

**EXECUTIVE SECRETARY cont'd**

Margaret Poindexter, AKC Staff, was present for this portion of the meeting.

**Trial Boards**

There was a discussion on the reappointment of Trial Boards. The Executive Secretary had communicated with current members to determine which of them wished to continue as Trial Board members. The only current members who declined to be reappointed were Edd Biven and Donald Booxbaum. Staff was directed to extend the Board's sincere appreciation to both for their years of service.

Following a motion by Mr. Powers, seconded by Mr. Gladstone, it was VOTED (unanimously) to appoint the following Trial Board members:

**Appeals Trial Board**

Ralph Del Deo, Esq. Chair  
Barbara W. Meiner, Esq.  
Martha Feltenstein, Esq.

**Trial Board Chairs**

Laurie Raymond, Esq.  
Daniel Smyth, Esq.  
Rita Biddle, Esq.  
Theresa Dowell, Esq.  
Jan Ritchie, Esq.

**Trial Board Members**

Dr. Klaus Anselm  
Charles Foley  
Roger Hartinger  
Medora Harper  
Dr. Robert Myall  
Bernard Schwartz  
Betty-Anne Stenmark  
James White

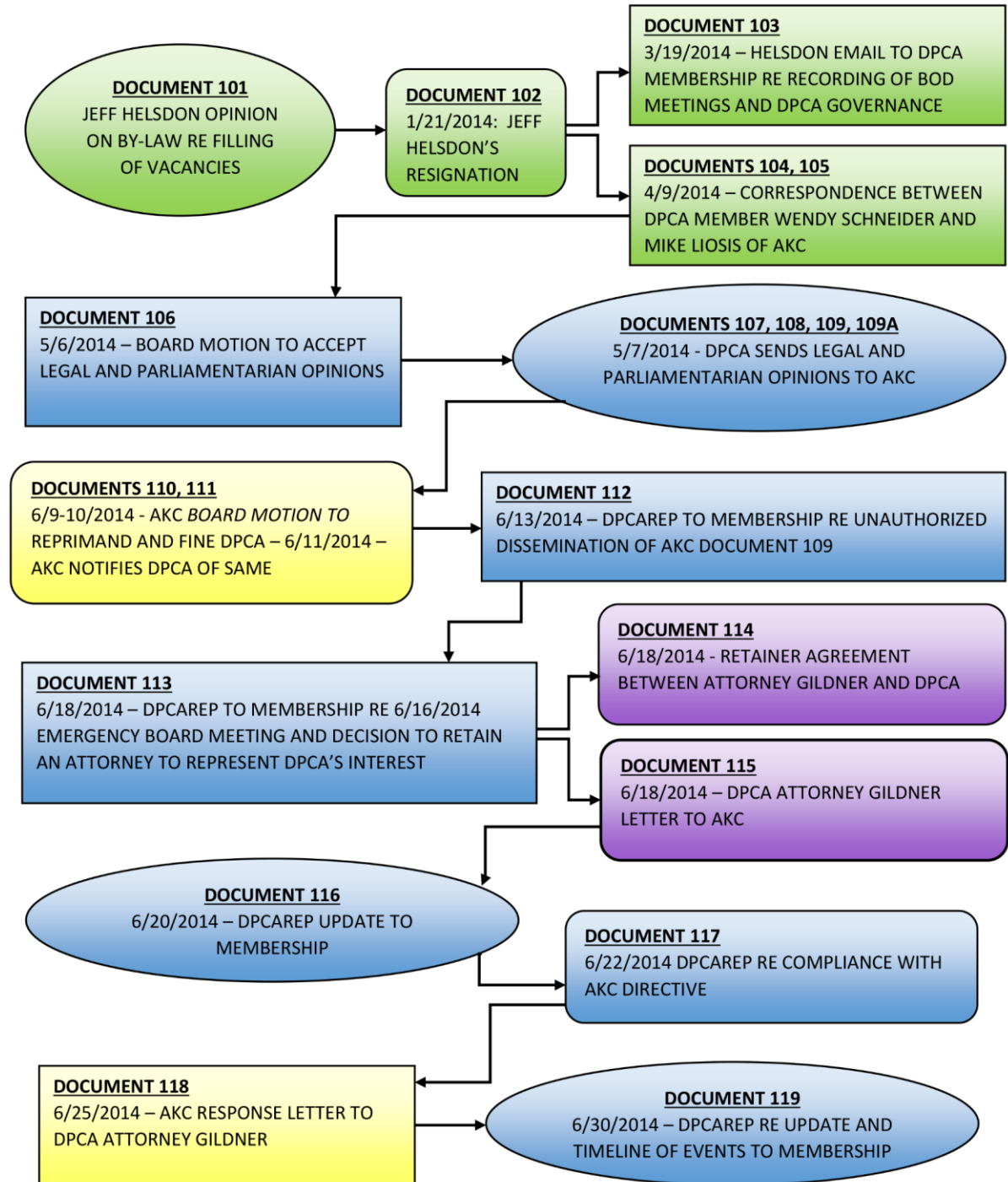
**Performance Trial Board**

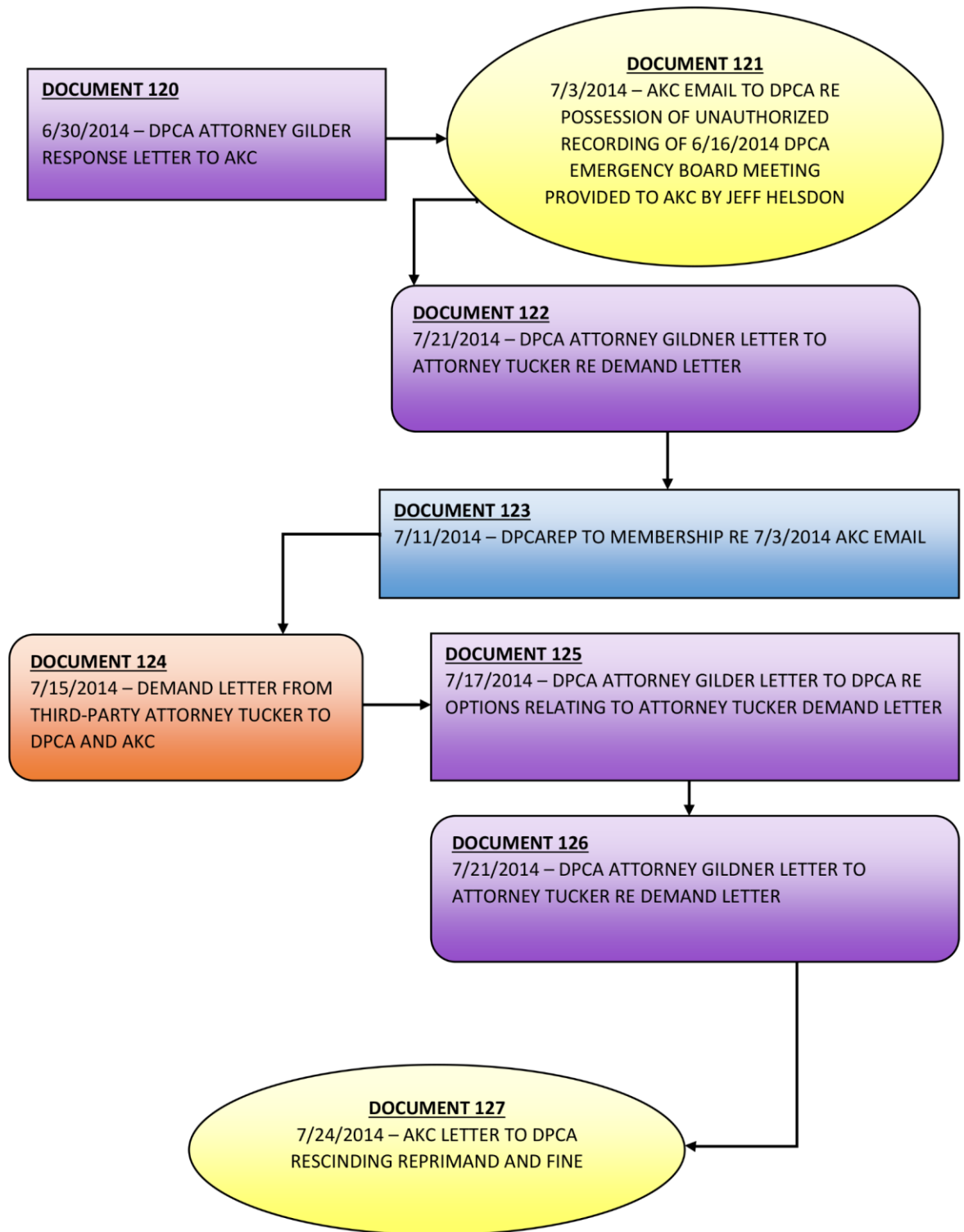
David Hopkins, Esq. Chair  
Tim Carwile, Esq.  
John Russell

**Alternates:**

Mike Necaise  
Bill Teague

## TIMELINE OF EVENTS





**June 30, 2014**

DPCA has reached out once again to the AKC to clarify and explain its stance regarding the DPCA's Bylaws interpretation.

In an effort to keep the DPCA Membership apprised of the developments with the AKC in connection with this matter, we are providing you with this update.

To refresh the Membership's recollection, below is a brief timeline of what has happened to date:

- 1) On November 11, 2013, then-sitting President of the DPCA, Jeff Helsdon, issued an opinion to the DPCA Board of Directors respecting the filling of vacancies, as it pertained to one (1) director position and one (1) officer position.
- 2) In April of 2014, the DPCA Board began contemplating which officer and director positions would be up for election in calendar year 2014, based in part on the opinion of Mr. Helsdon, and was unable to determine with certainty whether the offices of President and Vice President should be included on the ballot. At this time, then-sitting President of the DPCA, Michelle Santana, requested the opinions of two (2) attorneys licensed in the State of Michigan (Michael Gildner, Esq. and William Cavanaugh, Esq.) and one (1) credentialed Parliamentarian (Steven J. Britton, PRP) respecting this matter. She approached each of these professionals in her capacity as an Officer of the DPCA, and not as an individual. The fees for these three (3) professionals was donated by another Officer of the DPCA, hence costing the DPCA nothing.
- 3) At the same time that the DPCA Board was seeking the guidance of professionals respecting the interpretation of the DPCA Bylaws, unbeknownst to the DPCA Board, certain member(s) of the DPCA approached Michael Liosis (Director of Club Relations with the AKC) for his interpretation of the DPCA Bylaws.
- 4) On April 15, 2014, Mr. Liosis contacted the DPCA's Delegate to the AKC, Janet Van Wormer, and indicated that (a) his interpretation of Article III, Section 4 of the DPCA Bylaws required that the offices of President and Vice President be included on the 2014 ballot and (b) "If there are legal opinions to the contrary or differing legal opinions, we will simply watch from the sidelines." As Ms. Santana had already requested opinions from two (2) Michigan-licensed attorneys and a credentialed parliamentarian, she awaited such opinions before taking further action.
- 5) On May 6, 2014, the DPCA Board held a regular meeting, during which it further discussed the proper interpretation of the ambiguous verbiage in Article III, Section 4 of the DPCA Bylaws (respecting the filling of vacancies). The two (2) opinions issued by Michigan-licensed counsel and the opinion issued by the credentialed parliamentarian all agreed with one another, but differed from that of Mr. Liosis (i.e., they indicated that the positions of President and Vice President should not be included on the ballot). Accordingly, by majority vote the DPCA Board elected to proceed with the elections pursuant to their counsels' interpretation (see Motion 14-106), and in reliance on Mr. Liosis's statement that "if there are legal opinions to the contrary or differing legal opinions, [the AKC] will simply watch from the sidelines".
- 6) On May 7, 2014, Ms. Santana emailed Mr. Liosis and James Crowley (Executive Secretary at the AKC) respecting the vote of the DPCA Board, and included with such correspondence copies of the three (3) opinions (from counsel and from the parliamentarian) respecting same. At no time did the DPCA receive a response from Mr. Liosis, Mr. Crowley, or anyone else at the AKC respecting receipt of the May 7th correspondence, nor respecting the insufficiency thereof. See the opinions here.
- 7) On June 11, 2014, the AKC issued a letter to the DPCA Board (the "June 11th Letter") reprimanding it for its "alleged deliberate non-compliance of Article III Section 4 of its Bylaws", and instituting a \$2,500 penalty in

connection with such alleged non-compliance. See this Directive on the DPCA website. (Below)

- 8) On June 16, 2014, the DPCA Board held an emergency meeting during which it voted unanimously to retain a Michigan licensed attorney to contact the AKC on the DPCA's behalf respecting the AKC's reprimand and penalty, at a cost to the DPCA not to exceed \$500.00. It was further agreed that provided and so long as Mr. Gildner and/or Mr. Cavanaugh confirmed that (a) at no time did they represent Ms. Santana or Skip Lee (current Vice President of the DPCA) as individuals, and (b) at all times did they believe that the client for whom they prepared their opinion letters was the DPCA, then they were permitted to be the attorney engaged for these further discussions with the AKC.
- 9) On June 17, 2014, Ms. Santana confirmed that Mr. Gildner had at all times held the DPCA as his client (not Ms. Santana or Mr. Lee as individuals). Accordingly, on June 18, 2014, Mr. Gildner issued a letter to the DPCA confirming their attorney-client relationship and setting forth a fee schedule with respect to all future representation.
- 10) On June 18, 2014, Mr. Gildner issued a letter to the AKC Board of Directors responding to the allegations set forth in the June 11th Letter. A copy of that correspondence can be found in the Members Only section of the DPCA website. (Below)
- 11) On June 25, 2014, the AKC responded to Mr. Gildner, citing to an inapplicable Michigan statute. A copy of that correspondence can be found on Members Only. (Below)
- 12) Today, June 30, 2014, Mr. Gildner responded to the AKC. A copy of today's correspondence can be found below and on the Members Only section of the DPCA website.

The DPCA Board will keep the Membership apprised of all developments in this matter to the greatest extent possible, subject to the advice of legal counsel. We appreciate your understanding and continued patience in this matter.

Thank you,

Michelle Santana  
DPCA President

LAW OFFICES  
OF  
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PETER T. MOONEY \*+  
MICHAEL J. GILDNER \*

STEPHEN W. WALTON  
CHARLES A. BOIKE

\* principal of a professional corporation  
+ L.L.M. in Taxation

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ALLAN L. PARKER (1929 – 2009)

June 30, 2014

**VIA EMAIL TO ALL MEMBERS**

James Crowley  
Executive Secretary  
American Kennel Club  
260 Madison Avenue  
New York, NY 10016

**RE: AKC - DPCA Penalty**

Dear Mr. Crowley:

I find myself in the impossible position of appealing a decision that was reached without a trial and without input from me or my client. The AKC reached a conclusion before advising my client of the complaint and only now, after the fact, is asking for a detailed explanation for my client's position. Please accept this response as the DPCA's formal request for an appeal, both of the process used by AKC in reaching its conclusion and of the alleged violation of the DPCA bylaws.

That said, I believe it would be prudent for you and the AKC to review the following information which supports the DPCA's interpretation of its bylaws prior to the AKC's July meeting. I hope that after the AKC Board reviews this information, an appeal will not be necessary, and the AKC will be in a position to immediately retract its demand letters in their entirety, and permit the DPCA to proceed with its election in the manner prescribed by Michigan law.

**I. Applicable Case Law**

I first bring your attention to the case of *Klapp v United Insurance Agency Inc.*, 468 Mich 459 (2003). As set forth in *Klapp*, "if two provisions of the same contract irreconcilably conflict with each other, the language of the contract is ambiguous." As I am sure you are aware, a corporation's bylaws are a contract between the corporation and its members. Therefore, if two provisions of a corporation's bylaws "irreconcilably conflict with each other," then the language of those bylaws is ambiguous.

Article III, Section 1 of the DPCA bylaws states, in part, that “[the] Officers of the Club shall be **elected for two year terms** at the Club’s Annual Meeting as hereinafter provided in Article IV and shall serve until their successors are elected. The six other Directors shall serve **on a rotating class basis, three Directors being elected each year for a two-year term.**”

Article III, Section 4 of the DPCA bylaws states that “Any vacancies occurring on the Board or among the officers during the year shall be filled until the next annual election by a majority vote of all the then members of the Board, except the vacancy in the office of President shall be filled automatically by the First Vice-President, and the resulting vacancy in the office of First Vice-President, shall be filled by the Board.”

Enforcing Article III, Section 4 in the manner proposed by the AKC could require the DPCA to violate Article III, Section 1.

For illustration, consider if the vacated position in question were one of a director (rather than an officer):

- (1) The DPCA would be holding an election in calendar year 2014 for four Directors, rather than three Directors (as required by Article III, Section 1); and
- (2) **EITHER:** (A) the DPCA will be required to hold an election in calendar year 2015 for only two Directors, rather than three Directors, and thereafter, in perpetuity, the Directors will be elected on a 4/2 rotation rather than the 3/3 rotation required by Article III, Section 1 of the DPCA bylaws; **OR** (B) the individual who wins, by majority vote of the membership, the Director position in 2014 will be required to sit for a one year term, rather than the two year term mandated by Article III, Section 1 of the DPCA bylaws (in order to ‘reset’ the rotation to that required by Article III, Section 1). Not only are both of these options violative of Article III, Section 1 of the DPCA bylaws, but the latter is also patently unfair to the member who won the position by majority vote but doesn’t get to hold the position for the time prescribed by the DPCA bylaws.

Similarly, in our case, either (a) the individuals who win, by majority vote of the membership, the positions of President, Vice President, and Recording Secretary in 2014 will only sit for one year terms in order to realign the elections for these positions with those of the other officers’ positions, or (b) the officers will be elected in staggered terms in perpetuity from and after the 2014 election (pending, of course, another vacancy at another point in time during the first year of a term, in which event the election cycle will once again be interrupted and forever altered).

The DPCA bylaws expressly provide for staggered terms for the directors, and set out that the directors will be elected on a 3/3 rotation. The DPCA bylaws do not provide for staggered terms for the officers, and all of the officers have always been elected on the same 2-year cycle. As set forth below, this “past practice” of the DPCA is relevant in the analysis of the interpretation of the DPCA’s bylaws. Furthermore, since the

drafters of the DPCA bylaws expressly provided for staggered terms for directors, then it is logical to assume that if they had desired the officers to be elected on a staggered or rotating cycle, they would have drafted the bylaws to reflect that arrangement. Certainly, they had language at hand to do that, as evidenced by the fact that they utilized such language for the director positions. The lack of such language with respect to the officer positions clearly indicates the drafters' intent that the officers all be elected on the same two year cycle. Requiring the DPCA to stagger its officers' elections therefore violates its bylaws.

In other words, pursuant to the Michigan Supreme Court ruling in *Klapp*, the DPCA bylaws are, by definition, ambiguous, because enforcing Article III, Section 4 in the manner required by the AKC forces the DPCA to violate Article III, Section 1 of the DPCA bylaws at least twice, if not in perpetuity with each succeeding election. Accordingly, the appropriate question is how to interpret ambiguous contract language pursuant to the laws of the State of Michigan.

In *Klapp*, the Michigan Supreme Court stated the following: "Just as '[c]ourts must give effect to every word, phrase, and clause in a statute and avoid an interpretation that would render any part of the statute surplusage or nugatory,' courts must also give effect to every word, phrase, and clause in a contract and avoid an interpretation that would render any part of the contract surplusage or nugatory." *Id.* (emphasis added).

In furtherance of this rule, the court in *Klapp* added language to, or read additional language into, an ambiguous contractual provision in order to make that provision work in concert with the other provisions of the contract. Where the contract in *Klapp* said only "retired," the court interpreted it to read "retired or otherwise disengaged from the insurance industry" (so that it would also encompass death and disability and therefore conform to other provisions of the contract). In other words, one should **add** language to a contract in order to resolve a contractual ambiguity, rather than negate language in a contract in order to resolve that ambiguity.

Similarly, in order to reconcile Article III, Section 1, and Article III, Section 4, one must read additional language into Article III, Section 4, as follows: "Any vacancies occurring on the Board or among the officers during the year shall be filled until the next annual election **for such position** by a majority vote of all the then members of the Board, except the vacancy in the office of President shall be filled automatically by the First Vice-President, and the resulting vacancy in the office of First Vice-President, shall be filled by the Board." Inserting such language is in line with *Klapp* and therefore in accordance with Michigan law. Alternatively, abiding by the AKC's interpretation would require the DPCA to negate the language of Article III, Section 1 respecting 2-year non-staggered terms for officers, and staggered terms for directors.

Furthermore, the *Klapp* ruling goes on to say that "In resolving ... the interpretation of a contract whose language is ambiguous, the jury is to consider relevant extrinsic evidence. As this Court explained in *Penzien v. Dielectric Products Engineering Co., Inc.*, 374 Mich. 444 (1965): 'If the contract in question were ambiguous or 'doubtful,'



extrinsic evidence, particularly evidence which would indicate the contemporaneous understanding of the parties, would be admissible as an aid in construction of the disputed terms.' 'The law is clear that where the language of the contract is ambiguous, the court can look to such extrinsic evidence as the parties' conduct, the statements of its representatives, and past practice to aid in interpretation.'" *Id.* (emphasis added)

The DPCA's conduct and past practice are clear: at all times in the past, when a position was vacated mid-term, the individual filling the vacancy has held the office for the remainder of the term (i.e., until the next annual election ***for that position*** - - not just until the next annual election).

Once again, in order to conform to Michigan law as set forth in the Michigan Supreme Court's ruling in *Klapp*, the DPCA must be permitted to read additional language into Article III, Section 4 of the DPCA bylaws, such that Section 4 does not negate Section 1. This is the DPCA's past practice and it is entirely compliant with applicable law.

## **II. Michigan Nonprofit Corporate Code**

Mr. Crowley's latest letter cites MCL 450.2515 relating to the filling of vacancies. However, his reliance on that provision is faulty on its face, for at least two reasons.

First, this statutory provision applies only when an organization's bylaws are silent on how vacancies are filled (it sets forth the process for filling vacancies "unless the right to fill vacancies is . . . provided by the articles of incorporation or bylaws.") Since the DPCA's bylaws do in fact address the filling of vacancies in Article III, Section 4, the statute does not apply pursuant to its own terms. "Chapter 5 of the Nonprofit Corporation Act (Michigan Compiled Laws, Sections MCL 450.2501 through 450.2569), provide specific rules to follow only if the articles of incorporation or bylaws for the corporation fail to provide rules on those particular issues." (See the Michigan Nonprofit Association website for more information: [http://stayinglegalmi.org/michigan\\_corporations.html](http://stayinglegalmi.org/michigan_corporations.html)). This conforms to the text of the MCL provision, which states that it will not be applicable if the organization's bylaws provide a mechanism for the filling of vacancies.

An ambiguity is not synonymous with an omission. The DPCA's bylaws may be ambiguous with respect to the filling of vacancies, but they are not silent with respect to them. Only in the event of an omission would MCL 450.2515 apply. Therefore, MCL 450.2515 is inapplicable.

Second, Mr. Crowley's reliance on MCL 450.2515, alone, is misplaced because one must read that section in context with the remainder of the Michigan Nonprofit Corporate Code. (see *State Farm Fire & Cas. Co. v. Old Republic Ins. Co.*, 466 Mich. 142, 146 (2002)).

Pursuant to MCL 450.2505 (Board; number, term, and election or appointment of directors; resignation of director; number of directors on effective date of amendatory act) and MCL 450.2506 (Dividing directors into 2 or more classes; election or appointment; term; expiration; election of directors by shareholders or members of class), the Michigan Nonprofit Corporate Code contemplates officers and directors holding office for one year terms:

- (1) MCL 450.2505 reads in part as follows: "If the articles of incorporation or bylaws do not so specify the term of office or manner of election or appointment of directors, the first board of directors shall hold office until the first annual meeting of shareholders or members. At the first annual meeting of shareholders or members and *at each subsequent annual meeting* the shareholders or members shall elect directors to hold office until the succeeding annual meeting, except in case of the classification of directors permitted under this act." (emphasis added)
- (2) MCL 450.2506 reads in part as follows: "If the articles of incorporation or the bylaws do not so specify the term of office for the classes of directors, the term of office of directors in the first class shall expire at the first annual meeting of shareholders or members after their election, and that of each succeeding class shall expire *at the next annual meeting* after their election corresponding with the number of their class. At each annual meeting after such classification, a number of directors equal to the number of the class whose term expires at the time of the meeting shall be elected to hold office until the next annual meeting corresponding with the number of their class." (emphasis added)

Clearly, when all offices and director positions are held for one year terms, then any vacancy is filled "until the next [annual] election." Doing so does not terminate a term early or create an irreconcilable conflict between provisions, because the term for such office or director position would have come to an end at that time regardless. However, Article III, Section 1 of the DPCA bylaws clearly states that all officers and directors will be elected for two year terms. As a result, requiring vacated positions to be filled at the next annual election, even if such election is not the next election for such position, creates an irreconcilable conflict between the provisions of the DPCA bylaws. Therefore, again, MCL 450.2515 is inapplicable.

That said, reading MCL 450.2105, 450.2506, and 450.2515 in context, it is apparent that the intent of MCL 450.2515 is for a vacancy to be filled until the natural expiration of the term for a position (since each term is only one year pursuant to the Code, that occurs at each annual election under the Code). Thus, effectuating the intent of MCL 450.2515 with respect to the DPCA's bylaws would be consistent with the analysis under *Klapp* (i.e., an individual filling a vacancy would hold that position until the natural expiration of the term for that position, which in the case of the DPCA, occurs on a two year cycle rather than a one year cycle).

When the issue of the current vacancies arose, the DPCA's then-President (Mr. Helsdon) penned a brief respecting the filling of vacancies, which the DPCA Board relied upon in good faith. In that brief Mr. Helsdon cited the following Michigan case law:

Bylaws constitute a contract between a corporation and its shareholders or, in the case of non-profit corporations, its members. *Allard v. Grosse Pointe Hunt Club*, 285446, 2009 WL 3103827 (Mich. Ct. App. Sept. 29, 2009); *Allied Supermarkets, Inc v. Grocer's Dairy Co*, 45 Mich.App 310, 315; 206 NW2d 490 (1973), *aff 'd* 391 Mich. 729 (1974).

Although his citation is certainly true, it is not determinative. In fact, none of the case law that Mr. Helsdon cited is determinative. Moreover, with the exception of the one citation above, none of the case law came from Michigan. Furthermore, Mr. Helsdon is not licensed to practice law in the State of Michigan.

As the issue gained traction, the DPCA's current President, acting on behalf of the DPCA's Board, prudently sought guidance from professionals, including two attorneys licensed to practice law in the State of Michigan and a Parliamentarian credentialed through the National Association of Parliamentarians, and the DPCA Board did as these professionals instructed. As a result, the AKC has accused the DPCA Board of "deliberate non-compliance" with the DPCA bylaws. I would argue that DPCA's efforts to obtain guidance from attorneys and parliamentarians reflect the polar opposite of the accusation that the AKC has leveled against it. What is the accreditation of the person from whom the AKC sought guidance respecting this matter? As I understand it, the AKC is not incorporated in Michigan. Were any of the individuals who analyzed this matter on AKC's behalf licensed to practice law in the State of Michigan? Did those individuals provide Michigan law to support their interpretation of the DPCA's bylaws?

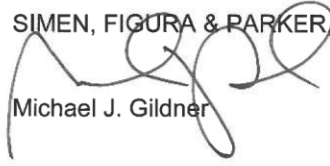
It has been brought to my attention that certain members of the DPCA have said that if the DPCA Board elects to comply with the AKC without first exhausting all avenues of appeal (including a lawsuit in Michigan court), then those members will file a derivative action on behalf of the DPCA, against the AKC, pursuant to MCL 450.2491. If that happens, the DPCA Board will have no choice but to sit on the sidelines and allow this matter to play out in court between the member-plaintiffs and the AKC. For all the reasons stated above, we believe the member-plaintiffs would prevail, but we also believe it is in both the DPCA's and the AKC's best interests to amicably resolve this dispute before it escalates to litigation.

For all these reasons, I ask that the AKC retract its penalties and findings and permit the DPCA to proceed with its election in the manner prescribed by Michigan law (i.e., the 2014 election will consist of three Director positions and none others).

Very truly yours,

SIMEN, FIGURA & PARKER, P.L.C.

Michael J. Gildner

A handwritten signature in black ink, appearing to read 'Michael J. Gildner', written over the printed name.

MJG/ksd

From:  
To: Heather McManus  
Subject: FW: Jeff Helsdon shared "6-16-2014 Emergency meeting.mp3" with you  
Date: Thursday, July 03, 2014 11:52:08 AM  
Attachments: image001.png

From: Jeff via Dropbox [mailto:no-reply@dropbox.com]  
Sent: Monday, June 30, 2014 1:31 PM  
To: Michael Liosis  
Subject: Jeff Helsdon shared "6-16-2014 Emergency meeting.mp3" with you

From Jeff:

"Good afternoon Mr. Crowley and Mr. Liosis,

I am forwarding to you the audio file of the DPCA emergency Board meeting of June 16, at which they discussed their choice to challenge the AKC directive re: the election, and at which they retained Mr. Gildner. The discussion begins at 1:04:35 into the file. I will be in New York tomorrow through Friday, should you care to discuss. 253.677.1031.

Cordially,  
Jeff Helsdon"

[Click here to view](#)

(Jeff shared these files using Dropbox. Enjoy!)

**DOCUMENT 122**

**From:** Michael Gildner  
**Sent:** Wednesday, July 9, 2014 11:26 AM  
**To:** 'Heather McManus'; Rachel Kanarek  
**Cc:** Sharees Saltus  
**Subject:** RE: DPCA/AKC

I don't see an attorney-client privilege problem because Rachel does not represent DPCA. Rather, I see two potential problems. First, one of the participants pledged Rachel to keep the discussion confidential, and Rachel agreed. That same member recorded the conversation and then leaked select portions of it to the public. Somehow Jeff Helsdon obtained a copy of the audio and then released it to Mr. Crowley and Mr. Liosis. When a participant to the conversation requests confidentiality, is it appropriate for that participant or someone else to disseminate it to third parties? Second, DPCA Board members and officers owe duties to the organization and those duties stem from the fiduciary relationship that they enjoy with the organization. When those same members are privy to discussions about legal strategy and then selectively disseminate that information to third parties to embarrass other members, they inadvertently disparage the organization which is in breach of their fiduciary duties.

All other issues aside, what is apparent to me is that the DPCA is in disarray simply because a faction disapproves of the present Board membership. When that faction tried involving AKC in their intra-organization dispute, AKC wisely pledged to watch from the sidelines if the DPCA obtained opinions from Michigan attorneys, which it did. Then, it changed course and got involved. Its involvement in the present dispute is deeper than I originally thought, as evidenced by the fact that Jeff Helsdon, the Board member who vacated his position which set up this leadership dispute, supplied the recording to Crowley and Liosis and closed his email to them saying, "I will be in New York tomorrow through Friday, should you care to discuss." Apparently one faction of this dispute has a direct line of communication with AKC leadership which might explain why AKC imposed its discipline without affording DPCA the process spelled out in the bylaws.

July 11, 2014

Dear DPCA Membership,

The AKC has reached out to us again, this time with respect to an audio recording of the DPCA's June 16th emergency Board meeting (the "Recording"), which was convened to discuss the strategy and options the DPCA would entertain in addressing the AKC directive (received from AKC on June 11th), and the dispute between the AKC and the DPCA with respect thereto (the "Dispute").

The AKC has provided us with the following email, which shows that the AKC received the Recording from Mr. Jeff Helsdon, who sent it via email to Mr. Michael Liosis (and, per the content of the email, Mr. James Crowley) of the AKC:

From:  
To: Heather McManus  
Subject: FW: Jeff Helsdon shared "6-16-2014 Emergency meeting.mp3" with you  
Date: Thursday, July 03, 2014 11:52:08 AM  
Attachments: image001.png

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Cordially,  
Jeff Helsdon"

[Click here to view](#)

(Jeff shared these files using Dropbox. Enjoy!)

The distribution of this Recording by Mr. Helsdon to individuals at the AKC who are directly involved in the Dispute raises a number of questions (particularly in light of the fact that the Recording includes the DPCA Board's discussions regarding

DPCA's options and strategies in connection with that Dispute, and the threat of litigation respecting such Dispute), including but not limited to the following:

- 1) From whom did Mr. Helsdon receive the Recording? It is evident that a DPCA Board member made the Recording during the June 16th meeting and distributed it to Mr. Helsdon, but the identity of that Board member is unknown. If there are any DPCA members, or for that matter non-members, who have information respecting how or from whom Mr. Helsdon procured the private unauthorized Recording, please contact the DPCA President with such information for processing.
- 2) Why is Mr. Helsdon providing the AKC with an unauthorized audio recording of a emergency meeting of the DPCA Board (in which the Board is discussing DPCA strategy respecting the Dispute), as such action by Mr. Helsdon seems counterproductive and prejudicial to the best interest of the DPCA?
- 3) As evidenced by Mr. Helsdon's closing statement in his email to Mr. Liosis ("I will be in New York tomorrow through Friday, should you care to discuss."), it is apparent that one faction of the DPCA involved in this Dispute has a direct line of communication with AKC leadership.
  - (a) Is this why the AKC imposed its discipline against the DPCA without affording the DPCA the due process spelled out in the AKC's bylaws?
  - (b) Why is the AKC entertaining communications from Mr. Helsdon in connection with the Dispute when:
    - (i) (to the DPCA's knowledge) no formal complaint has been filed against the DPCA; and
    - (ii) the AKC has not engaged the DPCA President and the Board in this matter?
  - (c) Was an appointment between Mr. Liosis, Mr. Crowley, and Mr. Helsdon held as suggested by Mr. Helsdon, and if so, why were no representatives of the DPCA Board (be they either individual Board members or the DPCA's counsel, Mr. Gildner) invited to attend?

We have been informed by the AKC that they will not review the information in Mr. Gildner's June 30th letter until the AKC's July Board meeting. By refusing to engage (conversationally or otherwise) with the DPCA Board or DPCA counsel until such time as the July Board meeting (if at all), but electing to engage with others (including, without limitation, Mr. Helsdon) in the interim, some are of the opinion that the AKC is exacerbating an internal conflict between factions of the DPCA and allowing one such faction to manipulate the AKC's dispute and penalty procedures to its own gain, and to the detriment of the DPCA and its current Board.

Despite this, the DPCA Board continues to pursue a resolution to the Dispute, and endeavors to keep the Membership fully apprised of all developments respecting same. We regret that, apparently, the AKC is not being as forthright with the DPCA as we are with the Membership.

Thank You,  
The DPCA Officers and Directors  
(PS: we have not provided the live drop box link)



**WINEGARDEN, HALEY, LINDHOLM & ROBERTSON, P.L.C.**

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July 15, 2014

**VIA E-MAIL AND FIRST CLASS MAIL**

Doberman Pinscher Club of America  
c/o Michael J. Gildner  
5206 Gateway Centre  
Flint, MI 48507

JUL 17 REC'D  
JUL 17 REC'D

American Kennel Club  
c/o James Crowley  
260 Madison Avenue  
New York, NY 10016

Re: AKC - DPCA Penalty

Dear Msrs. Gildner and Crowley:

Please be advised that this office represents **Dr. Arthur J. Greenwood and Mrs. Elaine E. Greenwood**. Dr. and Mrs. Greenwood ("the Greenwoods") are Members of the **Doberman Pinscher Club of America ("the DPCA")**. It has come to the Greenwoods' attention that the **American Kennel Club ("AKC")** claims to have sanctioned the DPCA for an alleged violation of its bylaws. A copy of the published **Minutes** of the June 9-10th AKC Board of Director meeting referencing the imposition of a monetary penalty is included with this letter. The Greenwoods have further learned that the AKC through its actions is attempting to force the DPCA to alter its long established election process. The purpose of this letter is to notify both the DPCA and the AKC that if immediate action is not taken by the DPCA and the AKC the Greenwoods intend to file a derivative lawsuit pursuant to MCL 450.2491 on behalf of the DPCA and against the AKC.

The Greenwoods **hereby demand that the DPCA** do as follows:

- 1) Immediately proceed with elections by mailing ballots which conform to the bylaws and past practices of the DPCA. To be clear, these ballots should **only** include polling related to the three Director positions.
- 2) Refuse to pay any AKC sanctions imposed in connection with this dispute.
- 3) Refuse to entertain any nomination for any position which was not delivered to the DPCA in a timely fashion.

The Greenwoods **hereby demand that the AKC** do as follows:

- 1) Immediately reverse all sanctions imposed by the AKC Board of Directors upon the DPCA.
- 2) Immediately retract all demands and findings which suggest that the DPCA should alter its election practices or deviate from its bylaws and past practices in any respect.
- 3) Pursuant to MCL 600.2911 the Greenwoods hereby demand the immediate publication of a retraction of the libelous statements regarding the DPCA contained in the Minutes of the AKC Board of Directors.<sup>1</sup>

In an effort to allow the AKC time to reverse its decisions, the Greenwoods intend to file their lawsuit after the July 21-22nd AKC Board Meeting during which the DPCA issue is to be discussed. This action is taken without waiving any of the rights and remedies which are available to the Greenwoods, with said rights and remedies being expressly reserved. The Greenwoods genuinely believe that upon review of the facts, the AKC board will reverse its decisions in accordance with this letter.

During the July 21-22nd meeting, the Greenwoods further request that the AKC board consider the three opinions and all supplementary submissions prepared by Michigan professionals which indicate that the DPCA has proceeded exactly in the fashion required by its bylaws and Michigan law. These opinions are now supplemented by a fourth opinion, as the undersigned agrees with the analysis of the parliamentarian and the licensed Michigan attorneys consulted by the DPCA. It is the Greenwoods' hope that upon further review of these opinions and materials the AKC Board will take action so that needless expenses can be avoided for all involved parties.

The Greenwoods request that both the DPCA and the AKC contact the undersigned at 810-579-3600 as soon as possible to confirm compliance with these demands. If no response is received on or before July 23, 2014 the Greenwoods will be forced to take action in order to protect the DPCA.

Very truly yours,

Winegarden, Haley, Lindholm  
& Robertson, P.L.C.



Zachary R. Tucker

ZRT/jb  
Enclosure

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<sup>1</sup> To be clear, all statements made regarding the DPCA in these Minutes are untrue. Additionally, the discussion of the penalty unilaterally imposed further suggests that the DPCA is guilty of misconduct when that is most certainly not the case.

BOARD OF DIRECTORS  
June 9-10, 2014

The Board convened on Monday, June 9, 2014 at 1:00 p.m. All Directors were present, as were the Executive Secretary, and the Assistant Executive Secretary. The April 2014 Board minutes, copies of which were made available to all Directors, were discussed. Upon a motion by Mr. Menaker, seconded by Dr. Battaglia, the April 2014 minutes were approved.

**PRESIDENT'S REPORT**

**Board Action Items**

Mr. Sprung gave a status report on previous Action Items assigned to the Staff as well as an introduction of new initiatives.

**Events and Entries Update**

Mr. Sprung gave a status report on entries and events through April 2014. Entries were flat with a 0% change and Events were up by 3% compared to same period in 2013.

**LEGAL REPORT**

Margaret Poindexter, General Counsel, participated in this portion of the meeting. She presented a status report on pending litigation and other activities for the months of April and May 2014.

**CHAIRMAN'S REPORT**

There was a discussion on a number of issues regarding judging, which were raised at the Delegate Parent Clubs Committee meeting in June. They included the increase in the number of low entry breeds; ideas of acceptable education and training for judges; the process of ringside observations by AKC Field Representatives to evaluate placements; Parent Club input on breed standard tests; the demeanor of some judges and the possibility of some type of Low Entry Breed Institute.

**JUDGING TASK FORCE**

Dr. Garvin updated the Board on the work of the Judging Task Force, including ongoing projects and a review of areas where improvement was needed and areas where further discussion was needed.

He outlined a pilot program to develop online breed specific judge's education, referred to as the Canine College. The Parent Clubs for Basenjis, Lhasa Apsos and Dalmatians were taking part in the pilot program.

Chris Walker, AKC Staff, reported on a platform that could be purchased, which would enable AKC to develop software to deliver the Canine College. Following a motion by Mr. Amen, seconded by Mr. Ashby, it was VOTED (unanimously) to authorize staff to purchase the platform and to develop the software necessary to do this.

The Board also considered what education experiences were really pertinent and should be included as necessary preparation for judging applicants which would instill confidence by exhibitors that each individual is knowledgeable about the breed.

It was suggested that there be an additional survey of judges, The Judges Review Committee and exhibitors.

#### **EXECUTIVE SESSION**

There was an Executive Session to discuss sensitive business matters. Nothing was reported out of this session.

#### **EXECUTIVE SECRETARY**

##### **February 2015 Board Meeting**

It was pointed out that the dates for the February 2015 Board Meeting were set prior to the Westminster Kennel Club changing its dates in 2015. Without objection, the dates for the meeting were changed to Thursday/Friday, February 12-13, 2015.

##### **The Doberman Pinscher Club of America**

The Board reviewed a report on alleged Bylaw violations on the part of the board of the Doberman Pinscher Club of America (DPCA). Article III, Section 4 of the DPCA bylaws specifically provide that the Board may fill any vacancy in officer or board positions only until the Annual Meeting. While being advised of this by AKC, the Board of the DPCA insisted on filling the vacancies for president and first vice president for the remainder of the unexpired term of the individuals previously holding these positions rather than until the next annual meeting. The DPCA membership was not afforded the opportunity to submit nominations for the two vacancies. There was a motion by Mr. Arnold, seconded by Mr. Amen, to reprimand the Doberman Pinscher Club of America, and to impose a staff-recommended fine of \$500 for the known violation of its bylaws.

There was a motion by Mr. Powers, seconded by Ms. Cruz, and it was VOTED (affirmative: Mr. Powers, Ms. Cruz, Dr. Garvin, Dr. Battaglia, Mr. Ashby, Mr. Kalter, Mr. Amen, Mr. Dok, Mr. Arnold, Mr. Menaker, opposed: Mr. Feeney, Mr. Wooding, Mr. Gladstone) to increase the fine to \$2,500.

The main motion, as amended, was then voted (affirmative Mr. Powers, Ms. Cruz, Dr. Garvin, Dr. Battaglia, Mr. Ashby, Mr. Kalter, Mr. Amen, Mr. Dok, Mr. Arnold, Mr. Menaker, Mr. Gladstone; opposed Mr. Feeney, Mr. Wooding).

##### **FCI**

The Board discussed a request from the FCI to provide it with a list of all dogs it registers based on a National General Kennel Club pedigree, so that it can prevent them from being registered by any FCI member based on its AKC registration. In addition the FCI general Committee asked that AKC Global definitely not approach non FCI member clubs in countries establishing a business relationship. FCI had declined to cooperate with AKC Global in countries with FCI clubs for a portion of any revenue earned.

The Board did not direct or authorize AKC and AKC Global staff to comply with either request. Staff was directed to relay that to FCI.

Meeting adjourned on Monday June 9, 2014 at 5:30 pm

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Meeting reconvened on Tuesday June 10, 2014 at 8:00 am.

All Directors were present, as were the Executive Secretary, and the Assistant Executive Secretary.

##### **AKC Canine Health Foundation**

Duane Butherus, the AKC Canine Health Foundation Board Chairman, updated the AKC on a number of matters, including staff changes, fundraising efforts, and procedures for making research grants.

**EXECUTIVE SECRETARY cont'd**

Margaret Poindexter, AKC Staff, was present for this portion of the meeting.

**Trial Boards**

There was a discussion on the reappointment of Trial Boards. The Executive Secretary had communicated with current members to determine which of them wished to continue as Trial Board members. The only current members who declined to be reappointed were Edd Biven and Donald Booxbaum. Staff was directed to extend the Board's sincere appreciation to both for their years of service.

Following a motion by Mr. Powers, seconded by Mr. Gladstone, it was VOTED (unanimously) to appoint the following Trial Board members:

**Appeals Trial Board**

Ralph Del Deo, Esq. Chair  
Barbara W. Meiner, Esq.  
Martha Feltenstein, Esq.

**Trial Board Chairs**

Laurie Raymond, Esq.  
Daniel Smyth, Esq.  
Rita Biddle, Esq.  
Theresa Dowell, Esq.  
Jan Ritchie, Esq.

**Trial Board Members**

Dr. Klaus Anselm  
Charles Foley  
Roger Hartinger  
Medora Harper  
Dr. Robert Myall  
Bernard Schwartz  
Betty-Anne Stenmark  
James White

**Performance Trial Board**

David Hopkins, Esq. Chair  
Tim Carwile, Esq.  
John Russell

**Alternates:**

Mike Necaise  
Bill Teague