



DATE: FRIDAY, SEPTEMBER 7, 2007

TO: AN OPEN LETTER TO ALL AKC DELEGATES

FROM: THE SENIOR CONFORMATION JUDGES ASSOCIATION (SCJA)

Subject: Article XIX - AKC Delegates' Sole Power to Make the Rules Governing AKC Dog Shows and Field Trials and the Clubs or Associations Formed to Conduct Them

In May 2006, the AKC Board of Directors passed an ill-conceived and unauthorized “**policy**” affecting all AKC judges. The SCJA Board of Directors took positive action both in writing and by lobbying the AKC Delegates to object to the AKC Board disregarding the AKC Delegates “by usurping the sole power” of the AKC Delegate Body to make or change an AKC rule.

At an official AKC Delegate meeting, the Delegates were informed by the Vice Chairman that the SCJA position covered in SCJA’s June 9, 2006 open letter was dead wrong, and consequently, the AKC Board failed to take immediate action. The SCJA continued the uphill struggle and worked with a number of AKC Delegates and others to convince the AKC Board to change their policy. Subsequently, after repeated letters from the SCJA and objections from many individuals and three AKC Board votes on the policy, the AKC Board did revoke part of the policy.

Concerned about the welfare of the sport as a whole and with donations from its members, the SCJA obtained a legal opinion from a prestigious national law firm **which is enclosed**. **We suggest each Delegate read it.** It clearly vindicates SCJA’s original declaration and affirms unequivocally that the AKC Delegates have the “sole” power to change rules according to the authority vested to them in ARTICLE XIX of AKC’s bylaws.

This power of the Delegates to make or change AKC rules applies to any and all rules governing AKC dog shows. Some of the Delegates have pointed out that this is an important issue at this time since they believe it applies equally to recording fees and event service fees. (These fees are certainly connected to dog shows and events.) This being the case, the Delegates were again ignored. The enclosed independent legal opinion clearly substantiates the Delegates’ power and the SCJA’s original position covered in our June 9, 2006 open letter to all AKC Delegates (posted on our web site www.scja.org).

We have one other issue that must be addressed. At an official meeting of the Delegates, it was reported that all three national judges groups attended a meeting on the subject of judges’ education with the AKC Judges Department. The report left the Delegates with the impression that the SCJA had actually attended such a meeting recently, and worse, that the SCJA had

concurrent with all the new provisions for judges' education. In fact, the last such actual meeting took place in St. Louis, MO on June 10, 1998 and was attended by two members from each of the three national judges groups, the AKC Judges Department and the then-AKC President, Al Cheauré. Subsequent to this erroneous report to the Delegates, the SCJA sent a letter requesting a correction. However, to date no correction has been issued.

When the SCJA made a second request for a correction, we were advised that the report was referring to telephone conversations and information conversations at dog shows and other canine events between the SCJA CEO and AKC staffers. We want to reiterate that these conversations do not constitute a "**meeting**". Concerning the judges approval process, the SCJA is on record saying that we can no longer apply band-aids to fix a problem that requires major surgery.

The SCJA, along with a majority of AKC judges, and from what we hear even a few AKC Board members, believe that the current bureaucratic and unrealistic judges approval process needs to be completely overhauled. We suggest a committee be appointed consisting of two representatives from each of the three national judges groups together with a judge at large appointed by the AKC Board develop a rational process built on the fundamental principle that the best way to learn to judge a breed is to have the opportunity to judge it. Realizing as well, considering life's endeavors, judging dogs is not on the same level as the requirements to perform cardiac surgery or flying to the moon.

Chapter 7 of AKC's rules clearly outlines the requirements to be an AKC judge. ARTICLE XIX unequivocally mandates that any changes be approved by the Delegate Body. ARTICLE IX mandates that the AKC Board of Directors must comply with all provisions of the bylaws.

We respectfully request the Delegate Body assert the authority granted them by the AKC's bylaws, and that the AKC Board members start listening to the Delegates who elect them.



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June 8, 2007

Senior Conformation Judges Association, Inc
ATTN: Col. Wallace H Pedé, Chief Executive Officer
7200 Tanager Street
Springfield, VA 22150

RE: Senior Conformation Judges Association
American Kennel Club – Opposition to AKC Board Judging Conflict Policy

Dear Colonel Pedé:

You have asked this firm to provide a legal opinion to the Senior Conformation Judges Association, Inc. as to whether the adoption by the American Kennel Club (“AKC”) of a policy that restricts AKC judges from providing services at non-AKC venues without AKC’s prior approval violates the AKC’s charter and bylaws.

History of the AKC Changes to the Judging Conflict of Interest Policy

The AKC was formed in 1909 under a charter granted by the State of New York. AKC operates through its elected members of a Board of Directors (“Board”) and the Delegate Body. The Board acts subject to ARTICLE IX of the AKC Bylaws (“Bylaws”). ARTICLE IX grants general powers to the AKC Board, but also mandates that the Board comply with all other provisions of the bylaws as well as applicable state and federal laws and regulations. AKC Rules (“Rules”) govern dog show events. These Rules are amended and approved by the AKC Delegates who, acting as a body, have the sole power to do so in accordance with ARTICLE XIX of the Bylaws.

In May 2006, the Board adopted a policy concerning a Judging Conflict of Interest Policy (“2007 Conflict Policy”). The Conflict Policy was amended by the Board in January 2007. Board policies, generally, are intended to interpret and express the Board’s understanding of the Rules and Bylaws it is authorized to enforce. With respect to AKC judges, the existing Rules exclude judges whose commercial interests could raise questions of the appearance of impropriety by show participants whose dogs were being judged. The Rules adopted by the Body of Delegates regarding judging eligibility appear at Chapter 7, Section 1 of the AKC Rules.

The 2007 Conflict Policy purported to interpret Chapter 7 of AKC’s Rules to include with the categories of persons to be excluded from judging AKC events those persons with a

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significant interest in a dog registry or dog event-giving organization deemed by the AKC to be in competition with the American Kennel Club. The amended policy provides:

Judging Conflict of Interest

No AKC judge may have a significant interest in a dog registry or dog event-governing organization deemed by the AKC Board to be in competition with The American Kennel Club. Significant interest would include, but not be limited to ownership of, employment by, a directorship in and holding office in.

As applied, the amended policy would subject otherwise eligible AKC judges to disciplinary action (including termination) in the event that the AKC, in its discretion, deems a dog registry or dog-event governing organization to be in competition with it and further determines that an AKC-licensed judge is employed by, directs, or holds office in such an organization.

Analysis

The 2007 Conflict Policy does not conform to AKC Rules regarding Judging Eligibility (the "Rules"). The AKC Rules applying to dog shows provide at Chapter 7, Section 1:

Any reputable person who is in good standing with The American Kennel Club may apply for approval to judge any AKC recognized breed or breeds of purebred dogs, which in his or her opinion he or she is qualified by training and experience to pass upon, with the following exceptions:

Persons connected with any publication in the capacity of solicitor for kennel advertisements, persons connected with dog food, dog remedy or kennel supply companies in the capacity of solicitor or salesman, persons who buy, sell and in any way trade in or traffic in dogs as a means of livelihood in whole or in part, professional show superintendents and their employees, and persons who show dogs for others will not be approved if still engaged in such activities.

The Rules clearly exclude those persons whose commercial interests could reasonably raise questions of impropriety as between the show participant and the judge.



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Under Article X, Section 9 of the AKC Bylaws, the Board has the power “to issue and revoke licenses to Judges, Superintendents of Purebred Dogs and Handlers of Dogs.” While the authority to discipline judges for violations of the Rules, or a refusal to issue a license for an applicant judge’s failure to conform to the Rules, may certainly be derived from this power, the authority to discipline based upon work performed by a Judge for an AKC competitor is beyond the scope of the Board’s delegated powers. The Rules set forth clearly the grounds upon which a license to judge is to be granted or revoked. Work for another dog registry or dog-showing event organization does not fall into exclusionary territory. Nor can it be reasonably maintained that such work undermines a judge’s experience or training. Accordingly, the AKC Board has no authority to use ARTICLE X, Section 9 to revoke a judge’s license.

The 2007 Conflict Policy is not derived from applicable AKC Rules. Moreover it is not consistent with the principle underlying the Rules, namely, that a person whose commercial self-interest is tied directly to the care, sale or promotion of dogs will not be eligible to judge AKC events. The 2007 Conflict Policy excludes persons who own or assist organizations that compete against AKC. While this might create a conflict between the AKC and the other organization, it is not a conflict that would interfere with AKC’s mission in providing impartial judges for AKC events. Because the adopted policy is not reasonably related to an existing Rule, or even to the underlying rationale of Judging Eligibility Rules, the AKC Board has exceeded its authority under the AKC Charter and Bylaws by adopting a “policy” that is, in sum and substance, a Rule change.

Rule changes are only properly effected through the action of the AKC Delegate Body in ARTICLE XIX of AKC’s bylaws which grants sole power to the Delegates to do so. The AKC Board’s authority to interpret existing Rules or Regulations (Article X) does not extend to the authority to add new rules or to change existing rules.

Conclusion

It is our opinion that the 2007 Judging Conflict of Interest Policy adopted in May 2006 and subsequently amended by the AKC Board is a nullity, constituting an ultra vires act by the AKC Board.

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By: 
Kathleen J. Holmes

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