

AFFIDAVIT

STATE OF CALIFORNIA)
)ss.:
COUNTY OF LOS ANGELES)

EDWARD BOKS, being duly sworn, deposes and says:

1. I am currently the general manager of Los Angeles Animal Services. I began this position on January 2, 2006. LA Animal Services is a municipal department and I report directly to the Mayor of Los Angeles. We serve 3.9 million people over a 400 square mile area and operate six shelters on a \$20.1 million annual budget.

2. Prior to joining LA Animal Services, I was the executive director of Animal Care & Control of New York City, Inc. ("AC&C"), the contractor to the City of New York that performs animal control services and operates animal shelters in Manhattan, Brooklyn and Staten Island, and intake centers in Queens and the Bronx. AC&C is a 501(c)(3) not for profit corporation and I reported to its board of directors, the chairman of which was the Commissioner of the NYC Department of Health and Mental Hygiene ("DOH"), Dr. Thomas Frieden.

3. Prior to joining AC&C I was the executive director of the Maricopa County Animal Care & Control ("MCAC&C"), which was the largest animal control program in the U.S., providing services to 24 cities and towns and the unincorporated area of Maricopa County, Arizona. It's a community of about 9,200 sq. miles with a population of 3.2 million people. We processed about 62,000 animals a year. The agency was a division of the Maricopa County Department of Health. When I started, our budget was about \$4 million. When I left it was about \$9 million after negotiating cost recovery contracts with the towns and cities we served.

4. My involvement with managing animals goes back to my youth. I worked my way through high school and a couple years of college as a veterinary technician in a private veterinary hospital, Harper Woods Veterinary Hospital in Michigan, from about 1965 to 1971. I wound up as manager of the kennel operations and a veterinary technician.

5. I moved to Arizona in 1976. I was pastoring at the Grace Chapel of Phoenix. We started a private K through 12 private school for which I met the credential requirements to be the administrator and principal. There were 60 to 70 students at any one time. It was a very successful program. We had kids coming from other states to participate. The school became a very costly endeavor and that's where I was getting my salary. My pastoring was pro bono. So the school was eventually closed in 1985.

6. There was a job available at Maricopa County's Rabies/Animal Control, as it was known in those days, so I took that job and over the course of several years, I moved up through the ranks. I worked as an entry-level kennel officer where I cleaned kennels, cared for animals, euthanized animals, and worked on adoptions. I then became a field officer where I was in enforcement, enforcing animal control ordinances and issues. I then went into training, developing the training manual and policy manual that provided the training for staff. I then was promoted to director of field operations, after which I became the chief of staff working directly with the executive director. In early 90s, I resigned from the ministry and got involved with animal welfare full time.

7. I did take three years off to put together the Maricopa County Management Institute with Arizona State University that trained all the Maricopa County supervisors, middle managers and high-level executives in effective management theory and techniques. And it was an award-winning program. It won the National Association of Counties Award and also was cited in Governing Magazine.

8. I was called out of managing the Management Institute at a critical time for Maricopa County Rabies/Animal Control, as the department was falling apart and receiving a lot of bad press. I had long made it known to the chief executive office of Maricopa County that there was a department I could manage effectively, so in 1998 I was appointed director of Maricopa County's Rabies/Animal Control.

9. I went in and put together a strategic management plan and over the course of the next several years. We dramatically reduced the euthanasia rate and increased the adoption rate, embraced the no-kill philosophy and became a national model so much so that I had a reputation and was being recruited by municipalities all across the US to come to their communities. I was doing pro bono consulting, I was on the lecture circuit, and I was doing a lot of work for the humane community to get the message out that euthanasia need not be the methodology of choice for animal control departments.

10. During my tenure at Maricopa County Rabies Animal Control, I started an organization called Friends of Animal Care & Control, which was a 501(c)(3) separate organization whose mission was to raise funds for Animal Care & Control's life-saving programs. By the time I left, it was raising in the area of a quarter million dollars per annual event along with other funding from a Thrift Store and a Pet Calendar.

11. My first contact with the board of directors of AC&C of New York City was in 2003 when they reached out to recruit me as executive director. In particular, Dr. Jay Kuhlman, Sarah Hobel and Dr. Thomas Frieden initially contacted me by phone and then they set up a telephone conference interview. They made several offers over several months, which I continued to refuse because I was pretty content in Arizona and didn't want to come to New York. But after being persuaded by a lot of folks in the animal welfare community, including the folks at Best Friends, Nathan Winograd, Mathew Scully and others, that this would be good for animals not just in New York but across the country, I finally agreed to come on a part-time basis as a consultant for six months, which I did in July 2003. From July to December 2003, I ran the programs for both Maricopa County and New York City.

12. At the end of the six months, I felt I had sufficient confidence in the Maricopa County staff that I could move on comfortably and I also saw that there was a lot of potential for doing really good things in New York, so I agreed to take the job.

13. During the process of interviewing it was my believe that they did a full background check of me, and there was an understanding on my part that they understood my "no-kill" philosophy, which was rather new or an emerging philosophy in the animal control field. Also that my leadership management of the organization would be to implement programs which I knew were successful in Maricopa County, perhaps with some modification to address NYC needs, as it's generally agreed that there are a certain number of programs that can be replicated in any community with significant results.

14. Up until I signed the contract, everybody was pretty open to just getting me here. Once I was here, I had a conversation with Dr. Frieden where he suggested that I not use the term "no-kill" because it was too divisive. And I said it was only divisive if we defend the killing. But if we in animal control say that we want to take a lead in ending the killing, who's going to argue with that?

15. But, Dr. Frieden continued to insist that I not use the terminology "no-kill" and I continued to respectfully disagree with him. I was never directed by the entire board not to use that terminology, so I continued to do so. Eventually, by the time I left two years later, when it was announced that I would not be renewing my contract with the city, the first thing that Dr. Frieden wanted to do was reassure the entire community that he supported the no-kill initiative, it would continue and it would have his full backing. So he made a 180-degree conversion, at least in rhetoric, with respect to no-kill. I don't have any evidence that he was not sincere. I haven't seen the numbers since I left New York. But it is my understanding that they stopped posting them on the AC&C website.

16. After a short time on the job, I discovered a lot of problems with respect to the statistical data collecting processes of the organization. I had a very uneasy feeling that Steve Zeidman, the I.T. person who developed the reports for tracking statistics, didn't have the skill level necessary to effectively track the information appropriately.

17. One of the things about I.T. in this day and age is so few administrators and managers have the competence to question their I.T. people. So they come off as the high priest of information. And I just had this gut feeling that something was not right here. Fortunately, Steve was offered another job and moved on and I was able to get someone in there with the appropriate skills. He astounded us with what he found.

18. His name was Paris Treantafeles and he used to work for NASA. It was a long arduous process. He started reviewing the code that was written for these reports line by line and found that Steve was pulling data from the most ridiculous places and none of the reports were trustworthy because they were so full of flaws. Bottom line was that he completely redid the reports in such that we could historically go back and get the reports in an accurate fashion.

19. Based on the new data, I would write very thorough in-depth 20- to 30-page reports each month documenting what we were doing and what we were implementing. Dr. Frieden would take tremendous issue with anything of a negative nature in these reports, particularly when it came to the numbers.

20. And it finally exasperated Dr. Frieden so that he had John O'Connor come to my office and say that I had to stop telling an epidemiologist, whose whole life is statistics, that the statistics that he's been getting for the last several years are untrustworthy. He said, "That's just pissing him off, Ed. You got to stop it." And I said, "John, it is what it is."

21. He basically said that Tom Frieden and I were like two peas in a pod, we were very much alike and that we were just going to continue to repel each other because we were too bull headed and too head strong.

22. I told John O'Connor I wasn't going to falsify statistics or anything in my reports because I had been asked by Dr. Frieden once before to falsify a statement in a report shortly after I first arrived. It was my Inception Report in which I referred to the

findings by Sipes and Partners, Inc., the consultants we hired to do an on-site inspection and evaluation of the five AC&C shelter facilities.

23. The Sipes Report documented that the Department of Health inspectors were routinely falsifying their inspection reports and saying that things in the shelters were okay. The Sipes Report contained pictures and documentation clearly showing otherwise. For example, the DOH inspectors were reporting as acceptable conditions where the roof was caved in and water was leaking onto computers and wires that were exposed. The whole place was a firetrap. In the prior two years of inspecting the AC&C facilities, they never issued one violation despite the obviously substandard conditions. So I stated that DOH inspectors had falsified the inspection reports.

24. Dr. Frieden complained that "falsify" was too strong a word, that I needed to somehow change it. So I did change it without changing the meaning. But he emphatically didn't want the word "falsify." And when John O'Connor came in and said that my report was telling Tom Frieden that statistics over the last several years were problematic and I that I had to stop doing that, I said that I was not going to stop telling the truth. I was going to fix the problem so we can go back and give him good numbers. I thought any responsible public servant would be happy to understand this.

25. I think that John O'Connor thought that he was coming in as a peacemaker. But over the course of several months, my phone conversations with him became more and more hostile. He clearly didn't like me. He wanted to gag me on every issue we disagreed on.

26. An example was Intro 189, the so-called Pets in Housing bill that was pending in the New York City Council, that had to do with grandfathering pets in apartments. I was very much being looked to by the humane community to speak up on this issue, and it was an important issue to our organization because it meant saving more lives by creating a broader marketplace for people who could adopt our animals. The ASPCA and other animal groups had spoken up in favor of the bill. But John O'Connor came down on me like a ton of bricks. I don't know if he had connections to the real estate industry, but he said I was not to speak out on this issue. Period.

27. I responded, "Well, John, I respect your opinion, but I would like to hear from the entire board on whether or not I should or shouldn't be able to speak out on this issue." And I submitted it to the board, and the board just fell mute. They never commented one way or another. But I did very much feel that I would probably lose my job if I spoke out. So I decided to choose my battles and there was just too much work to do inside the shelters. And I explained to the advocates in the community the predicament I was in and most of them were very understanding and disappointed to be sure, as was I, but what was my alternative at that point? Lose my job and let the department fall back into chaos, or focus on turning the department around?

28. Two conversations with Dr. Frieden in particular come to mind in which I really felt he was acting in detriment to our mission. One was in an open public meeting, when we were trying to get the board excited about the fact that euthanasia was falling dramatically and adoptions were up. Dr. Frieden very surprisingly said, "Look, Ed, you have to understand that from a public health perspective, I wouldn't lose a moment's sleep if you were to euthanize every animal in your shelters if it meant that not one child was going to be bitten," or something to that effect.

29. And I was just stunned. And I tried to assure him that with proper adoption counseling and behavior assessment techniques that our staff was well qualified, or could be trained to be well qualified, to ensure that we would not adopt out an animal that would harm a child or anybody else.

30. Curiously, every time that there was a report in a newspaper of a dog mauling, I would get an email from Dr. Frieden that very day if not the first thing the next morning saying, "Was this one of your animals?" And we would do the research and it was never one of our animals. Every mauling that occurred during my tenure, that I recall, was from an animal brought in by someone that had moved here from another state.

31. Another comment that Dr. Frieden made was in a session with he and Ed Butts and myself. Dr. Frieden and I had another long-standing argument during my tenure over the fact that he put a lot of weight in what was called the "length of stay" statistic. He considered the length of stay a direct budgetary issue that the longer an animal was in the shelter the more it was costing the Department of Health. And it just wasn't efficient. And he said, "Look Ed, you're required to hold these animals 48 hours. I want you to be able to have a disposition ready in the 49th hour for every animal."

32. And I said, "Tom, that's never going to happen. I actually put no stock in the length of stay statistic. I report it to the Department of Health because it's important to you, but it's not important to us in operations. As we move closer and closer to no-kill and better management of our animals in our shelters, we may actually see an increase in length of stay if we keep animal healthy enough until we find loving homes for them. I still think in the long run, we will reduce the cost of animal control if that's what you're concerned about."

33. It was brought to my attention by my Controller that over the years as AC&C increased revenues DOH reduced the contract amount.

34. There was no funding for life-saving programs. Which is why we started the "Big Fix" spay/neuter program to stem the tide of unwanted animals. This program was completely funded by donations.

35. This was another situation that came up that went to the DOH's lack of commitment. At one point, our Big Fix program ran out of money. This story was covered in an article written by Heidi Singer in the New York Post. This article caused New York State Assemblyman Pete Grannis to contact me. He said, "What do you mean you're out of money? We've got a million dollars sitting in a fund up here in Albany and we contacted the Department of Health months ago and asked them if they wanted it for spay/neuter, and the Department of Health said, 'No,' they didn't need it."

36. I was shocked. I said, "Absolutely we need it and what can we do to get this back on track?" So, generously, the Assemblyman's office set up meetings with the DOH and us and we pulled in the ASPCA and others to discuss how we could get the funds flowing as the State Legislature intended.

37. But, the Department of Health was absolutely obstinate in not wanting to administer the funds, or even wanting to receive the funds. They didn't want to be responsible for the funds. They thought it was too much work. Ed Butts of the DOH was the most vocal in that meeting and Alan Goldberg was there, too.

38. Alan had always been somewhat of a peacekeeper between the DOH and AC&C, and I considered him somewhat of an ally. It was a difficult position because one of the things that became very clear throughout my whole time was the negative culture at the DOH. Many of the employees of the DOH would talk about this "reign of terror." That Tom Frieden held a very tight leash and everybody was scared of their jobs, scared to death of disagreeing with him.

39. From the very time that I was recruited and taken on tours of the facilities and things of that sort, individuals from the DOH really pressed me to reconsider my decision. I thought this was a very strange recruiting technique.

40. The Sanitation Commissioner, John Doherty, who was an AC&C board member at the time, actually interviewed me and he also was an individual who thought I was crazy for accepting the job. On a personal level, he seemed to be very likeable and we got along great and we had a very good interview and he thought that I would be an outstanding candidate for the job, but basically he thought I was nuts for wanting to come to New York and take on the responsibility. He was very serious about the fact that he was delighted not to be on that board anymore. He was replaced by the Parks Commissioner, and it was my understanding that that decision was made by the board in response to the activist community's criticism that the Sanitation Commissioner on the AC&C board was inappropriate and sent the wrong message.

41. There were DOH employees warning me not to come to New York, that I would find it very difficult to work with the DOH. And I kind of wrote it off as people who just didn't understand or didn't want to see a change, and so I didn't take any of it to heart. Ed Boyce of the DOH's bureau of veterinary public health services was one, in particular, who warned me that I would find it difficult to work with the Department of Health and that I would be sorry. Consequently, during my two and one half years there, every time I would have a bad encounter with Department of Health, as we're walking out, he would say, "I told you so." He proved to be quite the prophet.

42. But over the course of the next couple of years working with everybody from every area of that department, there was just this dread and fear of either their immediate boss at the DOH or Tom Frieden, the Commissioner, and that they were under orders not to help us. There are employees I can quote that were told to resist, and they told me there were certain high officials at the DOH who "hated Boks" and said they "will not let him succeed." I can only think that this came down from Commissioner Frieden, because they wouldn't know me from Adam, otherwise.

43. There was a veterinarian named Pat Glennon, who was the DOH's director of veterinary public health services that managed the bite holding cases. When she first came on board she was very cooperative, then she suddenly turned 180 degrees and became very obstructionist, very contrary, making it a full time battle to meet her needs and demands.

44. She wanted us to quarantine animals for 10 days when there was no possible human exposure to rabies. Her policies took up valuable kennel space requiring healthy animals to be killed due to space constraints. The DOH really bent over backwards on the side of caution. Even in cases that came in where involving a minor cat scratch that did not

draw blood, she would order a quarantine, even if the cat had been in the shelter for weeks and had accidentally scratched an employee.

45. That's 10 kennel days where you could have saved 10 other dogs or cats perhaps. So we were trying to clear this and other issues up, but her behavior was so erratic and so uncooperative that I had to go to Dr. Frieden and say that I had concerns about this individual's ability and mental health, and he took great umbrage at that and was very offended. But over time, I had discovered from other employees that my opinion of her was also the consensus at the DOH and whether she resigned or was let go, it's really unclear to me, she just vanished under a veil of intrigue.

46. After she left, Ed Butts came in and took on the responsibility of working with us and interfacing with us primarily on the facilities issues with the Manhattan and Staten Island Shelters, as they had the most critical needs. He was a very amiable, very nice guy. Again, he wanted to see things change and become more productive between the two departments. But unfortunately, we would meet on a weekly basis and these meetings would be for half a day or longer. But every time we would get together, it would be like starting all over again. Everybody would leave with an assignment. We'd come back and people with key assignment pieces couldn't be at that meeting. So, for over a year, we just met and it never felt like we got past A to B. It was like there was just no forward progress.

47. As for finding the site locations for the Queens and Bronx shelters that have yet to be built, the DOH felt very strongly that it was our responsibility to go out and find those locations, which we did. We went out and we found locations. And we'd bring them to the DOH and then James Dougherty, who was the DOH official in charge of facilities, would do the research and start to track them down. But again, James, for whatever reason, took a tremendous amount of umbrage working with me. He didn't want to help us. It was clearly my perception from conversations with him and members of his staff that there was a conscious effort not to work with or cooperate with AC&C. And they were utilizing a Muhammad Ali technique that we referred to as "rope-a-dope." They would stall, they would drag their feet, and they would just play these fancy footwork games and cause us to jump through hoops unnecessarily. And it just became very tiresome and very weary. Bottom line is, six years after the City Council allocated money to build full-service animal shelters in two of the most populous and needy boroughs, the shelters still haven't been built and AC&C is still struggling to serve these areas. Half the people in New York City live in these two boroughs.

48. One of the things I had in my employment contract was that I would work with the press. One of the reasons that I was brought here was to help turn around the image of what was then known as the Center for Animal Care & Control, or the CACC, which had a decade of negative press behind it and a very tarnished public image due to the grass roots humane activists that used the press to point out CACC's deficiencies, and used it effectively.

49. So my first goal was to make the organization more customer friendly, pet friendly, and more endearing to the community, and at the same time boost the moral of our employees. And the only way to do that is to tell the story of what we do as an organization. There were some wonderful things that happened in our shelters that weren't getting out there. At my impetus, we changed the corporate name to Animal Care & Control of NYC and created a new life-affirming mission statement, vision statement, value statement and service theme, all geared toward bringing the community together.

50. And, as a result, I began being quoted in the local media. In one article in The New York Times, I was quoted about the dog-licensing program, which I believed, for economy of scale and for effectiveness, really should be under the purview of animal control as it is in almost every community I am aware of. In New York City, it's under the Department of Health, but it has nothing to do with health. The licensing program has nothing to do with vaccinating dogs. It's just a revenue-generating tool, which is ridiculous. Licensing is supposed to ensure a communities' pet population is protected from rabies. That correlation does not exist in New York City. It is a very irresponsible program.

51. And so I approached the Department of Health about our taking over and managing the program and increasing licensing there was just an absolute stonewalling of that issue. They didn't want to let it go, even though it's extraordinarily ineffective. So, after talking to the Times, the paper characterized my comments in the article as the licensing program was "anemic." Well, Tom Frieden came unglued at that, even though he clearly admitted it was true. He said in a closed executive session of an AC&C board meeting that it was indeed a very weak and ineffective program, "But for God sakes, Ed, you don't tell The New York Times that." So he was very offended about that, and I then sat through the closed session as the board hammered out a gag order. They had excused the public from the executive session and then they called everybody back in the room and then John O'Connor expressed the gag order for which Frieden had given him the exact words.

52. I think the board interpreted executive session for discussing personnel and performance issues, and I think they construed this as a performance issue when it was clearly a policy issue and it was a contractual issue as well. They seemed to be completely oblivious of their contractual agreement that I would be responsible for all media and all press releases and everything that came out of the AC&C. And again, it was a matter of choosing my battles. Sensing the hostility of the board, I just didn't feel that this was a battle worth fighting at that time. I did discuss it with Tom Frieden afterwards. I said, "Tom, you need to know that this is a violation of my contract." And he reviewed my contract and said, "Ed, I have to disagree with you. It's not." But it clearly was. I talked to a labor attorney who said that I could sue.

53. Again, my primary interest was to do as much as I could within my two-year contract, and not jeopardize the progress of the community. And there was such a momentum building that these things in retrospect seem very huge because they ultimately led to what they led to. But at the time they seemed very minor in comparison to what we were doing and what we were trying to accomplish. So pissing off Tom Frieden, because it seemed to trickle through the organization, and everything would come to a stop, and we would get no cooperation anywhere, could be terribly counterproductive.

54. For two years, we tried to get into cost-recovery contract negotiations without success. By the last six to eight months I was there, meeting after meeting was cancelled by Ed Butts. Week after week, we just could not get a meeting together. And I kept reminding them that the contract was going to come to an end, and in June 2005 we really needed to hammer out an agreement now. Because it takes time to do these. I've done over 24 municipal contracts and to hammer out these cost-recovery contracts is not easy. They clearly did not want a cost-recovery contract, also known as a fee-for-services contract, because that would require, in my opinion, much more oversight on their part and they would no longer be able to obfuscate the real cost of animal control services, which was higher than they were willing to pay. They liked the idea of giving AC&C a lump-sum budget

and say, "Do the best you can," which I was often told by both Tom Frieden and Ed Butts. "This is your budget. Work with it."

55. Cost-recovery / fee-for-services contracts allow a City to determine the level of service it wants to receive. The level of service could be clearly defined in a contract with a fee menu. The city can say we want this service and we know its going to cost this much. Field service, for instance, you know how much it's going to cost per field officer and there is an economy of scale. The more field officers you have buys down that per-officer cost. There is a way for a city to know exactly what it's paying for animal control services. I can tell you right now that the City of New York does not know what's its paying for its field operations, does not know what's its paying for its shelter operations. Does not know what it's paying for any of its services. Simply because they're not managing it. I'm sure animal control could tell you that and give them a report on what it's costing, but that doesn't figure into their budget negotiations.

56. I do not know how they arrive at the \$7.2 million figure, or how it went from \$7.6 million to \$7.2 million.

57. There is another issue of \$11 million set aside at one point to upgrade the Manhattan shelter. By the time I was being recruited, that had suddenly fallen to \$7 million. By the time I was actually hired, it had fallen to \$3 million. By the time that we had actually got it secured, so that we could use it, it was \$2.5 million. There was never an explanation to what happened to that original \$11 million. No accounting for it.

58. New Yorkers should be aware of the many compromises in the operations of AC&C as a result of not having a cost-recovery / fee-for-services contract. The fact is, there are no field operations on the weekends. There are no field operations after 8 o'clock at night. And then there is a hidden cost to the city as a result, because when there is a mauling or attack or something that requires an animal control officer after hours, you have to call a police officer at two or three times the pay to do what they are not trained to do. Often times the animal ends up getting shot. It just compounds the cost to the City and I made that argument to the DOH on numerous occasions as well the health committee of the City Council. It just didn't seem to register with anybody.

59. John O'Connor was the AC&C treasurer. And there were a lot of budgetary concerns, but he was almost completely uninvolved. When I arrived, there was a CFO there by the name of Mike Galub, and, again, I just had this overwhelming sense of incompetence. In fact, I brought in Sarah Hobel, who was on the board and used to be in acquisition banking, and had her review the budget. And then I had another board member, Bruce Doniger, talk with Mike and everybody came back with this feeling that this guy was a master of double speak. And nobody really knew for sure what was going on with the books and it was very disconcerting.

60. One of the big things that the Department of Health had done before I arrived was enter into an insurance contract with Citywide Insurance, a City agency that offered a shared risk-shared liability insurance pool for all the New York City agencies. It was the biggest disaster of all time and created a financial shortfall that the board had the audacity to blame me for despite the fact that this was something that they approved before I arrived under John O'Connor's oversight.

61. Marilyn Haggerty-Blohm, my predecessor, purchased the Citywide insurance policy. She was a former employee of the Mayor's Office of Operations and apparently saw AC&C as a City agency. She was paying \$12,000 a year for insurance for the whole department at first, so it was a low ball at entry level. But AC&C shared both the risk and the liability with all the other participating City agencies and departments, some of which were having problems with people getting killed, which of course caused big insurance payouts for things we had nothing to do with. And suddenly, \$12,000 went to \$35,000 to \$250,000 to \$400,000, which was clearly not in the budget, due to what the director of Citywide attributed to the narrow minded, shortsighted management style of John O'Connor and Tom Frieden. They had this inflexible attitude that you got \$7.2 million, you better make it work. They were holding me responsible for their irresponsible decisions. Despite that, I did come up with a plan to significantly minimize this shortfall, but they were ruthless and felt that even an \$8,000 deficit, which is what I think we got it down to, was too much. At this point I knew they were just being reckless and had no concern for AC&C whatsoever. This was a time for the board to have rallied together; instead they headed for the hills and left me holding the bag.

62. The only time I would hear from John O'Connor was when he would call at the behest of Dr. Frieden and it was to chastise me for one thing or another. We discussed the insurance problem, but when we actually sat down with the insurance company and met with them, John couldn't be bothered to come in. I think he phoned in. He was on the phone and kept saying, "I can't hear." He didn't really play a meaningful role in understanding the seriousness of the impact on our budget the Citywide costs had become.

63. I would call John, but because he was a very difficult person to communicate with, I would call him on an as-needed basis. I certainly called him with respect to the pets-in-housing bill and tried to explain to him why that was important to AC&C and to the animals that we cared for. And he didn't care. He just said, "Ed, you don't know how the mayor thinks about this. The mayor is a friend of mine; this is not something that we want to get involved in. And I'm telling you: don't get involved."

64. My interactions with AC&C's board were sporadic. There was no scheduled timetable for meetings. Even though the bylaws required that they meet on a certain regular basis, often they wouldn't and the meetings would bunch up at the end of the year where they knew that they had to get them in. In fact, at one point at a public board meeting I said that this is clearly the most laissez-faire board that I've ever worked with in my life. I had an open door policy; I invited the entire board to be as involved as they possibly wanted to be. They just were not interested or were too busy elsewhere. Bruce Doniger, to his credit, made himself available. Sarah Hobel also made herself available, and they were very helpful to the degree that they could be.

65. Not once did I have any interaction with the police board member. In fact I could not even tell you who that person was. We reached out on our own and made our own police contacts. There was, on occasion, a woman named Joyce Stevens who sat in on some board meetings for the police department and I actually met her once about a program that we wanted to reinstitute. She was very excited about it and said she would help us move it forward, but it never went anywhere.

66. John O'Connor, the treasurer, when I first came on board was signing off on the budgets, but he started to feel uneasy about being responsible for the budget at a cost for services that didn't make sense. So towards the end, he refused because I was raising

so many questions about our costs. John just suddenly wanted to distance himself from the responsibility.

67. I never had any communication with the mayor but was always told by Tom Frieden that the Mayor's Office was very upset with me. When I asked if I could meet with the Mayor's staff to better understand their continual displeasure, he would make excuses that that was not possible; I had to take his word for it. Rather than helping the Mayor understand the truly historic progress NYC was making with respect to animal control, Frieden seemed intent on creating a sense of hostility between the two offices, as though he played us against each other so he always looked good at the expense of others.

68. Most of the contact I had was with the Department of Health. There was very little contact with the board. And with the exception of Dr. Kuhlman, there was just no representation on the board for the animal loving community. The fundraising expertise needed is glaringly absent from the existing board. Those skill-sets are clearly needed. They demonstrate time after time their desire to control without allowing AC&C to grow or have any real authority of its own. I know of no other shelter system that runs like New York City's does. This is a very unorthodox, unwieldy and very ineffective corporate arrangement. I'm not aware of any other set up like this. The norm is either a stand-alone 501(c)(3) or a city department, but you just can't have it both ways. The HSUS pointed the same thing out in their evaluation report of AC&C several years ago.

69. Before I first signed my contract, I had conversations with Dr. Frieden about his participation on AC&C's board at the same time he headed the Health Department, because I thought this was a unique arrangement. He felt that wearing the two hats was open to conflict and he was very candid about that. He readily admitted the conflict of interest that existed between the existing structures and that after the six-month time, if I came on in a permanent capacity, he would step down as the chair of the board and he would just be a member of the board. But he never did step down and, in fact, actually pulled a power-play with the board to stay on as chairman into my second year, contrary to his promise to step down six months after my arrival.

70. That power-play occurred at the annual meeting, which I attended. One board member, Sarah Hobel, was going to nominate Jay Kuhlman as chairman. When John O'Connor got wind of this he hit the ceiling and went to Dr. Frieden. When Dr. Frieden came in and realized he was one vote short from winning the election, he delayed the meeting and had a representative from the police department show up to vote for him in the election. This was a rep who had never been at a meeting before or since. All the independent board members, except for John O'Connor, were very intimidated by the whole proceeding.

71. I understood the concept that we were a 501(c)(3) with a contract with the city. But I saw the inherent conflict with that arrangement given the composition of our board and the Mayor's authority over it. I actually called the Department of Internal Affairs to question this arrangement. I can't remember who I talked to but whomever it was told me that this was not an uncommon arrangement for the City and I just didn't understand how the City of New York operates, that this was perfectly legitimate and if this is how the by-laws are set up, then there is no conflict because it agrees with the by-laws.

72. In New York City, we were never able to negotiate. Dr. Frieden told me in no uncertain terms more than once that the budget is what it is. I would have to manage the department within the \$7.2 million budget. There was some discussion about the fact that

the original contract called for \$7.6 million and how it was brought down to \$7.2 million for my tenure. They were not open to discussing that. They said that \$7.2 million was it. Learn to live with it. You're stuck with it. And that was it.

73. I think the City's fear and the reason they feel they have to continue to control AC&C is that they don't want a repeat of what happened with the ASPCA when they just walked away. They don't want to create another entity that can choose not to renew the contract. I understand their concerns. But, I think that if they made it a stand alone department, a city department with a 501(c)(3) auxiliary like we did in Maricopa county, like we're doing in LA, that might be more effective.

74. Certainly having it report to the DOH is problematic and I don't know exactly why. You just can't get deep enough into the intrigue of the DOH to understand their motivation or wanting to protect licensing programs that do not work, which could be a real strong, viable funding source for animal welfare. It is a mystery why they want to keep it from succeeding. It is a mystery why they don't want to see humane shelters built. It is a mystery why they don't even want to maintain the current shelters. It is a mystery why they don't want to provide humane habitation for the animals in the shelters. There just seems to be no interest in those things.

75. Dr. Frieden has said that when you have the competing priorities of women and infants and AIDS victims, I can certainly understand animal welfare falling to the bottom. That's why animal welfare in New York City needs an advocate that can make the case for the animals in its care. Nobody is able to make that case on a budgetary level. We can't negotiate it. We can't argue the case. The City Council is completely unaware to my knowledge about how much money is being allocated to animal welfare in the budget. It's buried deep inside the DOH budget. If it's anywhere, it's some miniscule line item probably under the division of Ed Butt's unit. But it's not something that City Council can say, "How much are we giving to animal control this year?" I don't think City Council ever discusses that question. They certainly never included AC&C in any such discussions, nor did DOH other than to dictate the budget amount.

76. Dr. Frieden never really advocated for AC&C on any issue that I can think of. There was a former DOH official by the name of Gregory Carmichael who fought the licensing program I proposed tooth and nail and for whatever reason. If we could manage the program, we could increase revenues coming in so that we could buy down what the City was paying for animal control by increasing the fees. That argument was absolutely lost. I guess that Carmichael had some past with animal control and Dr. Frieden considered him his on-staff expert. But, he thwarted all improvements on shelter operations. The City's Department of facilities management had done a \$500,000 study on how to improve the Manhattan shelter. That study sat on a shelf for years until I got there. I pulled it off the shelf and it was like a surprise. And nobody at DOH wanted to look at it, and nobody wanted to implement it.

77. I left for two reasons. One, I was being recruited by the city of Los Angeles and two, I knew from my two and a half years working with the DOH and even the members of the board who had become hostile during my tenure there, that it was going to be a losing battle. That there was no way that this board wanted to see change, or was open to change. There weren't going to be new shelters, there wasn't going to be new funding and I was being approached by a city that really understood the importance of animal welfare,

provided a more adequate budget, was building six state-of-the-art humane animal shelters, and was light years ahead of New York City.

78. All the difficulty came from working with the New York City Department of Health directly. They were clearly not interested in making it work from my perspective. The city has to figure out if it wants an animal control department of its own or if it wants to contract with a 501(c)(3). One or the other; you can't have it both ways. It's just too much of a conflict of interest. What it has now is just fraught with peril and conflict and the results are as clear as day. Look at the shelters. Nothing is happening. Two years of meeting on a weekly basis, trying to move forward on the facilities aspect and nothing getting done. Or, what little being done taking extraordinary lengths of time when it was just unnecessary.

79. Other than the conversations I had with Tom Frieden about the conflict of interest and the Department of Internal Affairs, I had conversations with Dr. Kuhlman, Bruce Doniger and Sarah Hobel and I think everybody acquiesced or agreed on an informal level to accept the conflict of interest and let's see what we can accomplish in spite of it.

80. I think the conflict that existed between the DOH and myself resulted from the fact that I refused to behave as an employee of the DOH and I was an advocate for the animals and AC&C and what they were looking for was a yes-man that would do what he was told, not advocate for programs and for making AC&C better. I actually talked to the Comptroller, Bill Thompson, before I left and he said the City was never going to let me succeed within this existing system. He said it was critical to the success of the Department that an independent 501(c)(3) fundraising organization be formed. That was said in front of my development officer, Don Sutton, at the time.

81. So I tried, and Tom Frieden and members of the board did everything they could to eviscerate the effort. They would not attend events. They never made a donation. They were just unsupportive.

82. The culture of fear at the DOH seemed to be a fear of embarrassing the mayor, that we have to protect the mayor at all cost. Even the cost of animals lives. John O'Connor as well as Dr. Frieden expressed that on occasions, as did the entire board from time to time, explicitly or implicitly, that protecting the mayor was paramount.

83. I think with an extended board it could work, a board with animal welfare expertise. With the exception of Dr. Kuhlman, there's really no one on the board who has any real vested personal interest in the success of AC&C. I think that AC&C needs a board of 20 to 30 people with fund raising experience, animal rights and welfare experience, animal law experience, all of that. And there is just none of that. There is just no interest. Getting the existing board just to meet was just like pulling teeth.

84. If the concern or question is, does the Department of Health have the best interest of AC&C, or the animals in its care, at heart? The answer is clearly, "No, they do not." They don't support innovative programs, they don't support the executive director, they expect executive directors to kowtow and do as they're told. They don't expect them or want them to be innovative and progressive. They don't want them to be cutting-edge or leading-edge. They are basically looking for someone who is a yes-person willing to maintain the status quo.

85. In my professional opinion, if it takes a court order to remedy the very destructive conflicts of interest that cause AC&C to be a dysfunctional child of the Health Department, then that should happen.

Dated: Los Angeles, California
September 15, 2006

/s/ _____
EDWARD BOKS

Sworn to before me, this 15th day
of September, 2006.

/s/ Catherine D. Campana
Notary Public
Commission # 1422038 exp 6/3/07