than truthful." According to the USCA Bylaws Article XI, Section 3 (h):

In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter **and the President or Secretary shall file charges against that member for abusing the disciplinary process**, as such conduct is prejudicial to the interests of USCA." [Emphasis Added.]

Once again, it reeks of retaliation that the Plotsker Charges were not filed until almost six (6) months later from when they could have been and only 17 days after the Clubb Charges were dismissed.

As a result of these frivolous charges and retaliatory campaign, Respondent's reputation has been damaged. Some of the various unfounded charges that have been brought against him have been posted on the public side of the USCA website and have also been mentioned in at least one magazine article (Schutzhund USA, Nov./Dec. 2020 Issue).⁹

Based on this blatant and ongoing retaliation against Scarberry, the BOI should not sustain the charges against the Respondent.

⁹ See Ex. 6, Schutzhund Magazine Mention of Wrongdoing and <https://www.germanshepherddog.com/?s=Scarberry>.)

V. CONCLUSION

For all the reasons stated above, the BOI should not sustain the Charges brought against Scarberry.

s/Mark Scarberry



UNITED SCHUTZHUND CLUBS OF AMERICA

Constitution and Bylaws



REVISED 2018
ST. LOUIS, MO

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ARTICLE I NAME, COLORS, PROFIT STATUS AND BUDGET

SECTION 1 NAME

- a. The name of this association shall be "United Schutzhund Clubs of America"
- b. The proper abbreviation of this name shall be "USCA"

SECTION 2 COLORS

- a. The colors of the association shall be red, white and blue

SECTION 3 PROFIT STATUS AND BUDGET

- a. The United Schutzhund Clubs of America is and shall be conducted as a not for profit organization within the meaning of Section 501 (c) (7) of the Internal Revenue Code
- b. Except for reasonable and pre-approved compensation for necessary administrative services, no member may derive any income from the association. Persons who in the course of official duties or in service to the association incur expenses may apply to the Treasurer for reimbursement of these expenses. (GBM 2013)
- c. The President shall be responsible for submitting a budget to the Executive Board for its approval. This budget shall categorize and include all projected income and expenses for USCA for a minimum of one year from the date of submission. The Treasurer is directed to pay all budgeted expenses as approved by the Board of Directors. After determining that the monies are available, the President shall have the power to direct payment of expenses of up to five hundred dollars (\$500) over existing budget limitations per category per year. No additional expenses shall be incurred unless full justification is submitted to and formally approved by the Executive Board of Directors.
- d. The fiscal year of USCA shall begin on July 1 of each year and end on June 30 of the following year.

ARTICLE II OBJECTIVES

The United Schutzhund Club of America is organized exclusively for educational, social and recreational purposes within the meaning of Section 501 (c) (7) of the Internal Revenue Code. The objectives of these associations shall be to preserve the German Shepherd Dog in accordance with the breed standard as a working dog, to promote humane training methods for the working dog and to support responsible dog ownership and breeding practices. Activities shall:

1. Promote Schutzhund and HGH (Herdengebrauchshund) herding dog training for the working dog
2. Promote breeding and establish breed surveys for the working German Shepherd Dogs
3. Promote HGH herding dog trials for the working dog
4. Establish a Breed Registry for the German Shepherd dog
5. Promote events which evaluate the conformation of German Shepherd dogs
6. Develop, qualify and license local clubs in the United States and its possessions so that they may conduct Schutzhund Trials, German Shepherd Dog Breed Surveys, Conformation Shows for The German Shepherd Dogs, tracking tests for the FH degree (Faehrtenhundpruefung), HGH herding dog trials and endurance tests for the AD award (Ausdauerpruefung)
7. Develop as decided by the Board of Directors any other tests to insure the further development and maintenance of the German Shepherd Dog as a working breed and to encourage local clubs to implement these tests
8. Promote training of working dogs among the youth
9. Support the use of workings dogs for search and rescue work police work, customs and board patrol work, guide dog work, scenting work and in other ways for which working dogs are utilized
10. Publish a magazine to promote the objectives of the association
11. Conduct annually USCA German Shepherd Dog National Championship to coincide with the meeting for the General Board of Directors between October 1 and November 20

ARTICLE III PERFORMANCE AND BREEDING REGULATIONS

1. Performance regulations for all USCA working evaluations shall be as approved by the Executive Board, and shall be listed in the USCA Official Rule Book for All Workings Dogs Evaluations. Any changes to the USCA performance regulations require approval of the Executive Board. (GMB 2016)
2. Regulations governing German Shepherd Dog breeding, breed surveys, and breed shows shall be as approved by the Executive Board, and shall be listed in the USCA Breeding Regulations, USCA Breed Survey Regulations, and USCA Sieger Show Regulations. Any changes to the USCA regulations require approval of the Executive Board. (GMB 2016)
3. Only judges licensed by USCA or other organizations that have been approved by the Executive Board shall preside over events sanctioned by USCA. Any changes to the licensing for judges require approval of the Executive Board. (GMB 2016)

ARTICLE IV INDIVIDUAL MEMBERSHIP

SECTION 1 TYPES OF MEMBERSHIP

USCA is committed to providing an inclusive and welcoming environment for all of its members, one in which each individual is treated with dignity and respect. Accordingly, it is the policy of USCA that no member should engage in behavior that constitutes harassment or discriminates against another based on race, color, religion, sex, national origin, gender, disability, or any other characteristic protected under applicable federal, state or local law. This policy applies to all USCA activities, publicity and any circumstance in which the member is identified as connected with USCA.

The USCA is committed to ensuring that all print or electronic publications of the organization shall not use language that reflects bias, racism, sexual, religious, disability or personal intolerance, or include content that is exploitative. Where there is any question about the potential negative effect of a publication or advertisement on the public perception of USCA, the publication or advertisement should not be issued. The USCA is also committed to enhancing, promoting and fostering a positive and accurate portrayal of working dogs, particularly the German Shepherd Dog breed, working dog sports and working dog training activities (GMB 2016)

This association shall be composed of five (5) types of individual memberships

a. Full Membership

Full members shall be provided with an official membership card and shall receive a subscription to the association's official publication. If the member is also a member of a local club, he shall be eligible for election by his club as its Delegate to USCA. A person so elected shall be a member of the General Board of Directors. Full members shall be eligible for special awards and privileges as established by the Board of Directors. A full member need not be a resident of the United States.

b. Family Membership

A family membership shall recognize two (2) persons in a family as individual full members of USCA with all rights and privileges as described in part "a" above. This membership shall issue each person a separate membership card. It shall include one (1) subscription to the association's magazine. The dues for a family membership shall be one and one-half (1 & ½) times the dues for a full membership.

c. Honorary Membership

From time to time as the association deems appropriate, a person or person may be offered honorary membership. This is intended to honor a person or persons for an achievement or for a service to the association. Honorary members shall be given a special membership card and shall receive a subscription to the official publication. Honorary members shall have all rights and privileges of membership, but shall not vote or hold office.

d. **Lifetime Membership**

Lifetime members shall be provided with an official membership card and shall receive a subscription to the association's publication. Lifetime members shall also receive a National Events Pass, which shall admit such members to all the association's national events. The names of all Lifetime members shall be published in an annual issue of the association's publication. A lifetime Membership shall be an individual membership. Lifetime Members are subject to the same USCA rules and bylaws provisions as members in other classifications. The Lifetime Membership and/or National Events Pass are non-transferable and shall terminate upon the death of the member. Lifetime Memberships shall be available for limited periods determined by the Executive Board. (GBM 2018)

e. **Youth Membership**

This membership is available to persons 21 years of age and younger and is intended to create interest in the objectives of USCA among young people. The General Board of Directors shall determine dues and privileges of membership,

SECTION 2 RULES FOR INDIVIDUAL MEMBERSHIP

a. **Annual Dues**

The General Board of Directors shall establish the amount of dues for all types of membership. Honorary members shall be exempt from annual, or multi-year dues. Dues may be payable for either a one (1) year term, or a two (2) year term at the members option. Dues shall be honored for one (1) or two (2) years respectively from the date of origin. In the case of Lifetime Memberships, dues are payable in a one-time lump sum and shall be honored for the natural life of each Lifetime member who shall pay no further dues to the association. Lifetime Members remain responsible for payment of applicable local club dues. (GBM 2013)

b. **Non-Payment of Dues**

One (1) month before the expiration date of his membership each member shall be so notified by USCA. Any member whose dues are not paid by the expiration date shall have his membership canceled. Such cancellation shall result in loss of all rights and privileges of membership. In addition, local clubs shall cancel the membership of any person whose membership in USCA is cancelled.

c. **Resignation**

Any member may resign from the association at any time and shall be deleted from the membership list. Resignation must be submitted to the USCA office in writing. There shall be no refund of dues on an annual or multi-year basis, nor upon the resignation of any Lifetime Membership from the association. Upon resignation from the association the name of the Lifetime member shall not appear in the association's publication among the roster of Lifetime Members. (GBM 2013)

d. **Transfer of Membership**

Memberships are not transferable and shall terminate automatically on the death of the member.

ARTICLE V CLUB MEMBERSHIP

SECTION 1 LEVELS OF CLUB MEMBERSHIP

a. **Affiliated Clubs**

Affiliated clubs are formally connected with USCA and may be represented on the General Board of Directors by a nonvoting Delegate. An Affiliated club is considered an apprentice club and must complete a program of

qualification before it shall be licensed to hold any USCA sanctioned events or vote on the Board of Directors. A club may become affiliated with USCA provided that the club:

- i. Adopts a set of bylaws and provides the USCA Office with a copy. These bylaws shall state that the club is and shall be conducted as a nonprofit organization and the bylaws shall include: "The objectives of this association shall be to preserve the German Shepherd Dog in accordance with the Breed Standard as a working dog, to promote humane training methods for the working dog and to support responsible dog ownership and breeding practices." The USCA office must be provided with a copy of any revised bylaws.
- ii. Requires all members of the club to become full members of USCA
- iii. Pays to USCA an annual membership fee, the amount of which will be determined by the General Board of Directors of USCA.
- iv. Supplies to the USCA Office, at the time of application, a list of names and addresses of all club members.
- v. Submits a statement signed by two (2) club officers guaranteeing observance of USCA Constitution and Bylaws and ordinances.
- vi. Is recommended by a Regional Director
- vii. Meets any additional requirements specified by the General Board of Directors

b. Full Member Clubs

A full member club is license by USCA to conduct Schutzhund Trials, German Shepherd Dog Breed Surveys, HGH (Herdengebrauchshund) Herding Dog Trials and other events sanctioned by USCA. If in good standing, a full member club may send a voting Delegate to the meeting of the General Board. A local club may gain full member club status in USCA by:

- i. Being upgraded from affiliated club status
- ii. Established clubs in good standing that are or have been affiliated with other American Working Dog Federation (AWDF) clubs may be admitted directly as full member clubs, without the requirement of affiliation trial, if such clubs have operated continuously for the five (5) years prior to seeking USCA affiliation and have conducted at least four Schutzhund and/or HGH trials during that five-year period.
- iii. In order to be upgraded from upgraded from affiliated status or to be granted directed admittance, a club must consist of not fewer than five (f) members, only two (2) of which may be part of any family membership.
- iv. To be in good standing, a club's dues to USCA must be current, the USCA dues of all members of the club must be current and the club may not be under any disciplinary action from USCA.
- v. Each full member club shall hold at least one (1) USCA-sanctioned event per calendar year beginning January 1 of the year after the year in which the club is granted full member status. Every other year the USCA-sanctioned event must be a USCA-sanctioned trial. The Regional Director shall approve any waiver of this requirement, provide the club's dues and membership list are current. The Regional Director will advise all the clubs in the region of the proposed waiver and the reasons thereof. Failure to comply with this provision will reduce the club to affiliate status for at least one (1) year. The affiliated club shall meet all the requirements once again to become a full member club.

c. An affiliated club may be upgraded to full member club status when it has met the following requirements:

- i. Demonstrate satisfactory performance in the training of dogs by conducting an affiliation trial, which was judged by an approved individual who is not a member of the club
- ii. Be approved by the Regional Director. The Regional Director is to submit to the USCA Office and the club a letter of approval or disapproval, which must be accompanied by:
 1. A list of club members, including the club officers

2. A complete set of score sheets from the affiliation trial

- d. A full membership shall consist of no less than five (5) members

SECTION 2 RELATIONSHIPS BETWEEN USCA AND LOCAL CLUBS

- a. All local clubs within USCA shall be classified as Schutzhund or HGH herding training clubs for working dogs. Events sponsored by these clubs through USCA which evaluate the working conformation of dogs shall be restricted to the German Shepherd Dog.
- b. In the event of conflict between the provisions of the USCA Constitution and Bylaws and/or rules and the bylaws and/or rules of local clubs, the provision(s) of the USCA Constitution and Bylaws and/or rules shall prevail
- c. Member clubs may not be members of, or affiliated with, any competing German Shepherd Dog organization in the United States.
- d. A complete and current membership list, including full addresses and list of the club officers, must be included with the club's annual dues. This information will be sent to the USCA Office for verification. Clubs that fail to submit both annual dues and membership lists will not be granted trial authorizations by the Regional Director. Should club membership lists and dues not be submitted by the due date, any previously approved trial authorizations will be recalled. Trial authorizations will be restored when dues and membership lists are submitted and approved.
- e. Club dues shall be paid annually by June 1, with dues prorated for the year the club joins USCA.
- f. Clubs whose dues are more than sixty (60) days in arrears shall not be clubs in good standing and shall be dropped from full club membership in USCA. Any event authorizations for clubs in arrears for dues shall be null and void.
 - i. Any club trials conducted while a club is not in good standing due to non-payment of dues shall not be USCA-sanctioned events, and any titles obtained at such trials shall be null and void.
 - ii. Only clubs in good standing may vote in regional and/or national meetings. Clubs in arrears for dues are not in good standing and shall not vote in regional or national meetings.

SECTION 3 LACK OF PROGRESS

- a. The progress of affiliated clubs toward the attainment of full member club status shall be monitored by the Regional Director. He/She shall report on the progress of affiliated clubs in his region to the Executive Board of Directors at least once a year. (GBM 2018)
- b. Lack of progress by an affiliated club toward the attainment of full member club status within a two (2) year period will cause an automatic investigation by the Regional Director.
- c. The Regional Director may extend until the end of the club's third year its affiliated status with a recommendation that no disciplinary action be taken if justification for lack of progress is shown.
- d. If no justification for lack of progress is shown, the Regional Director shall recommend to the Board appropriate disciplinary action which may include:
 - i. Probation under the supervision of the Regional Director or someone appointed by the Board of Directors
 - ii. Expulsion of the club from USCA
- e. An affiliated club which has not attained full member club status by the end of its third year shall have its membership in USCA terminated.

ARTICLE VI REGIONS, REGIONAL DIRECTORS, REGIONAL BREED WARDENS

SECTION 1 REGIONS

- a. The area served by USCA shall be divided into regions. There shall not be fewer than five (5) nor more than twenty (20) regions.
- b. Regional boundaries may be altered or regions may be divided by:
 - i. Request of the Regional Director
 - ii. Request of a majority of full member clubs in the region
 - iii. Decision of the Executive Board after a review of the changing needs of a region
- c. No regional boundary shall be altered without the approval of the Board of Directors.

SECTION 2 NUMBER AND VOTING RIGHTS

- a. There shall not be fewer than five (5) nor more than twenty (20) Regional Directors and Regional Breed Wardens.
- b. Regional Directors are members of both the Board of Directors and shall have a vote on each. Regional Breed Wardens do not have a vote on the Board.

SECTION 3 DUTIES

- a. USCA Regional Director shall be the regional representative of the association. The Regional Director shall assist in the development of new clubs in the region and shall approve trial dates for all clubs in his/her region. The Regional Director shall forward requests for USCA judges to the Director of Judges. He/she may be assigned other duties as needed.
- b. The Regional Breed Warden will:
 - i. Promote the development of Breed Wardens and tattooers in his/her region
 - ii. Be responsible for supervising and training of local breed wardens. Local Breed Wardens will report directly to the Regional Breed Warden.
 - iii. Dispense and collect breed paperwork and develop regional breeding statistics
 - iv. Keep regional reports of all breeding activity in the region and present results and recommendations at the regional meetings
 - v. Act as the Local Breed Warden when non is available

SECTION 4 TERRITORY

- a. The territory, over which each Regional Director/Regional Breed Warden shall have supervision, shall be decided by the Board of Directors.
- b. A Regional Director/Regional Breed Warden shall have authority in his/her region only. If circumstances dictate, the President of the Board of Directors may require a Regional Director/Regional Breed Warden to take responsibility for an area or a club outside of his/her own region.

SECTION 5 ELIGIBILITY

- a. To be eligible for election, a nominee must be able to show significant experience in the training and/or breeding of dogs for the Schutzhund Sport. He/she must be a full member of USCA and must reside within or be a full and active member of a full member club which is within the geographical boundaries of the region. The nominee may not be less than twenty-one (21) years of age and may not be under current disciplinary action.
- b. Individuals who have been convicted of any felony are prohibited from holding positions as regional directors or regional breed wardens.

SECTION 6 NOMINATION AND ELECTION

- a. Candidates for the position of Regional Director/Regional Breed Warden may be nominated by a Delegate from a full member club in that particular region. All nominations must be seconded.
- b. One needed not be nominated to receive votes. "Write in" balloting is permitted.
- c. Regional Directors/Regional Breed Warden shall have a term of office of two (2) years and shall be elected in odd numbered years.
- d. Elections may be held at regional meetings or by mail between the dates of January 1 prior to the annual meeting and 14 days prior to the annual meeting of the General Board of Directors, provided all full member clubs in the region are notified in writing, not less than thirty (30) days prior to said election. If this election is held, the USCA Secretary shall be notified of the result within ten (10) days.
- e. To be elected, a candidate must receive a majority of the votes cast by the full member clubs in good standing in that particular region who are in attendance at the regional meeting or by the majority of the votes cast by full member clubs in good standing in a mail ballot election.

SECTION 7 ASSISTANT REGIONAL DIRECTORS

- a. Each region shall elect an Assistant Regional Director to assist the Regional Director in his/her duties. The eligibility requirements, nominations, election and term of office shall be the same as the Regional Directors.
- b. In the event the Regional Director resigns or is incapacitated, the Assistant Regional Director shall assume the position of Regional Director for the remainder of the term.
- c. If the position of Assistant Regional Director becomes vacant for any reason, an election to fill the office will be held within forty-five (45) days. A majority vote of the full member clubs in good standing in that particular region is required to elect.
- d. If the Regional Director is unable to attend a meeting of either Board of Directors, the Assistant Regional Director may attend in his/her place and shall have a vote on either board.

SECTION 8 APPEALING REGIONAL DIRECTOR/REGIONAL BREED WARDEN DECISION

Any affiliated club, full member club or individual member in good standing may appeal the decision of the regional director, assistant regional director or regional breed warden to the Executive Board of Directors. The appeal must be sent to the Secretary, submitted in writing and filed within sixty (60) days of the decision being appealed. After consideration of the appeal and allowing the regional director, assistant regional director or regional breed warden to explain his/her position, the Executive Board of Directors may sustain, modify or rescind the decision.

ARTICLE VII BOARDS OF DIRECTORS

There shall be two (2) Boards of Directors which govern the affairs of the United Schutzhund Clubs of America. When a reference in this constitution and bylaws is made to "The Board of Directors" it shall mean either Board unless otherwise specified.

SECTION 1 GENERAL BOARD OF DIRECTORS

- a. *Definition* - The General Board of Directors shall consist of Delegates elected from full member clubs, USCA Officers, Directors at Large, and Regional Directors.
- b. *Duties* - It shall be the duty of the General Board of Directors to conduct the affairs of the United Schutzhund Clubs of America. The General Board elects the Officers and standing committee members of USCA.
- c. *Meetings*
 - (i) The General Board of Directors shall choose one (1) date per calendar year between October 1 and November 20 on which it shall conduct its annual meeting. The Secretary shall mail notification of the meeting to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to any General Board meeting. Notification shall contain the date, time, location, and agenda for the meeting. The agenda shall also be posted on the USCA website.

- (ii) A special meeting of the General Board of Directors shall be called if a petition is received by the Secretary signed by delegates of a majority of the full-member clubs in good standing. The Secretary shall mail notification of the meeting to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to any special General Board meeting. Notification shall contain the date, time, location, and agenda for the meeting. The agenda shall also be posted on the USCA website.
 - (iii) All actions of the General Board of Directors shall be reported as minutes. The minutes shall be sent to all clubs and Executive Board members within sixty (60) days of the meeting. The minutes may be sent by electronic mail or regular mail and shall be sent by regular mail to any individual member of USCA upon request of that member. The minutes shall be published in Schutzhund USCA and on the USCA website.
- d. *Quorum*
- In order for any business to be conducted a quorum must be present. A quorum shall be deemed to be present if 20% of all full member clubs in good standing and at least three (3) USCA Officers are present. The formula: USCA Full member clubs in good standing divided by five (5) plus at least three (3) USCA Officers shall be used to establish the number required for a quorum.
- e. *Delegates*
- (i) Each full member club may send one (1) voting delegate and two (2) alternates to the meetings of the General Board.
 - (ii) Each affiliated club may send one (1) nonvoting delegate to attend the meetings of the General Board.
- f. A delegate to USCA shall be elected from the regular membership of each USCA club. A full member club may also elect two alternate delegates. The delegate shall be the club's representative of record for a period of one year beginning on the date of the annual meeting of the General Board of Directors. A club may replace its delegate and/or alternates as necessary or desired. The USCA Secretary must be notified immediately of the replacement.
- g. Not less than thirty (30) days prior to the meeting of the General Board of Directors every USCA club shall send to the USCA Secretary a letter signed by two (2) officers of the club naming the club's Delegate. (The Delegate may not be one of the signers.) This letter shall specifically authorize this person to attend the meeting and vote on behalf of the club. The delegate and alternate shall carry a copy of the letter to the meeting naming him/her as the delegate/alternate. The alternate's letter shall be presented to the Secretary if it is necessary for the alternate to be seated in place of the club's Delegate. Clubs which are granted affiliated or full member status after the thirty (30) day deadline but before the meeting may send the required letter to the meeting with the club's Delegate. This letter must be presented to the Secretary before the Delegate or Alternate will be seated. Not later than two (2) days prior to the annual meeting of the General Board of Directors the Treasurer shall verify that a club is in good standing in order for its delegate to be seated.
- h. *Club Fails to Send Delegate*
- In the event a club does not send a Delegate to the General Board Meeting or, if the club fails to send a letter to the USCA Secretary identifying the club's Delegate the club shall be declared to be without representation on the General Board of Directors.
- i. *Voting at Meetings*
- (i) The Delegate from each full member club is entitled to cast one (1) vote on any given item of business.
 - (ii) Each USCA Officer, Director at Large, and Regional Director shall have one (1) vote to cast on any given item of business.
 - (iii) No person may cast more than one vote on any given item of business.
 - (iv) The alternate of any full member club may vote only if he has been seated in place of the Delegate at the time a vote is taken.
 - (v) If neither the Delegate nor alternate of a club is present when a vote is taken, the club shall have no vote on that item of business.

SECTION 2 EXECUTIVE BOARD OF DIRECTORS

- a. Definition - The Executive Board of Directors shall consist of all elected USCA Officers, Regional Directors, and four (4) representatives from the membership who shall be known as Directors at Large.
- b. The General Board of Directors shall elect from the membership four (4) persons, who are not USCA officers, to be members of the Executive Board of Directors. They shall be known as Directors at Large. They shall serve a two (2) year term and shall be elected in even numbered years. The election for Directors at Large shall be by plurality.
- c. Meetings
 - (i) A meeting of the Executive Board may be called at any time by the President. He/she may set the time and place of the meeting.
 - (ii) A meeting of the Executive Board shall be called by the USCA Secretary upon receipt of a petition signed by two-thirds (2/3) of the members of the Executive Board.
 - (iii) The Secretary shall mail notification of the meeting to all Executive Board members by electronic mail or regular mail not less than thirty days prior to any Executive Board meeting. Notification may be by electronic mail or regular mail and shall contain the date, time, location, and agenda for the meeting.
 - (iv) All actions of the Executive Board of Directors shall be reported as minutes. The minutes shall be sent to all clubs and Executive Board members within sixty (60) days of the meeting. The minutes may be sent by electronic mail or regular mail and shall be sent by regular mail to any individual member of USCA upon request of that member. The minutes shall be published in Schutzhund USCA and on the USCA website. The General Board of Directors may rescind or modify any action of the Executive Board of Directors.
- d. Duties

It shall be the duty of the Executive Board of Directors to conduct the affairs of USCA that do not require a vote by the General Board of Directors as specified in these Constitution and Bylaws. The Executive Board shall not have the authority to amend or repeal these Constitution and Bylaws.
- e. Quorum

In order for the Executive Board of Directors to conduct any business, a quorum must be present. A majority of members of the Executive Board shall constitute a quorum.
- f. Voting
 - (i) Only members of the Executive Board may vote at its meetings or on mail ballots.
 - (ii) No person may cast more than one (1) vote on any item of business.
 - (iii) In lieu of calling a special meeting, members of the Executive Board of Directors may be polled by mail or electronic communication ballot. One (1) week shall be allowed for the return of ballots before closing the vote. Complete and factual information on the subject(s) to be voted on must be supplied with each ballot. Voting by telephone on mail ballots is prohibited.
 - (iv) The results of the mail ballot on policies or decisions of general applicability shall be printed in Schutzhund USA as a vote by roll call. All votes of the EB shall be by roll call and printed unless they pertain to an issue, decision or request involving a specific natural person or persons, such as the approval of an application for a judge's license; the selection of judges, helpers, or tracklayers for National Events; an application for a waiver; a disciplinary action, an application for an exemption and other situations involving one or more specific persons rather than a policy or decision of general applicability. (GBM 2018)
 - (v) Conference call meetings may be conducted, and voting by telephone during such meetings shall be allowed.
- g. Executive Board members may not be governing members of competing U.S. German Shepherd Dog organizations.
- h. Eligibility

Individuals who have been convicted of any felony are prohibited from holding positions as members of the Executive Board.

SECTION 3 PARLIAMENTARY AUTHORITY

The current edition of "Roberts Rules of Parliamentary Procedures" shall govern this association in all parliamentary situations that are not covered in the law, or in these constitution and bylaws, or adopted rules. In case of a conflict

between the provisions of these constitution and bylaws and the parliamentary provisions of "Roberts Rules of Parliamentary Procedures," the provisions of these Constitution and Bylaws shall prevail.

ARTICLE VIII OFFICERS OF THE ASSOCIATION

SECTION 1 OFFICERS

The Officers of USCA are those people who handle the official affairs of the association. Officers shall have a vote on both Boards of Directors. The Officers of the association shall be:

- a. President
- b. Vice President
- c. Treasurer
- d. Secretary
- e. Director of Judges
- f. National Breed Warden

SECTION 2 TERMS OF OFFICE

All elected Officers shall have a term of office not to exceed two (2) years.

SECTION 3 DUTIES OF OFFICERS

a. President

The President is the Chief Administrative Officer and legal head of USCA. The President exercises supervision over the association and its activities and employees. The President is responsible for handling relations between USCA and external associations and represents USCA in public, presides at business meetings, and has the authority to carry out the will of the organization. The President serves as Chairman of the Board of Directors. The President shall be an advisory member of all committees except for the Board of Inquiry and the Nominating Committee. The President shall be responsible for compiling and maintaining records of all trials, German Shepherd Dog breed surveys, the German Shepherd Dog breed registry, and German Shepherd Dog breed shows. The President shall also be responsible for compiling and maintaining records of individual accomplishments of all dogs entered in USCA sanctioned events and may be given responsibility for additional duties and/or records by the Board of Directors. The President shall make or cause to be made a duplicate set of records, which will be kept at a location designated by the Board of Directors. He/she shall be responsible for the distribution of, to clubs and individuals, and for the collection of fees (if any) for all necessary forms for trials, breed surveys, breed registry, breed events, etc. The President employs and manages all the paid staff for USCA.

b. Vice President

The Vice President shall assume the duties of the President in case of his/her absence or incapacitation. The Vice President shall assume that office for the remainder of the term in the event the office is vacated for any reason.

c. Treasurer

The Treasurer shall be responsible for collecting, accounting for and handling all funds of the association. The Treasurer shall insure that all funds are deposited in such financial institution as the Board of Directors may designate. He/she shall see that disbursements therefrom are made as is necessary and proper to meet the just and due obligations of USCA. The Treasurer shall be bonded, and the cost of such bond shall be borne by the association. The Treasurer shall secure the services of a Certified Public Accountant to review the accounts of USCA annually. This audit shall take place not more than ninety (90) days prior to the annual meeting of the General Board. The Treasurer shall present a financial report at every meeting of either Board of Directors, and at any other time as requested by the President or the Board of Directors. The Treasurer shall make all of his/her records available at the General Board meeting for review by any full member of USCA. The Treasurer shall be responsible for overseeing the membership records of individuals and clubs. The Treasurer shall insure that all

membership requirements for USCA clubs are met and shall terminate the membership of any individual or club if dues are not paid as specified in Articles IV and V respectively.

d. Secretary

The Secretary shall be responsible for taking and preparing accurate minutes of all meetings of the Board of Directors and shall maintain a complete file of the ordinances, bylaw revisions, resolutions, and other official USCA action. The secretary shall maintain a file of committees and the members thereof. The Secretary shall record all terms of office and inform the General Board when elections are due. During the meeting of the General Board, it shall be his/her duty to insure that only those persons with proper credentials be seated. The Secretary shall insure that only persons authorized to vote are allowed to vote and shall perform other duties as prescribed by the Board.

e. Director of Judges

The Director of Judges shall be the chairman of the Judges Committee. He/she shall be a USCA Schutzhund judge or Schutzhund Judge Emeritus in good standing.

f. National Breed Warden

The National Breed Warden shall be the chairman of the Breed Advisory Committee.

SECTION 4 OFFICERS SHALL PERFORM DUTIES

Officers shall perform the duties prescribed by these constitution and bylaws and by the parliamentary authority adopted by USCA.

SECTION 5 NOMINATION AND ELECTION OF OFFICERS

a. Nominations

Candidates for officer positions may be nominated:

- (i) By the Nominating Committee. The Nominating Committee shall make known its selections for Officers, Directors at Large, and standing committee members at the General Board of Directors meeting.
- (ii) From the floor. After the Nominating Committee has delivered its nominations and report, nominations will be accepted from the floor. Only members of the General Board may make nominations. All nominations must be seconded. Nominees for Officers, Directors at Large, and standing committees must be present at the meeting of the General Board of Directors or must have furnished the Secretary with a written statement of agreement to be a candidate.

b. Eligibility

- (i) To be eligible for election, a nominee or write in candidate must be a full member of USCA. He/she may not be under twenty-one (21) years of age. He/she may not be under current disciplinary action.
- (ii) Individuals who have been convicted of any felony are prohibited from holding positions as officers.

c. Election of Officers

- (i) The General Board of Directors shall elect Officers and Directors at Large at every meeting which takes place in an even numbered year.
- (ii) The voting shall be by secret ballot only.
- (iii) A Ballot Counting Committee shall be appointed by the President. It shall determine the legality of the ballots cast, tabulate the results, and give them to the President, who shall announce the results of the election.
- (iv) A majority of votes of General Board members present is required to elect. Repeat balloting is required if no candidate receives the necessary majority. On reballoting, least vote getter would be dropped.
- (v) Newly elected Officers, members of the Executive Board, and standing committees shall be seated at the conclusion of old business except the Regional Directors who would be seated immediately upon their election.
- (vi) There is no limit to the number of consecutive terms a person may hold office.

SECTION 6 VACANCIES

- a. If the office of Vice President, Treasurer, Secretary, Director of Judges, National Breed Warden or Director(s) at Large should be vacated for any reason, or if the incumbent becomes incapacitated and cannot or is unwilling to perform the duties of office, the Executive Board shall elect a replacement. For the purposes of these bylaws incapacitation shall mean illness or death.
- b. Nominations for the vacant office must be submitted to the Secretary. The Secretary shall conduct the balloting of the Executive Board. The Vice President shall conduct the balloting if the Secretary's office is vacant. Election shall be by a majority vote of the Executive Board. The President has the authority to appoint an interim officer until the Executive Board has conducted an election.
- c. The newly elected Officer shall hold office until the next General Board meeting. At that time he/she can either be ratified or replaced.

ARTICLE IX APPOINTED POSITIONS

SECTION 1 EDITOR

The editor shall be appointed by the President of USCA and confirmed by the Board of Directors. The editor shall publish, at regular intervals, a publication which carries information about, as well as the official views of, USCA. The President of USCA shall direct its editorial policy so as to promote the programs and policies of the association.

SECTION 2 APPOINTED COMMITTEES

The President shall have the right to appoint committees, as he/she deems necessary, but may not appoint a committee to perform a function which is given to an officer or standing committee by these constitution and bylaws. The right to appoint a committee brings with it the right to appoint the chairman of the committee.

ARTICLE X COMMITTEES

SECTION 1 STANDING COMMITTEES

The committees indicated below are permanent. All members of these committees shall be elected by a plurality vote of the General Board. The members of the committee shall elect a committee chairman unless otherwise stipulated in these provisions. All members of standing committees shall serve a two (2) year term and must be full members of USCA.

a. Auditing Committee

The Auditing Committee shall audit the financial accounts of USCA. The committee shall consist of three (3) persons. The Treasurer shall not be a member of the Auditing Committee.

- (i) If the Treasurer has not secured the services of a Certified Public Accountant and/or has not presented the CPA's report to the General Board, the Auditing Committee shall perform a complete audit of USCA financial records.
- (ii) The committee shall have the power to summon the Treasurer to answer any questions. A report of the audit and/or a report of the legitimacy of USCA's expenses shall then be made to the General Board of Directors at the annual meeting.
- (iii) Members of the Auditing Committee shall be elected in even numbered years.

b. Nominating Committee

- (i) The Nominating Committee shall consist of five (5) members.
- (ii) The committee shall nominate candidates for Officers, Directors at Large, and standing committee positions in USCA excluding regional directors.
- (iii) The committee shall solicit recommendations for the positions it is charged to nominate candidates for. It shall request information from candidates which will enable it to evaluate a person's experience, skills, and willingness to serve.
- (iv) The committee shall choose its slate by balloting. Candidates who receive a plurality of the votes from the Nominating Committee shall be named in the committee's report.

- (v) Not less than thirty (30) days prior to the annual meeting, the Nominating Committee shall send a list of the persons it is nominating to each full member club.
- (vi) The committee shall submit its report at the meeting of the General Board of Directors.
- (vii) Members of the Nominating Committee shall be elected in odd numbered years.

c. **Board of Inquiry**

- (i) The Board of Inquiry shall consist of ten (10) persons. Five (5) of these persons shall be full members of the Board of Inquiry. The remaining five (5) persons shall be alternate members. USCA Officers, Judges, Directors at Large, and Regional Directors shall not be eligible to serve on the Board of Inquiry.
- (ii) It shall be the duty of this board to hear cases of alleged misconduct and alleged violations of USCA regulations. This board shall not entertain any charges which are not filed within one (1) year of the date of the alleged misconduct or rule violation. This board shall, by majority vote, sustain or not sustain the charges or determine the relevancy. It shall report its findings to the Board of Directors and, if its finding is to sustain the charges, the Board of Inquiry shall recommend appropriate disciplinary action.
- (iii) The Board of Inquiry may conduct its business in person, by telephone, or by mail. Balloting by telephone is permissible but must be confirmed in writing.
- (iv) Should any full member of the Board of Inquiry be the subject of charges, the chairman shall, by drawing lots, choose one (1) of the alternate members to hear the case. This person shall also hear any other case which arises while he/she is seated as a full member of the board.
- (v) No member of the Board of Inquiry shall hear charges against any person who is a member of the same local club. The chairman shall, by drawing lots, select an alternate member to hear the case. Any full member so replaced shall hear any other case(s) which arises while his club member's case is pending.
- (vi) Any full member of the Board of Inquiry may request to be excused from hearing a specific case. No reason need be given. The member shall make his/her request to the chairman, in writing, who shall, by drawing lots, choose one of the alternate members to hear the case.
- (vii) If charges are sustained against any member of the Board of Inquiry, the recommendation for discipline shall include this member's removal from the Board of Inquiry for the duration of his/her term.
- (viii) Members of the Board of Inquiry shall be elected in even numbered years.

d. **Judges Committee**

- (i) The Judges Committee shall consist of the USCA President, the Director of Judges, one additional USCA Schutzhund judge, and two (2) members at large. The chairman of the committee shall be the Director of Judges.
- (ii) The judges shall be elected in even numbered years and the members at large shall be elected in odd numbered years.
- (iii) The committee shall be responsible for the judges at all USCA trials. It shall be the keeper of the trial rules and regulations. It shall be responsible for the conduct of USCA judges. It shall grant probationary judges licenses to apprentice judges who have successfully completed the apprentice judge program. It may recommend that a judge's license be revoked for conduct prejudicial to the interest of USCA. A decision to accept or reject the recommendation shall be made by the Board of Directors. Any judge whose license has been recommended for revocation shall be permitted to speak at the Board of Directors meeting at which the recommendation is heard.
- (iv) The committee shall design and implement a program to select and train apprentice judges, to see to the ongoing education of licensed judges, and oversee the conduct of all apprentice judges and judges. No candidate for the apprentice judges program, apprentice judges, or judge shall be a professional. That is, he/she cannot earn a substantial portion of his/her income by breeding, handling, training, or selecting Schutzhund type dogs. The method of determining the income shall be any reasonable means determined by the committee.
- (v) The host body along with the Judges Committee shall recommend a slate of judges for all national working dog events. The Executive Board shall approve the slate or recommend alternatives. Only the Director of Judges may initially contact the approved judges.
- (vi) Individuals who have been convicted of any felony are prohibited from holding positions as judges.

e. **Breed Advisory Committee**

- (i) The Breed Advisory Committee shall consist of all Regional Breed Wardens, the USCA President, the Director of Judges, and the National Breed Warden.
- (ii) This committee shall advise the Board on all matters pertaining to the breed registry. It shall recommend criteria for administering the program including the breed standard, tattooing, registration eligibility, etc.
- (iii) This committee shall be the keeper for rules of conformation shows and breed surveys.
- (iv) The committee shall recommend judges for the national breed events to the Executive Board.
- (v) The committee shall recommend the endorsement of future Breed Judges and advancements to the post of Breed Selection Masters (Koermeisters) to the Board.

f. **World Championship Committee**

It is the duty of this committee to recommend rules for the selection of a team to represent USCA at the World Schutzhund III Championship for German Shepherd Dogs. The committee selects a person to act as team captain. The committee consists of four (4) members and the President of USCA. The committee will be elected every even year by the General Board of Directors.

g. **Event Planning Committee (GBM 2013)**

It is the duty of this committee to solicit and manage bids from local clubs wishing to host national events. It shall establish, maintain, and improve on application deadlines and processes. Further it shall assist in raising sponsorship money for the events and provide guidance to local clubs in advertising and community involvement. The committee consists of four (4) members and the President of USCA. The committee will be elected every odd year by the General Board of Directors (GBM 2013)

h. **Nominations and Replacement**

Nominees for standing committees must be present at the meeting of the General Board of Directors or must have furnished the Secretary with a written statement of agreement to be a candidate. The President/Board may appoint/replace committee member(s) to the above committees, except for the Board of Inquiry, if the elected member resigns, becomes incapacitated for any reason, or unable/ unwilling to do the work.

SECTION 2 SPECIAL COMMITTEES

Either Board of Directors shall have the authority to create special committees as deemed necessary. Such a committee shall be dissolved when the task assigned to it is completed. Election to a special committee shall be as determined by the creating authority.

ARTICLE XI DISCIPLINE

SECTION 1 CHARGES

Any full member of USCA may prefer charges against any USCA club and/or USCA member for violating USCA regulations or for conduct that is prejudicial to the interests of USCA. To be heard, charges must be filed within one (1) year of the date of the alleged misconduct or rule violation, or from the time it was known or reasonably should have been known that a violation or misconduct occurred. All matters involving actions by USCA judges, as judges, shall be referred exclusively to the USCA Judges Committee.

SECTION 2 PROCEDURE

Charges must be processed according to the following procedure:

- a. The charge(s) against the accused member and/or accused club must be submitted in writing and must be notarized. The charge(s), and all substantiating witness statements and/or documentary evidence upon which it is based, shall be forwarded to the USCA Secretary with a deposit of two hundred dollars (\$200) for the initial charge. A “charge” shall consist of a single, specific, allegation. There shall be an additional fee of fifty dollars (\$50) for each additional allegation filed with the initial charge. The charging party is responsible for providing sufficient copies of all electronic media documentation or evidence (video, audio recordings, photos, etc.) for each Board of Inquiry member and the USCA Secretary (8 copies). The deposit shall be forfeited for each charge or allegation that is not sustained.

- All charges filed without notarization and/or electronic copies shall be returned to the member as a defective filing.
- b. The President and Secretary of the organization may file charges on behalf of USCA against members or clubs without a deposit. Such charges shall be required to be notarized.
 - c. The Secretary shall send copies of the charges to the Board of Inquiry full members and alternate(s) (if applicable) within fifteen (15) days of receipt.
 - d. The Secretary shall also send one (1) copy of the charges to the accused member and/or to the accused club in care of contact person of record listed in Schutzhund USCA within fifteen (15) days of receipt.
 - e. The accused member and/or accused club may respond to charges in writing to the Secretary within thirty (30) days of receipt of the charges, and may also provide testimony from witnesses. The Secretary shall forward copies of any response and/or any testimony to the Board of Inquiry full members and alternate(s) (as applicable) within fifteen (15) days of receipt. If no answer is received, the Secretary shall so inform the Board of Inquiry within thirty (30) days.
 - f. The Secretary shall use certified mail/return receipt for transmittal of all documents to the accused and the accuser, and shall use U.S. mail, electronic mail, and/or digital communication for transmittal of all documents to the Board of Inquiry.

SECTION 3 BOARD OF INQUIRY ACTION

- a. The Board of Inquiry shall make a determination about the relevancy of the charges and whether the charges shall be considered within fifteen (15) days of receipt of the charges. If not relevant, the accuser and accused shall be notified by the Secretary within seven (7) days of the decision of the Board of Inquiry. If the charges are determined to be relevant, the Board of Inquiry shall conduct a confidential investigation of the charges. By a majority vote, the Board of Inquiry shall, within sixty (60) days of receipt of the response to the charges, vote sustain or not sustain the charge(s). The Board of Inquiry shall issue a determination letter setting out its findings; which shall be sent to the accused, the charging party, and the Executive Board with within the sixty (60) days of receipt of the response to the charges.
- b. The Board of Inquiry shall recommend, if the charges are sustained, appropriate disciplinary action.
 - (1) If a full member club is found guilty, appropriate disciplinary action may include:
 - (a) Reprimand of the club.
 - (b) Monetary fine in an amount commensurate with the seriousness of the offense.
 - (c) Placement of the club on probation under the supervision of some person appointed by the Board of Inquiry or the Executive Board of Directors.
 - (d) Suspension of the club for a specified period of time, during which the club may hold no USCA-sanctioned activities.
 - (e) Cancellation of the club's license (reducing the club to affiliated club status).
 - (f) Expulsion of the club.
 - (2) If an affiliated club is found guilty, appropriate disciplinary action may include Items a, b, c, d, and f above and also may include delaying consideration of the club for upgrade to full member status for up to one (1) year.
- c. If the accused member is found guilty, the Board of Inquiry shall recommend an appropriate disciplinary action and present that recommendation to either Board of Directors. The recommendation shall be sustained, modified, or rejected by the Board of Directors.
- d. No member who has been suspended or expelled by USCA may participate in any activities sponsored by the association, or in activities sponsored by any of its clubs, for the duration of the suspension or permanently, if expelled.
- e. If any charges against a club and/or member fail to be heard within the time frame specified by Article VI, Section 3.a. as provided in these bylaws, all money deposited with USCA by those filing the charges will be refunded and a full report by the Board of Inquiry will be made to the either Board of Directors.

- f. Disciplinary action taken by a local club against a member or members of that club is an internal affair of the club and does not affect the USCA membership of those individuals. Such local club disciplinary actions need not be recognized or honored by other local clubs.
- g. Non-compliance with the disciplinary decision(s) of the Executive Board and/or General Board of Directors shall result in suspension for a minimum of ninety (90) days.
- h. In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.

SECTION 4 APPEAL PROCESS

- a. Any appeal from the Board of Inquiry determination shall be made within fourteen (14) days of receipt of the Board of Inquiry determination letter by filing a statement of appeal by certified mail with the USCA Secretary.
- b. Review of the Board of Inquiry file shall be made by the Directors at Large, who will review the charge(s) (including any witness statements and documentary evidence), the response of the charged party (including any witness statements and documentary evidence), and any independent evidence developed by the Board of Inquiry to determine the reasonableness of the Board of Inquiry determination. An appeal by either party shall constitute a waiver of confidentiality, allowing the Board of Inquiry members to fully disclose to and discuss with Executive Board members all of the evidence presented during the investigation.
- c. The appeal shall not be a hearing de novo, meaning that the matter shall not be reinvestigated by the Directors at Large, but the Directors at Large shall review all the evidence presented and either sustain the appeal or deny the appeal. In the event the appeal is sustained, the charge is referred back to the Board of Inquiry for further specified investigation or consideration. In the event the appeal is denied, the Executive Board, without entertaining further argument from any party, shall vote to accept, modify, or reject the Board of Inquiry determination.

SECTION 5 CENSURE, SUSPENSION (GBM2016)

Members of the Association may be censured **or** suspended for cause by unanimous vote of the Executive Board voting. Sufficient cause for censure or suspension, termination of membership, or other sanction shall include: deliberate violation of the Bylaws or Rules and Regulations causing damage to the association or its members, animal cruelty, extreme unsportsmanlike conduct, dishonest conduct while in a position of responsibility, deliberate disruption or interference with the association's proper functioning, or any other conduct prejudicial to the best interests of the Association. The Board of Directors shall have such authority and power as may be necessary to adopt rules and policies relative to sanctions and the procedures to be followed at any disciplinary proceeding. (GBM2016)

ARTICLE XII FELONY PROHIBITION WAIVERS

Individuals with felony convictions are prohibited from serving as officers, directors at large, regional directors, assistant regional directors, regional breed wardens, and judges. In order to effect the necessary background checks, USCA will contract with a firm providing such services on an annual basis. The cost incurred in obtaining a background check will be borne by the member elected to office. A member may petition the Executive Board of Directors for a waiver of the felony prohibition, based upon extraordinary circumstances. "Extraordinary circumstances" includes, but is not limited to, conduct that no longer constitutes a felony. The petition must be submitted in writing, and the Executive Board must review and render a decision within thirty (30) days of receipt of the petition. The Executive Board's decision shall be by ballot and is final.

ARTICLE XIII AMENDMENTS

- a. These Constitution and Bylaws may only be amended at the annual meeting of the General Board of Directors by a two-thirds vote.
- b. Amendments to these Constitution and Bylaws may only be considered when written notice of the proposed amendment has been mailed to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to the annual meeting of the General Board of Directors. The proposed changes must be specified. If such notice is published in the association's official publication not less than ninety (90) days prior to the meeting date, the requirement for mailing written notice shall be waived. If amendments to specific articles of these Constitution and Bylaws are proposed in compliance with this provision, further amendments may be made from the floor of the General Board of Directors meeting for that respective article.

ARTICLE XIV DISSOLUTION

- a. The United Schutzhund Clubs of America may be dissolved at any time by the written consent of two-thirds (2/3) of the members of the General Board of Directors. The motion to dissolve shall require the same vote as described in Article XI for a bylaw amendment.
- b. Dissolution may only be considered at a meeting of the General Board of Directors. A special meeting for this purpose shall be called if the Secretary receives a written request for such a meeting from a majority of USCA full member clubs.
- c. Dissolution may only be considered if written notice of the intent to dissolve is sent to all full member clubs, Regional Directors, and USCA Officers not less than thirty (30) days prior to the special meeting called for this purpose.
- d. If the association is dissolved, all just debts and liabilities of the association shall be paid. After payment of all debts and liabilities of the association, its assets and properties shall be distributed to a non-profit fund, foundation, or corporation which is organized and operated exclusively for dog training purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

REVISION HISTORY

DATE	DESCRIPTION	UPDATED BY
3/30/17	Added first paragraph to Article IV Section 1 Added to Article XI Section 5 Changed wording Article III Deleted Article IV Section II e Passed from 2016 GBM	M. Clubb
11/2018	Updated language for Article 7, Section 2, f. 1V. Board of Directors of the Bylaws Updated language for Article IV Section 1 Updated language for Article V Section 3 Passed at 2018 GBM	M. Clubb

ATTACHMENT A

April 16, 2020

To: UScA Secretary Michelle Clubb

Re: BOI investigation of VP Mark Scarberry

Charges/Investigation

Charges were filed on January 9, 2020 by Michelle Clubb that Vice President Mark Scarberry on 10/17/19 visited the office of UScA in St. Louis, MO and conducted an investigation of financial wrongdoing involving but not limited to, President Vadim Plotsker, Treasure James Alloway, UScA Judge Frank Phillips and member Kjersti Daabakk.

The charges also state that the unauthorized investigation took up to 4 hours of "company business" time away from the staff's duties without proper clearance by UScA President Plotsker.

Because of these charges and the actions therein VP Scarberry is also charged with "conduct unbecoming" of an Executive Officer, that is, conduct prejudicial of the interest of the Organization.

Michelle Clubb is seeking upon sustaining the charges that VP Scarberry be removed from office and prevented from further seeking any position of authority in UScA.

The BOI conducted interviews of UScA staff Deb Sweeney and Jody Donaldson as well as Executive Board members Plotsker, Alloway, Clubb and respondent Scarberry.

Based on these interviews and review of VP Scarberry's past behavior (removal of committee membership Track Layers/Helper) we, the BOI unanimously, find the following:

- 1) Scarberry was less than truthful in his interview. It was determined this investigation was solely done to benefit Scarberry and not in the best interest of UScA.
- 2) Scarberry could have easily asked for or assembled himself, a committee to look into any potential improprieties. The information was easily obtainable through other responsible and professional means, thus avoiding any conflict with the office staff.
- 3) Scarberry showed poor judgement and leadership skills in conducting an unauthorized investigation based on rumors. (Scarberry was asked who provided the information and refused.)
- 4) Scarberry did damage the reputation of the Executive Board by conducting the investigation.
- 5) Scarberry did distract staff from their assigned duties without proper authorization.

- 6) Scarberry's past behavior clearly has shown poor judgement, poor leadership and conduct unbecoming of an officer.
- 7) Scarberry by his actions has damaged the working ability and trust of the Executive Board.

The BOI has unanimously concluded that Scarberry has shown extremely poor judgement with this and prior behavior and because of this, the BOI is recommending Scarberry be immediately removed from his current position on the Executive Board and further be denied the opportunity to run for any position of authority in UScA for a period of three years from the date of this decision.

Sincerely,

John P Horan
Acting Chair, BOI

UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

744 Mt Rushmore AV
Tracy, CA 95377
Cell# 209-610-3502
Email: 1k9uzi@gmail.com

September 17, 2020

Dear Mr. Scarberry,

The USCA Board of Inquiry (BOI) submitted their recommendation to the Executive Board regarding your appeal. The BOI upheld their original recommendation that you immediately be removed from the office of Vice President and that you cannot hold any position of authority within in USCA for three years starting April 16, 2020.

The BOI's recommendation was submitted under Executive Board Motion 21-20 to the USCA Executive Board for a vote. The USCA Executive Board voted to not approve the BOI's recommendation.

Yours in the Sport,

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: BOI's Report on findings

Exhibit 4

SWORN DECLARATION OF MICHELE SCARBERRY UNDER 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct:

1. I acted as the 2019 USCA Sieger Show Chairman and Event Coordinator.
2. When the Sieger Show finished on Sunday, October 10, 2019 – Trish Sansbury and I brought home the left-over trophies, catalog and ring sheets. Trish used those ring sheets to update the website that same evening.
3. On October 16, 2019, I had an e-mail exchange (see below) with Jody Donaldson that proves I had the Sieger Show paperwork in my possession.
4. Just prior to this e-mail exchange, I had a telephone call with Jody Donaldson during which I informed Donaldson that I was going to give my husband, Mark Scarberry, the Sieger Show paperwork so that he could deliver it to the office.
5. Subsequently, I gave the Sieger Show paperwork to my husband, Mark Scarberry, to drop off at the USCA Office, on his way to Kansas to do a seminar.
6. The following email exchange supports the fact that Jody Donaldson did not have both catalogs, and that I did have Sieger Show paperwork in my possession, which I sent with my husband, Mark Scarberry, to drop off at the Office:

From: Michele Scarberry [<mailto:michele@germandogs.com>]

Sent: Wednesday, October 16, 2019 11:51 AM

To: Jody Donaldson <Scorebook@GermanShepherdDog.com>

Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

I don't believe we purchased a trophy for Veterans class - but I have extra trophies - you (USCA Office) could have a plaque made for each Veteran & mail them the award

Let me know - I'll send 3 with Mark

Michele

On Oct 16, 2019, at 13:23, Jody Donaldson <Scorebook@GermanShepherdDog.com> wrote:

Michele,

Debbie says yes please, Also do you need me to mail you the catalog that the Judge signed? I only have the one that Pertl signed?

Jody

From: Michele Scarberry [<mailto:michele@germandogs.com>]

Sent: Wednesday, October 16, 2019 1:34 PM

To: Jody Donaldson <Scorebook@GermanShepherdDog.com>

Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

You should keep it for Office records - Trish & I have double checked website results & everything looks in order.

If there is a dispute, we'll have the catalog.

Mark left already - didn't get to send awards with him, I'll have to mail it

MS

Begin forwarded message:

From: "Jody Donaldson" <scorebook@germanshepherddog.com>

Subject: RE: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

Date: October 16, 2019 at 14:41:41 EDT

To: "Michele Scarberry" <michele@germandogs.com>

They one that I have only has the Judge's signature no results.

Jody


Michele Scarberry

Dated: 11/10/2020

Sworn in my presence by Michele Scarberry on 10th Nov. 2020



THOMAS A. HOUSE JR.
Notary Public, State of Ohio
My Comm. Expires Sept. 30, 2023
Recorded in Medina County



11/10/20

Exhibit 5

From: Michele Clubb <1k9uzi@gmail.com>

Sent: Saturday, May 23, 2020 7:15 PM

To: Mark Scarberry <Mark@germandogs.com>; Joseph Guarino III <jguarino@bmanganolaw.com>

Subject: BOI Appeal

Mark:

The Directors at Large have Sustained your appeal from the Charges filed on January 9, 2020. As provided in Article XI, Section 4 c of the Bylaws, the Charges are returned to the Board of Inquiry for further investigation and consideration. When the BOI has completed its additional investigation and consideration and has rendered a new recommendation in accordance with the Bylaws, you will be advised of the BOI's recommendation on the Charges.

Michele Clubb
USCA Secretary
Way Out West Schutzhund Club President
Northwestern Assistant Regional Director
Cell# 209-610-3502

Exhibit 6



Executive Board Ballots

EB Motion #11-20 - Accept the BOI findings regarding charges filed against Vice President Mark Scarberry

Motion by Michele Clubb, Secretary, on behalf of the Board of Inquiry Committee, and seconded by Don Yelle, NEW RD, to accept the BOI's findings regarding the charges filed against Vice President Mark Scarberry

Background: BOI charges were filed by USCA Secretary Michele Clubb against USCA Vice President Mark Scarberry for conduct unbecoming of an Executive Officer, and that his actions were a detriment to USCA. The BOI Committee investigated the charges and provided their findings and recommendations for sanctions.

THIS VOTE IS CONFIDENTIAL

VOTE RESULTS:

MOTION CARRIED APRIL 24, 2020

Full documents, BOI findings and recommendations are posted on the USCA website

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UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

744 Mt Rushmore AV
Tracy, CA 95377
Cell# 209-610-3502
Email: 1k9uzi@gmail.com

January 21, 2021

Dear Mr. Scarberry,

The USCA Board of Inquiry (BOI) submitted their findings regarding the charges against you by President Vadim Plotster. Please see enclosed for BOI's findings.

The BOI's recommendation will be submitted for a vote to the Executive Board after the 14 day appeal window.

You have 14 days upon receipt of this letter to file your appeal. Please refer the USCA Bylaws for further information regarding your right to appeal.

If you have any questions feel free to contact me.

Yours in the Sport,

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: BOI's Report on findings

January 20, 2021

To: USCA Secretary Michele Clubb

Re: BOI investigation of VP Mark Scarberry

Charges/Investigation

Charges were filed on October 4, 2020 by President Vadim Plotsker on behalf of USCA against Vice President Mark Scarberry alleging that Scarberry did give false and misleading testimony during a Board of Inquiry investigation of the January 6, 2020 Conduct unbecoming case filed by Michele Clubb.

The charges stem from the BOI findings dated April 16, 2020 that by unanimous decision of the BOI, VP Mark Scarberry was less than truthful during the investigation.

Background:

During the January 2020 investigation Scarberry, when directly asked why he went to the USCA he stated "to drop off the Sieger Show paperwork" and "take Deb Sweeney to lunch". It was determined through the conversation with Deb Sweeney and Jody Donaldson that Mark Scarberry arrived at the office at 10:00-10:103 AM without any paperwork. Also that lunch was brought in while Scarberry had the staff review financial information.

Charges:

Per USCA Bylaws Articles XI, Section 3, Subsection H: In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the BOI shall indicate such in it's determination letter, and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interest of USCA.

Facts:

During the BOI's investigation of the October 4 charges, Scarberry was again asked directly, did you bring Sieger Show paperwork to the office, he replied, yes. Both Sweeney and Donaldson testified that he did not. Scarberry was asked directly, who did you give the paperwork to, he replied, "I don't recall". Both Sweeney and Donaldson stated they never received any paperwork. He was then asked, "did you perhaps leave it on someone's desk and didn't mention it" he replied, emphatically, "no".

Conclusion:

The Board of Inquiry, by a majority, has confirmed that Vice President Mark Scarberry lied during the original investigation (as the Board of Inquiry decided at that time) and the Board of Inquiry has determined that Vice President Mark Scarberry has again lied to the Board of Inquiry during this investigation. Pursuant to the Bylaws, the recommendation is suspension from all USCA privileges for a minimum of one year.

Sincerely,

John P Horan
Acting Chair, BOI

**BEFORE THE BOARD OF INQUIRY
UNITED SCHUTZHUND CLUBS OF AMERICA**

VADIM PLOTSKER, USCA President)	BOI CASE NO.
)	
Charging Party)	
)	
and)	APPEAL OF
)	MARK SCARBERRY
MARK SCARBERRY, USCA Vice President)	
)	
Respondent.)	
)	

Pursuant to Article XI, Section 4 of the USCA Constitution and Bylaws, Mark Scarberry (“Scarberry” or “Respondent”) files this Appeal to the Board of Inquiry’s January 20, 2021 Findings (“BOI Findings”) regarding the October 4, 2020 charges filed by USCA President Vadim Plotsker (“Plotsker” or “Charging Party”). For the reasons stated below, the BOI Findings should be overturned. A copy of this Appeal was mailed via electronic mail and overnight mail to USCA Secretary Michelle Clubb, 744 Mt. Rushmore Av, Tracy, CA 95377 on March 1, 2021.

Respectfully submitted,

s/Joseph J. Guarino III
Joseph J. Guarino III (0079260)
MANGANO LAW OFFICES Co., L.P.A.
2460 Fairmount Blvd., Suite 314
Cleveland, Ohio 44106
T: (216) 397-5844/F: (216) 397-5845
jguarino@bmanganolaw.com

Counsel for Respondent

I. PARTIES

Charging Party Plotsker is a member and the President of the United Schutzhund Clubs of America (“USCA”). Respondent Scarberry is a USCA member and Vice President of the USCA.

II. STATEMENT OF FACTS AND PROCEDURAL POSTURE

To begin, Respondent incorporates his entire “Statement of Facts” section¹ from his February 10, 2020 Response to USCA Secretary Clubb’s January 9, 2020 Charges (“Clubb Charges”). Plotsker has based his Charges against Scarberry entirely upon the flawed and failed charges brought by Clubb.

Following the filing of the Clubb Charges and Scarberry’s February 10, 2020 Response, the BOI conducted an investigation into the matter, which consisted of interviews of USCA staff members Deb Sweeney (“Sweeney”) and Jody Donaldson (“Donaldson”), as well as Executive Board members Plotsker, Clubb, Jim Alloway (“Alloway”), and Scarberry. Scarberry’s interview was conducted on March 26, 2020 via telephone. Respondent is not aware when and how the other interviews were conducted.

Following the BOI’s investigation, they issued the following findings, in part, on April 16, 2020:

- 1) Scarberry was less than truthful in his interview. It was determined this investigation was solely done to benefit Scarberry and not in the best interest of USCA.
- 2) Scarberry could have easily asked for or assembled himself, a committee to look into any potential improprieties. The information

¹ This should be read to include the February 9, 2020 Declaration of Mark Scarberry, which was attached to his response as Exhibit A.

was easily obtainable through other responsible and professional means, thus avoiding any conflict with the office staff.

- 3) Scarberry showed poor judgement and leadership skills in conducting an unauthorized investigation based on rumors. (Scarberry was asked who provided the information and refused.)
- 4) Scarberry did damage the reputation of the Executive Board by conducting the investigation.
- 5) Scarberry did distract staff from their assigned duties without proper authorization
- 6) Scarberry's past behavior clearly has shown poor judgement, poor leadership and conduct unbecoming of an officer.
- 7) Scarberry by his actions has damaged the working ability and trust of the Executive Board.

The BOI has unanimously concluded that Scarberry has shown extremely poor judgement with this and prior behavior and because of this, the BOI is recommending Scarberry be immediately removed from his current position on the Executive Board and further be denied the opportunity to run for any position of authority in USCA for a period of three years from the date of this decision.

(See Ex. 1, BOI Findings re: Clubb Charges.)²

Nearly six (6) months later (and following an appeal process and ultimate exoneration of Scarberry),³ on October 4, 2020, Plotsker filed the current charges (“Plotsker Charges”) and alleged that Scarberry gave “knowingly false testimony as a witness to the Board of Inquiry” and was “less than truthful.”⁴ Plotsker alleged that

² According to the BOI’s April 16, 2020 Findings, the BOI’s investigation also included a “review of VP Scarberry’s past behavior (removal of committee membership Track Layers/Helper).” This is ridiculous and irrelevant because any charges based on “past behavior” would have had to have been filed within one year of the alleged misconduct. No such charges were ever filed, making that review pointless.

³ See below for a discussion on the retaliatory nature of the Plotsker Charges, along with other retaliatory actions that have been taken against Scarberry.

⁴ Notably, nothing beyond these extremely vague allegations was included in the Plotsker Charges. See below for more on this fundamental due process violation.

Scarberry was in violation of Article XI, Section 3 (h) of the USCA Constitution and Bylaws (“Bylaws”), which reads as follows:

In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. **In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.** [Emphasis added]

(See Ex. 2, USCA Bylaws.)

Attached to the Plotsker Charges were the following documents: 1) Attachment A – April 16, 2020 BOI Findings regarding the January 9, 2020 Michelle Clubb (“Clubb”) Charges, 2) Attachment B – Summary of BOI Interviews, 3) Attachment C - February 10, 2020 Scarberry Response to BOI Charges, and 4) Attachment D – May 11, 2020 Scarberry Appeal of Executive Board’s Approval of BOI’s recommendation of Clubb’s Charges.

The Plotsker Charges were received by Scarberry on October 19, 2020 via certified mail. Scarberry filed his response to the Plotsker Charges on November 16, 2021.⁵ The BOI conducted an investigation into the Plotsker Charges, which included a telephone interview of Scarberry on January 10, 2021. It is unknown what other actions were taken by the BOI as part of its investigation, but on January 20, 2021 the BOI issued its Findings in which it found that Scarberry “lied during the original investigation” and that

⁵ Respondent incorporates his entire November 16, 2021 Response (and accompanying exhibits) into this appeal.

he “has again lied to the Board of Inquiry during this investigation.” (See Ex. 3, BOI Findings re Plotsker Charges.)

USCA Secretary Michele M. Clubb sent a cover letter to Scarberry, dated January 21, 2021, with the BOI Findings attached. (See Ex. 4, Clubb Cover Letter.) In her cover letter, Clubb stated that “[t]he BOI’s recommendation will be submitted for a vote to the Executive Board after the 14 day appeal window.⁶ (*Id.*) You have 14 days upon receipt of this letter to file your appeal.” (*Id.*) Scarberry received Clubb’s cover letter with the BOI Findings via certified mail on February 16, 2021. Therefore, this appeal is being made within the 14-day appeal window, per the USCA Bylaws.

IV. ARGUMENT

A. Scarberry Has Been Truthful and Has Not Given Any False Testimony to the BOI.

As previously stated in Respondent’s November 16, 2020 Response (which has been incorporated into this appeal), all the testimony and evidence that Scarberry gave to the BOI during its investigation of the Clubb Charges was truthful. To be clear, Scarberry has not given any false testimony. Previously, since the Plotsker Charges did not contain any specific accusations about what he had supposedly been “less than truthful about,” Scarberry was left to speculate in this November 16, 2020 Response.⁷

⁶ This disciplinary/appeal procedure outlined by Clubb is a complete change in how this process has worked previously. This blatant change in the disciplinary/appeal process represents a violation of Scarberry’s due process rights, which is discussed in further detail in Section IV (C) below.

⁷ In that November 16, 2020 Response (on page 8), it was stated that “Scarberry did make a comment about how the membership should be deciding the election, but he did not say ‘you (BOI) can make me go away.’” Please consider this a correction/clarification of that statement, which Scarberry also corrected/clarified during his most recent January 10, 2021 interview. Scarberry was attempting to explain how his comments had been taken out of context. Scarberry’s comments were meant to convey to the BOI

However, the January 20, 2021 BOI Findings outline specifically what Scarberry is accused of being “less than truthful about. Specifically, the BOI Findings allege the following:

During the BOI's investigation of the October 4 charges, Scarberry was again asked directly, did you bring Sieger Show paperwork to the office, he replied, yes. Both Sweeney and Donaldson testified that he did not. Scarberry was asked directly, who did you give the paperwork to, he replied, “I don't recall.” Both Sweeney and Donaldson stated they never received any paperwork. He was then asked, “did you perhaps leave it on someone's desk and didn't mention it,” he replied, emphatically, “no.”

(See Ex. 3, BOI Findings re Plotsker Charges.) As such, the BOI concluded that Scarberry “lied during the original investigation” and that he “has again lied to the Board of Inquiry during this investigation.” (*Id.*)

These BOI Findings are simply not true. Scarberry has maintained throughout this entire process that on October 17, 2019, he was on his way to Junction City, Kansas, to do a seminar, at which Robyn Aylings was the host. On his way to that seminar, Scarberry stopped by the USCA office in St. Louis, Missouri. He arrived at the St. Louis USCA office around 9:30 a.m. and left roughly three and a half hours later. During his visit to the St. Louis office, Scarberry gave Donaldson the Sieger Show paperwork.

As described above, as part of its investigation into the Plotsker Charges, the BOI conducted a telephone interview with the Respondent on January 10, 2021. During this telephone interview, the Respondent, once again, acknowledged that he took the Sieger Show paperwork with him to the office. (See Ex. 5, Scarberry Declaration re Appeal.)

that they could leave it up to the membership to decide his fate (in the next election), instead of taking the drastic action of choosing to remove him from office themselves through the USCA disciplinary process.

During this interview, Scarberry was asked who he gave the Sieger Show paperwork to and he said, “I gave it to Jody.” (*Id.*) In fact, during that January 10, 2021 interview, Scarberry actually said – a few times – that he gave the paperwork to Donaldson. (*Id.*) To be clear, Scarberry did not say, “I don’t recall,” when asked who he gave the paperwork to. (*Id.*) Also during this interview, Scarberry was asked if he maybe left the Sieger Show paperwork on someone’s desk and didn’t mention it, to which he responded, “no.” (*Id.*) Scarberry answered this question in this way because he knew that he had given the paperwork to Donaldson. (*Id.*)

Once again, Scarberry has maintained throughout this entire process that he gave the Sieger Show paperwork to Donaldson when he arrived at the St. Louis office. (See Ex. 5, Scarberry Declaration re Appeal.) However, he freely admits that his memory is somewhat fuzzy on the exact details of what transpired over 1 year and 4 months ago, but he stands by his comments that he gave the Sieger Show paperwork to Donaldson. (*Id.*)

Scarberry recalls walking into the USCA office that day (October 17, 2019) carrying a large envelope (the type you get at the Post Office for mailing documents) which contained the Sieger Show paperwork. (See Ex. 5, Scarberry Declaration re Appeal.) Upon his entrance into the office, Donaldson was at her desk, which sits near the entrance to the office.⁸ (*Id.*) Scarberry cannot say with certainty what specific conversation he may or may not have had with Donaldson upon entering the office, but he believes they

⁸ Upon his entrance into the office, besides seeing Donaldson at her desk, Scarberry vaguely recalls seeing Sweeney across the office at her desk and another female office worker. (See Ex. 5, Scarberry Declaration re Appeal.) Scarberry does not remember the name of this other female office worker, but he believes it was her first day of work and he remembers that her employment did not last long. (*Id.*)

greeted each other, and thinks he may have said, “here’s the stuff Michele wanted me to bring” (referring to the large envelope he was carrying, which contained the Sieger Show paperwork). (*Id.*) During this quick conversation with her, Scarberry gave Donaldson the large envelope, which contained the Sieger Show paperwork. (*Id.*) Following these initial events upon entering the office, he remembers being shown around the rest of the office. (*Id.*)

In addition, it has been suggested that Scarberry could not have brought the Sieger Show paperwork with him to the St. Louis office that day because there was no way he could have been in possession of it.⁹ Once again, this is simply not true. As previously explained in Respondent’s November 16, 2020 Response,¹⁰ his wife – Michele Scarberry – was Chairman of the 2019 Sieger Show. As Chairman, she was in possession of the Sieger Show paperwork. On October 16, 2020, Michele Scarberry had an e-mail exchange with Donaldson that proves she had the Sieger Show paperwork in her possession.¹¹ Just prior to this e-mail exchange, Michele Scarberry had a telephone call with Donaldson during which she informed Donaldson that she was going to give her husband, the Respondent, the Sieger Show paperwork so that he could deliver it to the office. Subsequently, Michele Scarberry gave the Sieger Show paperwork to her husband, the Respondent, for him to deliver to the USCA office on his way to the seminar

⁹ It has also been suggested that Scarberry is not being truthful because it his word against two others (Donaldson and Sweeney). This two versus one argument is ridiculous and does not even warrant any further response.

¹⁰ See Michele Scarberry’s Declaration attached to Respondent’s November 16, 2020 Response as Exhibit 4.

¹¹ See Ex. 6, Sieger Show E-mails for this and other related e-mails that further prove this point.

in Kansas, which he did.¹² Based upon the evidence, Donaldson knew that Scarberry was going to be bringing the Sieger Show paperwork with him to the office. And, Scarberry did, in fact, bring that paperwork with him.

The bottom line is this: Scarberry did not lie during the original investigation into the Clubb Charges and he did not lie during this investigation into the Plotsker Charges. The only thing Scarberry *might* be guilty of is not having an entirely clear memory of mundane details of events that happened well over one (1) year ago. Surely, this does not warrant the type of disciplinary action that the BOI has recommended be taken against the Respondent. Indeed, Scarberry is a 39-year member of the USCA (since 1982). He has been the USCA Vice-President since 2018 and prior to this he was a USCA Regional Director for over 20 years. Surely, he deserves more respect for his devotion to this organization than he has received throughout this entire witch hunt.

Because Scarberry did not give any false testimony to the BOI, the Respondent's appeal should be sustained.

B. The Plotsker Charges are Moot Based on the USCA Executive Board's Decision to Overturn the Clubb Charges.

While this argument was already outlined in Scarberry's November 16, 2020 Response, it is worth reiterating here. As noted above, the Plotsker Charges, which are the subject of this Appeal, stem directly from the January 9, 2020 Clubb Charges.

¹² It has been suggested that the fact Michele Scarberry was in possession of the Sieger Show paperwork does not prove anything because she was not with the Respondent when he went to the USCA office, so she is not a witness to him dropping off the paperwork. This misses the point. Clearly, Michele Scarberry had been in possession of the Sieger Show paperwork. Therefore, it is more than reasonable to conclude that she gave the paperwork to her husband to drop off at the USCA office, which is exactly what happened.

On April 16, 2020, the BOI ruled against Scarberry concerning the Clubb Charges. On April 25, 2020, the USCA Executive Board approved the BOI's ruling against Scarberry. On May 11, 2020, Scarberry appealed the Executive Board's approval of the BOI's April 16, 2020 decision. On May 23, 2020, the Directors at Large sustained Scarberry's appeal and sent the Clubb Charges back to the BOI for further investigation and consideration. On August 17, 2020, the BOI sustained its original April 16, 2020 Findings against Scarberry. Finally, on September 17, 2020, the Executive Board ruled in Scarberry's favor, by voting to reject the BOI's recommendation concerning the Clubb Charges.

The core element of the Plotsker Charges is that Scarberry was "less than truthful" and provided "false testimony" during the BOI's investigation of the Clubb Charges. As outlined above, the Clubb Charges were thrown out on September 17, 2020, which completely and effectively exonerated Scarberry of any wrongdoing. As such, because the Clubb Charges were ultimately dismissed, the only conclusion is that the Board had determined Scarberry's testimony to be truthful. Otherwise, it would not have dismissed the Clubb Charges in their entirety. Therefore, it stands to reason that these new Plotsker Charges must be found to have no merit.

C. Scarberry's Rights to Fundamental Due Process Have Been Violated.

Surely, the USCA prides itself as a legitimate organization, one that affords its members and representatives basic due process rights, which are common in most types of civil proceedings. It is widely recognized that legitimate organizations, such as the USCA, follows the basic tenets of procedural due process that are almost universally

accepted in almost all forums, such as this one, where an individual could lose some right or privilege. Basic fairness, in any civil forum, dictates no less.

One of the fundamental elements of due process is the notification to a charged party of the pendency of an action against him/her, otherwise known as notice. It is generally recognized that notice must be sufficient to allow a charged party to understand the charges that have been brought against him/her, among other things. In this case, the Plotsker Charges were totally lacking the specificity required to afford Scarberry the ability to fully understand the accusations against him. To be clear, the Plotsker Charges were extremely vague. At the time Scarberry submitted his November 16, 2020 Response to the Plotsker Charges, he had no idea as to what “knowingly false” testimony he allegedly had provided. Likewise, Scarberry had no idea as to what he had allegedly been “less than truthful” about. As such, it was nearly impossible for Scarberry, or any other reasonably educated person in Scarberry’s position, to defend himself in an intelligent and reasonable manner in his November 16, 2020 Response.

Since Scarberry filed his November 16, 2020 Response, a new due process problem has now crept into the USCA’s handling of this matter - a complete change in the disciplinary/appeal process. As described in Section II of this Appeal above, Clubb sent a cover letter to Scarberry, dated January 21, 2021, in which she stated that “[t]he BOI’s recommendation will be submitted for a vote to the Executive Board after the 14 day appeal window. You have 14 days upon receipt of this letter to file your appeal.” (See Ex. 4.) This appeal procedure, outlined by Clubb, represents a fundamental change in how the disciplinary/appeal process has worked in the past and is in violation of the USCA Bylaws.

Regarding the January 9, 2020 Clubb Charges filed against Scarberry, the BOI issued its findings/recommendation on April 16, 2020. Then, the BOI submitted its findings/recommendation under Executive Board Motion 11-20 to the Executive Board, and the Executive Board approved the BOI's findings/recommendation on April 25, 2020. Upon that April 25, 2020 decision of the Executive Board, Scarberry was given 14 days to appeal. Scarberry appealed the BOI Findings/Executive Board Approval on May 11, 2020.

Now, in the present case, the BOI Findings were issued in a letter dated January 20, 2021, *but instead of sending the BOI's findings/recommendation to the Executive Board first to accept, modify, or deny*, Scarberry has been told that he must appeal first and *then* the BOI's findings/recommendation will be sent to the Executive Board for a vote. This represents a complete change in procedure and deprives Scarberry of the initial round of the Executive Board's evaluation, i.e. to sustain, reject, or modify based solely on the findings and the reasonableness of the punishment recommended by the BOI.

The USCA Bylaws outline how the disciplinary/appeal process is supposed to work. Article XI, Section 2 (e) outlines the procedure for an accused member to respond to charges. Then, Article XI, Section 3 (a) outlines the next steps – a BOI investigation followed by a vote to sustain or not sustain the charges and a determination letter is then sent to all parties and to the Executive Board. The next step in the process is outlined in Article XI, Section 3 (c), which states that the Executive Board shall sustain, modify, or reject the BOI's recommendation. Following these steps, the USCA Bylaws then describe the appeal process in Article XI, Section 4. Clearly, the same disciplinary/appeal process that was followed concerning the Clubb Charges is not being followed now regarding the

Plotsker Charges. Therefore, once again, the Respondent's fundamental due process rights have been violated. The USCA cannot simply change its rules as it sees fit.

Finally, another core requirement of fundamental due process is a hearing before an impartial tribunal. Here, there was simply no impartiality. Since this matter arose from the investigation into the January 9, 2020 Clubb Charges, as described above, Respondent incorporates his entire May 11, 2020 appeal of the Executive Board's approval of the BOI's recommendation concerning the Clubb Charges into this response. As part of that May 11, 2020 appeal, Scarberry argued that Clubb, Plotsker, and Alloway should have all been recused from participating in the decision-making process of all these cases. The reasons these individuals should have been recused were obvious: 1) Clubb brought the charges, wrote the allegations, had a transparent agenda; 2) Plotsker declared during deliberations in an email that he was interviewed, proclaimed he told the truth, presented documentary evidence to the Board, and claimed he viewed the matter as Scarberry maneuvering to run against the President in the upcoming election; and 3) Alloway, as a witness to the matter, should not have been allowed to sit on the jury. Based on their participation, Scarberry's due process rights were clearly violated. Indeed, based on their participation, there was not even an appearance of fairness.¹³

These shortcomings regarding the lack of specificity in the Plotsker Charges, the complete change in the disciplinary/appeal process, and the obvious lack of impartiality of some of the decision makers are all – each and of themselves – fatal flaws in the case

¹³ Furthermore, the participation of Clubb, Plotsker, and Alloway also stinks of retaliation against a political rival. The retaliatory actions that have been taken against Scarberry dating back to January 2020 are further described below in Section D.

against Scarberry. In fact, given the BOI's last transparent vendetta ruling (its stubborn attempt to sustain its original findings in the Clubb Charges even after the Executive Board had granted Scarberry's original appeal—an attempt that the Executive Board summarily rejected at the Executive Board's pre-appeal review of the BOI Decision), the BOI's findings and recommendation here are certainly suspicious. As a result of these shortcomings, the Respondent has not been afforded the most basic and fundamental due process rights. Therefore, this Appeal should be granted, and the Plotsker Charges dismissed.

D. The Plotsker Charges Are a Continuation of the Retaliatory Actions Being Taken Against Scarberry.

Once again, this argument was already a part of Scarberry's November 16, 2020 Response, but it is worth restating here. Throughout 2020 and now into 2021, Scarberry has been the target of an obvious and blatant retaliatory campaign. To summarize, Scarberry has been the target of the following charges and appeal:

- January 9, 2020 – Clubb files her charges (“Clubb Charges”) against Scarberry
- May 12, 2020 – Staci Murphy (“Murphy”) files new charges (“Murphy Charges”) against Scarberry¹⁴
- September 10, 2020 – Murphy appeals the May 12, 2020 BOI Findings regarding her charges against Scarberry¹⁵

¹⁴ Unbelievably, on this very same day (May 12, 2020) that the Murphy Charges were filed, the BOI issued its Findings regarding the Murphy Charges! Scarberry received a copy of these same BOI Findings but dated May 14, 2020. Scarberry did not even respond to the Murphy Charges until June 24, 2020, so obviously the BOI did not conduct a fair and impartial investigation into these charges since they issued their Findings on the same day the charges were filed and long before Scarberry even responded to the charges.

¹⁵ In this regard, the USCA did not follow the proper procedures regarding the processing of the Murphy charges. The BOI's Findings were supposed to go to the E-board for them to either accept, modify, or deny. That appears to have not happened. It appears like the E-board may not have voted on anything prior to

- September 19, 2020, Executive Board voted to “not approve” BOI’s attempt to re-assert their original findings against Scarberry in the Clubb Charges.¹⁶
- October 4, 2020 – Plotsker files new charges, the Plotsker Charges, against Scarberry¹⁷
- October 26, 2020—Directors at Large Deny Murphy’s Appeal of the BOI Decision Exonerating Scarberry from any wrongdoing.¹⁸

The timing of the Murphy and Plotsker Charges is evidence of blatant retaliation. On May 11, 2020 Scarberry appealed the Executive Board’s approval of the BOI’s recommendation concerning the Clubb Charges. Scarberry sent his appeal to the USCA Secretary on May 11, 2020 via e-mail and by overnight mail. It just so happened to be the very next day – May 12, 2020 – that the Murphy Charges were signed and notarized. On September 10, 2020, Murphy appealed the dismissal of her charges.

On September 19, the Executive Board decided to “not approve” the BOI’s attempt to re-assert their findings and recommendation in the Clubb Charges even after the Directors at Large granted Scarberry’s appeal. In those proceedings, Scarberry had successfully argued the impropriety of Plotsker’s involvement in proceedings as both witness and juror. A mere 17 days after the Clubb Charges were fully and finally rejected, on October 4, 2020, Plotsker filed the current charges (the Plotsker Charges) against Scarberry. The Plotsker Charges are based on the BOI’s April 16, 2020 Report and Recommendations in which they found that Scarberry provided “false testimony” and was

Murphy’s appeal. Reviewing the USCA website, shows that there is no “EB Motion” (or E-Ballot) that happened regarding the BOI Findings.

¹⁶ See Ex. 7, Eboard’s Denial of Clubb Charges.

¹⁷ These are the charges that are the subject of this Response.

¹⁸ See Ex. 8, Murphy’s Appeal Denied.

“less than truthful.” Yet, Plotsker waited almost six (6) months from when these charges could have been filed and only 17 days after the Clubb Charges were dismissed. Once again, the retaliatory nature of these actions against Scarberry are made obvious by the timing.

As a result of this ongoing retaliatory campaign against him, Scarberry’s reputation has been damaged. Some of the charges against Scarberry have appeared on the public side of the USCA website and in at least one magazine, for all to see. Based on these blatant and ongoing retaliatory actions against Scarberry, this appeal should be sustained.

V. CONCLUSION

For all the reasons stated above, this appeal should be granted and the Plotsker Charges against Scarberry should be dismissed.

Respectfully submitted,

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ATTACHMENT A

April 16, 2020

To: UScA Secretary Michelle Clubb

Re: BOI investigation of VP Mark Scarberry

Charges/Investigation

Charges were filed on January 9, 2020 by Michelle Clubb that Vice President Mark Scarberry on 10/17/19 visited the office of UScA in St. Louis, MO and conducted an investigation of financial wrongdoing involving but not limited to, President Vadim Plotsker, Treasure James Alloway, UScA Judge Frank Phillips and member Kjersti Daabakk.

The charges also state that the unauthorized investigation took up to 4 hours of "company business" time away from the staff's duties without proper clearance by UScA President Plotsker.

Because of these charges and the actions therein VP Scarberry is also charged with "conduct unbecoming" of an Executive Officer, that is, conduct prejudicial of the interest of the Organization.

Michelle Clubb is seeking upon sustaining the charges that VP Scarberry be removed from office and prevented from further seeking any position of authority in UScA.

The BOI conducted interviews of UScA staff Deb Sweeney and Jody Donaldson as well as Executive Board members Plotsker, Alloway, Clubb and respondent Scarberry.

Based on these interviews and review of VP Scarberry's past behavior (removal of committee membership Track Layers/Helper) we, the BOI unanimously, find the following:

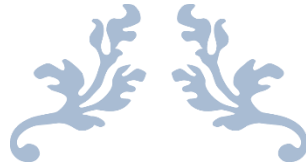
- 1) Scarberry was less than truthful in his interview. It was determined this investigation was solely done to benefit Scarberry and not in the best interest of UScA.
- 2) Scarberry could have easily asked for or assembled himself, a committee to look into any potential improprieties. The information was easily obtainable through other responsible and professional means, thus avoiding any conflict with the office staff.
- 3) Scarberry showed poor judgement and leadership skills in conducting an unauthorized investigation based on rumors. (Scarberry was asked who provided the information and refused.)
- 4) Scarberry did damage the reputation of the Executive Board by conducting the investigation.
- 5) Scarberry did distract staff from their assigned duties without proper authorization.

- 6) Scarberry's past behavior clearly has shown poor judgement, poor leadership and conduct unbecoming of an officer.
- 7) Scarberry by his actions has damaged the working ability and trust of the Executive Board.

The BOI has unanimously concluded that Scarberry has shown extremely poor judgement with this and prior behavior and because of this, the BOI is recommending Scarberry be immediately removed from his current position on the Executive Board and further be denied the opportunity to run for any position of authority in UScA for a period of three years from the date of this decision.

Sincerely,

John P Horan
Acting Chair, BOI



UNITED SCHUTZHUND CLUBS OF AMERICA

Constitution and Bylaws



REVISED 2018
ST. LOUIS, MO

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ARTICLE I NAME, COLORS, PROFIT STATUS AND BUDGET

SECTION 1 NAME

- a. The name of this association shall be "United Schutzhund Clubs of America"
- b. The proper abbreviation of this name shall be "USCA"

SECTION 2 COLORS

- a. The colors of the association shall be red, white and blue

SECTION 3 PROFIT STATUS AND BUDGET

- a. The United Schutzhund Clubs of America is and shall be conducted as a not for profit organization within the meaning of Section 501 (c) (7) of the Internal Revenue Code
- b. Except for reasonable and pre-approved compensation for necessary administrative services, no member may derive any income from the association. Persons who in the course of official duties or in service to the association incur expenses may apply to the Treasurer for reimbursement of these expenses. (GBM 2013)
- c. The President shall be responsible for submitting a budget to the Executive Board for its approval. This budget shall categorize and include all projected income and expenses for USCA for a minimum of one year from the date of submission. The Treasurer is directed to pay all budgeted expenses as approved by the Board of Directors. After determining that the monies are available, the President shall have the power to direct payment of expenses of up to five hundred dollars (\$500) over existing budget limitations per category per year. No additional expenses shall be incurred unless full justification is submitted to and formally approved by the Executive Board of Directors.
- d. The fiscal year of USCA shall begin on July 1 of each year and end on June 30 of the following year.

ARTICLE II OBJECTIVES

The United Schutzhund Club of America is organized exclusively for educational, social and recreational purposes within the meaning of Section 501 (c) (7) of the Internal Revenue Code. The objectives of these associations shall be to preserve the German Shepherd Dog in accordance with the breed standard as a working dog, to promote humane training methods for the working dog and to support responsible dog ownership and breeding practices. Activities shall:

1. Promote Schutzhund and HGH (Herdengebrauchshund) herding dog training for the working dog
2. Promote breeding and establish breed surveys for the working German Shepherd Dogs
3. Promote HGH herding dog trials for the working dog
4. Establish a Breed Registry for the German Shepherd dog
5. Promote events which evaluate the conformation of German Shepherd dogs
6. Develop, qualify and license local clubs in the United States and its possessions so that they may conduct Schutzhund Trials, German Shepherd Dog Breed Surveys, Conformation Shows for The German Shepherd Dogs, tracking tests for the FH degree (Faehrtenhundpruefung), HGH herding dog trials and endurance tests for the AD award (Ausdauerpruefung)
7. Develop as decided by the Board of Directors any other tests to insure the further development and maintenance of the German Shepherd Dog as a working breed and to encourage local clubs to implement these tests
8. Promote training of working dogs among the youth
9. Support the use of workings dogs for search and rescue work police work, customs and board patrol work, guide dog work, scenting work and in other ways for which working dogs are utilized
10. Publish a magazine to promote the objectives of the association
11. Conduct annually USCA German Shepherd Dog National Championship to coincide with the meeting for the General Board of Directors between October 1 and November 20

ARTICLE III PERFORMANCE AND BREEDING REGULATIONS

1. Performance regulations for all USCA working evaluations shall be as approved by the Executive Board, and shall be listed in the USCA Official Rule Book for All Workings Dogs Evaluations. Any changes to the USCA performance regulations require approval of the Executive Board. (GMB 2016)
2. Regulations governing German Shepherd Dog breeding, breed surveys, and breed shows shall be as approved by the Executive Board, and shall be listed in the USCA Breeding Regulations, USCA Breed Survey Regulations, and USCA Sieger Show Regulations. Any changes to the USCA regulations require approval of the Executive Board. (GMB 2016)
3. Only judges licensed by USCA or other organizations that have been approved by the Executive Board shall preside over events sanctioned by USCA. Any changes to the licensing for judges require approval of the Executive Board. (GMB 2016)

ARTICLE IV INDIVIDUAL MEMBERSHIP

SECTION 1 TYPES OF MEMBERSHIP

USCA is committed to providing an inclusive and welcoming environment for all of its members, one in which each individual is treated with dignity and respect. Accordingly, it is the policy of USCA that no member should engage in behavior that constitutes harassment or discriminates against another based on race, color, religion, sex, national origin, gender, disability, or any other characteristic protected under applicable federal, state or local law. This policy applies to all USCA activities, publicity and any circumstance in which the member is identified as connected with USCA.

The USCA is committed to ensuring that all print or electronic publications of the organization shall not use language that reflects bias, racism, sexual, religious, disability or personal intolerance, or include content that is exploitative. Where there is any question about the potential negative effect of a publication or advertisement on the public perception of USCA, the publication or advertisement should not be issued. The USCA is also committed to enhancing, promoting and fostering a positive and accurate portrayal of working dogs, particularly the German Shepherd Dog breed, working dog sports and working dog training activities (GMB 2016)

This association shall be composed of five (5) types of individual memberships

a. Full Membership

Full members shall be provided with an official membership card and shall receive a subscription to the association's official publication. If the member is also a member of a local club, he shall be eligible for election by his club as its Delegate to USCA. A person so elected shall be a member of the General Board of Directors. Full members shall be eligible for special awards and privileges as established by the Board of Directors. A full member need not be a resident of the United States.

b. Family Membership

A family membership shall recognize two (2) persons in a family as individual full members of USCA with all rights and privileges as described in part "a" above. This membership shall issue each person a separate membership card. It shall include one (1) subscription to the association's magazine. The dues for a family membership shall be one and one-half (1 & ½) times the dues for a full membership.

c. Honorary Membership

From time to time as the association deems appropriate, a person or person may be offered honorary membership. This is intended to honor a person or persons for an achievement or for a service to the association. Honorary members shall be given a special membership card and shall receive a subscription to the official publication. Honorary members shall have all rights and privileges of membership, but shall not vote or hold office.

d. **Lifetime Membership**

Lifetime members shall be provided with an official membership card and shall receive a subscription to the association's publication. Lifetime members shall also receive a National Events Pass, which shall admit such members to all the association's national events. The names of all Lifetime members shall be published in an annual issue of the association's publication. A lifetime Membership shall be an individual membership. Lifetime Members are subject to the same USCA rules and bylaws provisions as members in other classifications. The Lifetime Membership and/or National Events Pass are non-transferable and shall terminate upon the death of the member. Lifetime Memberships shall be available for limited periods determined by the Executive Board. (GBM 2018)

e. **Youth Membership**

This membership is available to persons 21 years of age and younger and is intended to create interest in the objectives of USCA among young people. The General Board of Directors shall determine dues and privileges of membership,

SECTION 2 RULES FOR INDIVIDUAL MEMBERSHIP

a. **Annual Dues**

The General Board of Directors shall establish the amount of dues for all types of membership. Honorary members shall be exempt from annual, or multi-year dues. Dues may be payable for either a one (1) year term, or a two (2) year term at the members option. Dues shall be honored for one (1) or two (2) years respectively from the date of origin. In the case of Lifetime Memberships, dues are payable in a one-time lump sum and shall be honored for the natural life of each Lifetime member who shall pay no further dues to the association. Lifetime Members remain responsible for payment of applicable local club dues. (GBM 2013)

b. **Non-Payment of Dues**

One (1) month before the expiration date of his membership each member shall be so notified by USCA. Any member whose dues are not paid by the expiration date shall have his membership canceled. Such cancellation shall result in loss of all rights and privileges of membership. In addition, local clubs shall cancel the membership of any person whose membership in USCA is cancelled.

c. **Resignation**

Any member may resign from the association at any time and shall be deleted from the membership list. Resignation must be submitted to the USCA office in writing. There shall be no refund of dues on an annual or multi-year basis, nor upon the resignation of any Lifetime Membership from the association. Upon resignation from the association the name of the Lifetime member shall not appear in the association's publication among the roster of Lifetime Members. (GBM 2013)

d. **Transfer of Membership**

Memberships are not transferable and shall terminate automatically on the death of the member.

ARTICLE V CLUB MEMBERSHIP

SECTION 1 LEVELS OF CLUB MEMBERSHIP

a. **Affiliated Clubs**

Affiliated clubs are formally connected with USCA and may be represented on the General Board of Directors by a nonvoting Delegate. An Affiliated club is considered an apprentice club and must complete a program of

qualification before it shall be licensed to hold any USCA sanctioned events or vote on the Board of Directors. A club may become affiliated with USCA provided that the club:

- i. Adopts a set of bylaws and provides the USCA Office with a copy. These bylaws shall state that the club is and shall be conducted as a nonprofit organization and the bylaws shall include: "The objectives of this association shall be to preserve the German Shepherd Dog in accordance with the Breed Standard as a working dog, to promote humane training methods for the working dog and to support responsible dog ownership and breeding practices." The USCA office must be provided with a copy of any revised bylaws.
- ii. Requires all members of the club to become full members of USCA
- iii. Pays to USCA an annual membership fee, the amount of which will be determined by the General Board of Directors of USCA.
- iv. Supplies to the USCA Office, at the time of application, a list of names and addresses of all club members.
- v. Submits a statement signed by two (2) club officers guaranteeing observance of USCA Constitution and Bylaws and ordinances.
- vi. Is recommended by a Regional Director
- vii. Meets any additional requirements specified by the General Board of Directors

b. Full Member Clubs

A full member club is license by USCA to conduct Schutzhund Trials, German Shepherd Dog Breed Surveys, HGH (Herdengebrauchshund) Herding Dog Trials and other events sanctioned by USCA. If in good standing, a full member club may send a voting Delegate to the meeting of the General Board. A local club may gain full member club status in USCA by:

- i. Being upgraded from affiliated club status
- ii. Established clubs in good standing that are or have been affiliated with other American Working Dog Federation (AWDF) clubs may be admitted directly as full member clubs, without the requirement of affiliation trial, if such clubs have operated continuously for the five (5) years prior to seeking USCA affiliation and have conducted at least four Schutzhund and/or HGH trials during that five-year period.
- iii. In order to be upgraded from upgraded from affiliated status or to be granted directed admittance, a club must consist of not fewer than five (f) members, only two (2) of which may be part of any family membership.
- iv. To be in good standing, a club's dues to USCA must be current, the USCA dues of all members of the club must be current and the club may not be under any disciplinary action from USCA.
- v. Each full member club shall hold at least one (1) USCA-sanctioned event per calendar year beginning January 1 of the year after the year in which the club is granted full member status. Every other year the USCA-sanctioned event must be a USCA-sanctioned trial. The Regional Director shall approve any waiver of this requirement, provide the club's dues and membership list are current. The Regional Director will advise all the clubs in the region of the proposed waiver and the reasons thereof. Failure to comply with this provision will reduce the club to affiliate status for at least one (1) year. The affiliated club shall meet all the requirements once again to become a full member club.

c. An affiliated club may be upgraded to full member club status when it has met the following requirements:

- i. Demonstrate satisfactory performance in the training of dogs by conducting an affiliation trial, which was judged by an approved individual who is not a member of the club
- ii. Be approved by the Regional Director. The Regional Director is to submit to the USCA Office and the club a letter of approval or disapproval, which must be accompanied by:
 1. A list of club members, including the club officers

2. A complete set of score sheets from the affiliation trial

- d. A full membership shall consist of no less than five (5) members

SECTION 2 RELATIONSHIPS BETWEEN USCA AND LOCAL CLUBS

- a. All local clubs within USCA shall be classified as Schutzhund or HGH herding training clubs for working dogs. Events sponsored by these clubs through USCA which evaluate the working conformation of dogs shall be restricted to the German Shepherd Dog.
- b. In the event of conflict between the provisions of the USCA Constitution and Bylaws and/or rules and the bylaws and/or rules of local clubs, the provision(s) of the USCA Constitution and Bylaws and/or rules shall prevail
- c. Member clubs may not be members of, or affiliated with, any competing German Shepherd Dog organization in the United States.
- d. A complete and current membership list, including full addresses and list of the club officers, must be included with the club's annual dues. This information will be sent to the USCA Office for verification. Clubs that fail to submit both annual dues and membership lists will not be granted trial authorizations by the Regional Director. Should club membership lists and dues not be submitted by the due date, any previously approved trial authorizations will be recalled. Trial authorizations will be restored when dues and membership lists are submitted and approved.
- e. Club dues shall be paid annually by June 1, with dues prorated for the year the club joins USCA.
- f. Clubs whose dues are more than sixty (60) days in arrears shall not be clubs in good standing and shall be dropped from full club membership in USCA. Any event authorizations for clubs in arrears for dues shall be null and void.
 - i. Any club trials conducted while a club is not in good standing due to non-payment of dues shall not be USCA-sanctioned events, and any titles obtained at such trials shall be null and void.
 - ii. Only clubs in good standing may vote in regional and/or national meetings. Clubs in arrears for dues are not in good standing and shall not vote in regional or national meetings.

SECTION 3 LACK OF PROGRESS

- a. The progress of affiliated clubs toward the attainment of full member club status shall be monitored by the Regional Director. He/She shall report on the progress of affiliated clubs in his region to the Executive Board of Directors at least once a year. (GBM 2018)
- b. Lack of progress by an affiliated club toward the attainment of full member club status within a two (2) year period will cause an automatic investigation by the Regional Director.
- c. The Regional Director may extend until the end of the club's third year its affiliated status with a recommendation that no disciplinary action be taken if justification for lack of progress is shown.
- d. If no justification for lack of progress is shown, the Regional Director shall recommend to the Board appropriate disciplinary action which may include:
 - i. Probation under the supervision of the Regional Director or someone appointed by the Board of Directors
 - ii. Expulsion of the club from USCA
- e. An affiliated club which has not attained full member club status by the end of its third year shall have its membership in USCA terminated.

ARTICLE VI REGIONS, REGIONAL DIRECTORS, REGIONAL BREED WARDENS

SECTION 1 REGIONS

- a. The area served by USCA shall be divided into regions. There shall not be fewer than five (5) nor more than twenty (20) regions.
- b. Regional boundaries may be altered or regions may be divided by:
 - i. Request of the Regional Director
 - ii. Request of a majority of full member clubs in the region
 - iii. Decision of the Executive Board after a review of the changing needs of a region
- c. No regional boundary shall be altered without the approval of the Board of Directors.

SECTION 2 NUMBER AND VOTING RIGHTS

- a. There shall not be fewer than five (5) nor more than twenty (20) Regional Directors and Regional Breed Wardens.
- b. Regional Directors are members of both the Board of Directors and shall have a vote on each. Regional Breed Wardens do not have a vote on the Board.

SECTION 3 DUTIES

- a. USCA Regional Director shall be the regional representative of the association. The Regional Director shall assist in the development of new clubs in the region and shall approve trial dates for all clubs in his/her region. The Regional Director shall forward requests for USCA judges to the Director of Judges. He/she may be assigned other duties as needed.
- b. The Regional Breed Warden will:
 - i. Promote the development of Breed Wardens and tattooers in his/her region
 - ii. Be responsible for supervising and training of local breed wardens. Local Breed Wardens will report directly to the Regional Breed Warden.
 - iii. Dispense and collect breed paperwork and develop regional breeding statistics
 - iv. Keep regional reports of all breeding activity in the region and present results and recommendations at the regional meetings
 - v. Act as the Local Breed Warden when non is available

SECTION 4 TERRITORY

- a. The territory, over which each Regional Director/Regional Breed Warden shall have supervision, shall be decided by the Board of Directors.
- b. A Regional Director/Regional Breed Warden shall have authority in his/her region only. If circumstances dictate, the President of the Board of Directors may require a Regional Director/Regional Breed Warden to take responsibility for an area or a club outside of his/her own region.

SECTION 5 ELIGIBILITY

- a. To be eligible for election, a nominee must be able to show significant experience in the training and/or breeding of dogs for the Schutzhund Sport. He/she must be a full member of USCA and must reside within or be a full and active member of a full member club which is within the geographical boundaries of the region. The nominee may not be less than twenty-one (21) years of age and may not be under current disciplinary action.
- b. Individuals who have been convicted of any felony are prohibited from holding positions as regional directors or regional breed wardens.

SECTION 6 NOMINATION AND ELECTION

- a. Candidates for the position of Regional Director/Regional Breed Warden may be nominated by a Delegate from a full member club in that particular region. All nominations must be seconded.
- b. One needed not be nominated to receive votes. "Write in" balloting is permitted.
- c. Regional Directors/Regional Breed Warden shall have a term of office of two (2) years and shall be elected in odd numbered years.
- d. Elections may be held at regional meetings or by mail between the dates of January 1 prior to the annual meeting and 14 days prior to the annual meeting of the General Board of Directors, provided all full member clubs in the region are notified in writing, not less than thirty (30) days prior to said election. If this election is held, the USCA Secretary shall be notified of the result within ten (10) days.
- e. To be elected, a candidate must receive a majority of the votes cast by the full member clubs in good standing in that particular region who are in attendance at the regional meeting or by the majority of the votes cast by full member clubs in good standing in a mail ballot election.

SECTION 7 ASSISTANT REGIONAL DIRECTORS

- a. Each region shall elect an Assistant Regional Director to assist the Regional Director in his/her duties. The eligibility requirements, nominations, election and term of office shall be the same as the Regional Directors.
- b. In the event the Regional Director resigns or is incapacitated, the Assistant Regional Director shall assume the position of Regional Director for the remainder of the term.
- c. If the position of Assistant Regional Director becomes vacant for any reason, an election to fill the office will be held within forty-five (45) days. A majority vote of the full member clubs in good standing in that particular region is required to elect.
- d. If the Regional Director is unable to attend a meeting of either Board of Directors, the Assistant Regional Director may attend in his/her place and shall have a vote on either board.

SECTION 8 APPEALING REGIONAL DIRECTOR/REGIONAL BREED WARDEN DECISION

Any affiliated club, full member club or individual member in good standing may appeal the decision of the regional director, assistant regional director or regional breed warden to the Executive Board of Directors. The appeal must be sent to the Secretary, submitted in writing and filed within sixty (60) days of the decision being appealed. After consideration of the appeal and allowing the regional director, assistant regional director or regional breed warden to explain his/her position, the Executive Board of Directors may sustain, modify or rescind the decision.

ARTICLE VII BOARDS OF DIRECTORS

There shall be two (2) Boards of Directors which govern the affairs of the United Schutzhund Clubs of America. When a reference in this constitution and bylaws is made to "The Board of Directors" it shall mean either Board unless otherwise specified.

SECTION 1 GENERAL BOARD OF DIRECTORS

- a. *Definition* - The General Board of Directors shall consist of Delegates elected from full member clubs, USCA Officers, Directors at Large, and Regional Directors.
- b. *Duties* - It shall be the duty of the General Board of Directors to conduct the affairs of the United Schutzhund Clubs of America. The General Board elects the Officers and standing committee members of USCA.
- c. *Meetings*
 - (i) The General Board of Directors shall choose one (1) date per calendar year between October 1 and November 20 on which it shall conduct its annual meeting. The Secretary shall mail notification of the meeting to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to any General Board meeting. Notification shall contain the date, time, location, and agenda for the meeting. The agenda shall also be posted on the USCA website.

- (ii) A special meeting of the General Board of Directors shall be called if a petition is received by the Secretary signed by delegates of a majority of the full-member clubs in good standing. The Secretary shall mail notification of the meeting to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to any special General Board meeting. Notification shall contain the date, time, location, and agenda for the meeting. The agenda shall also be posted on the USCA website.
 - (iii) All actions of the General Board of Directors shall be reported as minutes. The minutes shall be sent to all clubs and Executive Board members within sixty (60) days of the meeting. The minutes may be sent by electronic mail or regular mail and shall be sent by regular mail to any individual member of USCA upon request of that member. The minutes shall be published in Schutzhund USCA and on the USCA website.
- d. *Quorum*
- In order for any business to be conducted a quorum must be present. A quorum shall be deemed to be present if 20% of all full member clubs in good standing and at least three (3) USCA Officers are present. The formula: USCA Full member clubs in good standing divided by five (5) plus at least three (3) USCA Officers shall be used to establish the number required for a quorum.
- e. *Delegates*
- (i) Each full member club may send one (1) voting delegate and two (2) alternates to the meetings of the General Board.
 - (ii) Each affiliated club may send one (1) nonvoting delegate to attend the meetings of the General Board.
- f. A delegate to USCA shall be elected from the regular membership of each USCA club. A full member club may also elect two alternate delegates. The delegate shall be the club's representative of record for a period of one year beginning on the date of the annual meeting of the General Board of Directors. A club may replace its delegate and/or alternates as necessary or desired. The USCA Secretary must be notified immediately of the replacement.
- g. Not less than thirty (30) days prior to the meeting of the General Board of Directors every USCA club shall send to the USCA Secretary a letter signed by two (2) officers of the club naming the club's Delegate. (The Delegate may not be one of the signers.) This letter shall specifically authorize this person to attend the meeting and vote on behalf of the club. The delegate and alternate shall carry a copy of the letter to the meeting naming him/her as the delegate/alternate. The alternate's letter shall be presented to the Secretary if it is necessary for the alternate to be seated in place of the club's Delegate. Clubs which are granted affiliated or full member status after the thirty (30) day deadline but before the meeting may send the required letter to the meeting with the club's Delegate. This letter must be presented to the Secretary before the Delegate or Alternate will be seated. Not later than two (2) days prior to the annual meeting of the General Board of Directors the Treasurer shall verify that a club is in good standing in order for its delegate to be seated.
- h. *Club Fails to Send Delegate*
- In the event a club does not send a Delegate to the General Board Meeting or, if the club fails to send a letter to the USCA Secretary identifying the club's Delegate the club shall be declared to be without representation on the General Board of Directors.
- i. *Voting at Meetings*
- (i) The Delegate from each full member club is entitled to cast one (1) vote on any given item of business.
 - (ii) Each USCA Officer, Director at Large, and Regional Director shall have one (1) vote to cast on any given item of business.
 - (iii) No person may cast more than one vote on any given item of business.
 - (iv) The alternate of any full member club may vote only if he has been seated in place of the Delegate at the time a vote is taken.
 - (v) If neither the Delegate nor alternate of a club is present when a vote is taken, the club shall have no vote on that item of business.

SECTION 2 EXECUTIVE BOARD OF DIRECTORS

- a. Definition - The Executive Board of Directors shall consist of all elected USCA Officers, Regional Directors, and four (4) representatives from the membership who shall be known as Directors at Large.
- b. The General Board of Directors shall elect from the membership four (4) persons, who are not USCA officers, to be members of the Executive Board of Directors. They shall be known as Directors at Large. They shall serve a two (2) year term and shall be elected in even numbered years. The election for Directors at Large shall be by plurality.
- c. Meetings
 - (i) A meeting of the Executive Board may be called at any time by the President. He/she may set the time and place of the meeting.
 - (ii) A meeting of the Executive Board shall be called by the USCA Secretary upon receipt of a petition signed by two-thirds (2/3) of the members of the Executive Board.
 - (iii) The Secretary shall mail notification of the meeting to all Executive Board members by electronic mail or regular mail not less than thirty days prior to any Executive Board meeting. Notification may be by electronic mail or regular mail and shall contain the date, time, location, and agenda for the meeting.
 - (iv) All actions of the Executive Board of Directors shall be reported as minutes. The minutes shall be sent to all clubs and Executive Board members within sixty (60) days of the meeting. The minutes may be sent by electronic mail or regular mail and shall be sent by regular mail to any individual member of USCA upon request of that member. The minutes shall be published in Schutzhund USCA and on the USCA website. The General Board of Directors may rescind or modify any action of the Executive Board of Directors.
- d. Duties

It shall be the duty of the Executive Board of Directors to conduct the affairs of USCA that do not require a vote by the General Board of Directors as specified in these Constitution and Bylaws. The Executive Board shall not have the authority to amend or repeal these Constitution and Bylaws.
- e. Quorum

In order for the Executive Board of Directors to conduct any business, a quorum must be present. A majority of members of the Executive Board shall constitute a quorum.
- f. Voting
 - (i) Only members of the Executive Board may vote at its meetings or on mail ballots.
 - (ii) No person may cast more than one (1) vote on any item of business.
 - (iii) In lieu of calling a special meeting, members of the Executive Board of Directors may be polled by mail or electronic communication ballot. One (1) week shall be allowed for the return of ballots before closing the vote. Complete and factual information on the subject(s) to be voted on must be supplied with each ballot. Voting by telephone on mail ballots is prohibited.
 - (iv) The results of the mail ballot on policies or decisions of general applicability shall be printed in Schutzhund USA as a vote by roll call. All votes of the EB shall be by roll call and printed unless they pertain to an issue, decision or request involving a specific natural person or persons, such as the approval of an application for a judge's license; the selection of judges, helpers, or tracklayers for National Events; an application for a waiver; a disciplinary action, an application for an exemption and other situations involving one or more specific persons rather than a policy or decision of general applicability. (GBM 2018)
 - (v) Conference call meetings may be conducted, and voting by telephone during such meetings shall be allowed.
- g. Executive Board members may not be governing members of competing U.S. German Shepherd Dog organizations.
- h. Eligibility

Individuals who have been convicted of any felony are prohibited from holding positions as members of the Executive Board.

SECTION 3 PARLIAMENTARY AUTHORITY

The current edition of "Roberts Rules of Parliamentary Procedures" shall govern this association in all parliamentary situations that are not covered in the law, or in these constitution and bylaws, or adopted rules. In case of a conflict

between the provisions of these constitution and bylaws and the parliamentary provisions of "Roberts Rules of Parliamentary Procedures," the provisions of these Constitution and Bylaws shall prevail.

ARTICLE VIII OFFICERS OF THE ASSOCIATION

SECTION 1 OFFICERS

The Officers of USCA are those people who handle the official affairs of the association. Officers shall have a vote on both Boards of Directors. The Officers of the association shall be:

- a. President
- b. Vice President
- c. Treasurer
- d. Secretary
- e. Director of Judges
- f. National Breed Warden

SECTION 2 TERMS OF OFFICE

All elected Officers shall have a term of office not to exceed two (2) years.

SECTION 3 DUTIES OF OFFICERS

a. President

The President is the Chief Administrative Officer and legal head of USCA. The President exercises supervision over the association and its activities and employees. The President is responsible for handling relations between USCA and external associations and represents USCA in public, presides at business meetings, and has the authority to carry out the will of the organization. The President serves as Chairman of the Board of Directors. The President shall be an advisory member of all committees except for the Board of Inquiry and the Nominating Committee. The President shall be responsible for compiling and maintaining records of all trials, German Shepherd Dog breed surveys, the German Shepherd Dog breed registry, and German Shepherd Dog breed shows. The President shall also be responsible for compiling and maintaining records of individual accomplishments of all dogs entered in USCA sanctioned events and may be given responsibility for additional duties and/or records by the Board of Directors. The President shall make or cause to be made a duplicate set of records, which will be kept at a location designated by the Board of Directors. He/she shall be responsible for the distribution of, to clubs and individuals, and for the collection of fees (if any) for all necessary forms for trials, breed surveys, breed registry, breed events, etc. The President employs and manages all the paid staff for USCA.

b. Vice President

The Vice President shall assume the duties of the President in case of his/her absence or incapacitation. The Vice President shall assume that office for the remainder of the term in the event the office is vacated for any reason.

c. Treasurer

The Treasurer shall be responsible for collecting, accounting for and handling all funds of the association. The Treasurer shall insure that all funds are deposited in such financial institution as the Board of Directors may designate. He/she shall see that disbursements therefrom are made as is necessary and proper to meet the just and due obligations of USCA. The Treasurer shall be bonded, and the cost of such bond shall be borne by the association. The Treasurer shall secure the services of a Certified Public Accountant to review the accounts of USCA annually. This audit shall take place not more than ninety (90) days prior to the annual meeting of the General Board. The Treasurer shall present a financial report at every meeting of either Board of Directors, and at any other time as requested by the President or the Board of Directors. The Treasurer shall make all of his/her records available at the General Board meeting for review by any full member of USCA. The Treasurer shall be responsible for overseeing the membership records of individuals and clubs. The Treasurer shall insure that all

membership requirements for USCA clubs are met and shall terminate the membership of any individual or club if dues are not paid as specified in Articles IV and V respectively.

d. Secretary

The Secretary shall be responsible for taking and preparing accurate minutes of all meetings of the Board of Directors and shall maintain a complete file of the ordinances, bylaw revisions, resolutions, and other official USCA action. The secretary shall maintain a file of committees and the members thereof. The Secretary shall record all terms of office and inform the General Board when elections are due. During the meeting of the General Board, it shall be his/her duty to insure that only those persons with proper credentials be seated. The Secretary shall insure that only persons authorized to vote are allowed to vote and shall perform other duties as prescribed by the Board.

e. Director of Judges

The Director of Judges shall be the chairman of the Judges Committee. He/she shall be a USCA Schutzhund judge or Schutzhund Judge Emeritus in good standing.

f. National Breed Warden

The National Breed Warden shall be the chairman of the Breed Advisory Committee.

SECTION 4 OFFICERS SHALL PERFORM DUTIES

Officers shall perform the duties prescribed by these constitution and bylaws and by the parliamentary authority adopted by USCA.

SECTION 5 NOMINATION AND ELECTION OF OFFICERS

a. Nominations

Candidates for officer positions may be nominated:

- (i) By the Nominating Committee. The Nominating Committee shall make known its selections for Officers, Directors at Large, and standing committee members at the General Board of Directors meeting.
- (ii) From the floor. After the Nominating Committee has delivered its nominations and report, nominations will be accepted from the floor. Only members of the General Board may make nominations. All nominations must be seconded. Nominees for Officers, Directors at Large, and standing committees must be present at the meeting of the General Board of Directors or must have furnished the Secretary with a written statement of agreement to be a candidate.

b. Eligibility

- (i) To be eligible for election, a nominee or write in candidate must be a full member of USCA. He/she may not be under twenty-one (21) years of age. He/she may not be under current disciplinary action.
- (ii) Individuals who have been convicted of any felony are prohibited from holding positions as officers.

c. Election of Officers

- (i) The General Board of Directors shall elect Officers and Directors at Large at every meeting which takes place in an even numbered year.
- (ii) The voting shall be by secret ballot only.
- (iii) A Ballot Counting Committee shall be appointed by the President. It shall determine the legality of the ballots cast, tabulate the results, and give them to the President, who shall announce the results of the election.
- (iv) A majority of votes of General Board members present is required to elect. Repeat balloting is required if no candidate receives the necessary majority. On reballoting, least vote getter would be dropped.
- (v) Newly elected Officers, members of the Executive Board, and standing committees shall be seated at the conclusion of old business except the Regional Directors who would be seated immediately upon their election.
- (vi) There is no limit to the number of consecutive terms a person may hold office.

SECTION 6 VACANCIES

- a. If the office of Vice President, Treasurer, Secretary, Director of Judges, National Breed Warden or Director(s) at Large should be vacated for any reason, or if the incumbent becomes incapacitated and cannot or is unwilling to perform the duties of office, the Executive Board shall elect a replacement. For the purposes of these bylaws incapacitation shall mean illness or death.
- b. Nominations for the vacant office must be submitted to the Secretary. The Secretary shall conduct the balloting of the Executive Board. The Vice President shall conduct the balloting if the Secretary's office is vacant. Election shall be by a majority vote of the Executive Board. The President has the authority to appoint an interim officer until the Executive Board has conducted an election.
- c. The newly elected Officer shall hold office until the next General Board meeting. At that time he/she can either be ratified or replaced.

ARTICLE IX APPOINTED POSITIONS

SECTION 1 EDITOR

The editor shall be appointed by the President of USCA and confirmed by the Board of Directors. The editor shall publish, at regular intervals, a publication which carries information about, as well as the official views of, USCA. The President of USCA shall direct its editorial policy so as to promote the programs and policies of the association.

SECTION 2 APPOINTED COMMITTEES

The President shall have the right to appoint committees, as he/she deems necessary, but may not appoint a committee to perform a function which is given to an officer or standing committee by these constitution and bylaws. The right to appoint a committee brings with it the right to appoint the chairman of the committee.

ARTICLE X COMMITTEES

SECTION 1 STANDING COMMITTEES

The committees indicated below are permanent. All members of these committees shall be elected by a plurality vote of the General Board. The members of the committee shall elect a committee chairman unless otherwise stipulated in these provisions. All members of standing committees shall serve a two (2) year term and must be full members of USCA.

a. Auditing Committee

The Auditing Committee shall audit the financial accounts of USCA. The committee shall consist of three (3) persons. The Treasurer shall not be a member of the Auditing Committee.

- (i) If the Treasurer has not secured the services of a Certified Public Accountant and/or has not presented the CPA's report to the General Board, the Auditing Committee shall perform a complete audit of USCA financial records.
- (ii) The committee shall have the power to summon the Treasurer to answer any questions. A report of the audit and/or a report of the legitimacy of USCA's expenses shall then be made to the General Board of Directors at the annual meeting.
- (iii) Members of the Auditing Committee shall be elected in even numbered years.

b. Nominating Committee

- (i) The Nominating Committee shall consist of five (5) members.
- (ii) The committee shall nominate candidates for Officers, Directors at Large, and standing committee positions in USCA excluding regional directors.
- (iii) The committee shall solicit recommendations for the positions it is charged to nominate candidates for. It shall request information from candidates which will enable it to evaluate a person's experience, skills, and willingness to serve.
- (iv) The committee shall choose its slate by balloting. Candidates who receive a plurality of the votes from the Nominating Committee shall be named in the committee's report.

- (v) Not less than thirty (30) days prior to the annual meeting, the Nominating Committee shall send a list of the persons it is nominating to each full member club.
- (vi) The committee shall submit its report at the meeting of the General Board of Directors.
- (vii) Members of the Nominating Committee shall be elected in odd numbered years.

c. **Board of Inquiry**

- (i) The Board of Inquiry shall consist of ten (10) persons. Five (5) of these persons shall be full members of the Board of Inquiry. The remaining five (5) persons shall be alternate members. USCA Officers, Judges, Directors at Large, and Regional Directors shall not be eligible to serve on the Board of Inquiry.
- (ii) It shall be the duty of this board to hear cases of alleged misconduct and alleged violations of USCA regulations. This board shall not entertain any charges which are not filed within one (1) year of the date of the alleged misconduct or rule violation. This board shall, by majority vote, sustain or not sustain the charges or determine the relevancy. It shall report its findings to the Board of Directors and, if its finding is to sustain the charges, the Board of Inquiry shall recommend appropriate disciplinary action.
- (iii) The Board of Inquiry may conduct its business in person, by telephone, or by mail. Balloting by telephone is permissible but must be confirmed in writing.
- (iv) Should any full member of the Board of Inquiry be the subject of charges, the chairman shall, by drawing lots, choose one (1) of the alternate members to hear the case. This person shall also hear any other case which arises while he/she is seated as a full member of the board.
- (v) No member of the Board of Inquiry shall hear charges against any person who is a member of the same local club. The chairman shall, by drawing lots, select an alternate member to hear the case. Any full member so replaced shall hear any other case(s) which arises while his club member's case is pending.
- (vi) Any full member of the Board of Inquiry may request to be excused from hearing a specific case. No reason need be given. The member shall make his/her request to the chairman, in writing, who shall, by drawing lots, choose one of the alternate members to hear the case.
- (vii) If charges are sustained against any member of the Board of Inquiry, the recommendation for discipline shall include this member's removal from the Board of Inquiry for the duration of his/her term.
- (viii) Members of the Board of Inquiry shall be elected in even numbered years.

d. **Judges Committee**

- (i) The Judges Committee shall consist of the USCA President, the Director of Judges, one additional USCA Schutzhund judge, and two (2) members at large. The chairman of the committee shall be the Director of Judges.
- (ii) The judges shall be elected in even numbered years and the members at large shall be elected in odd numbered years.
- (iii) The committee shall be responsible for the judges at all USCA trials. It shall be the keeper of the trial rules and regulations. It shall be responsible for the conduct of USCA judges. It shall grant probationary judges licenses to apprentice judges who have successfully completed the apprentice judge program. It may recommend that a judge's license be revoked for conduct prejudicial to the interest of USCA. A decision to accept or reject the recommendation shall be made by the Board of Directors. Any judge whose license has been recommended for revocation shall be permitted to speak at the Board of Directors meeting at which the recommendation is heard.
- (iv) The committee shall design and implement a program to select and train apprentice judges, to see to the ongoing education of licensed judges, and oversee the conduct of all apprentice judges and judges. No candidate for the apprentice judges program, apprentice judges, or judge shall be a professional. That is, he/she cannot earn a substantial portion of his/her income by breeding, handling, training, or selecting Schutzhund type dogs. The method of determining the income shall be any reasonable means determined by the committee.
- (v) The host body along with the Judges Committee shall recommend a slate of judges for all national working dog events. The Executive Board shall approve the slate or recommend alternatives. Only the Director of Judges may initially contact the approved judges.
- (vi) Individuals who have been convicted of any felony are prohibited from holding positions as judges.

e. **Breed Advisory Committee**

- (i) The Breed Advisory Committee shall consist of all Regional Breed Wardens, the USCA President, the Director of Judges, and the National Breed Warden.
- (ii) This committee shall advise the Board on all matters pertaining to the breed registry. It shall recommend criteria for administering the program including the breed standard, tattooing, registration eligibility, etc.
- (iii) This committee shall be the keeper for rules of conformation shows and breed surveys.
- (iv) The committee shall recommend judges for the national breed events to the Executive Board.
- (v) The committee shall recommend the endorsement of future Breed Judges and advancements to the post of Breed Selection Masters (Koermeisters) to the Board.

f. **World Championship Committee**

It is the duty of this committee to recommend rules for the selection of a team to represent USCA at the World Schutzhund III Championship for German Shepherd Dogs. The committee selects a person to act as team captain. The committee consists of four (4) members and the President of USCA. The committee will be elected every even year by the General Board of Directors.

g. **Event Planning Committee (GBM 2013)**

It is the duty of this committee to solicit and manage bids from local clubs wishing to host national events. It shall establish, maintain, and improve on application deadlines and processes. Further it shall assist in raising sponsorship money for the events and provide guidance to local clubs in advertising and community involvement. The committee consists of four (4) members and the President of USCA. The committee will be elected every odd year by the General Board of Directors (GBM 2013)

h. **Nominations and Replacement**

Nominees for standing committees must be present at the meeting of the General Board of Directors or must have furnished the Secretary with a written statement of agreement to be a candidate. The President/Board may appoint/replace committee member(s) to the above committees, except for the Board of Inquiry, if the elected member resigns, becomes incapacitated for any reason, or unable/ unwilling to do the work.

SECTION 2 SPECIAL COMMITTEES

Either Board of Directors shall have the authority to create special committees as deemed necessary. Such a committee shall be dissolved when the task assigned to it is completed. Election to a special committee shall be as determined by the creating authority.

ARTICLE XI DISCIPLINE

SECTION 1 CHARGES

Any full member of USCA may prefer charges against any USCA club and/or USCA member for violating USCA regulations or for conduct that is prejudicial to the interests of USCA. To be heard, charges must be filed within one (1) year of the date of the alleged misconduct or rule violation, or from the time it was known or reasonably should have been known that a violation or misconduct occurred. All matters involving actions by USCA judges, as judges, shall be referred exclusively to the USCA Judges Committee.

SECTION 2 PROCEDURE

Charges must be processed according to the following procedure:

- a. The charge(s) against the accused member and/or accused club must be submitted in writing and must be notarized. The charge(s), and all substantiating witness statements and/or documentary evidence upon which it is based, shall be forwarded to the USCA Secretary with a deposit of two hundred dollars (\$200) for the initial charge. A “charge” shall consist of a single, specific, allegation. There shall be an additional fee of fifty dollars (\$50) for each additional allegation filed with the initial charge. The charging party is responsible for providing sufficient copies of all electronic media documentation or evidence (video, audio recordings, photos, etc.) for each Board of Inquiry member and the USCA Secretary (8 copies). The deposit shall be forfeited for each charge or allegation that is not sustained.

- All charges filed without notarization and/or electronic copies shall be returned to the member as a defective filing.
- b. The President and Secretary of the organization may file charges on behalf of USCA against members or clubs without a deposit. Such charges shall be required to be notarized.
 - c. The Secretary shall send copies of the charges to the Board of Inquiry full members and alternate(s) (if applicable) within fifteen (15) days of receipt.
 - d. The Secretary shall also send one (1) copy of the charges to the accused member and/or to the accused club in care of contact person of record listed in Schutzhund USCA within fifteen (15) days of receipt.
 - e. The accused member and/or accused club may respond to charges in writing to the Secretary within thirty (30) days of receipt of the charges, and may also provide testimony from witnesses. The Secretary shall forward copies of any response and/or any testimony to the Board of Inquiry full members and alternate(s) (as applicable) within fifteen (15) days of receipt. If no answer is received, the Secretary shall so inform the Board of Inquiry within thirty (30) days.
 - f. The Secretary shall use certified mail/return receipt for transmittal of all documents to the accused and the accuser, and shall use U.S. mail, electronic mail, and/or digital communication for transmittal of all documents to the Board of Inquiry.

SECTION 3 BOARD OF INQUIRY ACTION

- a. The Board of Inquiry shall make a determination about the relevancy of the charges and whether the charges shall be considered within fifteen (15) days of receipt of the charges. If not relevant, the accuser and accused shall be notified by the Secretary within seven (7) days of the decision of the Board of Inquiry. If the charges are determined to be relevant, the Board of Inquiry shall conduct a confidential investigation of the charges. By a majority vote, the Board of Inquiry shall, within sixty (60) days of receipt of the response to the charges, vote sustain or not sustain the charge(s). The Board of Inquiry shall issue a determination letter setting out its findings; which shall be sent to the accused, the charging party, and the Executive Board with within the sixty (60) days of receipt of the response to the charges.
- b. The Board of Inquiry shall recommend, if the charges are sustained, appropriate disciplinary action.
 - (1) If a full member club is found guilty, appropriate disciplinary action may include:
 - (a) Reprimand of the club.
 - (b) Monetary fine in an amount commensurate with the seriousness of the offense.
 - (c) Placement of the club on probation under the supervision of some person appointed by the Board of Inquiry or the Executive Board of Directors.
 - (d) Suspension of the club for a specified period of time, during which the club may hold no USCA-sanctioned activities.
 - (e) Cancellation of the club's license (reducing the club to affiliated club status).
 - (f) Expulsion of the club.
 - (2) If an affiliated club is found guilty, appropriate disciplinary action may include Items a, b, c, d, and f above and also may include delaying consideration of the club for upgrade to full member status for up to one (1) year.
- c. If the accused member is found guilty, the Board of Inquiry shall recommend an appropriate disciplinary action and present that recommendation to either Board of Directors. The recommendation shall be sustained, modified, or rejected by the Board of Directors.
- d. No member who has been suspended or expelled by USCA may participate in any activities sponsored by the association, or in activities sponsored by any of its clubs, for the duration of the suspension or permanently, if expelled.
- e. If any charges against a club and/or member fail to be heard within the time frame specified by Article VI, Section 3.a. as provided in these bylaws, all money deposited with USCA by those filing the charges will be refunded and a full report by the Board of Inquiry will be made to the either Board of Directors.

- f. Disciplinary action taken by a local club against a member or members of that club is an internal affair of the club and does not affect the USCA membership of those individuals. Such local club disciplinary actions need not be recognized or honored by other local clubs.
- g. Non-compliance with the disciplinary decision(s) of the Executive Board and/or General Board of Directors shall result in suspension for a minimum of ninety (90) days.
- h. In the event that the Board of Inquiry determines that charges filed against a member or club are knowingly false, the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against the charging party for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA. In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the Board of Inquiry shall indicate such in its determination letter and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interests of USCA.

SECTION 4 APPEAL PROCESS

- a. Any appeal from the Board of Inquiry determination shall be made within fourteen (14) days of receipt of the Board of Inquiry determination letter by filing a statement of appeal by certified mail with the USCA Secretary.
- b. Review of the Board of Inquiry file shall be made by the Directors at Large, who will review the charge(s) (including any witness statements and documentary evidence), the response of the charged party (including any witness statements and documentary evidence), and any independent evidence developed by the Board of Inquiry to determine the reasonableness of the Board of Inquiry determination. An appeal by either party shall constitute a waiver of confidentiality, allowing the Board of Inquiry members to fully disclose to and discuss with Executive Board members all of the evidence presented during the investigation.
- c. The appeal shall not be a hearing de novo, meaning that the matter shall not be reinvestigated by the Directors at Large, but the Directors at Large shall review all the evidence presented and either sustain the appeal or deny the appeal. In the event the appeal is sustained, the charge is referred back to the Board of Inquiry for further specified investigation or consideration. In the event the appeal is denied, the Executive Board, without entertaining further argument from any party, shall vote to accept, modify, or reject the Board of Inquiry determination.

SECTION 5 CENSURE, SUSPENSION (GBM2016)

Members of the Association may be censured **or** suspended for cause by unanimous vote of the Executive Board voting. Sufficient cause for censure or suspension, termination of membership, or other sanction shall include: deliberate violation of the Bylaws or Rules and Regulations causing damage to the association or its members, animal cruelty, extreme unsportsmanlike conduct, dishonest conduct while in a position of responsibility, deliberate disruption or interference with the association's proper functioning, or any other conduct prejudicial to the best interests of the Association. The Board of Directors shall have such authority and power as may be necessary to adopt rules and policies relative to sanctions and the procedures to be followed at any disciplinary proceeding. (GBM2016)

ARTICLE XII FELONY PROHIBITION WAIVERS

Individuals with felony convictions are prohibited from serving as officers, directors at large, regional directors, assistant regional directors, regional breed wardens, and judges. In order to effect the necessary background checks, USCA will contract with a firm providing such services on an annual basis. The cost incurred in obtaining a background check will be borne by the member elected to office. A member may petition the Executive Board of Directors for a waiver of the felony prohibition, based upon extraordinary circumstances. "Extraordinary circumstances" includes, but is not limited to, conduct that no longer constitutes a felony. The petition must be submitted in writing, and the Executive Board must review and render a decision within thirty (30) days of receipt of the petition. The Executive Board's decision shall be by ballot and is final.

ARTICLE XIII AMENDMENTS

- a. These Constitution and Bylaws may only be amended at the annual meeting of the General Board of Directors by a two-thirds vote.
- b. Amendments to these Constitution and Bylaws may only be considered when written notice of the proposed amendment has been mailed to all clubs and Executive Board members by electronic mail or regular mail not less than thirty (30) days prior to the annual meeting of the General Board of Directors. The proposed changes must be specified. If such notice is published in the association's official publication not less than ninety (90) days prior to the meeting date, the requirement for mailing written notice shall be waived. If amendments to specific articles of these Constitution and Bylaws are proposed in compliance with this provision, further amendments may be made from the floor of the General Board of Directors meeting for that respective article.

ARTICLE XIV DISSOLUTION

- a. The United Schutzhund Clubs of America may be dissolved at any time by the written consent of two-thirds (2/3) of the members of the General Board of Directors. The motion to dissolve shall require the same vote as described in Article XI for a bylaw amendment.
- b. Dissolution may only be considered at a meeting of the General Board of Directors. A special meeting for this purpose shall be called if the Secretary receives a written request for such a meeting from a majority of USCA full member clubs.
- c. Dissolution may only be considered if written notice of the intent to dissolve is sent to all full member clubs, Regional Directors, and USCA Officers not less than thirty (30) days prior to the special meeting called for this purpose.
- d. If the association is dissolved, all just debts and liabilities of the association shall be paid. After payment of all debts and liabilities of the association, its assets and properties shall be distributed to a non-profit fund, foundation, or corporation which is organized and operated exclusively for dog training purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

REVISION HISTORY

DATE	DESCRIPTION	UPDATED BY
3/30/17	Added first paragraph to Article IV Section 1 Added to Article XI Section 5 Changed wording Article III Deleted Article IV Section II e Passed from 2016 GBM	M. Clubb
11/2018	Updated language for Article 7, Section 2, f. 1V. Board of Directors of the Bylaws Updated language for Article IV Section 1 Updated language for Article V Section 3 Passed at 2018 GBM	M. Clubb

January 20, 2021

EXHIBIT 3

To: USCA Secretary Michele Clubb

Re: BOI investigation of VP Mark Scarberry

Charges/Investigation

Charges were filed on October 4, 2020 by President Vadim Plotsker on behalf of USCA against Vice President Mark Scarberry alleging that Scarberry did give false and misleading testimony during a Board of Inquiry investigation of the January 6, 2020 Conduct unbecoming case filed by Michele Clubb.

The charges stem from the BOI findings dated April 16, 2020 that by unanimous decision of the BOI, VP Mark Scarberry was less than truthful during the investigation.

Background:

During the January 2020 investigation Scarberry, when directly asked why he went to the USCA he stated "to drop off the Sieger Show paperwork" and "take Deb Sweeney to lunch". It was determined through the conversation with Deb Sweeney and Jody Donaldson that Mark Scarberry arrived at the office at 10:00-10:103 AM without any paperwork. Also that lunch was brought in while Scarberry had the staff review financial information.

Charges:

Per USCA Bylaws Articles XI, Section 3, Subsection H: In the event that the Board of Inquiry determines that a witness provided knowingly false testimony (including forged or altered documentation), the Chair of the BOI shall indicate such in it's determination letter, and the President or Secretary shall file charges against that member for abusing the disciplinary process, as such conduct is prejudicial to the interest of USCA.

Facts:

During the BOI's investigation of the October 4 charges, Scarberry was again asked directly, did you bring Sieger Show paperwork to the office, he replied, yes. Both Sweeney and Donaldson testified that he did not. Scarberry was asked directly, who did you give the paperwork to, he replied, "I don't recall". Both Sweeney and Donaldson stated they never received any paperwork. He was then asked, "did you perhaps leave it on someone's desk and didn't mention it" he replied, emphatically, "no".

Conclusion:

The Board of Inquiry, by a majority, has confirmed that Vice President Mark Scarberry lied during the original investigation (as the Board of Inquiry decided at that time) and the Board of Inquiry has determined that Vice President Mark Scarberry has again lied to the Board of Inquiry during this investigation. Pursuant to the Bylaws, the recommendation is suspension from all USCA privileges for a minimum of one year.

Sincerely,

John P Horan
Acting Chair, BOI

UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

744 Mt Rushmore AV
Tracy, CA 95377
Cell# 209-610-3502
Email: 1k9uzi@gmail.com

January 21, 2021

Dear Mr. Scarberry,

The USCA Board of Inquiry (BOI) submitted their findings regarding the charges against you by President Vadim Plotster. Please see enclosed for BOI's findings.

The BOI's recommendation will be submitted for a vote to the Executive Board after the 14 day appeal window.

You have 14 days upon receipt of this letter to file your appeal. Please refer the USCA Bylaws for further information regarding your right to appeal.

If you have any questions feel free to contact me.

Yours in the Sport,

Michele M
Clubb

Digitally signed by Michele M
Clubb
Date: 2021.01.22 08:23:34
-08'00'

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: BOI's Report on findings

SWORN DECLARATION OF MARK SCARBERRY UNDER 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct:

1. On October 17, 2019, I was on my way to Junction City, Kansas, to do a seminar, at which Robyn Aylings was the host. On my way to that seminar, I stopped by the USCA office in St. Louis, Missouri. I believe I arrived at the St. Louis USCA office around 9:30 a.m. and left roughly three and a half hours later.

2. I was interviewed, on the telephone, by the BOI on January 10, 2021. During this telephone interview, I acknowledged that I took the Sieger Show paperwork with me to the USCA office on October 17, 2019. During this interview, I was asked who I gave the Sieger Show paperwork to and I said, "I gave it to Jody." In fact, during my interview, I actually said – a few times – that I gave the paperwork to Jody Donaldson ("Donaldson"). I did not say, "I don't recall." Also during this interview, I was asked if I had maybe left the Sieger Show paperwork on someone's desk and didn't mention it, to which I responded, "no." I answered this question in this way because I knew that I had given the paperwork to Donaldson.

3. I have maintained throughout this entire process that I gave the Sieger Show paperwork to Donaldson when I arrived at the St. Louis USCA office. However, I do freely admit that my memory is somewhat fuzzy on the exact details of what transpired over 1 year and 4 months ago, but I stand by my comments that I gave the Sieger Show paperwork to Donaldson.

4. I recall walking into the USCA office that day (October 17, 2019) carrying a large envelope (the type you get at the Post Office for mailing documents) which contained the Sieger Show paperwork. Upon my entrance into the office, Donaldson was

at her desk, which sits near the entrance to the office. Upon my entrance into the office, besides seeing Donaldson at her desk, I vaguely recall seeing Deb Sweeney across the office at her desk and another female office worker. I do not remember the name of this other female office worker, but I believe it was her first day of work and I remember that her employment did not last long.

5. I cannot say with certainty what specific conversation I may or may not have had with Donaldson upon entering the office, but I believe we greeted each other, and I think I may have said, "here's the stuff Michele wanted me to bring" (referring to the large envelope I was carrying, which contained the Sieger Show paperwork). During this quick conversation with Donaldson, I gave her the large envelope, which contained the Sieger Show paperwork. Following these initial events upon entering the office, I remember being shown around the rest of the office.

Mark Scarberry
Mark Scarberry

Dated: 2-25-21

CRICKET SHAW



CRICKET SHAW
Notary Public, State of Ohio
My Commission Expires
April 25, 2023

EXHIBIT 6

Begin forwarded message:

From: "Jody Donaldson" <scorebook@germanshepherd-dog.com>
Subject: RE: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class
Date: October 16, 2019 at 14:41:41 EDT
To: "Michele Scarberry" <michele@germandogs.com>

They one that I have only has the Judge's signature no results.
Jody

From: Michele Scarberry [<mailto:michele@germandogs.com>]
Sent: Wednesday, October 16, 2019 1:34 PM
To: Jody Donaldson <Scorebook@GermanShepherdDog.com>
Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

You should keep it for Office records - Trish & I ave double checked website results & everything looks in order.
If there is a dispute, we'll have the catalog.
Mark left already - didn't get to send awards with him, I'll have to mail it
MS

On Oct 16, 2019, at 13:23, Jody Donaldson <Scorebook@GermanShepherdDog.com> wrote:
Michele,
Debbie says yes please, Also do you need me to mail you the catalog that the Judge signed? I only have the one that Pertl signed?
Jody

From: Michele Scarberry [<mailto:michele@germandogs.com>]
Sent: Wednesday, October 16, 2019 11:51 AM
To: Jody Donaldson <Scorebook@GermanShepherdDog.com>
Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class
I don't believe we purchased a trophy for Veterans class - but I have extra trophies - you (USCA Office) could have a plaque made for each Veteran & mail them the award
Let me know - I'll send 3 with Mark
Michele

On Oct 16, 2019, at 11:46, Jody Donaldson <Scorebook@GermanShepherdDog.com> wrote:
Good Morning Michele,
Was there trophies for the Veterans Class?
Jody

From: lhmoon@aol.com [<mailto:lhmoon@aol.com>]
Sent: Tuesday, October 15, 2019 2:23 PM
To: scorebook@germanshepherd-dog.com
Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

Hi Jody,
Just checking to see if there was a Trophy for Wiva in the Female Veteran's Class. I had to leave before the ceremony was over. Thanks!
Mike Moon
978 702.6407

-----Original Message-----
From: Jody Donaldson <scorebook@germanshepherd-dog.com>
To: lhmoon <lhmoon@aol.com>
Sent: Tue, Oct 8, 2019 10:31 am
Subject: RE: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

Yes she is in the show
Jody

From: lhmoon@aol.com [<mailto:lhmoon@aol.com>]
Sent: Monday, October 07, 2019 7:34 PM
To: scorebook@germanshepherd-dog.com
Subject: Re: 2019 Sieger Entry Wiva Vom Zellwaldrand - Female Veteran Class

Hi Jody,

I know this is a little late; however, as I am getting my original work together for the show I just realized I did not receive an entry confirmation for Wiva Vom Zellwaldrand-Female in the Veterans Class. I do have the receipt for payment received for her entry. I would greatly appreciate confirmation. Thank you for your assistance.

Mike Moon
978 702.6407

-----Original Message-----
From: Jody Donaldson <scorebook@germanshepherd-dog.com>
To: lhmoon <lhmoon@aol.com>
Sent: Fri, Aug 30, 2019 9:19 am
Subject: RE: 2019 Sieger Entry Rapi Esprit

I will see what I can do and get back with you.

From: lhmoon@aol.com [<mailto:lhmoon@aol.com>]
Sent: Thursday, August 29, 2019 10:24 PM
To: scorebook@germanshepherd.com
Subject: Re: 2019 Sieger Entry Rapi Esprit

Hi Jody,

I changed my mind and decided to enter Rapi Esprit. I am sorry for the confusion, but I wasn't quite sure if she would be ready, but I have determine that she is. Nonetheless, I tried to register her again and the online entry said she is already registered; however, it would not allow me to pay the fees when I went tot he updated section. Please give me direction on how to go back to enter her. Thanks again and sorry for the confusion.

Mike Moon

-----Original Message-----

From: Jody Donaldson <scorebook@germanshepherd.com>
To: lhmoon <lhmoon@aol.com>
Sent: Thu, Aug 29, 2019 8:21 am
Subject: RE: 2019 Sieger Entry Rapi Esprit

Mike,

That's fine I'll delete the entry today.

Thank you & Good Luck

From: lhmoon@aol.com [<mailto:lhmoon@aol.com>]
Sent: Wednesday, August 28, 2019 7:16 PM
To: scorebook@germanshepherd.com
Subject: Re: 2019 Sieger Entry Rapi Esprit

Hi Jody,

I was trying to make my mind up about entering Rapi Esprit; I did not realize I submitted the entry form. I have decided not to enter her, that is why I did not pay with the others. Please let me know if I need to take further action.

Thank you,

Mike Moon

From: Jody Donaldson [<mailto:scorebook@germanshepherd.com>]
Sent: Tuesday, August 27, 2019 1:56 PM
To: 'lhmoon@aol.com' <lhmoon@aol.com>
Subject: 2019 Sieger Entry Rapi Esprit

Michael,

I have received payment for the following entries

Vitali von der BÄrenschlucht-Male-- Maui Von Lotta

Buca Vom Klausener Grund-Female--

I just need payment for Rapi Esprit so that I may approve the entry

Thank you

Jody Donaldson

EXHIBIT 7

From: Michele Clubb <1k9uzi@gmail.com>
Sent: Saturday, September 19, 2020 6:18 PM
To: Mark Scarberry <Mark@germandogs.com>
Cc: Joseph Guarino III <jguarino@bmanganolaw.com>
Subject: Appeal Results

Hello Mark

Please see attached. Hard copies were mailed to you.

Thank you

Michele Clubb
USCA Secretary
Way Out West Schutzhund Club President
Northwestern Assistant Regional Director
Cell# 209-610-3502

August 17, 2020

To: Executive Board, United Schutzhund Clubs of America

Copy: USCA Secretary

Re: Reconsideration of Charges Filed Against Mark Scarberry on January 9, 2020.

On May 23, 2020 the Directors at Large ("DAL") sustained the appeal by Mark Scarberry of the decision of the Board of Inquiry dated April 16, 2020.

As required by the Bylaws, the Board of Inquiry has reviewed this matter again, including the appeal.

After further deliberation, and in light of the fact no further information or evidence was provided by the DAL, the BOI has determined by majority vote that the original recommendation of the BOI in this matter stands.

UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

744 Mt Rushmore AV
Tracy, CA 95377
Cell# 209-610-3502
Email: 1k9uzi@gmail.com

September 17, 2020

Dear Mr. Scarberry,

The USCA Board of Inquiry (BOI) submitted their recommendation to the Executive Board regarding your appeal. The BOI upheld their original recommendation that you immediately be removed from the office of Vice President and that you cannot hold any position of authority within in USCA for three years starting April 16, 2020.

The BOI's recommendation was submitted under Executive Board Motion 21-20 to the USCA Executive Board for a vote. The USCA Executive Board voted to not approve the BOI's recommendation.

Yours in the Sport,

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: BOI's Report on findings

EXHIBIT 8

-----Original Message-----

From: Michele Clubb <1k9uzi@gmail.com>

Sent: Monday, October 26, 2020 7:44 PM

To: Mark Scarberry <Mark@germandogs.com>; Joseph Guarino III <jguarino@bmanganolaw.com>

Subject: BOI Charges Staci Murphy vs Mark Scarberry

Hello Mark and Joseph

Please see the attached regarding the BOI charges filed by Staci Murphy. Hard copies will follow via certified mail.

Let me know if you have any questions

Michele Clubb
USCA Secretary

Way Out West Schutzhund Club President
Northwestern Assistant Regional Director

Cell# 209-610-3502

UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

744 Mt Rushmore AV
Tracy, CA 95377
Cell# 209-610-3502
Email: 1k9uzi@gmail.com

October 26, 2020

Dear Mr. Scarberry,

The USCA Director at Large's denied Staci Murphy's appeal.

The BOI's recommendation was submitted under Executive Board Motion 24-20 to the USCA Executive Board for a vote. The USCA Executive Board voted to approve the BOI's recommendation.

Yours in the Sport,

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: BOI's Report on findings, DAL's Appeal Results

Notes from interview with Mark Scarborough

Mark said he didn't know why charges were brought against him. He said he knew Vadim brought charges.

He said he did take papers to the office. Irish gave papers to Michelle and she gave him the folder to take. He said he did not open the folder.

John ask him

~~He was~~

~~Mark kept saying Irish go.~~

^{kept} Mark saying Irish gave paperwork to Michelle & so we should interview Irish. John ask him if Irish was with him at the office and he wouldn't answer the question. It got a little heated and finally Mark said No.

Mark did say we were on a witch hunt meaning BOI. John called him on it. ?

Mark didn't recall who ^{he} gave ^{me} paperwork ^{too}. Mark's deposition said he did not say "You ~~can't~~ can make me go away" to the BOI. When asked

He said he did take papers to the office. Irish gave papers to Michelle and she gave him the folder to take. He said he did not open the folder.

John ask him

~~He was~~

~~Mark kept saying Irish go.~~

^{kept}
Mark saying Irish gave paperwork to Michelle & so we should interview Irish. John ask him if Irish was with him at the office and he wouldn't answer the question. It got a little heated and finally Mark said No.

Mark did say we were on a witch hunt meaning BOI. John

called him on it. ?

~~mark didn't re-call who he gave~~ ^{paperwork} ~~to~~

Mark's deposition said he did not say "You ~~can't~~ can make me go away" to the BOI. When asked about that he said it was taken out of context. As a member of the BOI, I and 72 others heard him say this and then the call was concluded. There was no out of context.

Beth Thomas

Wade Gody

I knew he was coming ^{didn't know} ~~that~~ when.
day. ~~He~~ About 10 and 11

Gody couldn't remember him
bringing paperwork ~~and~~ supposed
to bring trophy but forget -

Email from Michelle saying
he was coming sometime

He brought in Notebook.

~~Ask~~ Showed him data Base
working on.

A first he was the 1st to ask
those questions -

Ask Debbie if Cisti ^{wife}
Have we ever ~~pay~~ for her to
travel with him. Frank

He ask about check register

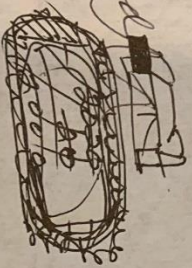
Left with notebook he came in
with.

McDermery

~~At 10:00~~ took Mark test
and showed up a day or two
later. around
Arrival - 10 -

But was not aware of any
paperwork -
said that he was looking
for something that would
show that USC said for quite
a long time anything to anyone
in checking about -
felt very uncomfortable -
just with the note book -

He got angry
the 10 and he said he said



Interview Notes: Charges filed by Vadim Plotsker against Mark Scarberry

Filed October 4, 2020

Interviews

Mark Scarberry

When asked about the original incident, Mark reiterated his statements regarding the visit to the UScA office which he gave in response to the initial BOI charges. He said that he was there to drop off Sieger Show paperwork and to take Debbie Sweeney out to lunch due to her upcoming retirement.

[In support of his assertions, his wife Michele submitted copies of an e-mail thread on the day before Mark's visit to the UScA office which seemed to refer to "awards" which she did not send with Mark.]

At some time during the interview Mark expressed the sentiment that the current charges were a "witch hunt." He was assured by one of the BOI member that all we were trying to do is find the truth. Mark denied that he said "you can make me go away" during his original interview, but my own notes show that he did and other members recall that statement explicitly. Mark repeated that there was no evidence that he was not telling the truth and oddly referred to those whose statements contradicts his as "paid staff members."

Jody Donaldson

During the interview, Jody re-stated many of the facts that she had original stated. She did state unequivocally that she already had the Sieger Show paperwork which she had when she left the Sieger Show which she attended. She acknowledged that Michele had communicated with her regarding some awards from the Show.

[The e-mails submitted seem to reinforce Jody's recollection regarding the awards.]

Jody stated that Mark did not bring Sieger Show paperwork, but did have a notebook/file when he arrived and left. She did not recall his taking notes when interacting with her. She did not recall exactly when Mark arrived which she had done during the spring interview.

Debbie Sweeney

Debbie recalled the same information that she gave us in the original interview last spring. Again she stated that she didn't feel uncomfortable during Mark's visit and that she sensed that Mark was "fishing for something." She plainly stated that Mark did not bring Sieger Show paperwork, but that he did have a notebook with him. While she did say that she didn't recall all the details that she originally gave the committee in spring, the main facts remained the same. Again, she stated that while she was told prior that Mark would be stopping by the office in the future, she was surprised that he showed up when he did.

UNITED SCHUTZHUND CLUBS OF AMERICA



Michele Clubb
Secretary

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April 2, 2021

Dear Mr. Scarberry,

The Director at Large's unanimously denied your appeal on March 19, 2021.

The USCA Executive Board voted to amend the BOI's recommendation and voted to approve the amended sanctions under Executive Board Motion #13-21 (see attached). It should be noted that President Vadim Plotsker, Treasurer Jim Alloway, and myself abstained from voting on this motion, as well as motions #11-20 and #21-20.

Yours in the Sport,

Michele M. Clubb
Secretary, United Schutzhund Clubs of America

Enclosed: Executive Board Motion #13-21