

STATE OF NEW YORK
SUPREME COURT

COUNTY OF ONONDAGA

Kerrin Conklin,

Plaintiff,

COMPLAINT

Vs.

Stacy Laxen, DVM,

and

Board of Directors of the Central New York Society for the
Prevention of Cruelty to Animals, individually and as
Agents and Servants of, and doing business as the
Central New York Society for the Prevention of
Cruelty to Animals(CNYSPCA)

Defendants

Plaintiff through her attorney Joseph Cote, as and for her complaint against the
Defendants, alleges and states as follows:

PARTIES, JURISDICTION AND VENUE

- 1) Kerrin Conklin, was the Executive Director of Central New York Society for the
Prevention of Cruelty to Animals and was a former employee of the Central New York
Society for the Prevention of Cruelty to Animals.
- 2) The Central New York Society for the Prevention of Cruelty to Animals, (CNYSPCA)
has its principle place of business at 5878 East Molloy Road, Syracuse, New York 13211.
- 3) At all times, relevant Kerrin Conklin's residence is 4590 Moonglow Drive, Town of
Onondaga, County of Onondaga, State of New York 13078.

- 4) Upon information and belief, at all times relevant the Defendant, Dr. Stacy Laxen, DVM, resided in the County of Onondaga, State of New York.
- 5) Upon information and belief, at all times relevant, the Board of Directors of the Central New York Society for the Prevention of Cruelty to Animals (hereinafter collectively referred to as “CNYSPCA”), as agents and servants of the organization, were Carole Marsh, Nicholas Pirro, Patricia Romano, Kevin Fallis, Jack Yoffa, Sandra Bennett, Harold Brown III, Greg Herlihy, Merrissa Butz, Tracey McLean, Nicholas Jacobson, Danielle Cunningham-Tarantino, Robin Watkins and Monica Williams, all of whom resided in the County of Onondaga, State of New York.

FACTS

Conklin as Volunteer

- 6) This action arises from the acts and omissions of the Defendants and such acts are as follows:
- 7) From August of 2013 to November 2015, Kerrin Conklin was an active volunteer at the CNYSPCA.
- 8) During that period, Conklin spent over 35 hours per week running/walking dogs, assisting kennel staff as needed, cleaning both cat and dog kennels, doing laundry, washing dishes, covering shifts when employees called in sick, taking animals to outside events, sponsoring a coed softball team (“The Adoptables”) and a cornucopia of other animal enriching activities.

- 9) Throughout Conklin's volunteer years, the majority of her time was spent working with the dogs, aiding in their physical, social and mental well-being during their time at the shelter.
- 10) Conklin also consistently tended to the needs of the cats in the shelter by cleaning their kennels, changing their litter boxes, feeding them, changing their water bowls, notifying staff of physical manifestations suggestive of illness or discomfort, and providing them with toys to try to enrich their lives. Conklin was particularly involved in these activities when the shelter was short staffed.
- 11) Conklin's volunteer activities were so expansive that she was able to witness the daily operations of the shelter and identify a vast number of opportunities for much needed improvements in both the facility itself and the animal care practices.
- 12) At the time that she began to volunteer at the CNYSPCA many of the animals were being neglected or ignored, with little attention or human contact other than the minimal amount needed to hose down the kennel floor, refill the water tub and leave a bowl of food once per day.
- 13) Conklin routinely saw bloody diarrhea in the dog's kennels, as well as a multitude of other readily visible medical conditions, such as dogs frantically chewing on specific areas of their bodies, or scratching incessantly at their ears.
- 14) When veterinary staff was advised of the chronic diarrhea suffered by these animals, they often dismissed it as being caused by the daily change in the brand of food they were given.
- 15) While still a volunteer, Conklin reported the clear distress of one dog, with what appeared to be a painful ear. She repeatedly reported it to veterinary staff, and even brought ear

cleaning solution she had at home from her own veterinarian to provide the staff with medication to treat an obviously raging ear infection. After there was no improvement, Conklin was adamant that this dog, who had been at the shelter nearly one year, needed to be examined, and insisted that it was urgent. When the veterinary technician finally looked in his ear, she noticed and removed a golf ball-sized glob of what appeared to be white, hardened infected ear wax. It is not known how long this dog had needlessly suffered.

- 16) These were not isolated incidents, and there are multiple instances of this shocking disregard of the suffering of some of these animals.
- 17) During this time, animals were euthanized for little reason, no reason, or unlikely reasons, such as a generally docile dog allegedly attacking a staff member with no credible witnesses to the “attack,” or rooms full of cats suddenly disappearing overnight leaving the rooms nearly empty.
- 18) During this time frame, Conklin personally witnessed often inhumane conditions, including inadequate heating in the winter and cooling in the summer, derisory veterinary care or even the provision of sufficient nutritional sustenance to allow for existence beyond bare survival.
- 19) Other than in the veterinary center, there was no hot water in the grooming station and garage, where water and feeding bowls, and litter boxes were washed and reused for other animals, without first being sterilized or sanitized.
- 20) Building repairs were handled, if at all, with a band-aide-like approach, and often by the volunteers, as management showed little interest in spending the time or money to fix them.

- 21) An approved project for renovation of the back kennel, inhabited by the shelter's larger and predominantly short-haired dogs, was supposed to be completed by October of 2014, yet had not even begun by October, 2014, and was in fact, not completed for nearly another full year.
- 22) The entry doors for each of the back kennels were constructed at that time of chain link fencing that was in disrepair, with sharp and exposed wire, causing wounds and injuries to the staff, volunteers and animals.
- 23) The poorly designed fenced kennels tore the pads of the dog's paws and/or their faces when they came in contact with the sharp metal.
- 24) Animal blood could be seen on the floors, walls and kennel doors.
- 25) At that time little or no medical care was provided to treat the wounds suffered by these dogs and when questioned about the lack of care, Conklin was told that they "would just cut themselves again."
- 26) The back of the individual kennels had guillotine-style doors leading outside to individual runs, which were closed during the evenings and inclement weather to protect the animals from the elements and harsh temperatures.
- 27) The guillotine doors were broken, cracked or both, allowing for another winter of bitter temperatures, biting winds, and even snow to enter the kennels and inflict pain, discomfort and suffering upon the animals.
- 28) The unrepaired doors provided no protection from the bitter cold winters, creating cruel living conditions, and at times even worse than their living conditions prior to coming to the shelter. [See Exhibit A].

- 29) Subjecting these dogs to these conditions was in direct violation of the CNYSPCA's very mission for which it was founded.
- 30) The majority of the dogs in the back kennel were short-haired breeds, without much natural warmth provided by their coats.
- 31) The only protection the dogs had from the cold was often a flimsy blankets tossed on the cement floor. [See Exhibit B]
- 32) The chain link fence style kennel doors allowed for potentially dangerous interactions between the dogs and put dogs at risk of being attacked by other dogs affected by the stress of the shelter environment.
- 33) These kennels doors also allowed for for potentially dangerous interactions between the dogs and the general public and put the dogs at risk for exposure to pathogens, toxins and/or unsafe contact initiated by the visiting public.
- 34) Conklin witnessed the fear and mental deterioration exhibited by these dogs as a result of being exposed to this environment and these conditions.
- 35) Despite these poor and unsafe conditions, needed renovations were inexplicably put on hold.
- 36) Volunteers and staff were held at bay when questioning the administration as to the reason why renovations hadn't started and the cold weather was moving in quickly.
- 37) Not only were the dog kennels unsafe for the dogs, the cat kennels were unhealthy for the cats.
- 38) While cleaning the cat kennels, Conklin noted that there were no procedures or protocols in place to ensure the cats were cared for in a safe and consistent manner.

- 39) Cats would be removed from the kennels (averaging approximately 24" x 24" x 18"), and placed into a small carrier while all items from living quarters were removed, and their kennel was being cleaned.
- 40) A bleach and water mixture was then used to wipe down the interior of the individual cat kennels and then the cats would be placed back into the kennel a few moments later.
- 41) A bleach and water mixture recommended for use to sanitize the kennels have a specific ratio of 1:32, and upon information and belief, is not recommended for use in cleaning inhabited cat kennels. Bleach in excess can cause animal convulsions, nausea/vomiting, respiratory distress and possibly death.
- 42) These protocols and ratios were completely ignored. Bleach was free-poured into buckets of water with no measuring whatsoever, far in excess of accepted professional standards, and then used in the kennels.
- 43) The excess use of bleach and confined space of the kennels subjected the cats, and the staff and volunteers caring for them, to unhealthy levels of toxicity. The odor of bleach lingered in the air for hours.
- 44) Conklin was aware of management's failure to establish and enforce proper protocols to prevent the inconsistent and excessive use of bleach in cleaning the cat rooms, and repeatedly mentioned the problem to them.
- 45) There were no state mandated OSHA posters visible or any other required Human Resource/Labor Law posters.
- 46) Conklin repeatedly expressed her concerns about each of these conditions to the members of management, and although they would assure her that her concerns would be addressed, rarely did Conklin witness any demonstrable changes.

- 47) Upon information and belief, her concerns, and the concerns expressed by other volunteers, remained unaddressed because rectifying them would cost money or inconvenience staff. During a meeting with Morgan, he admitted to the group of volunteers that his staff “could be difficult” and did not like change.
- 48) Conklin witnessed the fear, frustration and mental deterioration exhibited by the cats who were confined in their small kennels with little room to move, and with their food, bed, water and litter pan being only a few inches apart.
- 49) At that time, many of the cat rooms had sliding glass doors leading to a fenced in, covered area, obviously intended for a recreational area for these cats. Conklin asked staff and management to allow the cats to play in that area, at least while the cat rooms were being cleaned. She was simply told that the cats were not allowed in that area, with no further discussion.
- 50) Conklin was consistently told ‘baby steps’ when asking about obvious needed changes.
- 51) In November 2015, Conklin, who became frustrated at the inhumane conditions at the CNYSPCA, the lack of any change or willingness on the part of management to try to improve the conditions of the animals, resigned from her volunteer position and relocated to Florida.

Morgan Mismanagement

- 52) Upon information and belief, the reason for the delays in the needed improvements of the CNYSPCA facilities was due to a lack of funds caused by the financial mismanagement and theft by the prior Executive Director, Paul Morgan.

- 53) Morgan, the person at the helm of the shelter operations from 2007-2016, whose base salary was \$85,000, is now serving time in a correctional facility for embezzling hundreds of thousands of dollars from the CNYSPCA.
- 54) In March of 2017, Morgan plead guilty to the theft of over \$500K, and was sentenced to 4 – 12 years in state prison for the crimes of grand larceny and criminal tax fraud.
- 55) During his tenure as Executive Director, he mismanaged the facility, its finances and its staff.
- 56) During her extensive time as a volunteer Conklin had the opportunity to witness how little time Morgan actually spent at the shelter he was hired to manage.
- 57) Morgan was rarely seen in his office, or on the property at all, thereby leaving the shelter to be run by other employees.
- 58) Upon information and belief, the animals housed at the CNYSPCA suffered because the staff was allowed to operate in an unaccountable manner under Morgan's mismanagement.
- 59) Upon information and belief, many donations meant to benefit the animals, such as beds, toys, blankets, coats and treats, were carelessly dumped in multiple closets and storage areas that were filled nearly to capacity with years of these unused and disregarded donations.
- 60) Hundreds of un-inventoried animal transport carriers could be found throughout the facility which could have been used for the benefit of animals but were instead wasted and left out unprotected, to rust and be rendered unusable. [See Exhibit C].

- 61) Upon information and belief, the donations of many blankets had gone to waste because they remained unused until they were moth eaten and became the place where mice nested and excreted.
- 62) The absence of employee management was visible everywhere because no one employee was charged with the duty to oversee the care of the animals or direct the efforts of staff or volunteers who were provided with little instruction or guidance.
- 63) The selfless efforts of staff and volunteers were wasted due to the lack of management and lack of vision.
- 64) Some members of the paid staff performed the absolute minimum of their job requirements, and continued to place a burden on the hard working and selfless efforts of others, including the volunteers, due to the failure of management to provide direction and insist upon accountability.
- 65) Over time, his mismanagement created a culture of unprofessionalism and indifference by some members of the staff, and frustration and hopelessness by others.
- 66) That culture, and that behavior, was allowed to continue even after Morgan was removed.

Interim Mismanagement: Financial

- 67) Following the removal of Morgan after he was arrested and charged, the treasurer of the Board, Nick Pirro, resigned from that position to become the Interim Director of the CNYSPCA.
- 68) This individual has been the treasurer of the CNYSPCA during the entire reign of Morgan, and his pillaging of the non-profits' precious resources.

- 69) For reasons that are not clear, Pirro was not sanctioned or otherwise held accountable for his failure to discover the mismanagement and thefts of Morgan that occurred over the course of several years.
- 70) Despite being aware that nearly \$900,000.00 had been stolen from the CNYSPCA by Morgan and at least two other employees, the treasurer/Interim Director inexplicably employed the same bookkeeper as was previously used by Morgan.
- 71) This part-time bookkeeper had also failed to discover and/or report Morgan's numerous thefts over the course of several years, yet remained employed as the shelter's bookkeeper at the direction of the Interim Director.
- 72) Even after the discovery of the financial mismanagement of Morgan, the Interim Director still failed to properly and thoroughly review financial records provided to him by the part-time bookkeeper.
- 73) A cursory review of these financial records would have revealed the existence of substantial record-keeping errors in the figures provided.
- 74) The data provided is used to generate the shelter's Profit and Loss statements and balance sheets.
- 75) As Interim Executive Director, it was Pirro's responsibility to provide a financial reporting to the Board at their monthly meetings, and he did so without verifying the accuracy of the figures given.
- 76) As a result, the financial information he presented to the Board was inaccurate.
- 77) Upon information and belief, based upon his longevity on the Board or his former status in the community, the other Board members failed to question the validity of the financial information he provided to them, and simply accepted the data without further inquiry.

78) It was this same pattern of behavior, and failure to question and verify, that allowed Morgan to embezzle nearly \$1,000,000 from the non-profit while the Board accepted his deception without question or hesitation.

79) This same complacency led to the Board's failure to respond appropriately to the allegations involving Conklin, and they once again chose to accept information given to them without question or hesitation, rather than investigate and determine whether the information presented was accurate, or altered to achieve a desired result.

Interim Mismanagement: Animal Welfare

80) As Interim Director, Pirro allowed the shelter to function in the same ineffective manner as Morgan, with no significant improvement to the lives of the animals.

81) Following the dismissal of Morgan, the physical facilities of the CNYSPCA remained without effective heat in the dog kennels and much needed building repairs continued to be delayed.

82) Upon information and belief, under the Interim administration, the animals housed at the CNYSPCA continued to suffer because the staff continued to be allowed to operate in an unaccountable manner.

83) Upon information and belief, under the Interim administration, many donations meant to benefit the animals, such as beds, toys, blankets, and treats, still remained carelessly dumped in multiple closets and storage areas that were filled nearly to capacity with years of these unused and disregarded donations.

84) Under the Interim administration, hundreds of un-inventoried animal transport carriers still remained strewn about throughout the facility, both inside and outside, and though

the carriers still could have been used for the benefit of animals, they continued to be instead wasted and left out unprotected, to rot, rust and be rendered unusable. [See Exhibit D].

- 85) Upon information and belief, under the Interim administration, the donations of many blankets still continued to go waste because they remained unused until they were moth eaten and became the place where mice nested and excreted.
- 86) The absence of employee management continued to be visible everywhere under the Interim administration, because no one employee was charged with the duty to oversee the care of the animals or direct the efforts of staff or volunteers, who continued to be provided with little instruction or guidance.
- 87) The selfless efforts of staff and volunteers continued to be wasted due to the lack of management and lack of vision under the Interim administration.
- 88) Some members of the paid staff continued to provide the absolute minimum, and continued to place a burden on the hard working and selfless efforts of others, including the volunteers, due to the ongoing failure of the Interim management to provide direction and insist upon accountability.
- 89) During the tenure of the Interim Director, little was done to address the inhumane conditions that had plagued the CNYSPCA for years.
- 90) There was no heat in the small domestic animal room, and ceiling tiles were broken, missing or rotting.
- 91) One of the cat rooms had a broken window, exposing the cats in that room to the elements, additional falling shards, and possible outside hazards.

- 92) The same room had occupied cat kennels stacked haphazardly balanced on cinderblocks or 2x4 timbers.
- 93) Another cat room had a broken ceiling tile exposing a leaking pipe that remained ignored and unaddressed.
- 94) The dog kennels remained with ineffective and inadequate heating, and the guillotine doors were allowed to remain open in the evenings unless the temperature dropped below 30 degrees, regardless of the wind chill.
- 95) Dogs were fed only once a day, and if the food was spilled or soiled, it was not refilled or changed until the next day.
- 96) Wild birds created a health hazard to the dogs, as they would fly throughout the dog kennels and defecate on their blankets, their food, their kennels and the dogs themselves.
- 97) This health hazard remained unaddressed and unresolved, allowing bird excrement to build up on floors, walls, pipes and doors.
- 98) The birds remained a continued nuisance in the garage, which was the hub of all kennel operations. Clean blankets, bedding, cleaning products as well as dry and canned food were all riddled with bird droppings.
- 99) Overhead piping, stairs to the loft, the railings and all items contained in the loft were filthy with the unaddressed horrifying situation caused by the birds.
- 100) Bird fecal matter and feathers can have devastating effects on the heating and cooling components and indoor air quality of a commercial facility. Both the front and back dog kennels HVAC units were covered in such fecal matter.
- 101) Upon information and belief, no attempt was made by the Interim Director to address or correct the destruction and health risks these wild birds posed.

Board Absence and Lassitude

- 102) The Board of the Directors of the CNYSPCA is responsible for the overall policy and direction of the organization.
- 103) In addition, the agency's Bylaws require the directors to be active stewards of the organization and its mission, including:
- a. Investigation, intervention and prosecution of animal neglect and abuse.
 - b. Education of the public to the value and rewards of responsible guardianship of companion animals and respect for all living creatures.
 - c. Sterilization of all companion animals to reduce the tragic over-population of unwanted animals through programs we design and propose.
 - d. Legislation to provide for maximum protection of animals and severe penalties for those who abuse them.
 - e. Creation and maintenance of excellent living conditions, compassionate care and medical attention for the thousands of animals in our care; and
 - f. Adoption of those animals in to responsible homes where they will be given the precious gift of a lifetime of love.
- 104) For years, the Board of the CNYSPCA has been disengaged and uninvolved in the management of the shelter, and have failed to adhere its own articulated mission.
- 105) The failure of the Board to provide guidance, structure or oversight over Morgan's activities provided him with the opportunity to steal hundreds of thousands of dollars from the shelter, all under their watch.
- 106) Several Board members who were responsible for overseeing the activities of Morgan, including those directly involved in managing the finances of the shelter, continued to serve on the Board even after it was discovered that Morgan had embezzled hundreds of thousands of dollars from the CNYSPCA.

- 107) Conklin was aware of their absence in the management of the shelter during her years as a volunteer. She witnessed the small number of members present at the meetings, because the Mentors held their monthly meetings immediately after the Board's meeting concluded, so Conklin saw how many members made it to the meetings, as she was present when they exited.
- 108) Conklin hoped that the years of inactivity and lack of involvement would change once the Board realized that she was passionate about these animals and committed to making their lives, and the reputation of the shelter, much better than they have ever been.
- 109) Once Conklin became the Executive Director, she repeatedly tried to engage with them via email and/or telephone to provide them with updates on shelter business. Most of the members rarely responded or even acknowledged the communication.
- 110) During Conklin's short time as Executive Director, the Board remained uninvolved and disengaged in the activities of the shelter and the animals in its care.
- 111) The Board had not been receptive to creating new positions, and Conklin knew that to change the culture of apathy, additional management staff was necessary. However, based on the Bylaws, Conklin could only fill those positions that had previously existed.
- 112) The Board's lack of understanding for the need of more support created more pressure for Conklin to simultaneously perform the duties of Executive Director, Events Coordinator, Bookkeeper, Office/Customer Service Manager and Adoption Counselor.
- 113) Until Conklin was able to hire a Kennel Director in March 2017, Conklin had assumed those responsibilities as well.

- 114) Although there was a Development Director in the beginning of Conklin's tenure, and a different one at the end, neither were effective in the specific duties of the role, and as such, those responsibilities fell on Conklin's shoulders as well.
- 115) Despite her efforts, the vast majority of the Board remained uninvolved and uncaring of shelter activities or operations.
- 116) Conklin was able to hire the Kennel Director in March 2017 because the position previously existed.
- 117) Conklin was able to hire the Development Director in May 2017 because the position previously existed.
- 118) She had not been authorized to add any additional staff, yet the Board remained disinterested and uninvolved in the amount of work it took to effectively run the shelter, while trying to reorganize and implement change.
- 119) Upon information and belief, the Board was aware that Conklin had not had a single day away from the shelter during her entire tenure, and routinely worked 12-16 hour days managing the shelter, learning its systems, and trying to effectuate the changes and reorganization needed.
- 120) Despite this, the Board failed to provide Conklin with necessary assistance, training or staffing.
- 121) On occasion, one Board member would visit the shelter on a non-meeting day, usually with a family member or friend who wanted to see facility. On occasion, another Board member would stop in to discuss the release of a friend's dog who had been picked up by dog control. On occasion, one Board member would stop in solely to see if Conklin was in her office, but had no real business to discuss.

- 122) Despite being invited to an annual CNYSPCA fundraiser being held in February by a local establishment catering to the LBGT community, only a single Board member, Tracey McLean, attended the event. The event was one of the shelter's top private fundraising events, and was arranged and coordinated entirely by Conklin's long-time friends and supporters of the CNYSPCA.
- 123) With the exception of one Board member, no cash donation, raffle item, or other such contribution was offered or made by any Board member.
- 124) Conklin hosted a Volunteer Appreciation Luncheon in April, and personally paid several hundred dollars for the food.
- 125) Although the entire Board was made aware of the event, only two members attended: one member, McLean, helped set up and decorate, and the other member, Nick Jacobson, attended with his girlfriend, who had volunteered at the shelter on occasion. Despite indulging in the buffet provided by Conklin, Jacobson did not acknowledge Conklin's efforts, and did not offer any assistance, financial or otherwise, relative to the event.
- 126) Many of the Board members have never made a donation of time or money to the shelter.
- 127) Though a couple of members offered assistance with the shelter's numerous activities and projects, upon information and belief, only one, McLean, followed through with the offer.
- 128) Conklin closed the shelter for a week to renovate and make much needed improvements from May 14, 2017 – May 21, 2014.

- 129) The overwhelming majority of the work was done by volunteers. Only one Board member, McLean, volunteered and showed up to help.
- 130) Despite being advised of the upcoming shutdown, and Conklin's request for any assistance they could provide, no other member even stopped in to witness the positive changes being made for the enhancement of the animals living conditions, much less volunteer any of their time to assist.
- 131) As the renovation, concluded, Conklin suggested a 'sneak preview' invitation-only reception be held on the evening of May 20, 2017.
- 132) The President of the Board, Carol Marsh, insisted that the Board be identified on the invitation as 'hosts', yet only one member, McLean, contributed time or money to the event. Only three members, Marsh, McLean, and Nick Pirro, even bothered to attend. Conklin donated the refreshments, and volunteers donated the food.
- 133) Several Board members had never even walked through the shelter or had any idea of its layout or appearance, until Conklin requested they do so following the March 2017 Board meeting.

Hiring Process

- 134) In August of 2016, Conklin was made aware of the charges against Mr. Morgan and the potential opening for an Executive Director of the CNYSPCA.
- 135) At the time, Conklin was residing The Villages, Florida.
- 136) Conklin, who was committed to the goal of making a direct positive impact on the lives of the shelter animals and willing to relocate to do so, submitted her resume to the Board President, Carole Marsh, in December of 2016.

- 137) In January of 2017, Conklin received a call from Carole Marsh, President of the CNYSPCA Board, and she explained the salary for the position was \$75,000, but would be more if benefits were not needed.
- 138) Marsh informed Conklin that she was one of the final four (4) candidates out of a pool of 74 applicants and asked her to schedule an interview.
- 139) On January 6, 2017, Conklin was interviewed by the Board of Directors of the CNYSPCA and was informed later that night that she was selected to serve as the Executive Director of the CNYSPCA.
- 140) On January 7, 2017, the Interim Director announced to the media that Conklin had been hired.
- 141) Although not required of any of employee at that time, the Interim Director then demanded that Conklin submit to a drug screen, background check and credit check.
- 142) The Interim Director also insisted on a six (6) month probationary period, double the normal probationary period required of any other CNYSPCA employee, of three (3) months.
- 143) Conklin complied with the demand without hesitation, as she had just been offered her dream job, and had no concerns over the results.
- 144) Marsh had been President for many years, and repeatedly assured Conklin that she would protect and guide her as the new Executive Director into success and leadership, noting that it was long needed by the organization.
- 145) On January 13, 2017, the Interim Director and several members of the Board held a press conference and introduced Conklin as the new Executive Director.

- 146) Immediately following the press conference, Conklin boarded a flight to Florida to pack her belongings and drive back to New York, to start this job on January 19, 2017.
- 147) Conklin's wife was a Board member and the relationship was well-known to the staff, volunteers and several Board members, but was nonetheless disclosed to the Board to ensure transparency.
- 148) No members expressed concern about the relationship in any Board meeting, or to Conklin or her spouse, and several expressed support of both Conklin and her spouse via email before Conklin's first day on the job.
- 149) The existing Conflict of Interest policy did not identify the relationship as a conflict, and any decision involving Conklin would require the recusal of Conklin's spouse from the discussion.
- 150) Family relationships between Board Members and employees had not previously been considered or identified as a conflict, and in fact, the Human Resources Director, Gale Rachetta, is the sister of the President of the Board, Carole Marsh, and had been employed by the CNYSPCA for several years.

Starting as Executive Director

- 151) Conklin had her first day of work on January 19, 2017.
- 152) On January 19, 2017, at the close of her first day on the job, and immediately prior to that evening's Board meeting, Conklin received and signed her Employment Agreement for a term of two years at \$75,000 per year.

- 153) Though Conklin advised Marsh that she did not need benefits, at no time did the Board increase her salary accordingly, despite the representations previously made by Marsh.
- 154) Conklin later learned that the \$75,000 salary she was receiving was \$10,000 less than the base pay of the previous male Executive Director, Paul Morgan, who in addition to the higher salary, also had multiple fringe benefits not offered to or provided to Conklin.
- 155) The agreement also included a six (6) month probationary period which was to expire on or about July 19, 2017. [See Exhibit E]
- 156) When Conklin began her position on January 19, 2017, there was only one other full-time management position, held by the Development Director, Terri Para, and one part-time management position, held by the Human Resources Director, Gale Rachetta.
- 157) When Conklin was terminated on May 25, 2017, there was only one additional full-time management position, held by the Kennel Director, Charles Kulesa, and only additional one part-time (one day per week) Vet Center Manager, Stacy Laxen. The position held by Laxen was not new, but the title was new, and created at Laxen's request.
- 158) Upon information and belief, after Conklin's termination, multiple additional full-time positions, Humane Educator and Fundraising & Special Services Coordinator were created to assist the new Interim Director.

Inadequate Assistance with Transition

- 159) Upon entering into the position of Executive Director, Conklin discovered there was no transition planning from the prior management of the CNYSPCA to assist in the changeover to the incoming management.
- 160) Upon entering into the position of Executive Director, Conklin was provided with no specific information or overview of the organizational structure, financial holdings, or obligations of the shelter.
- 161) Neither Marsh, the Board President, nor Pirro, the former Interim Director, provided Conklin with relevant financial information related to the shelter's monthly expenses, contracts, pending projects, vendors, bequests, annuities or debts.
- 162) Upon information and belief, the Interim Director was unable to assist in the transition because he had little or no knowledge of day to day shelter operations and relied exclusively on other individuals in management positions who had been hired by Morgan, for those decisions.
- 163) The Interim Director expressed no significant knowledge or understanding of the record keeping functions of QuickBooks, the accounting software relied upon for financial reporting.
- 164) The Interim Director expressed no significant knowledge or understanding of PetPoints, the animal shelter inventory and reporting application which is also used as a daily cash register, recording all incoming receivables.
- 165) The Interim Director expressed no significant knowledge or understanding of the functions of ADP, the third-party payroll processing software.

166) As a result of the inadequate transition process, Conklin had to start from scratch, learning each of the systems, largely on her own, while still simultaneously evaluating and addressing the multitude of areas requiring modifications or overhauls.

Inadequate Data Collection

167) Conklin discovered that although there were existing software applications purchased for use by the shelter, they were improperly utilized, or were not utilized at all.

168) The data base for inventory control lacked the data necessary to identify areas of potential cost savings, or uncover areas of unchecked waste.

169) As a result, the shelter had inaccurate and inadequate records of the true and verifiable costs of managing the shelter on a day to day basis.

170) There was inadequate data to document the numbers of animals taken in, adopted, euthanized, treated for illnesses, returned by adoptive families or destroyed upon coming to the shelter.

171) Given the lack of data available or accessible, Conklin had to develop an actual comprehensive management plan from the ground up, with little or no assistance from the prior administration.

172) Conklin recognized past records would have to be corrected where possible, and that data would need to be collected and analyzed in the future, so that management goals and benchmarks could be formulated and implemented.

173) The CNYSPCA is large organization and was not being run as a sophisticated agency, but instead was allowed to operate as a disconnected group of unguided and unmanaged activities by the various departments, without a common plan or goal.

174) Further complicating her transition was the absence of multiple boxes of records that remained in the District Attorney's office in connection with the criminal prosecution of Morgan, and co-defendants that contained financial and contractual information helpful to Conklin's transition.

Inadequate Organization and Oversight

175) Conklin realized that things had not changed much since her days as a volunteer, and there was still no existing oversight or management of any of the activities of the staff.

176) The CNYSPCA is comprised of a veterinary center, kennel staff, cruelty investigation department, dog control office, reception, education/volunteer coordinator, human resources and development departments.

177) The facility accommodates 200-300 animals, and services nearly 20 municipal county/town contracts for animal cruelty investigations and dog control resources.

178) Despite this expansive operation, as of Conklin's inception as the Executive Director, there were no Organizational Charts, there were no identifiable department heads, no team leaders, and no actual management.

179) The facility itself was in disarray, as further evidence of an unmanaged or mismanaged agency.

180) The shelter lacked structure and cohesiveness which could only be created by an experienced leader with a proven history of being directly involved in the day to day operations of a business.

- 181) There were rooms rendered unusable because they were full of trash, debris and hoarded unused donations, when those rooms could have been used as office space, meeting areas, and/or animal care or treatment rooms. There were scores of boxes and filing cabinets stuffed with unorganized, mislabeled and misfiled documents containing sensitive, confidential, historical, legal and medical information about the agency, the staff and the animals.
- 182) In order to establish a coherent and user-friendly filing system, Conklin sorted through the multiple boxes of disjointed papers to create a central area of updated information.
- 183) Conklin began utilizing the existing software applications, and updated phone routing to assure phone calls were properly directed, as well as the email system to assure the public could send email enquiries to the appropriate departments and obtain timely responses.
- 184) Conklin sorted through and identified these documents while still simultaneously addressing the array of other tasks and duties required of the multiple positions she was covering, all with no appreciable assistance from the Board.

Inadequate Financial Information

- 185) Conklin realized that the records related to the financial health and stability of the shelter were not up-to-date, complete or organized.
- 186) All accounting and financial reporting was done through QuickBooks. Profit & Loss statements as well as Balance Sheets were to be reported to the Board via QuickBooks at their monthly meeting.

- 187) As Executive Director, it was Conklin's responsibility to know the financial information of the agency. (See Exhibit F)
- 188) Conklin was determined to organize and reconcile all information so that it was clear, concise and available for publication on the agency's website.
- 189) Conklin believed that as a community-supported agency whose life-source was donations, the CNYSPCA had an obligation to make all financial information open and available to the public.
- 190) She was advised by the outgoing Interim Director that two checking accounts were opened in August of 2016 after Morgan was removed from his position, and all other checking accounts were closed.
- 191) Conklin was advised that the first checking account was designated for daily cash receivables and payables, and the second was intended for fundraising income and expenses. The second checking account was commonly referred to as the Special Events account.
- 192) After receiving the January 2017 bank statements for the CNYSPCA, Conklin logged into QuickBooks to reconcile the January 2017 statements with the shelter's financial records.
- 193) Reconciling bank statements with an organization's financial records is a basic tenant of accounting necessary to track and monitor the organization's income and expenditures.
- 194) While reviewing the financial software and preparing to reconcile the shelter's records with the bank statements, Conklin quickly discovered that the first account had never been reconciled since it was opened in August of 2016.

- 195) Conklin then realized that the second account, the Special Events account, didn't even exist in QuickBooks, and as such, reconciliation was not possible.
- 196) Neither the bookkeeper nor the Interim Director ever created the account in QuickBooks, the accounting software used to prepare financial reports and track fiscal stability.
- 197) Conklin discovered some information about the Special Events in a handwritten transactional journal in one of the unorganized filing cabinets, along with broken walkie talkies, motor vehicle registrations and repair receipts and other unrelated paperwork.
- 198) The ledger contained only the dates and amounts of the deposits, but no details as to the source of the monies being deposited into this account, or which event, if any, generated the monies.
- 199) Conklin had to create the account in QuickBooks and then attempt to balance to the bank statements with the minimal details of the initial deposits reflected in the handwritten journal.
- 200) The former Interim Director was unable or unwilling to assist in providing this information.
- 201) Conklin continued to examine and investigate the financial recordkeeping of the organization with the goal of identifying the actual state of its financial health.
- 202) Upon further review and investigation, Conklin realized that many bank deposits made into the daily operating checking account had been erroneously recorded in QuickBooks to a different account altogether, specifically a separate savings account.

- 203) Those deposits had been made by the Interim Director but then recorded by the shelter's part-time bookkeeper whose employment began with Morgan and whose employment was continued by the Interim Director.
- 204) The bookkeeper made costly errors in accounting by recording deposits physically made into a checking account into a savings account.
- 205) The data entry errors caused the balance in both the saving account and checking account to be inaccurate.
- 206) The bookkeeper never reconciled the accounts with the bank statements and failed to recognize the continued errors in managing the financial data of the shelter.
- 207) Neither the treasurer/Interim Director, Interim Treasurer, Board President nor bookkeeper managed, reviewed or tracked several investment accounts held on behalf of the CNYSPCA.
- 208) As a direct result of the erroneous recordings, the financial reporting previously submitted to the Board by the Interim Director for the prior five months (August 2016-December 2016) were inaccurate.
- 209) Upon information and belief, despite the financial devastation inflicted by Morgan, none of the Board members requested verification, including the Interim Treasurer, a financial professional by trade, and were unaware of the inaccuracies in the reported figures.
- 210) At or about the March 2017 Board meeting Conklin informed the Board of the months of unreconciled accounts and the financial recording errors impacting the information contained on the Profit and Loss statements presented to them by the Interim Director.

- 211) Conklin attempted several times during that Board meeting, to explain to the previous Interim Director, that although he properly deposited the monies into the business checking account, the bookkeeper was recording them into a separate savings account. Though she tried several times, as did other members, to explain the error to him he did not accept the inaccuracy of the information he had provided.
- 212) As a result of the poor stewardship that preceded her, Conklin had to manually review, input and reconcile the previous five months of records for the accounts to get the shelter's financial status up to date.
- 213) After correcting the data entry errors, Conklin provided accurate and reconciled financial reports to the Board for the five (5) months the business checking account had been open for 2016.
- 214) The corrected financials were substantially different from the ones previously provided by the Interim Director and reported to the Board.
- 215) Once Conklin made all the necessary corrections in the accounting software, (e.g. entering deposits into the actual account they were deposited), the actual Net Income was higher than previously reported.
- 216) The Board needed a 2017 budget but Conklin couldn't move forward without having to go backward.
- 217) There was no physical or electronic financial history prior to August 2016, so Conklin was not provided with even one year's worth of valid data to determine past performances of the agency.
- 218) This information was critical in determine a baseline upon which to gauge a viable and possible 2017 budget.

- 219) Conklin had to extrapolate from the five (5) months' worth of data that she did have, and that too would prove problematic as not all receivable or payables (i.e., municipal contracts paid in one lump sum) were contained in the data available.
- 220) Conklin had to manually review all municipal contracts and their payment terms and compare with what may or may not have been received and documented.
- 221) Conklin had to contact the clerk of each municipality with whom the CNYSPCA had a contract, to confirm any annual or quarterly payments made prior to August 2016, as those records remained in the District Attorney's office, and attempt to identify the basis of any disputes related to those payments.
- 222) In addition to bank statements, Conklin noted monthly statements from several investments accounts that weren't included in any financial tracking/reporting system.
- 223) Conklin brought the accounts to the Board's attention and the majority of the Board, if not all, expressed no knowledge of the existence of such accounts.
- 224) Upon information and belief, the combined value of these accounts was in excess of \$2,000,000.
- 225) The reflected balances in the accounts were significant and Conklin was shocked at the utter lack of knowledge, management, review or control by the Board or the Interim Director.
- 226) While trying to evaluate, reconcile and report on the financial health of the shelter, Conklin was simultaneously trying to identify, correct and improve other problems that existed throughout the shelter, with no relevant assistance from the Board.

Inadequate Staff Protocols for Animal Care

- 227) There were insufficient existing policies and procedures to guide the staff in their daily duties.
- 228) Kennel staff had no instructions or protocols to follow when cleaning kennels, doing laundry, washing litter pans or even animal feeding schedules or portions.
- 229) All dogs, regardless of size, were given the same amount of food, creating extensive waste for smaller dogs or puppies.
- 230) Conklin realized all dogs were given the same food regardless of age, size, dietary needs or restrictions, though she noted veterinary grade food was stacked in the vet center.
- 231) Conklin learned, after inquiring, that some of the veterinary grade special diet food was ordered for the personal use of a Board member's family pet.
- 232) Soiled blankets were being put into the washing machine without first being unfolded or shaken out, causing an entire load of laundry to be washed in feces.
- 233) Laundry detergent was being poured into the washing machine without regard to measuring the quantity, and in machine that was not designed to accept detergent in that manner.
- 234) Laundry machines were not designed to have the detergent dispensed directly into the machine as was being done, but were equipped with a device that determined the proper ratio needed depending on the load cycle and size.
- 235) Upon information and belief, the utilization and function of this commercial grade technology was ignored by Morgan because of costs associated with its operation. The

washing machine continued to be operated in this manner during the Interim Director's management.

236) The machines were constantly breaking and heavier blankets were being thrown out after one use because the reduction in washing capacity allowed only smaller flimsier blankets to be washed in the quantities needed to provide a blanket for each animal.

237) The direct result of this neglect was the unfettered waste of thick warm blankets donated by the public for the comfort of the animals.

238) Conklin intended to replace these machines in Phase II of her renovation plans for the shelter, and was looking into the possible donation by local laundromats.

239) The dishwasher used to sanitize food bowls was also in need of replacement and was inadequate in its function and did not provide the water temperature required to effectively achieve its purpose.

240) It too was another piece of equipment required for the health and safety of the animals, yet continually broke down and prior administrations failed to address these needs.

241) Conklin had researched and ordered a new machine and separate water heater to achieve the required and recommended temperatures needed to ensure complete sanitization of the food bowls. The new dishwasher was scheduled to be installed the week Conklin was terminated.

242) Upon information and belief, the commercial dishwasher has yet to be replaced.

243) Conklin discovered a series of kennel staff behaviors allowed to continue by the prior administrations that resulted in foul water being provided to the dogs.

- 244) Kennel staff had long been in the habit of repurposing empty large plastic cat litter containers as water bowls for the dogs. Dogs would often chew on these containers during periods of anxiety or boredom. The use of such large containers as water bowls was used to avoid the knocking over and spilling water in kennels.
- 245) Concerned over the health risks, Conklin discussed this practice with the New York State Inspector, who agreed that because these plastic makeshift bowls had never been sanitized, they retained the potentially toxic chemicals in the cat litter which was being ingested by the dogs as they drank.
- 246) Conklin also noted the use of a brick in the bottom of some of the containers in the larger dog's kennels. The origination of the brick and any measure used to remove dirt and debris was not known, but the purpose was to prevent the containers from tipping over.
- 247) Staff would not empty these large water containers on a daily basis, but would continue to add fresh water to the already stale contents, thus depriving the dogs of any fresh water.
- 248) Conklin actively sought alternate solutions and agreed with the Kennel Director's suggestion of ordering large weighted stainless steel dog bowls. The weighting of the base of the bowl would reduce the chance of the dogs tipping the water bowls and dampening or soaking their bedding, while still allowing for daily fresh water.
- 249) Conklin also realized that the cat kennels were being cleaned only once a day. Even litter boxes loaded with urine and feces went unchanged until the next morning, allowing the shelter to retain an unpleasant and unwelcoming odor

250) Conklin noticed visitors coming through with their shirts covering their nose and mouths during afternoon hours due to the overwhelming odor.

251) Worse, this method of limited cleaning forced the cats, clean and meticulous by nature, to eat drink and sleep within inches of their own excrement.

252) Any kitty litter kicked would be into food bowls and water bowls. Left unattended and unchanged, the food would become inedible and the water, foul and cloudy.

253) Large ceramic bowls were placed in the kennels with mommy cats and their recent newborns creating the potential hazard of the babies toppling in and drowning. The staff was aware of this avoidable tragedy, as it had occurred in the past, yet continued to engage in this behavior.

Conklin's Agenda

254) In mid-February, after a few short weeks of everyday 'real-time orientation' as the Director, Conklin composed an eight (8) page agenda to the Board outlining her goals for the upcoming year. [See Exhibit G]

255) Some of the more immediate goals in Conklin's agenda were implemented or about to be implemented:

- A.** Reconciling shelter financials and identifying gaps in security.
- B.** Developing a budget designated by department.
- C.** Tightening protocols for customer service, follow ups and information gathering.

- D.** Meeting with additional veterinarians and emergency hospitals to build professional relationships in the community and garner additional resources for animal care.
- E.** Creating an isolation room within the vet center.
- F.** Changing hours of operations to be more accommodating to the public.
- G.** Hiring adoption counselors and establishing a separate and quiet office for counseling, education and question and answer sessions with potential adopters to assure successful adoptions.
- H.** Providing additional training by the Syracuse Police Department to the Cruelty Officers to improve their investigations and conviction rates in animal cruelty cases.
- I.** Revising adoption processes to implement ‘best fit’ as opposed to ‘first come first serve’.
- J.** Creating transparency in the community by welcoming the media, photojournalists and reporters to visit the shelter and meet with her to answer any questions posed.
- K.** Preparing a Euthanasia policy to be published on the shelter’s website in order to keep the public informed and advised of the decision-making process.
- L.** Providing, on it’s website, the public with the names and biographies of the shelter’s Board of Directors on it’s website.
- M.** Establishing a Kind Kids Club (or other such name) to encourage children of all ages to learn about the animals in the shelter, and setting up such

programs as reading to the animals, as well as making interactive toys, stuffing “Kongs” for the dogs to enjoy and lower their stress levels.

Conklin had installed benches in each cat room during the renovations to begin the reading program after the Grand Re-Opening.

N. Enlarging cat rooms to provide a better, healthier environment for the cats.

O. Repainting to create a fresh new look with more bright and welcoming colors, and remove the ‘industrial’ and heart-heavy feel of the shelter.

256) Conklin wanted her goals to be transparent, agreed upon and more importantly to be supported by the Board.

257) Conklin wanted to be accountable, a practice she fully planned to implement with all staff members.

258) Conklin received only positive feedback for her agenda from Board members.
[See Exhibit H].

259) Prior to May 25, 2017, Conklin received only positive feedback from Board members as to her performance and vision for the future of the shelter.

260) Between January 19, 2017 and May 25, 2017, Conklin did not receive a single call, email, note, text or any other communication, in-person or otherwise, from any Board member expressing concern, displeasure, or dissatisfaction with her job performance or decisions.

Building community relationships

- 261) In accordance with the agenda provided, Conklin immediately started reaching out to other animal rescues, shelters, humane educators and advocacy groups.
- 262) Conklin set up meetings with many local animal welfare groups to discuss shared visions and the desire of the CNYSPCA to now start partnering with these organizations.
- 263) Conklin welcomed the input and collaboration of the local animal welfare and advocacy groups that had previously been eschewed by the CNYSPCA.
- 264) Multiple such organizations had publicly and privately expressed surprise, gratitude and hope, now that the CNYSPCA finally had an administration that was actively collaborating with them rather than shunning them.
- 265) Upon receiving a donation of nine (9) pallets of cat and dog food, and knowing the shelter could never use that much food before its expiration date, Conklin had her Kennel Director reach out to local shelters and rescues to invite them to come and take food for their animals in need.
- 266) Many were receptive and thankful and took Conklin up on the offer. Recycle-a-Bull Bully Breed Rescue, Inc sent a photo of some of their dogs directly benefitting from the donations. [See Exhibit I]
- 267) Conklin recruited knowledgeable volunteers and staff members to improve the social media presence and increase the exposure of the shelter and the animals for adoption.
- 268) Conklin established and improved press contacts to provide transparency and an open-door policy with the media.

- 269) Conklin centralized interactions with the public to answer questions or resolve concerns directly through the Director's office to improve customer service and appropriate animal adoptions.
- 270) Conklin met with visitors, handled staffing questions, public complaints, emergencies involving homeless animals hit by cars, distraught pet owners who could no longer care for their animal for health reasons and, sadly, people who just no longer wanted them.
- 271) Conklin acted professionally in these situations and always held an animal's best interests as priority.
- 272) Conklin strived to rebuild the shelter's reputation, and make it more welcoming to the community, with the hope that more foot traffic would mean more exposure for the animals, and hopefully more adoptions.
- 273) Conklin stressed to her staff that customer service was a major factor in regaining that trust, and was actively engaged in implementing policies and procedures to improve the public's experience during shelter visits.
- 274) Conklin openly and actively supported local legislative initiatives designed to advance changes in and improvements to actions combating animal cruelty.
- 275) Conklin attended multiple press conferences, as a representative of the CNYSPCA, in full and open support of these initiatives promulgated on behalf of the community's animals.
- 276) Conklin was present for Congressman Katko's press conference for the H.E.A.R.T Act (Help Extract Animals from Red Tape), designed to move abused animals

through the courts more quickly to allow them to be released for adoption to loving homes sooner, and Conklin spoke to the media in support of the Act.

277) Conklin was present for the press conference introducing the Abuser Registry by Onondaga County Sheriff Eugene Conway, and Conklin spoke to the media in support of the Registry.

278) Conklin spoke and presented at an orientation for V.A.L.A.C. (Volunteer Advocate Lawyer for Animal Abuse Court), a Syracuse Law Pro Bono Program designed for law students and lawyers to become “animal law guardians” for abused dogs during the pendency of the criminal charges filed against their abusers.

279) Conklin reached out and met with several veterinary animal hospitals to establish partnerships with them and create additional resources for medical care for the shelter animals. Additional resources would allow the animals to receive urgent care outside of normal business hours, specialized care for conditions and injuries beyond the scope of shelter’s contracted on-site veterinarians, or even for basic care when there was no veterinarian at the shelter.

280) As of Conklin’s termination, she had formulated relationships with five (5) additional animal hospitals willing to provide professional veterinary services to the CNYSPCA.

281) Each of the animal hospitals Conklin was partnering with generously provided medical care at significantly reduced costs for the non-profit shelter, and waived fees altogether.

282) As a direct result of Conklin’s efforts, spay and neuter were being offered and performed on the rabbit population for the first time, and cats and dogs were being

transferred to Cornell University for examinations and treatment while there to be spayed or neutered.

Staff acknowledgements

- 283) Conklin implemented an Employee of the Month program to acknowledge staff efforts and to provide incentive.
- 284) Numerous staff members' efforts and years of service went unnoticed and unrewarded and Conklin wanted to change that dynamic to improve morale and instill in them a sense of pride.
- 285) The Employee of the Month received a personalized embroidered fleece jacket and a reserved parking space for the month. [Exhibit J]
- 286) Conklin scheduled staff meetings and encouraged honest and open staff feedback.
- 287) Following the first meeting, several employees commented that they had never before heard of a staff meeting being scheduled, nor had they attended a staff meeting.
- 288) Conklin had an 'open-door' policy and staff members were welcome at any time. She was at the shelter every day from the day she was hired (January 19, 2017) to the day she was terminated (May 25, 2017) for anywhere from 10-16 hours, and the staff was aware that she was available to them.
- 289) In the first few months, Conklin conducted employee Performance Evaluations and awarded salary increases and promotions where warranted.
- 290) Conklin converted a large storage area into an employee break room in order to give them a clean, quiet and private place to recharge and have their meals. Prior to that,

the staff was forced to eat lunch in the Community Room, which at times was filled with overflow animals in cages.

- 291) Conklin was a hands-on Director and every morning she would greet the staff, by name, and inquire if her assistance was needed in any area of the shelter.

Analyzing operations & recognizing needed improvements

Employee Oversight

- 292) It became apparent to Conklin, after a few months, that the shelter had a hefty payroll for a few “no show” employees.
- 293) Conklin recognized these employees did not document their time, their mileage and or log their calls, but nonetheless submitted, and were paid for, unapproved overtime hours.
- 294) Overtime hours were paid by the HR Director, Gale Rachetta, sister of the Board President, with no verification of hours worked, or by signature approval of the Executive Director.
- 295) Rachetta would advise Conklin after-the-fact: “*Cruelty had Overtime*” while Conklin in turn advised her of the need to “...*receive daily reports and/or assign a supervisor.*” [See Exhibit K, pg2]
- 296) The Cruelty Investigation department and dog control operated as separate entities, with no department supervisor, and as a result, no accountability. Conklin was taking steps to change that mind-set.
- 297) This culture was created by Morgan, and a few of the officers intended to continue to operate pursuant to that culture under Conklin’s administration.

- 298) This was an issue Conklin slotted for change immediately after the Grand Re-Opening renovations were completed in May 2017, and these officers were aware of the impending modifications in these operating procedures.
- 299) Regarding the changes to be implemented, Conklin's leadership would have required the officers to now account for their time, prepare reports, submit daily logs and provide an action plan on open cases and investigations in order to ensure follow up to protect the animals was timely and consistent.
- 300) It was Conklin's intent to promote one of the current cruelty investigator to head of the department, and charge him with the responsibility of holding these officers accountable for their time and performance.
- 301) Conklin spoke directly to Officer Duby about this need and his possible interest in the position, as he was a former Police Officer and respected the need for procedures. He was willing to assume this role, and was aware that this was a new position that would need to be created, presented to and approved by the Board for it to happen.
- 302) Other officers with poor performance and dedication, and prone to disappearing during the day, were aware that these changes were going to require them to be held accountable, and that there would be possible reduction in their hours after the Grand-Reopening was over.
- 303) These officers began taking steps to prevent Conklin from interfering with their unhindered and unencumbered daily routine.

Employee Inactivity

- 304) Their culture of unaccountability was rampant throughout the shelter.

- 305) Conklin witnessed several employees taking smoking breaks in hidden corners, expressly chosen because they were out of sight from security cameras and management.
- 306) Conklin addressed one customer service representative who consistently clocked in and then spent thirty (30+) minutes socializing with cruelty officers rather than performing her own duties and job responsibilities.
- 307) Conklin became aware of some members of the animal caregiver staff who, after the morning cleaning of the cat and dog kennels had been completed, disappeared for several hours throughout the day, without clocking out. Conklin discovered that this was habit they had acquired over the years because they had no supervision.
- 308) Part of Conklin's agenda was to assign animal caregiver staff specific responsibilities to be performed throughout the day, as well as completion of daily charts, logs and tasks. This increased structure and accountability would serve to improve the lives of the animals, and would ensure the non-profit was not expending payroll dollars on unproductive employees.

Kennel Staff Issues

- 309) Conklin became aware of certain kennel staff members responsible for cleaning and maintaining cat 'rooms', who intentionally took an inordinate and unnecessary amount of time to clean cat rooms as to avoid doing dishes, laundry or any other much needed operational tasks in the garage. These two staff members continually came to Conklin to complain about others.
- 310) One staff member, Jean O'Leary, was finally terminated by the HR Director and Kennel Director for directly violating her job responsibilities and insubordination.

- 311) The other staff member, Dawn Brocious, violated adoption policies and safety protocols by allowing a friend into an area of kittens, off limits to the public, to pick out a kitten for her child. Brocious 'reserved' for a friend a kitten who was not yet up for adoption, despite the fact that there is no reservation process. This friend did not complete an application for the kitten either, and as a result, the kitten was later released to a different family.
- 312) Her violation of protocol created a potential public disconcert, and both Brocious and her friend came into Conklin's office and demanded that Conklin fix the problem they created. The friend was furious and began swearing at Conklin, and Brocious accepted no responsibility creating the problem.
- 313) Conklin later became aware of Brocious diverting donations coming into the shelter to other organizations by removing items and placing them in her personal vehicle to deliver.
- 314) Conklin had several discussion with Brocious regarding what items could and could not be removed from the shelter. Brocious continued to personally remove items donated to the shelter for the purpose of donating them to other shelters, and did so surreptitiously when Conklin was otherwise occupied.
- 315) Brocious later, at the solicitation of Laxen, wrote an egregious letter to the Board complaining about Conklin, and upon information and belief, assisted Laxen in prosecuting the case for Conklin's termination.
- 316) Likewise, O'Leary, following her termination, has taken several opportunities to publicly defame Conklin in retaliation for that action.

Human Resource Department Shortcomings

- 317) The Human Resource Director, Rachetta is the sister of the President of the Board, Marsh, and as such, was insulated from any repercussion or overt criticism.
- 318) Rachetta is a part-time employee who initially agreed upon a 20-hour work week with Morgan, and then remained part-time at her discretion.
- 319) Within Conklin's first two (2) weeks, she realized Rachetta did not adhere to a specific schedule, but would fluctuate hours and be on-site at her personal convenience, often calling in sick. [See Exhibits L & M]
- 320) Rachetta was responsible for Payroll, but the part-time nature of her work activities created an environment where mistakes were common, including the failure to pay employees pre-approved overtime and the failure to pay employees at all for the specific pay cycle. [See Exhibit N & O]
- 321) The minimum wage in New York increased to \$9.70 on December 31, 2016. As of Conklin's hire date, on January 19, 2017, the new minimum wage had still not been updated by Rachetta in the Payroll system. [See Exhibit P]
- 322) After identifying potentially problematic employees, Conklin informed Rachetta of several identified employee performance issues and specific items that needed to be addressed. Conklin requested Rachetta, in her capacity as an HR Director, document the specific job performance concerns in accordance with Department of Labor edicts.
- 323) In one such instance a veterinary staff member, did not follow the discharge instructions given by an outside animal hospital caring for one of our dogs, and instead of waiting the 12 hours before giving the next round of medications, as the discharge

instruction specified, the dog was given the same medications just received by the dog at the animal hospital.

- 324) As a direct result of this error, the dog was disoriented and nearly immobile. Conklin notified the HR Director, and asked that disciplinary actions be taken and documented.
- 325) Conklin had on several occasions, specifically made the HR Director aware of her intention to terminate this employee on a specified date, and inquired if all necessary and compliant paperwork was in order. Conklin was advised by the HR Director that all paperwork had been completed, and that she had “*been given a plan of correction in each area she needs improvement.*” [See Exhibit Q]
- 326) Incident reports identifying direct violations of job responsibilities and corrective action plans were needed, and on numerous occasions, Conklin requested these reports from the HR Director, who assured Conklin she would “*write something up.*” [See Exhibit R, pg 3-5]
- 327) Upon further inquiry from Conklin, Rachetta confirmed that she “*started writing her evaluation up.*” [Exhibit S].
- 328) On the day the employee was to be terminated for failure to successfully implement the corrective action plan, upon Conklin’s request, Rachetta was unable to produce any of the documentation she previously assured Conklin she had prepared.
- 329) It then took Rachetta in excess of three (3) hours to produce the necessary documentation to terminate the employee in compliance with Department of Labor Laws.
- 330) On multiple occasions during January and February 2017, Conklin asked Rachetta whether the CNYSPCA had a specific form, available for management to complete in the

instance of non-performance by an employee. Each time, Rachetta assured Conklin the form existed, and that she would locate it and provide it to her.

331) Conklin advised Rachetta that this form was needed by the Department of Labor in cases of termination disputes, and was again promised the form would be provided.

332) Despite repeatedly promising Conklin that the form existed, and that she would provide it her, Rachetta failed to do so.

333) Rachetta was part-time, with a sporadic and inconsistent schedule, and it became apparent to Conklin that the shelter needed a full-time HR Director.

334) As Rachetta was the sister of the Board President, there was no one Conklin could turn to for assistance in resolving this disconnect.

335) Rachetta's infrequent and inconsistent appearances at the shelter severely limited her effectiveness in her role as HR Director, and her assistance to Conklin.

336) As part of her agenda to bring structure and cohesiveness to the organization, Conklin wanted to implement department managers for reporting and accountability.

337) Job descriptions and salary ranges for any new positions had to be approved by the Board, and Conklin asked Rachetta whether any such descriptions already existed.

338) Rachetta advised Conklin that she had employee job descriptions, and Conklin asked her to provide them to her.

339) Conklin requested existing Job Descriptions from Rachetta in order to start modifying and updating them as appropriate.

340) After Rachetta repeatedly failed to provide the description as requested, Conklin had to create job descriptions and salary requirements herself in order to present them to the Board.

- 341) Conklin knew that additional management positions were critical for oversight and structure in an operation as large as the CNYSPCA.
- 342) As a direct result of Rachetta's lack of presence at the shelter, or lack of desire to assist Conklin in these HR matters, Conklin was not provided with these descriptions when requested.
- 343) When Conklin again asked for assistance, Rachetta responded with: "*Can I do it tomorrow? I don't have access to my computer,*" and added, "*I will be in tomorrow morning for about an hour.*" [See Exhibit T]
- 344) Conklin was taking on more of the HR Director's responsibilities because of Rachetta's limited work schedule, including creating Job Descriptions and Offer Letters. In one instance, Conklin was forced to write an offer letter because Rachetta had not yet done so, despite being asked. Conklin asked for clarification on an HR detail to add to the letter, and Rachetta responded: "*OMG I forgot last night!! I fell asleep.*" [See Exhibit U]
- 345) Upon information and belief, Rachetta knew of Conklin's growing frustration with her inconsistent appearances at the shelter, and of Conklin's desire to have a full-time HR Director.
- 346) Upon information and belief, Rachetta slowly began a campaign against Conklin through her sister, the Board President, and other Board members who were long-time friends of Rachetta's.

Development Director Issues

- 347) Despite acting as Interim Director of the shelter, Pirro had no direct hands-on experience with the kennel operations, or of the logistics of managing the shelter as a business.
- 348) Instead, he relied almost entirely upon the Development Director, Terri Para, a very close friend and traveling companion of each of the defendants convicted in the embezzlement case, and who was in this position during the time the embezzlement was occurring, to manage the shelter's operations.
- 349) Upon information and belief, Para had no past relevant work or experience that would qualify her to act as a defacto Executive Director, Interim or otherwise. She became Development Director during Morgan's tenure as Executive Director.
- 350) By allowing Para to control the operations of the shelter, without having the knowledge or experience to do so, Pirro perpetuated the cycle of mismanagement.
- 351) From her days as a volunteer, Conklin was familiar with Para, and her ineffectiveness as a Development Director. Shortly after becoming her supervisor, Conklin discovered that her performance in that role had not improved.
- 352) In a non-profit animal shelter, the role of the Development Director is crucial to the financial health and stability of the organization, as the primary responsibility is to develop and implement a strategic plan to raise vital funds for the organization in a cost-effective and time-efficient manner. This includes grant-writing, event-planning, fund-raising and promoting community awareness of the shelter's needs.

- 353) As it was clear to Conklin that Para was not suited for such a position, Conklin searched for her employment application and resume to ascertain a more appropriate role for her in the organization.
- 354) Conklin was unable to locate any employment documentation for Para, and requested the information from the HR Director, who then confirmed none was on file.
- 355) Conklin had several conversations with Para regarding her job description and its responsibilities and Para's lack of performance in accordance with her job description.
- 356) Para expressly advised Conklin that she did not want to fulfill the duties outlined in her job description, and added that she did not want to be the Development Director as depicted.
- 357) Contrary to what the title would suggest, Para did not develop programs and fundraise. She acknowledged that she only wanted to work on the three annual fundraisers she identified as being "hers."
- 358) Upon information and belief, those three fundraisers raised approximately \$30-35K in 2016, about half of her annual salary.
- 359) Despite the underperformance of her duties as Development Director, Para was permitted to remain in that position throughout Morgan's and Pirro's respective tenures.
- 360) Conklin sent an email to the members of the Board after exhausting all efforts to get the Development Director to do her job and take an active leadership role, advising them of the need to remove Para from that position.
- 361) Conklin's email also identified the need for additional staffing needs that were in accordance with the organizational chart Conklin was creating for the Board's approval.

- 362) Conklin received supportive responses from some members of the Board regarding the staffing needs identified in her email, including “*Kerrin you have my support*” from Monica Williams, and “*I have full confidence in your assessment and decisions*” from former Board member Maxween, and “*Kerrin, you have my full support. We need an organization that exhibits care and love for our animals. For the first time we have someone who has the animals best interest at heart. you are commended for the wonderful job you are doing*” from Board Vice President Romano. [See Exhibit V]
- 363) No Board member contacted Conklin directly to express any opposition to the removal of Para.
- 364) Upon information and belief, Pirro, in regards to Para, made a statement to the President of the Board that “if she goes, I go” suggesting that if Conklin terminated Para for job performance inadequacies, Pirro would resign.
- 365) At no time did Pirro express this sentiment to Conklin.
- 366) On March 8, 2017, the same day Morgan was sentenced to prison for embezzling more than one-half million dollars from the shelter, Para was given the option of resigning, which she did. Conklin authorized with two (2) month’s severance pay with benefits.
- 367) Pirro, on the other hand, did not resign from the Board after the release of Para.

Changes to the Facility

Community Room

- 368) During Conklin’s volunteer years, the community room, located in the Rosamond Gifford Education Center, was used to temporarily house animals in crisis and overflow

circumstances, including hoarding cases. Makeshift pens and crates were set up and the environment was filled with unsanitary conditions.

369) When these animals were placed in the community room, the atmosphere was fetid, because this temporary housing was not in the main kennel area, so was neither cleaned nor maintained throughout the day.

370) As the wing was not part of the main kennels, the animals languished in these in inappropriate conditions, remaining unseen by the public, and thus overlooked for adoption.

371) Housing animals in the community room was neither safe, nor humane nor fair to the animals, nor to anyone else who entered the room.

372) The community room was not intended for this use, but rather, for use by the employees to eat lunch and take breaks, by the staff and Board of Directors to hold meetings, by the volunteer coordinator to provide orientations and by the administration for offices (known to staff as “the wing.”).

373) As the new Executive Director, Conklin eliminated animal housing in this area, and returned it to its intended use, thereby opening it up for additional uses as well, including community use, humane education classes, behavioral training classes, social functions and fundraising events.

Isolation Room

374) During Conklin’s first week of employment, she noticed an ‘isolation’ room set up in one of the administrative offices off the community room. Upon further inquiry, she

learned that the Interim Director had that office converted to an ‘isolation’ room for Laxen’s use in the event of a contagious outbreak in the shelter.

- 375) This converted office was located in an area that was the furthest from the veterinary medical center, and therefore, the veterinary staff charged with the animals’ care.
- 376) This area is highly trafficked by staff, volunteers, the public and their children. The volunteer and community service sign-in sheets and informational binders with daily tracking logs were located right outside the door of the ‘isolation’ room.
- 377) These conditions constituted added stressors and potential increased safety risks to those animals whose health was already compromised.
- 378) This office contained a single door, with no ventilation or window to the outside, and no area to don or disrobe protective clothing. It consisted of nine (9) cat cages on wheels, that were rusted, filthy and far from sanitary.
- 379) Anyone exiting the isolation room would carry fomites and any infectious agents to which they were exposed through multiple hallways, past the small domestics and multiple cat rooms, and numerous members of the staff or public on their way back to the vet center. Each such sojourn would expose countless people and animals to a variety of zoonotic diseases and airborne pathogens.
- 380) The vet center was the appropriate place for an isolation room. Conklin had an isolation room constructed in the vet center. Veterinary staff would have to pass through two doors to enter the isolation room and there was an area between the two doors for staff to put on gloves and protective clothing upon entering and to remove prior to exiting.

381) The new isolation room had its own window, allowing for exhaust to be directed to the outside, rather than recirculated through the shelter, and the capacity to hold up to nine (9) cat kennels.

382) Conklin removed the cages from the administrative office, and returned it to its original shared office space.

Maternity Ward

383) Conklin converted another area of the vet center to a maternity ward for mother cats and their kittens. Walls were knocked down, repaired and painted, cabinets were removed from the walls to make room, and larger kennels were installed to accommodate multiple feline families.

384) Prior to Conklin's arrival as Executive Director, the kittens were housed in a room along the main hallway near the kennels.

385) The exterior doors in the room were black with mold, and the bottoms were rotting and disintegrating, thereby creating a substantial health risk to the kittens.

386) The exhaust fan in the room was filthy and in disrepair, causing the kittens to be exposed to stagnant and contaminated air.

387) The floor had a large exposed drainage hole into which cats had previously entered and become trapped.

388) The kitten mortality rate in this former room was very high, and that was unacceptable to Conklin.

389) After the completion of the new maternity ward, the kittens were housed in a more sterile area than the rest of the kennel and the kitten survival rate immediately increased.

Storage

- 390) The shelter has numerous storage rooms and storage closets, and upon taking over as Executive Director, Conklin discovered all were in utter disarray. The filth and clutter made taking a valid inventory impossible, created a fire hazard, interfered with the staff's ability to efficiently perform their duties, and prevented the rooms from being utilized for their highest and best use.
- 391) Conklin was determined to create an organized and efficient shelter.
- 392) Conklin had the old cabinets from the maternity room installed in the vet center's laundry room and also added a new pantry. The renovation of the laundry room allowed the storage of detergent, cleaning supplies, bedding and canned food to be organized and more accessible, and allowed for more accurate and efficient inventory control.
- 393) Conklin converted a large storage area off the community room into a break room for the employees to afford them privacy and a quiet place to enjoy down-time. It was freshly painted and contained a new donated refrigerator and two donated bistro tables with chairs.
- 394) The garage/operations room was disorganized, chaotic and despite its size, confined because of the clutter.
- 395) Conklin had the old shelving covered in bird droppings torn out from the garage/operations and replaced with newer, larger and more durable shelving.
- 396) The blankets were removed from the tightly contained laundry area, where they were a fire hazard, and placed on the new shelving in the garage.

- 397) The shelving was organized for bedding and blankets for the animals in the shelter. The top of the shelving was covered to protect the bedding and blankets from bird droppings.
- 398) The laundry area within the garage was cleaned out and completely re-organized.
- 399) Conklin assisted throughout this process, and scrubbed layers of built-up bird excrement on the overhead piping accumulated from years of neglect.
- 400) Conklin had the rotten, warped and moldy shelving above the dish sinks in the garage/operations removed and replaced with the newer shelving that was no longer being used in the vet center.
- 401) Two (2) large wooden shelving units, 18” inches deep, used to store canned food and animal treats were torn down and replaced with four (4) rows of shelving, 12” inches deep with staggered shelves built by volunteers. The decreased depth of the shelves and the increase in the number of shelving units allowed for food to be better cycled and identified and reduced the potential of canned food spoiling due to passed expiration dates.
- 402) Conklin had the loft in the garage/operations emptied and sorted. It took two (2) dumpsters to dispose of the years of miscellaneous trash and debris that had accumulated. It was then scrubbed and a new floating floor was installed by volunteers.
- 403) A half wall was constructed around the loft and screening and a door to the loft was to be installed to keep the birds out of that area.
- 404) The loft would then be as storage for animal travel crates as part of the Emergency Preparedness Plan Conklin was creating.

The Veterinarian – Stacy Laxen

- 405) Upon information and belief, Stacy Laxen began providing veterinarian services to the CNYSCPA in 2016.
- 406) Upon information and belief, Laxen has no formal training in Shelter Medicine.
- 407) Shelter Medicine is a specialty field of veterinary medicine specifically dedicated to the care of shelter animals, and differs dramatically from private practice. Shelters have large populations of animals, often with little known medical history, different backgrounds and physical conditions, and high-density living quarters, which place shelter animals at higher risk for contracting infectious diseases.
- 408) Laxen is a private practice clinician, who upon information and belief, had no shelter experience prior to coming to the CNYSCPA.
- 409) Private practice veterinarians focus mainly on the health care of individual animals with homes and owners, and are rarely faced with the same multi-factorial challenges as Shelter Medicine practitioners.
- 410) Laxen’s lack of this critical training and experience set the stage for the series of events culminating in the ringworm outbreak and euthanasia of the cats, as well as other deleterious impacts on the animals at the CNYSPCA.

Laxen’s relationship with Petland

- 411) Upon information and belief, Petland is a pet store chain long-associated with puppy mills.

- 412) Investigations, including one from the Humane Society of the United States, revealed that the Cicero, New York, Petland has on multiple occasions, purchased puppies from known puppy mill breeders to sell to consumers. [See Exhibit W]
- 413) Puppy mills are inhumane commercial dog breeding facilities that sell puppies for profit, and disregard the dogs' physical and emotional health in order to maximize those profits.
- 414) The phrase “Don’t Shop. Adopt.” is the mantra used by shelters to bring awareness to the cruelty that exists in puppy mills, and the resulting medical ailments suffered by these puppies.
- 415) Laxen is the veterinarian of record for Petland in Cicero, New York.
- 416) Laxen’s clinic, under the management of Total Veterinary Care, is located in the same strip mall as Petland.
- 417) Upon information and belief, Laxen never disclosed to the Board her involvement with Petland.
- 418) The failure to disclose the relationship between these two (2) diametrically opposed organizations is negligent and subjects the CNYSPCA to scrutiny and public scandal.
- 419) Upon information and belief, Laxen is aware of Petland’s reported association with puppy mills.
- 420) Upon information and belief, Laxen treats these sick puppies in the clinic she manages, as well as on-site at the Petland store itself.
- 421) Laxen acquired her own puppy from Petland.

422) Upon information and belief, despite being aware of Petland's association with puppy mills, Laxen remains a paid veterinarian for Petland while simultaneously remaining a paid veterinarian for the CNYSPCA, an organization fundamentally opposed to the cruelty these mills inflict.

Laxen – The Paid Volunteer

423) Upon information and belief, the construction and opening of the clinic with which she is affiliated, Total Veterinary Care, was delayed in 2016.

424) While waiting for construction to be completed, she began providing veterinary services to the CNYSPCA.

425) The CNYSPCA was not charged for her services at that time.

426) Though presented as being a volunteer at CNYSPCA, upon information and belief, Laxen was actually being paid by Total Veterinary Care while providing those services.

427) Laxen was later the named recipient of the shelter's annual Kizey award for her service in 2016. The award, historically, goes to individuals who volunteered their time and service and went above and beyond to assist in the care or comfort of animals.

428) Upon information and belief, in the Fall of 2016, Laxen also became a member of the Board of Director for the CNYSPCA.

429) In February of 2017, when Total Veterinary Care in Cicero, New York, was ready to open, Laxen no longer had an interest in volunteering at the shelter.

430) Laxen advised to the Board that she now wanted to be paid for her services, by the CNYSPCA, and resigned from the Board in order to do so.

- 431) The Board approved Laxen's hourly rate of \$40, and Laxen became a 1099 Contractor for the CNYSPCA.
- 432) As she was acting as the Vet Center Manager, her presence was needed to oversee the vet center operations and animals' medical care.
- 433) Nonetheless, she only worked at the shelter a few hours each Monday.
- 434) In 2017, the CNYSPCA paid a fee of \$371 for form 222 to register Laxen with the DEA under the shelter's name, and Laxen continued to have a separate registration for her private practice.
- 435) After directing animals in the CNYSPCA's care to her clinic for routine or urgent treatment, Laxen charged the nonprofit for services performed.

Laxen's Abilities as Veterinarian

- 436) Though Laxen was acting as the Medical Director of the shelter, she would not perform spay/neuters for the CNYSPCA.
- 437) Performing spay/neuters is essential in animal shelter, as the animals are not available for adoption until after those surgeries are performed and therefore must remain in the shelter even when there is a home waiting for them.
- 438) Laxen only wanted to be a diagnostician for the shelter, yet remain in charge of the vet center operations. Such limited direct medical involvement with the animals required sufficient knowledge and skill to examine an animal and make an accurate clinical diagnosis as efficiently and effectively as possible.

- 439) Upon information and belief, Laxen did not possess such knowledge and skills, as she routinely misdiagnosed the animals she examined, and mismanaged the care of others.
- 440) Laxen recommended euthanizing a dog who had very large mass on his face causing his one eye to bulge from his socket.
- 441) Laxen was adamant that the rapidly growing mass was cancer and too costly to remove, and recommended the dog be euthanized.
- 442) Conklin, already uneasy about Laxen's inexperience in shelter medicine and the evaluation of animals with no known medical history, asked a volunteer veterinarian with decades more experience, to examine the dog.
- 443) The volunteer veterinarian looked at the dog and immediately recognized the mass as an upper canine abscess and recommended treatment with steroids and antibiotics.
- 444) The mass quickly dissipated and the dog was later adopted to a very loving home instead of being euthanized.
- 445) Laxen resented being challenged or questioned, and resisted attempts to secure second opinions.
- 446) Laxen has expressed on several occasions that this other volunteer veterinarian was 'old school' and she didn't agree with his treatments and methods.
- 447) On more than one occasion this other more experienced veterinarian provided a correct diagnosis when Laxen did not.
- 448) When a cat at the shelter was wheezing, Laxen diagnosed him with an upper respiratory infection and told staff she would return to commence treatment. When she

had not yet begun treatment, Conklin asked the volunteer veterinarian to look at the cat, as it was still wheezing. This vet immediately realized it was simply a hairball lodged in the cat's throat, and removed it. The cat's wheezing instantly stopped, and he fully recovered.

449) On another occasion, Laxen was treating a cat for an eye infection for weeks with no success. When the cat was being adopted, Laxen met with the adopter and explained the need for the continued medication.

450) A Licensed Veterinary Technician was also present during this exchange, Jaylynn Boyce, and corrected the misdiagnosis by Laxen by identifying the affliction as Entropion, a condition in which a portion of the eyelid is inverted or folded inward against the eyeball.

451) Laxen did not agree with the LVT's professional opinion and continued to send the adopter off with the medication for an eye infection.

452) Upon information and belief, Laxen then angrily reprimanded Boyce, noting that it was inappropriate for a vet tech to challenge the opinion of a veterinarian, particularly in public.

453) Several days later the adopter returned and spoke with Boyce, confirming her adopted cat did have Entropion, as verified by her personal veterinarian. Upon information and belief, the cat had since undergone corrective surgery, and the adopter expressed gratitude to Boyce for speaking up.

454) After Conklin's termination, Boyce was asked not to return to the shelter.

- 455) Upon information and belief, on a Wednesday in May of 2017, the veterinarian on-duty at the shelter contacted Laxen about two injured kittens, and asked for her opinion and suggestions for treatment and care.
- 456) One kitten had a leg injury consisting of a wound whereby the bone was exposed. The other had a massive eye infection which caused the eye to protrude from its socket. Upon information and belief, both kittens were in unrelenting pain.
- 457) The on-duty veterinarian texted photos of the kittens to Laxen so she could see the extent of the conditions.
- 458) Laxen was at her clinic, Total Veterinary Care in Cicero, at the time and her response was to leave the cats until Friday when another vet would be on-site at the CNYSPCA and capable of performing a surgery on the kitten's eye, as well as treating the open wound on the other kitten's leg.
- 459) No medications, sedatives or antibiotics were provided, suggested, recommended or prescribed by Laxen.
- 460) Laxen was willing to leave these kittens in agony two more days until another vet could perform the procedure that she, the Vet Center Manager, was unwilling or unable to perform.
- 461) Upon learning of the condition of these two kittens, Conklin immediately made arrangements for the suffering cats to be taken to a nearby animal emergency hospital and treated.

Laxen's Overreach for Authority

- 462) As Executive Director, Conklin was in a supervisory role over Laxen, and all other employees or contractors of the CNYSPCA.

- 463) Laxen continued to act as though her position was superior to the Executive Director. She did not act as though their positions were even lateral, despite the fact that according to the Marsh, Laxen's position was subordinate to Conklin's.
- 464) Conklin understood that Laxen did not have any leadership when she initially became affiliated with the shelter, and may not have realized, therefore, that there was a hierarchy, and she was not at the top. As a result, she allowed Laxen's resistant behavior to continue at first, as she hoped that once Laxen saw that Conklin wanted only the best for the shelter and animals, Laxen would settle down and become part of the team.
- 465) Laxen insisted she be contacted even though she provided no useful outcome or solution, but Conklin agreed so as to keep Laxen part of the team.
- 466) Laxen's reaction to Conklin's contact was inconsistent and unpredictable, however. She would become angry if Conklin did not consult with her on vet center matters, and also became angry when she did.
- 467) Conklin wasn't sure what reaction she would receive from Laxen, but she was committed to continuing to try to form a cohesive management team.
- 468) Laxen was adamant that she have the final say on any veterinary staff Conklin interviewed, and as such, some opportunities were lost when Laxen failed in a timely manner to make herself available for the interviews.
- 469) In March 2017, after Conklin interviewed Kelsey Arrison for the LVT position, she courteously waited for Laxen's determination. Laxen interviewed, approved and enthusiastically recommended the hiring of Licensed Veterinary Technician, Kelsey Arrison and Arrison was hired.

- 470) In May, 2017, Conklin sent a text to Laxen, advising her that Conklin had arrived at the shelter that morning to discover Arrison left the vet center in disarray, with empty cat food cans, and open bags of food strewn about.
- 471) Conklin's text expressed her continued concerns with Arrison's job performance and work ethic, particularly because this was not the first time she asked Laxen to address those issues with Arrision.
- 472) Based upon Laxen's prior requests to be kept informed, she wanted Laxen to be aware of her staff member's activities so she could take corrective action. [Exhibit X]
- 473) Laxen did not respond to the text.
- 474) Laxen was on vacation at the time and upon her return, stormed into Conklin's office to scold Conklin and tell her that the text Conklin sent to Laxen while Laxen on vacation was "inappropriate and disruptive".
- 475) Conklin's text was intended as informational, and required no action or response from Laxen other than to read it and review the photo contained. It required a few seconds of time to read it, and could not legitimately be considered disruptive.
- 476) Laxen's overreaction to Conklin's communication was indicative of her lack of commitment to the shelter and any management duties now that she had her clinic up and running.
- 477) She was only physically present at the shelter one day per week, yet demanded to be kept apprised of any action involving the vet center. Complicating the matter however, was that she was only willing to be contacted at times or days she found convenient. Texts would go unanswered and calls would go unreturned until she was ready to respond.

478) Laxen's behavior was quickly becoming disruptive and divisive, as she wanted the control without doing the work.

Laxen as Vet Center Manager

479) Laxen asked Conklin in early February, after becoming a paid contractor, "When are we in hiring a Licensed Vet Tech? I've been asking for months."

480) The veterinary center was in much need of a full time experienced tech to oversee the day to day medical needs of the shelter, particularly as Laxen was only present one day per week.

481) The HR Director would have been the more appropriate person to pose the question to given the fact Laxen "had been asking for months" and Conklin had only been on the job for a couple of weeks.

482) Nevertheless, Conklin followed up with the HR Director, Rachetta, if the LVT position has been posted on their web site or any other job-posting web sites. Rachetta indicated it had been posted, but no resumes had been received.

483) There had been no further actions taken by the HR Director to find the requested LVT.

484) Conklin requested the HR Director repost the LVT position and to include it on other job-posting web sites as well. The Licensed Veterinary Technician position was posted to social media again.

485) Cover letters and resumes were received by the HR Director and the qualified applicant's resumes were then passed along to Laxen because Laxen demanded to have the final say on the applicant hired for the position.

- 486) The two applicants were initially interviewed by Conklin and the HR Director, but the hiring was delayed because Laxen, though insistent on interviewing the candidates, made scheduling the interviews extremely difficult.
- 487) Rachetta advised Conklin that Laxen was “*not available until she is at the SPCA*”, to interview candidates, which is only one day a week. Rachetta “*asked her again to do a phone interview*” and advised Conklin “*I will let you know if she reconsiders.*” [Exhibit Y]
- 488) Laxen directed Conklin to call the candidates, provide them with her (Laxen’s) work schedule and then set up a convenient meeting place for the interviews. Her behavior confirmed she believed that she was Conklin’s superior, and Conklin was her assistant.
- 489) Neither Laxen nor Rachetta were prepared for the interview, and it was left to Conklin to create and prepare the LVT’s Job Description. [See Exhibit Z]
- 490) Laxen very much liked the applicant, Kelsey Arrison and felt comfortable with her experience and medical knowledge and as noted above, Arrison was hired in March 2017.
- 491) In March 2017, the same month Arrison was hired, Conklin was doing rounds and checking on the animals at around 10:30 in the evening. Conklin heard loud meowing in the vet center, and discovered the sound was coming from a cat who had surgery earlier that day.
- 492) Arrison, who left at 5:00 pm and was not scheduled to return to the vet center until 7:30 the next morning, left the cat in a small carrier on the counter of the vet center.

- 493) The cat had no food or water, no litter box and could not even turn around in the small carrier.
- 494) The cat was also in distress and pain recovering from the surgery.
- 495) This cat had already been alone and suffering for hours, and had Conklin not checked on the vet center animals before she was headed home, this poor animal would have remained in that small carrier for 14-15 hours, without food or water, and surrounded by its own urine and feces, unable to lie down.
- 496) Conklin was horrified by the cruel and negligent actions of the newly hired licensed veterinary technician.
- 497) Conklin removed the cat from the carrier and set up a kennel for him. She prepared food, water, a litter box and blankets, knowing that animals often have a difficult time getting warm after coming out of anesthesia. She placed the cat in the kennel so he could recover comfortably.
- 498) Conklin informed Laxen of the incident because the LVT reports directly to Laxen.
- 499) Conklin expressed her concern to Laxen over the gross oversight and lack of care for the cat by the LVT and suggested a written performance warning or some other disciplinary action.
- 500) Laxen spoke with the LVT about the incident, but upon information and belief, nothing was documented.
- 501) Laxen informed Conklin that it was an honest mistake, and because the cat wouldn't have died over it, Arrison's actions would be overlooked.

502) Laxen was unfazed by the fact the cat was in distress for so many hours, or would have been in distress for so many more hours had Conklin not checked on him and placed him in a kennel.

503) Laxen reasserted that she was very confident in the LVT's medical skills and couldn't risk losing her.

Laxen's Medical Supplies

504) Laxen and the veterinary staff, at Laxen's direction, ordered medical supplies and medications as needed without Conklin's feedback or approval.

505) Contrary to assertions made by Laxen to the Board, Conklin had never denied any medical care or treatments for any of the animals.

506) Laxen wanted to order new tick and flea medication as several of the shelter dogs were coming back from walks with ticks. She discussed with Conklin, who immediately approved Laxen's request, as she had done whenever Laxen needed medical supplies for the animals.

507) Upon information and belief, Laxen misrepresented this interaction to the Board, and told them Conklin refused to even listen to her request.

508) The ordering of medical supplies and medications was handled solely by the vet center staff. There was no supervision and no approval process provided by Laxen despite her managerial role.

509) Conklin started to question Laxen and the veterinary staff about the ordering and though she'd never denied Laxen any medical request, Conklin felt an approval process

was needed, as medical supplies were being ordered in duplicates and then had to be returned.

510) Laxen did not like being questioned, as she continued to believe that she did not have to answer to Conklin.

511) Conklin learned of pilfering of medications by staff for their own personal use, such as Advantix and prescription dog food, and grew concerned over the lack of accountability for these items.

512) In April 2017, Conklin received an invoice for approximately \$2700 for 200 microchips to be used on the adopted animals. These microchips, like all other vet center supplies, were ordered either by Laxen directly, or at her direction.

513) In May 2017, Conklin received another invoice for approximately \$2700, the same amount as the previous month, for an additional 200 microchips.

514) Conklin was alarmed by the second invoice because of the price, as well as the fact that the shelter had not adopted out 400 animals in two month's time.

515) Based upon the excessive ordering and lack of tracking or confirmation of receipt, Conklin was determined to implement tighter controls to ensure that items ordered were for use only at the CNYSPCA, and not elsewhere.

516) Upon information and belief, Laxen became aware that Conklin was planning to become more involved in ordering veterinary supplies, inventory and price controls.

517) The following week, Laxen began soliciting letters from staff to assist her in seeking Conklin's termination.

Laxen's Self-Dealing

- 518) If medical care is needed for an animal, and the shelter does not have a veterinarian on duty at the time, Laxen recommends bringing them to her clinic where she then charges the shelter for her services.
- 519) The services charged by Laxen's clinic are minimally discounted and other partnering hospitals and clinics offer much better care, treatment and price reductions for the CNYSPCA.
- 520) As Laxen was the vet center manager, Conklin notified her of a growing concern she had with another veterinarian who was consistently causing severe bruising and swelling while neutering large dogs.
- 521) Female dogs were experiencing open sutures and bleeding the day following a spay by this same veterinarian. [See Exhibit AB]
- 522) Conklin expressed her concern about this veterinarian to Laxen, as her post-surgery spays and neuters were becoming problematic.
- 523) Sutures from the surgery were opening and the dogs were bleeding and swelling, and often needed emergency care. Laxen would direct these animals to her clinic for care. [See Exhibit AA]
- 524) Laxen informed Conklin that she didn't feel comfortable telling another veterinarian how to perform surgeries, despite the fact that the surgeries were causing needless suffering to the dogs, and unnecessary medical expenses to the shelter to treat them elsewhere.
- 525) Laxen was the CNYSPCA vet center manager yet she was unable/unwilling to address these troubling post-surgical issues with the other contracted veterinarian.

526) Upon information and belief, Laxen doesn't perform spays and neuters and was therefore ill-equipped to provide corrective instruction to the other veterinarian.

527) Laxen benefitted financially from these post-surgical emergencies, as she told staff to bring the animals to her clinic.

Laxen Causes the Ringworm Outbreak

528) The relationship between Conklin and Laxen was becoming strained.

529) A kennel staff member noticed a cat in Mitzi's Room with a lesion on its neck consistent with the presentation of ringworm.

530) The classic sign of circular hair loss is most commonly seen in cats. Some other symptoms of Ringworm are raised, rounded, knotty (nodular) lesions known as granulomatous lesions or boils.

531) A cat can get ringworm directly through contact with an infected animal or indirectly through contact with bedding, dishes, litter pans and other materials that have been contaminated with the skin cells or hairs of infected animals. Ringworm spores are notoriously hardy and can survive in the environment for more than a year.

532) The cat with the lesion was brought to Laxen for a medical exam and tested under a special ultraviolet light, a Wood Lamp, that glows yellow-green when ringworm is present. The lesion on the cat glowed the yellow-green.

533) This Wood Lamp test may give a false positive so the preferred method for confirming a diagnosis of ringworm is by a culture of the fungus in a laboratory. A culture was performed and sent off to the lab.

534) Even though the cat tested positive under the Wood lamp and the culture had yet to be returned, Laxen placed the infected cat back into Mitzi's Room, exposing all other cats in the room to this highly contagious fungal infection.

535) This was not only a grave error in judgment but one that may be considered veterinary medical malpractice.

536) Contrary to statements made to the media, Laxen never advised Conklin to shut down Mitzi's room during this time.

537) Within three (3) – four (4) days, several other cats in Mitzi's Room began to show signs of lesions and hair loss. The Wood lamp glowed yellow-green on these cats as well.

538) The original cat's lab culture came back positive for ringworm. There was now no doubt that the cats Mitzi's room were infected.

539) Ringworm is a zoonotic disease, meaning it can be passed from an infected cat to a human who comes into contact with it, which can in turn pose a significant threat to people, as well as cats.

540) Laxen was directly responsible for the ringworm outbreak and the potential shelter epidemic.

541) During the time of the staff's discovery, the shelter was closed for renovations and scheduled to reopen in a few days. Staff, contractors and volunteers were everywhere, traveling throughout the shelter.

542) Staff was in and out of Mitzi's room, then handling laundry, and going on to clean other cat rooms. Staff came into contact with volunteers, contractors, and all others helping at the shelter.

- 543) The threat of the spread of the highly contagious disease was growing and the experienced staff members were becoming extremely concerned about the possible outcomes.
- 544) Staff members told contractors about the potential outbreak and advised them to remove their clothing before entering their homes or having any contact with their own animals.
- 545) On May 17, 2017, three staff members went to Conklin to express their concerns and recommendations.
- 546) The staff members were: Charles Kulesa, (CJ) an experienced animal caretaker with over three (3) years at the CNYSPCA, and then in the role of Kennel Director, Michelle Fields, (Shelly) an experienced animal caretaker with over twelve (12) years at the CNYSPCA, now in the role of Veterinary Assistant and Heather Parody, another experienced animal caretaker with over six (6) years at the CNYSPCA.
- 547) All three individuals had extensive experience with shelter medicine, protocols, outbreaks, epidemics, abuses, hoarding cases and public scrutiny.
- 548) Conklin trusted their knowledge and input in shelter matters.
- 549) Two other individuals were also present in Conklin's office on May 17, 2017 during the outbreak discussion: Nancy Hohler, a long-time volunteer and dog mentor who spends countless hours at the shelter and was present during the Morgan years, and DeeAnn Schaefer, another volunteer, a previous employee of Wanderer's Rest for over three years as a Certified Humane Educator, and whom Conklin trusted and respected.

- 550) The three employees explained the situation of the outbreak in detail, and recommended euthanizing the cats before the outbreak spread to the point that it could not be contained.
- 551) Contrary to what has been reported to the media by members of the Board, Conklin was opposed to euthanasia and repeatedly asked for other options. An extensive discussion followed between Conklin, Kulesa, Fields, Parody and Schaefer, over other possible options or alternatives that did not include euthanasia.
- 552) Public safety was a large concern and discussed at length.
- 553) Mitzi's Room was an open room where the cats lived and roamed freely. It was open to the public to socialize and directly interact with the cats. The risk of a public outbreak, especially for young children, was inevitable if Mitzi's Room remained open to the public.
- 554) The shelter did not have the capacity in the isolation room to handle the number of the cats in Mitzi's room. The isolation room was currently accommodating the original ringworm infected cat.
- 555) The originally infected cat was not yet being treated for the disease nor was any enforcement of protective clothing being worn when entering or leaving the isolation room.
- 556) Such haphazard use by Laxen, the vet center manager, of a room specifically designed to contain infectious diseases, is irresponsible, particularly in shelter management.

- 557) The recommendation from all three (3) experienced staff member was to euthanize the cats and isolate those they could, that didn't already show signs of the disease.
- 558) Knowing Conklin was opposed to euthanasia, all four individuals assured Conklin that euthanizing the cats was the only viable option.
- 559) The veterinary assistant, with over twelve (12) years of shelter experience, explained the full-body dip treatments were horrifying for the cats and needed to be done three (3) times a day for six (6) weeks. Conklin was told the cats would endure a terrifying and beyond unpleasant experience in the treatment.
- 560) It was later learned that the treatment information communicated to Conklin was skewed. The dips were to be done twice a week, not three (3) times a day as she was led to believe.
- 561) Staff also contended there was not enough veterinary staff, nor available kennels, capable of handling and isolating all of the infected cats.
- 562) Conklin was still hesitant about euthanizing these cats, and wanted to wait and discuss other options further to be absolutely certain that this was the right decision.
- 563) The staff and learned volunteer (Schaefer) were adamant, however, that an epidemic/outbreak of ringworm would devastate the shelter and potentially infect the entire feline population.
- 564) They warned Conklin that time was of the essence, as the threat of an unmanageable outbreak was looming and immediate action was necessary.

- 565) Conklin could not take the risk of exposing the entire population of cats to such a highly contagious disease, and after considering all options, decided to rely upon the recommendations made by her trusted and experienced staff and volunteer.
- 566) The volunteer with prior shelter experience, Schaefer assured Conklin as well, noting that although she “unfortunately” agreed with the other staff members recommendation, she was nonetheless unequivocal in her opinion that there was no viable alternative because a ringworm outbreak could bring a shelter “down.”
- 567) Conklin realized she had a consensus of four (4) experienced shelter individuals informing her that this was the best and safest recommendation.
- 568) As a courtesy, Kulesa placed a call to Laxen and left a message for her to contact him regarding an issue that had arisen at the shelter.
- 569) As there was no formal euthanasia policy in place, Conklin had begun utilizing the informal policy having a roundtable discussion with those involved with the animal in question.
- 570) A majority vote amongst those individuals agreeing to euthanize was needed before that action would occur, so that all had a right to be heard, and no one felt the sole emotionally responsibility of making the decision.
- 571) Conklin did not call Laxen for her input as it wasn’t needed since a majority vote had already been obtained. The call was made solely as a courtesy. She was aware that Laxen would likely vote against the euthanasia, but as the vote would have be 4-1, the action would nonetheless have been approved.
- 572) Laxen had no greater input than Conklin, Kulesa, Fields or Parody, as each had a vote.

- 573) When Kulesa advised the others that Laxen was not reached, all agreed that the decision would remain the same as the majority vote would not have changed.
- 574) The “veterinary input”, as specified in the CNYSPCA’s statement released to the media regarding Conklin’s termination was not a requirement or policy at any time during Conklin’s employment or during her volunteer years.
- 575) The statement released to the media was untrue and intended to publicly defame Conklin.
- 576) On May 17, 2017, a decision was made by the majority of the professionals assembled to euthanize the cats in Mitzi’s Room due to the rapid spread of the contagion, and the lack of resources necessary to contain and treat the disease safely, effectively and efficiently.
- 577) Conklin reluctantly authorized the euthanasia.
- 578) Upon information and belief, sadly, all of the cats placed in the isolated room, later contracted the disease.
- 579) Anything that could not be completely disinfected in Mitzi’s Room was removed, and thrown out.
- 580) Upon information and belief, after Conklin’s termination, Laxen later euthanized the first infected cat she initially tested and placed back into Mitzi’s room.
- 581) Upon information and belief, after Conklin’s termination, Laxen euthanized other cats solely with the diagnosis of ringworm.

In the Hours Following the May 17, 2017 Euthanasias

- 582) The Kennel Director attempted to contact Laxen to inform her of the decision. He was unable to reach her but left a message.
- 583) When Laxen returned the call, and was told of the decision, Laxen was audibly livid and started screaming at Kulesa (CJ). Conklin was nearby and though the phone wasn't on speaker, she could clearly hear Laxen's outrage.
- 584) Laxen was enraged she was not consulted.
- 585) Laxen ended the call with the Kennel Director, stating: "if she was not in on Monday, consider it her resignation".
- 586) Laxen then started repeatedly calling the staff involved, harassing them and voicing threats about them losing their licenses or being terminated.
- 587) Laxen then forwarded the professional text messages from Conklin, regarding her concern of the LVT's job performance, directly to the LVT. Upon information and belief, this action was spiteful and hurtful, and designed to turn Arrison against Conklin. [See Exhibit X].
- 588) Upon information and belief, Laxen later purposely mislead the Board by indicting the LVT felt pressured by Conklin because she "knew" Conklin wanted to terminate her.
- 589) The LVT had no idea of Conklin's concern over her job performance because Conklin had left it up to Laxen to address with her in her capacity as the Vet Center Manager.

- 590) It was only after the cats were euthanized that the LVT became aware of Conklin's concerns, and that was solely because Laxen forwarded the text messages to the LVT after learning of the euthanasias.
- 591) Upon information and belief, Laxen expressed anger to the Board members over the fact that she did not give Conklin "permission" to euthanize the cats.
- 592) In accordance with Agriculture and Markets Law, 374. Conklin did not need permission by Laxen as Conklin is an officer of a duly incorporated society for the prevention of cruelty to animals and had more than two (2) reputable citizens present. [See Exhibit AC]
- 593) Contrary to a statement made to the media by a board member stating Conklin "*broke the law*" Conklin did not need Laxen's "permission" and had a lawful right to concede to the decision of euthanasia. [See Exhibit AD]

In the Days Following the May 17, 2017 Euthanasias

- 594) Laxen did go to the shelter the following Monday. Conklin approached her to speak with her and Laxen childishly ignored Conklin but then said: "I'm not speaking to you".
- 595) Conklin inquired as to the status of Laxen's resignation and if Conklin needed to look for another vet. Laxen continued to ignore Conklin and then eventually stated she needed to talk to the Board before she made a decision.
- 596) Laxen then spent the rest of the time reviewing and gathering records and documents, while essentially ignoring the staff and volunteers

- 597) Laxen spent the next week contacting other staff members, and soliciting letters be written to the Board marring Conklin's character and decision, with the sole intent of demanding her termination.
- 598) Laxen continued the preparation for the prosecution by speaking with multiple staff members, without Conklin's knowledge, trying to secure any information she could use to defame Conklin to the Board members.
- 599) Upon information and belief, Laxen realized that the controlled substances used to euthanize the cats were readily accessible to the staff solely because she failed to properly secure them as she is mandated to do under the law.
- 600) Upon information and belief, Laxen panicked and feared that her failure to safeguard those drugs would result in the revocation of her license to obtain and administer controlled substances.
- 601) Upon information and belief, Laxen also called several Board members and skewed or misrepresented facts, and continued to portray Conklin in an inaccurate light.
- 602) The Board members were willing to terminate Conklin based upon the false information provided by Laxen.
- 603) Upon information and belief, at no time was Laxen forthcoming to the Board members about her role in the outbreak that lead to the euthanasia.
- 604) Upon information and belief, Laxen wanted Conklin terminated and was preparing to give an ultimatum to accomplish that goal.
- 605) Upon information and belief, the outcome of the May 25th Board meeting and Conklin's termination was being carefully choreographed by Laxen to blame the entire

incident on Conklin, to cover up the fact that it was Laxen's multiple errors that led to the ringworm outbreak and its sequelae.

Cruelty Department 'Complaints'

- 606) Conklin's goal to establish an organizational chart included the cruelty department. The department was in desperate need of a manager or team leader.
- 607) Conklin was very concerned about two (2) specific officers who were "No Show" employees. They would arrive at the shelter in the morning then leave for the entire day returning promptly at 4:30 p.m. every afternoon. Conklin never received any updates or incident reports as were provided to her by other officers.
- 608) Conklin asked Cruelty Officer Paulene Eggers, a twenty (20) year retired police officer, about the process used by the police department to track daily activities, mileage and performance evaluations on their officers. On May 3, 2017, Eggers notified Conklin she would provide 'samples' of what was used when she was on the police force. [See Exhibit AE]
- 609) After the Grand Re-opening had occurred, Conklin intended to incorporate a policy specific to the cruelty department and dog control. As of May 9, 2017, a daily log was being created specifically for the CNYSPCA to record daily activities and mileage. It was a method whereby the cruelty officers and dog control would be accountable. [See Exhibit AF].
- 610) Conklin also wanted copies of incident reports, similar to the others provided by Eggers. Both of these two specific officers balked. They stated, "it's all in the computer and we have a notepad that we use". They knew Conklin would be making this change

shortly and they were not happy about having to be accountable by virtue of completing the daily logs. [See Exhibit AG]

611) Conklin was extremely concerned about the performance of these two cruelty officers. There were two (2) cruelty cases that were finally closed during Conklin's five (5) months of employment, and their poor performance in these cases led to disastrous results for the animals.

612) Both cases involved dogs that had been in the shelter for well over a year, and one dog had been in the shelter over 530 days. In both cases, the dogs were released to their owners. Staff and volunteers were sickened at the outcome, which was a direct result of shoddy work and lack of follow-up by the two (2) officers.

613) Upon information and belief those officers made no attempt during the initial investigation to have ownership those animals signed over to the shelter so they could be released for adoption rather than waste away in a kennel waiting for the case to work its way through the judicial system.

614) In any cruelty case, the animal is not available for adoption until the case has completed its course in the courts, and a decision is made by the judge. This process can take months or years, and meanwhile the animal languishes because adoption is not possible until the defendant's ownership status is extinguished.

615) The only way to expedite this process is to secure a release from the defendant, which signs ownership over to the CNYSPCA. When that is done, the animal is immediately available for adoption.

616) The officers did nothing to press for answers from the DA's office or demonstrate any efforts to get results for these animals. They waited complacently and disregarded

the fate of these dogs while they deteriorated awaiting the determination through the justice system.

617) Conklin was also made aware that these two officers had lunch with the judge and the defendant in the judge's chambers in one of the cases involving 11 hoarding dogs, and all 11 dogs were later released to the owner with no restitution to the CNYSPCA.

618) These two officers are ineffective as Cruelty Officers, and Conklin was discovering more evidence of this each day. Upon information and belief, both officers were aware that Conklin knew of their ineptitude, and was about to rectify the situation.

619) When Conklin started asking questions about recent cruelty calls, each would avoid giving a straight or direct answer, and then disappear again at the first opportunity.

620) In early April of 2017, the Cruelty Investigation Department received a call from a woman reporting an emaciated dog in her neighborhood.

621) Upon information and belief, these two officers responded to the call saw the emaciated dog. They did not confiscate the dog and provide it with medical care, nor did they charge the owner.

622) These two officers left the emaciated dog in those conditions, and simply and told the owners they'd be back in a month to check up on the dog. Rather than help that dog at the moment they were given the opportunity to do so, they chose to leave it in those conditions for an additional month.

623) On Tuesday of May 23, 2017, a call was received reporting that the dog was dead in the back yard of the home where they left it five weeks earlier.

- 624) When Conklin approached the two officers to address this tragic failure, they lied to her and told her that it was a different dog and the emaciated dog just had a skin condition.
- 625) A separate officer, a decorated and well respected CNYSPCA Cruelty Officer informed Conklin that the dead dog was the same dog they failed to protect.
- 626) When Conklin investigated further and noted that there were no logs and no reports from their daily calls or trips, she made it clear that such inadequacies were changing immediately, and that they would be held accountable for their time, and their actions.
- 627) Conklin was also preparing to review municipal contracts for the specific requirements of cruelty officers needed.
- 628) It was Conklin's intent to change one of those officers from full-time to part-time cruelty officer and the other officer from full-time cruelty officer to part-time dog control.
- 629) The two officers were becoming concerned for their jobs.
- 630) Upon information and belief, these two specific officers knew some changes were coming and they were not happy about it, so they retaliated and called Jack Yoffa, a long-term Board member and well-known to them, to relate manufactured complaints about Conklin in a deliberate attempt to "strike first" and protect themselves against the changes she wanted to implement.
- 631) Upon information and belief, they chose Yoffa because they were aware that Yoffa was close with the former Development Director, Para, and that Yoffa wanted to retaliate against Conklin for Para's departure from the shelter.

The Missing Rifle

- 632) During the period when Morgan served as the Executive Director and cruelty investigator he purchased a firearm for use by the Cruelty Investigation Department of the CNYSPCA.
- 633) Said firearm was of a design not fit for the regular use of the CNYSPCA in that it was what is commonly referred to as an assault style rifle, inconsistent with the goal of the CNYSPCA to judicially and humanely put down vicious or dangerous animals only when necessary.
- 634) Upon information and belief, the rifle belonged to the shelter and was purchased with shelter funds.
- 635) That firearm was known to the cruelty officers, as Morgan had also purchased a gun rack for the CNYSPCA Cruelty investigation vehicle for the purpose of safely transporting that firearm in the vehicle, and the firearm was secured in a locker on the CNYSPCA premises.
- 636) Upon information and belief, after being fired for converting the funds of the CNYSPCA for his own use, Morgan was in contact with one of the cruelty officers still employed by the CNYSPCA, Chris LaMontagne, and offered to sell him the gun, which was purchased by Morgan as property of the CNYSPCA.
- 637) Upon information and belief, when another cruelty officer, Eggers, noticed the firearm missing from the locker and inquired as to its whereabouts, LaMontagne denied any knowledge of it.
- 638) Upon information and belief, after being questioned several more times, LaMontagne finally admitted he purchased it from Morgan.

- 639) Upon information and belief, LaMontagne was repeatedly advised by Eggers to return the firearm to the locker, as it was the property of the CNYSPCA
- 640) Lamontagne claims he paid Paul Morgan \$200 for it, yet no receipt had been provided. That assault rifle is worth more than \$200 and Lamontagne was advised that Conklin was going to be notified of the purchase.
- 641) Conklin had been informed of the missing gun and was investigating its disappearance.
- 642) Upon information and belief, Conklin believes the weapon has never been registered, and remains in Officer Lamontagne's possession.
- 643) Any money made on the sale of this gun by Paul Morgan in prison, should have been reimbursed to the CNYSPCA, rather than serve to unjustly enrich LaMontagne.
- 644) Upon information and belief and a meeting with the Board on May 31st, LaMontagne confirmed the purchase of the rifle from Morgan.
- 645) The weapon was purchased from Morgan at a cost well-below the purchase price and fair market value, and was for LaMontagne's personal use. This purchase was made without advising management or reimbursing the CNYSPCA for the cost of that firearm.
- 646) On June 1st, in an article written by Elizabeth Doran from Syracuse.com, Pirro is quoted as saying: "*that rifle belonged to the past director Paul Morgan, who wanted to sell it because he needed the money...An SPCA staff member bought it and then took it home.*" [See Exhibit AH]
- 647) Morgan pilfered hundreds of thousands of dollars from the non-profit, and either that rifle was purchased by Morgan with money stolen from the shelter, or it was purchased by Morgan with shelter's money and was purchased for use at the shelter.

648) Morgan cannot continue to be unjustly enriched by selling a gun to LaMontagne that is not rightfully his to sell, and keeping the money for himself, and LaMontagne cannot benefit by buying the shelter's property or personal property purchased with the shelter's money.

649) Following Conklin's termination, the Board interviewed LaMontagne about the rifle, but did not include the one officer who knew the facts, Eggers, in any of the interviews.

No Euthanasia Policy

650) Conklin does not believe in Euthanasia due to time restrictions, space constraints or manpower.

651) Conklin firmly believes that euthanasia is a last resort, and should be reserved for animals who are suffering mentally or physically, are terminally ill or mortally injured, or considered dangerous to the health or safety of themselves, other animals, and/or humans.

652) The CNYSPCA did not have a formal Euthanasia Policy at the onset of Conklin's employment, and she was never provided with any drafts, proposals or guidance on the topic from either the Board or the Interim Director.

653) The lack of any policy became apparent on her first day on the job, when Para brought her the names of five dogs and asked her to simply sign off on their euthanasia. Para offered no explanation for the request, and simply waited for Conklin to sign the forms so the euthanasia could proceed.

654) Conklin questioned the request, and the lack of any explanation for it, and immediately recognized the need for an actual policy at the shelter.

- 655) Conklin was developing a formal policy, though still in draft form, that an animal would not be euthanized unless certain criteria were met and all other options exhausted. Conklin's intent was to publish the Euthanasia Policy on the CNYSPCA website to ensure transparency in such an emotionally-charged decision, as specified in her agenda.
- 656) During Conklin's volunteer years, she was aware of countless euthanasias occurring for no legitimate reason. Numerous adoptable, loving animals were routinely euthanized, with no rationale.
- 657) At one volunteer meeting in which Morgan was present, he conceded euthanasias occurred for space needs though there were many vacant kennels.
- 658) Some of the more active volunteers began to suspect that euthanasia was also being used as an emotional weapon to keep the volunteers in line, for fear the animal they were working with would be euthanized if the volunteer became too vocal about an animal's mistreatment or neglect.
- 659) Many volunteers left, and did not return after they and the animal they cared for, fell victim to this tactic.
- 660) Conklin heard about Laxen's halt on rampant euthanasias when Laxen became affiliated with the shelter, and was grateful for it.
- 661) When she was hired as Executive Director, she was excited about working collaboratively with Laxen and the prospect of finally having a humane shelter with a clearly defined euthanasia policy.
- 662) Now in a position to truly be a responsible shelter, Conklin created a protocol whereby not only would certain criteria be met, but input from multiple people familiar

with the individual animal would be considered, and there had to be a majority vote with at least a three member discussion.

- 663) Laxen was aware of the practice Conklin was trying to incorporate.
- 664) Conklin felt this practice would relieve one person from feeling solely responsible for the difficult decision, and would still ensure that it was only considered when there was no other option.
- 665) Conklin wanted to identify the procedures to communicate to the public that the CNYSPCA would truly adhere to a written policy confirming that animals would not be euthanized simply for space, or age, or convenience, or duration of stay.
- 666) The transparency of the Euthanasia Policy was included in Conklin's eight (8) page Agenda where she made it clear she intended to post the policy on the organization's website.
- 667) Conklin adhered to this concept and practice with Laxen on every dog for which euthanasia was considered. Conklin always asked if there was a majority vote if faced with the decision to euthanize.
- 668) However, Conklin was never consulted by Laxen on any of the cats Laxen euthanized during her tenure cat euthanasia, and Laxen was making those decisions completely on her own with no feedback from anyone else.
- 669) Despite being aware of the Conklin's policy for discussion and majority rule on euthanasias, Laxen disregarded the policy and euthanized cats whenever she felt it was appropriate, without even notifying Conklin. Conklin would often hear about the euthanasia from staff, after-the-fact.

- 670) Laxen's unilateral actions, made the formal implementation of the policy even more critical, as Conklin did not believe one person should have the complete power or authority to decide on the issue of the life or death of an animal, no matter how well-intentioned or professionally trained.
- 671) Conklin eventually wanted a veterinarian sign-off on the decision, but that could not yet be a requirement as Laxen was only present a few hours a day, and only one day a week, making input and collaboration difficult, particularly in more emergent situations.
- 672) The existence of that impediment was not yet known when Conklin drafted her proposed policy, as she envisioned a full-time, fully available veterinarian. [See Exhibit AI]
- 673) The euthanasia policy Conklin was developing would also require a signature page specific to each animal, documenting the specific reasons for the decision in accordance with those outlined in the proposed policy, though that was the portion Conklin thought the Board had to consider and approve because it required the signatures. Conklin wanted to ensure the verbiage of the form passed legal muster before it could be implemented.
- 674) This policy had not yet been finalized or adopted by the Board, but the policy of majority vote was already the practice, and Conklin was heading toward ratification of a complete policy.
- 675) Pirro's statements to the media continued to mislead the public and further defame Conklin by claiming there was a policy: "*no adoptable animal should be put down, and when euthanasia is necessary, the final decision is supposed to be made by the veterinarian.*" [See Exhibit Y]

676) When these statements were made, there was no such policy, in theory or in practice.

Shelter Euthanasia Reports and ‘Veterinary Input’

677) Contrary to the assertions of Pirro to the media after Conklin’s termination, there was no previous or current euthanasia policy implemented or enforced by the CNYSPCA

678) There was no documented requirement for veterinary input, as expressed in the statement released to the media by the CNYSPCA with regards to Conklin’s termination. [See Exhibit AJ].

679) As noted previously, on January 19, 2017 Conklin reviewed the charts of the five (5) dogs identified for euthanasia by the kennel staff and visually inspected and evaluated each one.

680) Conklin determined only one (1) dog fit the criteria to be euthanized in accordance with the euthanasia policy she was drafting and wanted to put into practice, as this dog had severe aggression, and posed a direct danger to people and other animals.

681) Conklin gave her recommendation to the Development Director, who along with the other staff members that recommended it initially, agreed with the decision, and the dog was humanely euthanized.

682) At no time during these discussions or evaluations was the need for ‘veterinary input’ mentioned.

683) During Conklin’s volunteer years, healthy animals were frequently euthanized with no clear or justifiable reason, done simply for space or staff convenience. Conklin was determined to eradicate any trace of such practices.

- 684) Most euthanasias at that time were performed by the Euthanasia Technician, Taylor Gilke currently serving time in prison after her conviction for her role in the embezzlement scandal, and Para, the registered DEA Agent.
- 685) Neither Gilkey nor Para were veterinarians and no veterinarian was required to provide input prior to or during their administration of sodium pentobarbital to euthanize any shelter animal.
- 686) On June 1st, the CNYSPCA released a statement to the media stating one of the reasons for Conklin's termination was; "*the Executive Director approved the euthanasia of several cats, without input from a veterinarian, which the Board determined was directly contrary to that mission*". [See Exhibit AJ]
- 687) CNYSPCA Euthanasia Reports for 2016, and for August 1, 2016 –January 18, 17, contradict the Board's claim of the requirement for veterinarian input, as the vast majority of the euthanasia performed in the year preceding Conklin's tenure were performed without any indication of veterinary input [See Exhibits AK & AL].
- 688) The number and percentages of euthanasias that took place at the shelter, without veterinary input are shocking and inconsistent with the false statements being perpetuated by certain Board members' public statements.
- 689) According to data extracted from the shelter's software system, Petpoints, for calendar year 2016, two-hundred-sixty-eight (268) Cats and one-hundred-sixty-eight (168) dogs were euthanized, for a total four-hundred-thirty-six (436) animals. [See Exhibit AK]
- 690) For the calendar year 2016, of the two-hundred-sixty-eight (268) cats, two-hundred-forty-five (245) or ninety-one percent (91%) did NOT have veterinary input.

- 691) For the calendar year 2016, of the one-hundred-sixty-eight (168) dogs, one-hundred-forty-seven (147), or eighty-seven-and one-half percent (87.5%) did NOT have veterinary input.
- 692) From August of 2016 to January 18, 2017, the period in which the Interim Director, Pirro, was at the helm, the lack of veterinary input relative to euthanasias continued, and sixty-four (64) cats and thirty-six (36) dogs were euthanized. [See Exhibit AL]
- 693) Of the sixty-four (64) cats, thirty-nine (39), or sixty-one percent (61%) did NOT have veterinary input.
- 694) Of the thirty-six (36) dogs, eleven (11) or thirty-one percent (31%) did NOT have veterinary input.
- 695) The figures, extracted from the records kept by the veterinary staff, under the tutelage of Laxen, confirm that there was no requirement for ‘input from a veterinarian’ prior to euthanizing an animal, and directly contradicts the statement provided to the media from the CNYSPCA regarding the reason for Conklin’s termination.
- 696) The statement given by the Board to the media was intentionally false and misleading with the sole intent being to discredit Conklin and mar her reputation in the community.
- 697) If the Board believed their statement to be true, then the Board has been operating in violation of their own mission and the lack of any prior enforcement.
- 698) Such actions are additional evidence of their intent to harm Conklin publicly.
- 699) It is also clear that the Board’s only focus was punishing Conklin, as no other individual involved in the decision to euthanize the infected cats was negatively affected.

- 700) On the contrary, one of the staff members involved in the recommendation and decision to euthanize the cats was promoted, and the volunteer was hired on a full-time basis.
- 701) Prior to the ringworm outbreak, during the nearly five (5) months Conklin was employed as the Executive Director, only nineteen (19) cats and eleven (11) dogs were euthanized. [See Exhibit AM].
- 702) Because of Laxen's unilateral behavior, Conklin had no input or prior knowledge of the nineteen (19) cats.
- 703) Despite Laxen's unilateral behavior, Conklin nonetheless dramatically reduced the number of euthanasias performed at the shelter.
- 704) During her tenure in the first five months of 2017, Conklin's euthanasia rate was two-hundred-thirty percent (230%) lower than that of the Interim Director, Pirro, under whom (one-hundred) 100 animals were euthanized during his preceding his five-month tenure.
- 705) During her tenure in first five months of 2017, Conklin's euthanasia rate was one-thousand percent (1,000%) lower than that of the former Executive Director, Morgan, under whom three-hundred-thirty-six (336) animals were euthanized in the first seven months of 2016.
- 706) Conklin's dramatic reduction in euthanasia is more than significant evidence supporting Conklin's goal of the CNYSPCA truly becoming a humane shelter.

Communication with the Board President

- 707) When Conklin was hired, Marsh, President of the board, was very supportive of her, and her agenda.
- 708) Marsh would frequently stop by the shelter to visit with Conklin.
- 709) Marsh repeatedly expressed great pleasure with the changes that Conklin was implementing, and remarked that Conklin “has the stamina to succeed and we are so proud.”
- 710) Marsh remarked to Conklin that the shelter smelled better, looked better, things were becoming more organized, and that the negativity of the prior years was finally fading.
- 711) Marsh verbally supported each and every one of Conklin’s ideas for change outlined in her eight (8) page agenda delivered to all board members in February.
- 712) Marsh told Conklin numerous times that she could now relax at night, knowing that someone who truly cared about the animals and the shelter was in charge, adding comments such as “You are wonderful” and “Thank you for all you do.”
- 713) Marsh was fully supportive of Conklin’s decision to relocate the make-shift isolation room in the Community Room, to the vet center where it appropriately belonged.
- 714) Marsh expressed delight with the new ‘maternity ward’ Conklin had created in the vet center for the cats and their young kittens.
- 715) Conklin also socialized with Marsh outside the shelter and often joined her and other board members for a bite after several board meetings.

- 716) When Marsh would arrive at the shelter prior to a Board meeting, she would arrive early enough to sit with Conklin and chat about a variety of personal and shelter related issues.
- 717) In March 2017 and again in April of 2017, Marsh invited Conklin and her spouse to her daughter's house for Easter dinner.
- 718) Shortly after Easter, and during another visit, Marsh asked Conklin how things were working out with her sister, the HR Director. Conklin expressed some concern over the lack of hours that the HR Director was actually working but told Marsh: "we're working through it".
- 719) Following that conversation, Marsh no longer stopped in to visit or chat with Conklin.
- 720) After the April 27th, 2017 board meeting, Marsh declined the invitation to join the others for their standing post-meeting get together.
- 721) On May 22nd, after the incident with the ringworm cats, Conklin sent a text to Marsh, requesting to speak with her. [See Exhibit AN]
- 722) Marsh did not respond.
- 723) Prior to the May 25, 2017 Board meeting, Marsh did not stop in to chat and catch up with Conklin as she had previously done prior to the monthly Board meetings.
- 724) Upon information and belief, Marsh, Pirro, and other select board members, had already colluded with Laxen to devise Conklin's termination.
- 725) Despite this "black out" of communication from these members in the days leading up to the May 25, 2017 meeting, not a single member had ever gone to Conklin to express concern or displeasure with her job performance or decision-making. Not one.

May 25, 2017 Board Meeting

- 726) The scheduled monthly Board meeting started at 5:30 p.m on Thursday, May 25, 2017, and was held in its usual locale, the community room outside of the administrative offices.
- 727) Conklin took a seat next to the Board President, as she often did, and had her meeting agenda prepared, as well as a draft of the euthanasia policy she wanted to share with the members to get their feedback.
- 728) She was cognizant that a few changes to the draft were needed but wanted to convey and discuss the policy's basis and its specificity of the conditions under which the last resort of euthanizing an animal could be quantified, and felt that after the events the preceding week, a formal policy was critical.
- 729) At 5:45 pm Laxen, who was no longer a Board member, appeared with a binder and stack of papers and sat at the end of the table, directly opposite of Marsh and Conklin, without ever acknowledging Conklin's presence.
- 730) Conklin was surprised at Laxen's presence at the Board meeting but surmised a discussion regarding the decision to euthanize the cats would occur.
- 731) Conklin welcomed the opportunity to have an open and collaborative discussion about the events leading up to the decision, in hopes of formulating a policy and procedure to prevent such a potentially disastrous outbreak from recurring.
- 732) Conklin was unaware that communications had already taken place between some Board members and Laxen, that deals had already been struck, and that her fate had already been sealed.

- 733) Conklin was unaware that Laxen has already poisoned the Board with false statements, exaggerated details, and vindictive accusations against her to such a degree that her dream job had already ended before she even have a chance to speak.
- 734) Upon Laxen's arrival, the Board immediately went into Executive Session, and Conklin was asked to leave.
- 735) Conklin was dismissed to her office, which was located less than 10 yards from the table where the meeting was occurring.
- 736) Due to her close proximity, Conklin could hear many of Laxen's comments, as she was speaking very loudly, and at times, almost shouting.
- 737) Conklin remembered Laxen's behavior the preceding week when she told Conklin she would decide whether she was resigning after she spoke with the Board.
- 738) Conklin initially believed Laxen contacted the Board in order to be granted the opportunity to express her outrage to them in person.
- 739) Conklin did not realize that Laxen had surreptitiously communicated with certain Board members prior to the meeting to set the stage and allow Laxen to aggressively prosecute her case for Conklin's termination in person, and to force an immediate vote on the issue.
- 740) Laxen began the prosecution by misrepresenting the facts of a cruelty officer bringing a deceased cat back to the shelter late one evening when Conklin was still there working. Laxen stated the cat was sick and suffering and Conklin allowed the cat to remain in distress "... all night and die alone."
- 741) Laxen herself was not present when the cat was brought to the shelter late that evening and had absolutely no first-hand knowledge of the condition of the cat.

742) When the officer brought the cat in at approximately 10:30 pm on or about April 29, 2017, Conklin was still working, as she typically worked 10-16 hours per day. The officer, a part-time officer who was covering for another officer, realized Conklin was there and asked Conklin what to do, as he was uncertain as to how to proceed. Conklin went to see the cat to determine its condition, and saw the cat was in the carrier, laying on its side, not moving, not breathing and making not a single sound, and Conklin realized the animal was already deceased. Conklin put the cat and the carrier into one of the “meet and greet rooms” in the reception area and closed the door, as she did not want to expose the shelter to any possible contagions that may have caused the death of the stray cat.

743) Conklin informed Fields, the veterinary assistant, the next morning of the deceased cat in the meet & greet room so the cat could be tended to properly.

744) Although the cat was ostensibly still alive when the officer picked her up, based on her condition, a more seasoned officer would have taken the cat directly to the veterinarian to have her humanely euthanized rather than bringing the cat to the shelter after hours where no treatment was available.

745) Although this event occurred nearly one month before the May 25, 2017 Board Meeting, Laxen never asked Conklin about the incident.

746) Laxen provided the Board with letters she had expressly solicited from at least two employees, Arrison and Brocious, in support of her quest to have Conklin terminated.

- 747) Conklin has never been privy to the letters nor their contents, and was never given the opportunity by the Board, to defend herself against any complaints made against her by these employees.
- 748) Laxen then presented blatantly false accusations about Conklin and the cat euthanasias that occurred on May 17, 2017, and presented these accusations as if they were true, with the sole intention of having Conklin terminated.
- 749) Upon information and belief, Laxen told the Board that the only reason Conklin didn't call her was because "...she knew I would say no." Laxen intentionally misrepresented Conklin's words, as Conklin meant only that Laxen's vote would not have changed the result, as the majority had already decided. Laxen was aware of this distinction, but failed to disclose it to the Board.
- 750) Laxen was not present on May 17, 2017, yet stated her theories and opinions as though they were fact.
- 751) Laxen deceived the Board by telling them that Arrison was "forced" to perform the euthanasias because Arrison "knew how Kerrin felt about her was afraid to refuse. She was afraid for her job..." so she performed the euthanasias so Conklin wouldn't fire her.
- 752) Upon information and belief, Laxen was given unlimited time to convince the Board members they should terminate Conklin. Laxen spent over an hour disgorging lies, altering facts and making defamatory statements against Conklin.
- 753) Upon information and belief, Laxen did not limit her fabrications to the cat euthanasias.

- 754) The Board allowed Laxen to remain uninterrupted and unchallenged and even denied a suggestion from another Board member that Conklin be given a chance to face her accuser immediately.
- 755) The Board was being driven into a mob-like frenzy by Laxen, with some members actually shrieking after hearing some of Laxen's misrepresentations about dog euthanasia requests.
- 756) Upon information and belief, Laxen continued her campaign until the Board became completely unable to address this matter rationally. They rejected multiple requests from other Board members to remain calm, and to think clearly before they acted in haste.
- 757) During the Board meeting, Kulesa (CJ), the Kennel Director was still in his office, off the community room as well, and could hear Laxen yelling.
- 758) Kulesa sent an unsolicited text to Conklin during the meeting regarding Laxen's scathing comments about her to the board, noting "*she is going after you hard.*" [See Exhibit AO].
- 759) While describing the events leading up to the euthanasia, Laxen intentionally glossed over the fact that she was the one responsible for the outbreak by returning the first cat into Mitzi's room, rather than isolating him.
- 760) Laxen failed to inform the Board of the fact that she did not follow professional veterinary protocol for ringworm, and negligently failed to isolate the first infected cat while awaiting lab results.

- 761) Laxen provided the letters to the board that she had actively solicited from two staff members during the week leading up to the meeting intended to bolster her demand for Conklin's termination.
- 762) Laxen told the Board that Conklin "yells and screams at everyone."
- 763) Yoffa continued in the defamation of Conklin by stating the "entire cruelty department was going to quit" because of the way Conklin treated them, after Lamontagne and Bill Pulaski called him and complained about her. [See Exhibit AP].
- 764) As noted previously, those two cruelty officers chose Yoffa expressly because they did not want Conklin to implement accountability standards, yet the Board refused to investigate or consider the legitimacy of their complaints.
- 765) Inasmuch as Laxen knew the Board members were upset about the euthanasia, she continued telling them half-truths to keep that emotion fueled.
- 766) Upon information and belief, she told the Board that even after she declared a moratorium on euthanasia, she was contacted about euthanizing a dog.
- 767) She failed to tell the Board that each relevant member of the staff supported the request because this dog was suffering and all believed it was inhumane to keep him alive.
- 768) Laxen told the Board it was "well known" that Conklin "hates" the cats and only cared about the dogs, and intentionally presented that propaganda as though it were true.
- 769) Laxen told the Board that "everyone knows Kerrin will spend whatever is needed if it has to do with a dog" but that she would not spend any money if it had anything to do with the cats.

- 770) Laxen's comments to this effect were lies, and she knew they were lies when she told them.
- 771) Had the Board performed its due diligence, they would have realized the inaccuracy and absurdity of Laxen's claims.
- 772) Contrary to Laxen's accusations, nearly the entire renovation and grand re-opening project was for the betterment of the cat's living conditions in the shelter.
- 773) The isolation room constructed in the vet center was specifically for cats.
- 774) The maternity room, also constructed in the vet center was specifically for cats and their kittens. Keeping infant kittens out of the public and kennel environment, reduced the spread of germs and protected them comfortably and safely in a private environment providing a better chance of survival.
- 775) The breezeway separating the main kennel from the vet center, previously a useless, clutter-filled hallway, was completely overhauled to allow for a safe and quiet place to temporarily house any overflow of cats that occurs each summer. The breezeway renovation was still underway at the time of Conklin's termination, as donated air conditioning units and exhaust fans were waiting to be installed.
- 776) Conklin created an area in the breezeway where empty cat cages were cleaned and prepared awaiting the overflow. This area would accommodate the cats in a much cleaner, quieter living environment until they could find homes within the shelter, a rescue or a permanent home, rather than the community room where they were previously temporarily housed.
- 777) Contrary to Laxen's indefensible claim that Conklin hated cats, Conklin spent the funds from a \$25,000 bequest, intended for the creation of a puppy room, and with the

blessing of the Executor of the estate, almost entirely on the creation and expansion of a new cat room.

778) A puppy room was constructed during the renovation, satisfying the bequest and the Executor, and was built using scrapped and repurposed sliding glass doors discarded from the revamped cat rooms.

779) Laxen misrepresented facts to the Board when she told them Conklin refused to allow her to purchase flea and tick medicine.

780) Laxed defamed Conklin further by telling the Board Conklin “lies all the time” and though she did not give any specific examples, and upon information and belief, used that inflammatory word to undermine Conklin in the event she was given a chance to defend herself.

781) She continued to utter unsubstantiated statements intended to effectuate the purpose for which she went to the meeting: to ensure Conklin was terminated.

782) Upon information and belief, one Board Member present suggested Conklin be brought out from her office while Laxen was present, and allow both sides to be heard in order to assist the Board in determining determine the truth.

783) That suggestion was rebuked by Pirro, as there was no attempt or intention by the Board to determine the accuracy of any of Laxen’s allegations.

784) Laxen advised the Board that she was angry that Conklin did not ask for Laxen’s “permission” before she authorized the euthanasia.

785) Laxen failed to mention that of the 19 cats she euthanized in the preceding months during Conklin’s tenure, she did not consult with Conklin once. She simply euthanized the animals, with no input from Conklin or anyone else that should have been consulted.

- 786) Either Laxen remained of the mindset that she was Conklin's superior, or she was unaware of the fact that Conklin had no legal obligation to seek her permission.
- 787) The laws governing the euthanasia of shelter animals, specifically Agriculture and Markets Law 374, gives Conklin, as an agent of the organization, the complete and express authority to authorize the euthanasia of an animal without the 'permission' of a veterinarian. [See Exhibit X]
- 788) On at least three occasions during the May 25, 2017 Board meeting, Laxen demanded Conklin's termination, gave the Board an ultimatum, noting that she would not continue to work there if Conklin did.
- 789) Upon information and belief, Laxen realized that her negligence and malpractice were directly responsible for the outbreak, and that "but for" her actions, the euthanasia would not have occurred.
- 790) Upon information and belief, Laxen realized she failed to properly secure the controlled substances used for euthanasia, and that "but for" her failure, the drugs would not have been available, and as such, the euthanasia could not have occurred.
- 791) Once Laxen realized her culpability in the events, she decided to divert attention from herself and instead blame Conklin for all of it.
- 792) The Board allowed Laxen to excoriate Conklin uninterrupted and unchecked for in excess of an hour while Conklin sat in her office, unable to defend herself against Laxen's attacks.
- 793) Conklin could hear Laxen's mendaciousness, but did not know the Board would then refuse to allow her to be heard and address the accusations.

- 794) Worse, Conklin did not know that this Board, who had prior to that night never expressed dissatisfaction with her decisions or actions, had suddenly turned on her at the behest of Laxen.
- 795) Following Conklin's brief return to the meeting, she was once again excused.
- 796) Yoffa then invited Laxen back to the meeting, where she was advised of Conklin's limited responses.
- 797) Laxen was again allowed to castigate Conklin, unchecked.
- 798) Laxen's intentional and blatant defamation of Conklin was the direct and absolute cause of her termination.
- 799) The actions of the Board and of Laxen at the May 25, 2017, meeting were malicious, intentionally deceitful, damaging and inexcusable.
- 800) The Board of Directors have proven themselves to be either absent and inactive, or overly reactive.
- 801) The Board of Director's failure to investigate the accuracy of Laxen's claims against Conklin prior to terminating Conklin is reprehensible. They reacted emotionally to a highly charged topic, and in doing so, failed to act rationally, professionally or responsibly.
- 802) The Board's unwillingness to check facts and verify any information presented to them is what allowed Paul Morgan and his associates employed by the CNYPSCA to embezzle over \$900K in just 6 years.
- 803) The Board's unwillingness to check facts and verify any information presented to them is what allowed them to unquestioningly accept months of inaccurate financial

information provided by the Interim Director, and then be hoodwinked by Laxen who blamed Conklin to cover up her own malpractice.

- 804) Upon information and belief, Marsh knew of Laxen's intent to assassinate Conklin's character and demand her termination, but Marsh never advised Conklin about it or advocated for her to have an opportunity to address the Board.
- 805) Upon information and belief, Marsh allowed Laxen to push for Conklin's termination when she discovered that, under the Bylaws, the failure to file the DEA agent registration was ultimately Marsh's responsibility, and not Conklin's.
- 806) Marsh's sister, the HR Director, was also responsible for failing to file the updated DEA registration after she advised Conklin in March 2017, that she would submit the paperwork to name the new agent, and yet failed to do so until after May 17, 2017.
- 807) Laxen, Marsh and Rachetta found their scapegoat in Conklin, and choreographed her termination to protect themselves from the repercussions of their failures.
- 808) Upon information and belief, Laxen and Marsh secretly colluded with members of the Board to ensure the termination would occur.
- 809) Conklin had only just begun implementing positive changes in the shelter and was diligently accomplishing items identified in her agenda when she was abruptly and unfairly expelled from her position as Executive Director.

Conklin's Turn to Speak

- 810) After waiting in her office for well over an hour while Laxen presented her case, Conklin was escorted back into the meeting by Marsh.

- 811) Conklin was given no calm or professional opportunity to discuss or address the allegations made against her.
- 812) Conklin was not advised of the specific allegations made against her. She had to surmise them based on what words and tones she could hear from her office and the simultaneous texts from Kulesa.
- 813) On her way back to the table, Conklin was aware that Laxen had been maligning her, noticed that Laxen was no longer present at the table.
- 814) Conklin was prepared to discuss the May17, 2017 events and decision to euthanize the cats, as well as discuss the items on her agenda, as she presumed the regular monthly Board meeting had resumed.
- 815) The moment she sat down, however, Conklin was under attack.
- 816) The meeting was in chaos, and an unstructured cacophony of overlapping accusations by various Board members ensued.
- 817) Conklin was blindsided and had no idea her job was on the line, even though the decision had already been made.
- 818) Conklin was attacked, accused and harshly confronted by several aligned Board members. One would hurl an accusation, and as she would attempt a response, another would interrupt her with another accusation.
- 819) The more Conklin tried to sort through the denunciations to determine what she should address first, the more Williams, Jacobson and Pirro interrupted her, spoke over her, and refused to let her speak.

- 820) Although Conklin would have gladly answered any and all questions the Board may have had, these three members refused to even pose a question to her, despite the protests by some other Board members.
- 821) Questions were not asked, but rather, accusations were launched, and a few members chose to interact with Conklin by uttering rhetorical snide comments, insults and nonsequiturs.
- 822) Specific Board members, Jacobson, a recent graduate of law school and Williams, an Onondaga County Legislator, as well as Pirro, were quick to take hold of Laxen's 'cat-hater' accusation.
- 823) Conklin was stunned by what they were asking, such as "How could you leave a suffering animal in a cat carrier to die alone?" and "How could you kill healthy cats?" and "Why would you ever consider a volunteer's opinion?"
- 824) Each time Conklin started to speak, or ask a question, one of those three would cut her off and prevent her from responding.
- 825) Upon information and belief, their interruptions were so quick and so fierce, that their intent was to either silence her, or not give the other Board Members present a chance to hear the explanation and the truth.
- 826) Jacobson asked no questions of her, but rather, kept shouting at Conklin "15 cats, 15 dollars." "15 cats, 15 dollars." Conklin wasn't sure where the "15 dollars" reference came from, and inquired about the significance of that figure.
- 827) Money was not the consideration in the decision to euthanize the cats, and Conklin had never denied any animals' medical care, and she could not, in the chaos decipher how or why money was being discussed.

828) On numerous occasions, Conklin authorized the treatment of sick or injured animals at other area veterinary hospitals because Laxen was either unwilling, unable or unavailable to provide the care:

- A. Conklin sent a dog for a C-section because the dog wouldn't have been able to have the puppies on her own.
- B. Cats went for ultrasounds and sonograms and any other test or treatment requested by any veterinarian.
- C. Conklin sent dogs for tooth extractions to remove broken or rotting teeth with one of the animal hospitals she had established a partnership.
- D. Conklin sent rabbits to an animal hospital to be spayed and neutered.
- E. Conklin approved the request by a cruelty officer to have an emaciated and clearly suffering cat taken to an emergency hospital to have it humanely euthanized. [See Exhibit AQ].
- F. Conklin directed a kitten with a protruding eyeball caused by infection be taken to an area hospital for treatment.
- G. Conklin directed another kitten with a bone-exposed wound to the leg be taken for treatment at another area hospital.
- H. With Conklin's consent, multiple dogs suffering from post-surgical complications from being spayed or neutered at the CNYSPCA vet center were taken to other area hospitals for emergency care.

829) As the CNYSPCA is a not for profit organization, she also paid, out of her own pocket, for treatment of sick or injured animals, and personally paid several thousand

dollars to have an abused and starved animal, brought in by the cruelty department, surgically treated at Cornell and VMC.

830) Jacobson's accusation that Conklin wasn't willing to pay \$15 to treat a cat is outrageous and unsupported by any facts, or Conklin's pattern of behavior during her 5-month tenure, or even years of volunteer services and countless donations.

831) Those figures came from Laxen, after she misled the Board into believing Conklin euthanized the cats because it was cheaper than treating them for ringworm.

832) Such a blatant and reckless lies shock the senses.

833) In the same vein, Williams was suddenly attacking Conklin for "hiring all these new salaried employees." The implication of that comment was that Conklin was not willing to spend money on medical care for cats, but was willing to spend it on salaries.

834) It is not clear whether Laxen bamboozled Williams, or whether Williams had her own separate agenda and reasons to eviscerate Conklin, but either way, the implication was inaccurate, unfair, and unjust.

835) Despite Williams' accusations, the salaried employees hired were already Board-approved positions. In fact, prior to that evening, Williams had approved the hiring of these employees after Conklin sent the Board an email specifically outlining the shelter's staffing needs, by responding "*Kerrin you have my support.*" Several other members responded with complete support of Conklin's requests for additional hires. [See Exhibit S]

836) For Williams to suddenly shift gears and attack Conklin for adding staff after Williams herself approved it, calls into question the true motivation for such an attack.

- 837) Upon information and belief, at least three (3) additional full-time employees have been hired since Conklin's unjust termination.
- 838) Williams and Danielle Cunningham scoffed at the idea of including a volunteer in a euthanasia decision.
- 839) Williams interrupted Conklin when she tried to explain that this volunteer, Schaefer, had previous shelter experience and had experienced such outbreaks, and was a credible resource. Williams rolled her eyes and continued to speak over Conklin and refused to allow her to explain.
- 840) This same volunteer, Schaefer, involved in the decision, has since been hired by the CNYSPCA as the Humane Educator. This is the same person for whom Williams and Cunningham expressed outrage that her opinion would matter in the decision.
- 841) This volunteer-turned-employer has a daughter, Denise Adams, who has also since been hired by the CNYSPCA as a full-time Kennel Director.
- 842) The previous Kennel Director, Kulesa, involved in and promoting the decision to euthanize, has since been elevated to Fundraising & Special Services Coordinator.
- 843) Pirro criticized Conklin for euthanizing "healthy" animals, when there was no evidence that these cats were healthy. All evidence pointed to them having ringworm, as every one of the cats removed from Mitzi's room and isolated, developed ringworm within just a few days.
- 844) Members scorned Conklin for euthanizing the cats, at Laxen's bidding, noting that ringworm is treatable. None understood the implication of ringworm in a shelter, including Laxen, nor did they try.

- 845) Despite asking for clarification on the accusations, she did not receive an answer. During her brief return to the meeting, Conklin had not been directly asked a single question, nor had she been permitted to utter a single complete sentence without being interrupted.
- 846) Without being given a chance to respond to the accusations, and with no meaningful dialogue or discussion, Conklin was simply dismissed back to her office after being in the meeting for less than 10 minutes.
- 847) After an additional hour of waiting in her office, with no word from the Board, Conklin briefly left the shelter to take care of her own animals at home, with the intent of returning to the shelter thereafter.
- 848) The choice to retain an inexperienced veterinarian that works a few hours a day, one day a week, over someone who had dedicated every single day of her life since the moment she was hired, toward the betterment of the shelter, seemed unfathomable to Conklin.
- 849) Conklin made more positive and progressive changes in the five (5) months of her employment than had been made in years. Marsh, Bennett, Maxween, Romano, Hurlihey, and Brown had all commented on the dramatic improvements at the shelter, and the positive impact Conklin was having on the shelter's reputation.
- 850) For reason's that remain to be seen, Laxen's assault caused the Board to overlook the months of progress that had already occurred, and the years of progress that would have occurred.

- 851) Upon information and belief, Jacobson made the first Motion to Terminate. Jacobson had never before made a motion or seconded one in any board meeting Conklin attended.
- 852) Upon information and belief, Yoffa seconded the Motion.
- 853) The vote as to whether to terminate Conklin was taken by ballot, not voice, as expressly outlined in the Board's Bylaws.
- 854) Conklin was terminated.
- 855) Conklin's spouse was present throughout the meeting, and upon information and belief, implored the other members to think for themselves, to ask questions, to not blindly believe things they knew in their hearts was not true, and to consider all the good that Conklin had done in such a short period of time, before they voted without actually giving Conklin a chance to be heard.
- 856) Conklin's spouse did not participate in the vote.
- 857) Upon information and belief, Conklin's spouse, and other board members, knew that Conklin had put her heart and soul into the better of the shelter and the lives of the animals, and that the overreaction of the other Board members, was tragic.
- 858) Later that evening Conklin's spouse was forced to tell her the board voted to terminate her, as no one else from the Board, not even Marsh, had contacted her to let her know.

The Post-Termination Investigation

- 859) The Board failed or refused to conduct an investigation to verify the accuracy of Laxen's allegations surrounding the events of May 17, 2017, or the legitimacy of

Pulaski's and LaMontagne's complaint to Yoffa, prior to deciding to terminate Conklin on May 25, 2017.

860) Instead, several Board members engaged in post-termination interrogations of staff members on Friday, May 26, 2017 and Saturday, May 27, 2017.

861) Upon information and belief, the purpose of these interrogations was not to determine the truth behind the events of May 17th, 2017, but instead to fabricate a retroactive justification for Conklin's termination and manipulate evidence to support the allegations levied against Conklin by Laxen.

862) Board members Williams, Pirro, Marsh and Jacobson were present to question the staff involved in the euthanasia and its decision. These were the same Board members leading the charge against Conklin the night before.

863) Neither Conklin, nor anyone on Conklin's behalf, was advised of or invited to these ex post facto inquiries.

864) The volunteer, Schaefer, phoned Conklin Friday morning and was sobbing, telling her how sorry she was and asking if there was anything she could do to help. Schaefer had also sent a text to Conklin the evening of May 17th, expressing her position that the euthanasia's were the right decision.

865) Upon information and belief, Schaefer was not questioned by the Board members whatsoever, even though she was present in the shelter during the Board's post-termination information gathering process.

866) The Kennel Director , Kulesa, was off on Friday, May 26, 2017, but Conklin informed him via text that she believed she had been terminated because of the cat euthanasia on May 17, 2017.

- 867) Kulesa, sent several texts back to Conklin stating: “*I am so sorry and I feel unbelievably responsible*” for the termination. [See Exhibit AR]
- 868) Kulesa acknowledged to Conklin that he and Fields brought the recommendation for the euthanasia to Conklin: “*Kerrin, Shelly and I cannot tell a lie, we stand behind our decision to bring it to you for the better of the shelter.*” [See Exhibit AS]
- 869) Upon information and belief, just these four (4) Board Members conducted the post-termination interrogations of the staff members involved with the discussion of the infected cats.
- 870) Upon information and belief, no other Board member was privy to the responses given by the staff members regarding the course of events that led to the final decision to euthanize the cats for the safety of the public and the shelter.
- 871) Upon information and belief, Fields was questioned at length by Pirro, Williams and Jacobson while Marsh sat quietly in the room.
- 872) These three members involved in the relentless questioning of the staff members were the three (3) most intent on attacking Conklin the previous evening.
- 873) Upon information and belief, Fields repeatedly advised them that they (she, Kulesa, and Parody) came to Conklin with the recommendation to euthanize the cats.
- 874) Fields repeatedly responded in the negative when Williams continued to badger her with the same question as to whether Conklin “ordered” the euthanasia’s.
- 875) Williams was overheard asking the same question multiple times, pressing Fields to acknowledge: “..but she [Conklin] ordered it”, to get the response she was seeking.

- 876) Though Fields was heard repeatedly denying that Conklin “ordered” it, Williams was relentless until finally coercing Fields into succumbing with: “Well she’s my boss, so I guess so.”
- 877) Fields later sent Conklin a text noting that she felt she had been “*run over the coals*” and “*I have no problem saying the truth that myself and CJ came to you with euthanasia*”. [See Exhibit AT]
- 878) Upon information and belief, Williams used this same tactic on Parody.
- 879) Kulesa later expressed concern for his job, indicating he had children to consider and his future: *I am so sorry but I need to ask this because I need to plan for tomorrow and for the future with my kids, was there mention should Shelly or myself be at all concerned as well?*” [See Exhibit AR]
- 880) After the difficult and tenuous interrogations of Fields and Parody on the 26th, Kulesa sent another text message that evening to Conklin informing her: “*...long time staff is standing behind you and the decision we ALL made...*” He also adds; “*you gained staff support and we are telling the board in our questioning that it was the right call.*” [See Exhibit AU]
- 881) Upon information and belief, on Saturday, May 27, 2017, the same Board Members then interviewed Kulesa.
- 882) The morning of Kulesa’s meeting with the board, he again sent Conklin a text indicating that he was “*being 100% honest about it all. That includes that this was brought to you by us, that this is a public health concern, and a health concern to the animal population.*” [See Exhibit AV]

- 883) Although Kulesa did not confirm the actual events or the responses he provided during his interrogation by those Board members, he advised Conklin that Marsh asked him to be in charge of the shelter. [See Exhibit AW]
- 884) All three staff members, Kulesa, Fields, and Parody kept their jobs with no repercussions or actions taken against them by the Board, and as noted previously, Kulesa was promoted.
- 885) Conklin had little or no contact with the staff members or volunteer thereafter.
- 886) Throughout this ordeal, the Board has repeatedly crucified Conklin for authorizing the euthanasia of 15 cats from Mitzi's room, because, according to Pirro, they were "healthy cats" or because ringworm is treatable.
- 887) On May 30th at 10:38 a.m., five days after the decision to terminate Conklin for authorizing the euthanasia of ringworm infected cats, according to the shelter's euthanasia report, Laxen euthanized a single cat for Ringworm, yet there was no Board outrage or termination of Laxen as a result of that act, though it allegedly "*violated the mission of the shelter.*" [See Exhibit AX]

Friday May 26, 2017 Meeting between the Board,

Animal Advocacy Groups, Staff Volunteers and Donors

- 888) Upon hearing of Conklin's termination, and the reasons given as to the basis, the heads of several Central New York animal advocacy groups reacted to the news and organized.

- 889) Within hours, they requested and scheduled a meeting with the Board to express their objection to Conklin's termination, and request her reinstatement.
- 890) The organizations represented included CNY Animal Cruelty Task Force, Cuse Pit Crew, Animal Alliance of Greater Syracuse, Veterinary Medical Center of CNY, and CNY Pet Training and Behavior, thereby representing every facet of animal care in the community.
- 891) They were joined by seasoned staff, including a Cruelty Officer, several long-time volunteers and financial donors, all of whom supported Conklin and were outraged by her termination, and the evisceration of the progress she was making at the shelter.
- 892) The group met with Pirro, Marsh and Jacobson to beseech them to alter the course they had hastily forged at the Board meeting the night before.
- 893) Upon information and belief, rather than engaging in a productive dialogue with this group, Pirro and Jacobson simply continued to malign and defame Conklin, and Pirro told them that she was terminated for "forcing" the staff to perform the euthanasia.
- 894) Upon information and belief, while repudiating any attempt to engage in a reasonable discussion, Jacobson likened the events of 5/17/17 to manslaughter, presumably referencing NYS Penal Law Section 125.
- 895) Upon information and belief, Jacobson, a new lawyer, may have confused manslaughter with the humane euthanasia of an animal, performed after careful evaluation of all other viable options to prevent a potentially disastrous epidemic likely to inflict immense suffering on the infected animals.
- 896) Comparing a carefully considered, humanely performed euthanasia, to the criminal offense of manslaughter, particularly by a lawyer, is reckless and irresponsible.

- 897) Upon information and belief, Pirro advised the group that Conklin had engaged in the “inappropriate use of controlled substances.”
- 898) Upon information and belief, the group openly supported Conklin’s decision with regard to the euthanasia.
- 899) Upon information and belief, the group reminded Pirro, Jacobson and Marsh that Laxen did not have shelter medicine training, experience that is vital in such situations.
- 900) Upon information and belief, the donors present advised the Board members that they questioned whether they would continue to financially support the organization if the Board could not put the best interests of the shelter and the animals above their own unwillingness to admit that they overreacted and made an error.
- 901) Upon information and belief, one of the volunteers blamed the Board, and Pirro directly, for not providing any support to Conklin while she was trying to put the shelter on the right track, and further noted that if Conklin was terminated for a mistake, then Pirro should as well, given the amount of money stolen on his watch.
- 902) Marsh again sat quietly so to not interrupt Pirro, and did not engage in the conversation.
- 903) On that date, the group hand-delivered a signed letter to the Board identifying the progress Conklin had made, their hopes for the future of the shelter under her leadership, and their request for her reinstatement. [See Exhibit AY]
- 904) Upon information and belief, the heads of these organizations had never before come together, physically present all at once, to join forces for a single purpose, until this meeting.

- 905) Upon information and belief, the group advised Marsh, Pirro and Jacobson of the significance of this collective dissent, and offered their assistance in righting this wrong.
- 906) The impetus behind this coalition was to assist the Board in efficiently and effectively restoring Conklin to her position, and along with their assistance, work toward the common goal of moving the CNYSPCA forward.
- 907) A few days later, on Tuesday May 30, 2017, this group sent another email to the entire Board, confirming their position and their request for Conklin's reinstatement, in hopes the Board would recognize their error and reverse it. [See Exhibit AZ]
- 908) Members of other animal advocacy groups, including two highly respected organizations created for the safety and protection of cats, have also issued separate statements in support of Conklin, her work at the shelter, and the vision she had to move it forward. [See Exhibit BA]
- 909) Despite the outpouring of support from learned individuals representing the most respected advocacy groups in the region, the Board refused to admit their error, disregarded the pleas, and continued to issue false and defamatory statements to the press.
- 910) The full-time Cruelty Officer and former decorated Syracuse Police Officer who attended the May 26, 2017 meeting fully supported Conklin and her reinstatement. Within days after the Board refused to reinstate Conklin, this officer resigned.
- 911) These groups and individuals support, and continue to support, Conklin's reinstatement despite being under the impression that a mistake had been made, because they believe in and share Conklin's vision for the shelter's future, and continue to believe in her.

912) Further investigation revealed that mistake believed to have occurred, did not, and had the Board taken the time to fully, fairly and objectively investigate, neither the termination, nor this action, would have occurred.

Wednesday May 31, 2017 Special Meeting

913) As of May 31, 2017, early one week later, Conklin had not yet been officially notified of her termination.

914) On May 31st, during a Special Meeting of the board, Conklin waited outside the CNYSPCA with her attorney to await the possible chance of being able to speak with the board.

915) The board was aware of Conklin's presence, though they later publicly denied knowing she was there.

916) The Interim Treasurer, Sandra Bennett told Conklin's attorney it was a "closed meeting" and they could wait outside.

917) Conklin's spouse, still a Board member at the time, was dismissed from the meeting, but was asked to remain nearby to take part in other matters following the Board's discussion of Conklin's termination. Conklin's spouse remained isolated in a separate part of the shelter, for nearly three hours, waiting to return to the meeting to participate in other Board matters.

918) While waiting outside, Conklin noted that the cruelty officers were present that evening. They were present for questioning about the missing rifle, as confirmed by Pirro in a later statement to the media.

- 919) The one officer who had critical information supporting Conklin and the investigation into the rifle, Eggers, was the only officer not invited to this meeting.
- 920) Upon information and belief, and confirmed by Pirro's subsequent statement, these officers advised the Board that the rifle was purchased by Morgan with his own money, though no evidence has been presented to support this claim.
- 921) Inasmuch as more than \$500,000 of Morgan's money was money stolen from the CNYSPCA, it is likely that the assault rifle was purchased with the shelter's money, as it was stored at the shelter and transported in the cruelty vehicle.
- 922) Evidence that the assault rifle is not the shelter's property must be based upon more than the self-serving statements made by the officer involved.
- 923) Although the missing rifle was not the reason given for terminating Conklin, her spouse was not permitted to take part in this investigation as to the missing assault weapon.
- 924) After waiting for nearly four hours, Conklin was officially advised of her termination via on phone on May 31, 2017 by Williams, the Interim President, as Conklin sat in her car outside the CNYSPCA.
- 925) Later in the week Conklin received her Termination Letter indicating she was terminated on May 25, 2017 for failing to satisfy her duties as the Executive Director. [See Exhibit BB].

Board's False Statements

- 926) Subsequent to Conklin's termination, the Board has continued to disseminate false statements about her, the reasons for her termination, and their own policies.

- 927) The Board has irresponsibly engaged in this behavior in an attempt to defame and harm Conklin, and insulate themselves from blame for their reckless termination of Conklin.
- 928) The Termination Letter also referenced ‘procedures relative to animal care’ as a basis for the termination.
- 929) If such documented procedure existed, it was never provided to Conklin at any time prior to or during her employment.
- 930) Conklin did not violate any CNYSPCA policy on requiring “veterinary input” for the authorization of a euthanasia as indicated by the CNYSPCA’s statement released to the media.
- 931) There was no Euthanasia Policy in existence. Conklin was in the process of developing one and had indicated such in her eight (8) page agenda submitted to the Board in February 2017.
- 932) On the evening of her termination, prior to any vote being taken on that action, Conklin handed out to Board members copies of the draft of her euthanasia policy that outlined her recommendation for signatures, specified criteria, and majority vote.
- 933) In a statement to the media, Pirro erroneously stated the CNYSPCA had a policy in place, at the time of Conklin’s termination, which required signatures.
- 934) No such document existed and this statement was blatantly false and uttered solely to defame Conklin.
- 935) The euthanasia reports from the CNYSPCA records, previously mentioned above, directly and substantially refute this claim, further showing the Board’s intent to publicly defame Conklin.

- 936) Pirro is also quoted as saying Conklin's decision to euthanize the cats "...*wasn't necessary; it was just totally against the mission of the shelter.*"
- 937) It has not been made clear how Laxen's euthanasia of cats with ringworm, performed the following week was more acceptable to Pirro.
- 938) Pirro is also quoted as alleging that more than one issue had arisen during Conklin's tenure as Executive Director, but that euthanizing the cats was "*the tipping point.*"
- 939) Prior to May 25, 2017, not a single Board member ever communicated concern or displeasure with any of Conklin's actions, and if other issues had arisen, Conklin was not made privy to them.
- 940) Pirro wrongly told the media that Laxen "...*had told [Conklin] days before to lock down Mitzi's Room.*" Laxen never had any such conversation with Conklin.
- 941) It is not known whether it was Laxen or Pirro who created this falsehood, but Pirro perpetuated it.
- 942) Pirro is also quoted as saying: "*How somebody could come in and say 'I want to head this place' and then make a decision to put down healthy animals is beyond me.*"
- 943) Pirro's comments are incendiary and unsubstantiated.
- 944) Pirro's statement is unclear as to whether he believes that the euthanized cats were healthy and did not have ringworm, or that he considered a cat with ringworm to be healthy.
- 945) There is no evidence that these cats were healthy. Every cat isolated from Mitzi's Room after Laxen intruded the disease to the population, later developed the disease.

946) In the days that followed Conklin's termination, Laxen herself euthanized cats with ringworm, and must therefore be subject to the same level of sanctions as Conklin.

“Unlicensed Use of Narcotics”

947) The statement released to CNY Central on June 1st, also stated another reason for Conklin's termination was; *“that action also involved the unlicensed use of narcotics and put our veterinarian's license at risk”*. [See Exhibit AJ (again)].

948) Contrary to that assertion, there was no such *“unlicensed use of narcotics”* as stated to the media by the CNYSPCA. Such a statement was personally damaging to Conklin and was made in full knowledge of such effect.

949) Upon information and belief, the Board is intentionally misusing the terms “narcotic” and “unlicensed” to associate the negative connotation of the terms with Conklin.

950) The drugs used in the euthanasia are not considered narcotics, but are “controlled substances.”

951) The term “unlicensed” is erroneous and intentionally misleading as well, as the LVT attending and performing the euthanasia was licensed.

952) The Euthanasia technicians require certifications, and the DEA Agent requires registration.

953) The drug used to humanely euthanize animals at the CNYSPCA is Beuthanasia-D Special which is a trade name for Phenytoin/pentobarbital, an animal drug product used for euthanizing non-food animals. Beuthanasia-D Special contains a mixture of

phenytoin and pentobarbital, and is administered as an intravenous injection in such a manner so as to cause humane, painless, and rapid death.

954) These drugs are classified by the Drug Enforcement Administration as Class III substances and are not considered narcotics.

955) The use of the word ‘unlicensed’ in the media release another attempt to deflect attention from the unfulfilled obligations of the Board President, whose obligations under the Bylaws require her to ensure all certificates, registrations, reports and licensures remain in compliance with all federal and state agencies.

956) Neither the shelter nor Conklin, as an officer of the agency, requires a license to order, store or dispense controlled substances.

957) The failure of the Board to differentiate between licensure, certification and registration is indicative of its lack of involvement and understanding in the most fundamental elements of operating a shelter.

958) The false publication of the term “unlicensed” was yet another inaccurate public accusation intended to humiliate and defame Conklin.

Laxen’s Responsibility for Controlled Substances

959) As the paid Veterinary Manager for the CNYSPCA’s veterinary center, Laxen is responsible for the security and protection of the controlled substances used for animal euthanasia’s.

960) Controlled substances classified as CIII have explicit security requirements and must be contained in a securely locked, carefully monitored, unit.

- 961) The CNYSPCA's veterinary center was equipped with an exterior alarm system and a combination lock on the unit which stored the CIII controlled substances, fully adhering to security protocols.
- 962) The CNYSPCA's veterinary center was a separate building from the shelter and was equipped with security code panels on entry doors and they were to remain closed and secure at all times.
- 963) All medications and controlled substances were stored in the vet center and the regulated controlled substances, as required by state and federal mandate were locked in a separate vessel, consistent with legal requirements noted above and were controlled by a combination lock.
- 964) The responsibility for securing the CIII medications is Laxen's, and she was responsible for establishing and enforcing any necessary vet center protocol pertaining to these controlled substances.
- 965) Laxen failed to secure these controlled substances, as evidenced by the staff's ability to access and utilize those drugs on May 17, 2017.
- 966) Laxen failed to establish or enforce the necessary protocol pertaining to these drugs, as evidenced by the staff being unaware that they should not have been able to access and utilize those drugs.

The Staff Performing the Euthanasia

- 967) Laxen was the contracted veterinary manager for the CNYSPCA's vet center, and was responsible for all training, supervision and guidance of veterinary staff members.
- 968) A Licensed Veterinary Technician is authorized under the NYS Agriculture and Market Laws to euthanize an animal. [See Exhibit BC - § 374. 3. a]

- 969) The CNYSPCA Job Description and Requirements for the Licensed Veterinary Technician, Arrison specifically states, “Perform Euthanasia”. [See Exhibit Z].
- 970) Arrison is licensed in the state of New York as a Licensed Veterinary Technician and reports directly to Laxen. She is required to know the proper protocol for the ordering, dispensing and administering CIII medications used in humane euthanasia.
- 971) Arrison was experienced in veterinary practice management, and took a pay cut to work with the shelter to address its lack of such veterinary management. Conklin sent a text advising Laxen of her experience. [See Exhibit BD]
- 972) As a member of the veterinary staff, Arrison reported directly to the veterinarian, as identified in her job description. [See Exhibit Z (again).]
- 973) Arrison was hired into and accepted the role of Licensed Veterinary Technician under the supervision and guidance of Laxen.
- 974) Laxen, as the overseer of the CNYSPCA veterinary center, is responsible for creating or enforcing any veterinary policies, practices and protocols.
- 975) The other veterinarians, and all veterinary staff, reported to Laxen, and Laxen reported directly to Conklin. Conklin entrusted the vet center operations to Laxen in her role as the paid Veterinary Center Manager.
- 976) Laxen was emphatic in her conviction of Arrison’s skills, judgement and execution of any tasks required by the Licensed Veterinary Technician, and Laxen expressed to Conklin that she was very confident in Arrison and trusted her knowledge in the position to which she was hired.

- 977) Upon information and belief, Laxen gave the code needed to access the medication to Arrison, thereby granting the LVT the authorization to utilize the drugs under Laxen's D.E.A number.
- 978) Beuthanasia-D Special is secured in the vet center in a combination locked receptacle.
- 979) On May 17, 2017, Arrison, the Licensed Veterinary Technician was able to access the Beuthanasia- D Special in the locked receptacle by using the combination given to her by Laxen.
- 980) On that date, Arrison, euthanized thirteen (13) of the fifteen (15) cats and supervised two (2) other staff members who had completed a 2-day training course to become Certified Euthanasia Technicians.
- 981) Beuthanasia-D Special was the drug used to euthanize the cats.
- 982) The requisite to attain final certification required a letter from either two (2) licensed veterinarians or one (1) licensed veterinarian and one (1) licensed veterinary technician.
- 983) Upon information and belief, each of the two staff members, Fields and Parody, performed one euthanasia each, under the supervision of Arrison, which was the first requirement towards gaining their certification as Euthanasia Technicians.
- 984) All three employees were acting accordance with the NYS Department of Health, to fulfill the requirements necessary to obtain written certification as Euthanasia Technicians. [See Exhibit BE].

D.E.A Agent

- 985) The New York State Department of Health Bureau of Narcotic Enforcement required the CNYSCPA must be registered with the Department because it is engaged in the euthanasia of animals. An agent is registered with the Department of Health and the Federal Drug Enforcement Administration (DEA) to purchase, possess and dispense a controlled substance.
- 986) The previous D.E.A Agent for the CNYSPCA was the former Development Director, Para. Upon her resignation, a new DEA Agent had to be named and registered with the Department.
- 987) Upon Para's resignation in March, 2017, Rachetta initiated and communicated to Conklin the need to remove Para as the agent and register another in her place and stead. [See Exhibit BF].
- 988) Rachetta took the registration form from Conklin and advised Conklin that she would register the new agent immediately.
- 989) On March 22nd, Rachetta identified the new Agent to be registered to Conklin and Conklin confirmed. [See Exhibit BG].
- 990) Although Rachetta assured Conklin in March, 2017 that she would advise the Department of Health of the change in the registered agent, she failed to do so.
- 991) Conklin trusted Rachetta to do what she said she would so, and was unaware that Rachetta had never completed the task of assigning and registering a D.E.A Agent, and securing the certification of the same with the state.

992) On May 19th, after the ringworm cats had been euthanized, Rachetta indicated in an email to Conklin, that the D.E.A Agent paperwork had never been submitted to the state. [See Exhibit BH].

993) According to the CNYSPCA Bylaws the responsibility to ensure all certificates required by law are properly kept is that of the President of the Board, Marsh. [See Exhibit BI]

994) Although Marsh was directly responsible for ensuring the registration had occurred and new certification received, her sister, Rachetta instead assumed that responsibility on her behalf.

995) As such, both Marsh and Rachetta failed to ensure the shelter possessed a certification for its D.E.A Agent.

996) Upon information and belief, after realizing they failed in their responsibility to ensure compliance with registration and certifications, Marsh and Rachetta colluded with Laxen to focus the blame on Conklin.

CYSPCA Bylaws and Board violations

997) The CNYSPCA Board of Directors routinely failed to adhere to their Bylaws. [See Exhibit BI & Exhibit BJ].

998) The Bylaws expressly state: “At all meetings...votes shall be issued by voice and the outcome recorded in the minutes for the meeting.”

999) The Bylaws allow ballot vote only “for elections of officers and directors” of which Conklin was neither.

- 1000) The Board terminated Conklin by ballot vote, though not authorized to do so.
- 1001) The termination is therefore not valid.
- 1002) The Board must take a re-vote in accordance with its Bylaws, if it still intends to terminate Conklin, as she remains, to this date, the lawful Executive Director of the CNYSPCA.
- 1003) Upon information and belief, the Board violated their own governing laws in three separate instances on the evening of Conklin's termination and it remains questionable as to whether Conklin actually remains the Executive Director of the CNYSPCA.
- 1004) A letter was hand delivered to the Interim Director by Conklin's attorney, Joe Cote on May 11th, identifying the violations of the Board in terminating Conklin. [See Exhibit BK]
- 1005) The Board did not acknowledge or respond to such letter by the due date indicated in the letter.
- 1006) As a courtesy to the Board, as is was uncertain as to whether the new Interim Director distributed the letter, a follow up email was sent by Cote's office to all of the remaining Board members including both the original hand delivered letter and another, which extended the date of a requested response in the event not all Board members were aware of the original letter. [See Exhibit BL]
- 1007) The Board was given multiple opportunities to correct its multiple errors, and instead, it chose to do nothing.
- 1008) The Board was given the opportunity to reinstate Conklin and protect the agency and the animals from further distraction and disruptions, and it chose to do nothing.

1009) The Board was advised that a revote on the termination was needed to make it effective, and it did nothing.

Board's Removal of Conklin's Spouse

1010) Following Conklin's termination, her spouse, though in staunch disagreement with the decision to terminate Conklin, remained an active member of the Board of Directors.

1011) Prior to becoming a member of the Board, Conklin's spouse also volunteered at the shelter during the same periods as Conklin, and had wanted to join the Board since 2014, in hopes of effectuating much needed changes to the facility, and to the care and treatment of the animals.

1012) Upon information and belief, her position on the Board had been a long-awaited goal because of her desire to be in a position to make a difference in the lives of the shelter's animals.

1013) Despite the termination of Conklin, her spouse intended to remain on the Board to ensure the shelter continued to move in a progressive direction, rather than revert back to the failures of the prior administrations.

1014) Although actively involved in the Board, and was on the Bylaws committee, the Events committee, and the Finance committee, donated thousands of dollars and hundreds of volunteer hours to the shelter, she nonetheless received a letter from Williams on June 15, 2017, then the Interim President, demanding that she resign. When she refused, Williams called for a vote to remove her.

1015) Williams cited Conklin's intention to file this suit as the basis for the decision.

1016) Upon information and belief, her removal from the Board was to further punish, harm and humiliate Conklin for exercising her constitutional right to defend herself and seek redress against this unjust termination.

1017) Upon information and belief, her removal from the Board was in direct retaliation for Conklin for exercising her constitutional right to have this Court hear this case.

Conklin's intent

1018) If this complaint is the only means to be fairly heard, then this is the route Conklin will pursue.

1019) Laxen caused Conklin's termination with her intentional misrepresentations and unprofessional behavior.

1020) Marsh and Rachetta allowed and/or caused Conklin to take the blame for the lack of certification for the DEA agent, knowing that she was not the responsible party.

1021) The Board failed the community, the shelter and the animals by refusing to fully and fairly investigate the self-serving allegations made against Conklin by the same veterinarian who created the crisis in the first place.

1022) The Board hastily reacted to an emotionally charged event and wrongfully terminated the person who represented positive and progressive changes for the shelter and its animals.

1023) Pirro, Williams and Jacobson repeatedly and publicly defamed Conklin in an attempt to garner public support and justify their poorly decided, ill-performed, unlawful and inequitable termination.

1024) Conklin is fighting to be reinstated with the intention of finishing what she started, for the sake of the animals in the community, as being the Executive Director remains her “dream job.”

1025) Conklin is not seeking redress from the CNYSPCA to secure or divert any monies needed for the protection, care, safety and/or welfare of the animals housed at the shelter. On the contrary, Conklin is seeking damages from the CNYSPCA Board of Directors, as they are the individuals directly responsible for her unwarranted termination.

1026) Conklin is seeking damages from Laxen personally, as her negligent actions directly led to the euthanasia of the cats on May 17, 2017, and her subsequent malicious actions were the direct cause of Conklin’s termination on May 25, 2017.

First Cause of Action

Tortious Interference with Employment Relationship as against the Defendant Laxen

1027) Plaintiff hereby incorporates the allegations contained in the above paragraphs.

1028) The place where the acts and omissions set forth above took place are 5878 East Molloy Road, Syracuse 13211.

1029) At all times, relevant the defendant Laxen knew or should have known that Kerrin Conklin had a business/employment relationship at CNYSPCA and yet she worked to tortuously interfere with that business relationship for the purpose of maliciously injuring the plaintiff and insulating herself from repercussions for her own misconduct and veterinary malpractice.

1030) Laxen, knew or should have known, that the allegations that Conklin had needlessly put cats to death were without a basis and would likely result in her termination.

1031) Laxen used those allegations as a pretext for interfering with plaintiff's business relationship which was done solely for the professional benefit of defendant Laxen.

Second Cause of Action

Defamation as Against Defendants Laxen and CNYSPCA Board of Directors

1032) Plaintiff hereby incorporates the allegations contained in the above paragraphs.

1033) Each named defendant made false, malicious, and scurrilous statements concerning Conklin, which they recklessly asserted when they knew or should have known, such allegations were false.

1034) The false statements made by each listed defendant reflected on Conklin's professional integrity, competency, and character and constituted defamation per se.

1035) These outrageous, shocking, and false statements were made by each in reckless disregard of the truth.

1036) The false statements were then published to the local press with the intent of harming the plaintiff.

1037) Upon information and belief, the defendant Laxen, a former member of the Board, demanded the Board discharge Conklin in order to hide from the Board her own malpractice in the care of the cats which had been euthanized.

1038) Additionally, Laxen demanded Conklin's discharge threatening to resign her position as the sole managing veterinarian working at the CNYSPCA thus employing undue influence on the members of the Board.

1039) Following the discharge of Conklin the defendants made false statements and communicated these false statements to the public at large, for the improper purpose of bolstering the false allegations wrongfully published by Laxen to the Board rather than protecting the animals housed at the CNYSPCA from the continued malpractice of Laxen.

Third Cause of Action

Intentional Infliction of Emotional Harm as Against Defendant Laxen and CNYSPCA

1040) Plaintiff hereby incorporates the allegations contained in the above paragraphs.

1041) Each named defendant herein intended to cause Conklin emotional distress as punishment for having made truthful statements to the public and for her having acted as a whistle-blower regarding the medical mismanagement of the care provided by Laxen.

1042) The conduct of each defendant named above was so extreme and outrageous so as to go beyond the bounds of common decency and that was such that the conduct can be considered utterly intolerable in a civilized society as it was performed for the purpose of causing harm to the plaintiff and insulating the defendants from financial harm and utterly disregarding her reputation and emotional wellbeing.

1043) These claims against Laxen accrued on or about May 25, 2017.

1044) These claims against CNYSPCA accrued on or about May 31, 2017, when the defendant CNYSPCA made false statements to the press.

1045) The defendant CNYSPCA also sought to inflict emotional pain and suffering on June 15, 2017, when the Board of the CNYSPCA removed the wife of the plaintiff from the Board for the false reason that her wife had a conflict of interest.

1046) The defendant CNYSPCA also sought to inflict emotional pain and suffering on June 15, 2017, when the Board of the CNYSPCA removed the wife of the plaintiff from the Board in retaliation for Plaintiff seeking legal recourse as a result of her termination.

1047) Upon information and belief, other Board members have close relatives working at the CNYSPCA without causing the Board to claim a conflict of interest.

Fourth Cause of Action

Breach of Contract as against Defendant CNYSPCA

1048) Plaintiff hereby incorporates the allegations contained in the above paragraphs.

1049) The defendant CNYSPCA, the employer, wrongfully terminated the employment of the plaintiff.

1050) The defendant offered the plaintiff employment for the fixed term of two years at the rate of \$75,000.00 per year.

1051) The plaintiff accepted this employment and moved from Florida to Syracuse forgoing other opportunities.

1052) The employer has attempted to discharge her from the employment without just and sufficient cause.

- 1053) The contract of employment has a provision for a probationary period during which the plaintiff could be terminated at will.
- 1054) However, Plaintiff's probationary period ended on July 19, 2017, and the terms of the employment contract are in full force and effect thru January 19, 2019.
- 1055) The attempt of the employer to discharge the plaintiff was not in accordance with the rules governing the Board and as a result plaintiff was not terminated during the probationary period.
- 1056) The defendant CNYSPCA are in breach of contract for improperly terminating Conklin without just cause in accordance with those terms.
- 1057) The plaintiff accepted employment and turned down other opportunities in reliance upon the assurances that her employment would last the term of the contract absent just cause.
- 1058) The at will language in the contract was inserted with the intent that it would be irrelevant as soon as the probationary period had ended.

Punitive Damages as Against Laxen

- 1059) Plaintiff hereby incorporates the allegations contained in the above paragraphs.
- 1060) The acts listed above were intentionally and maliciously performed and therefore subject the defendants to punitive damages.
- 1061) The facts set forth above, establishes by clear and convincing evidence, conduct by each of the named defendants, that was sufficiently oppressive, fraudulent, malicious, and outrageous, to support a claim for punitive damages.

Wherefore, plaintiff demands damages for:

- ❖ Actual financial harm against in excess of Two Million Dollars, \$2,000,000.00.
- ❖ Infliction of emotional pain One Million Dollars, \$1,000,000.00.
- ❖ Damage to reputation One Million Dollars, \$1,000,000.00
- ❖ Breach of Contract against the CNYSPCA One Hundred Fifty Thousand Dollars,
\$150,000.00
- ❖ Punitive damages against Laxen as to be determined by a jury.

Verification

The statements listed above are true to her own knowledge except as to those matters therein stated upon information and belief, and as to those matters she believes them to be true.

Kerrin Conklin

Sworn to before me this 31st day
of July, 2017

Joseph Cote
Cote & VanDyke LLP
214 North State Street
Syracuse, New York 13204