

Thank you for the opportunity to present information relating to abuses occurring in the commercial importing of puppies from low cost countries, primarily in eastern Europe and South America.

BACKGROUND

First, let me introduce myself. I have been practicing law (major business litigation) in California since 1972. I have owned Miniature Schnauzers since 1964. I am an occasional breeder and exhibitor at dog shows, but the primary reason I own dogs is the same as the reason most people own dogs: they are man's best friend.

I have been interested and active in canine health issues and rescue for a number of years. In October 2004, I was asked by the French Bulldog Rescue Network ("FBRN") to help Ms. Willa Bagwell, the Humane Officer for Lake Elsinore, California, deal with the Slacks, a couple who were importing Bulldog and French Bulldog puppies from eastern Europe and selling them through newspaper ads and over the Internet. Ms. Bagwell and FBRN had received several complaints from buyers who had bought puppies from the Slacks, whose puppies had become seriously ill within a day or two of purchase. Several buyers had incurred veterinary bills of more than \$1,000 in the first week after buying their puppies. Many of those puppies had died despite strenuous efforts to save them.

Ms. Bagwell told me that she had contacted the Riverside County District Attorney's office and the Lake Elsinore City Attorney's office, and that she had written letters to the California Veterinary Board and the Internal Revenue Service about the Slacks, but had received no assistance in dealing with them. Ms. Bagwell had also written to the office of Congressman Darryl Issa. Ms. Bagwell reported that Congressman Issa's staff was sympathetic and tried to help, but had been unable to provide any tangible assistance.

During the next few months, I spent more than 500 hours reviewing files, interviewing witnesses and preparing statements for them to sign, writing to governmental authorities and speaking with them by telephone, and writing to newspapers and Internet web sites on which the Slacks were advertising, asking that the newspapers and Internet web sites stop running the Slacks' ads because the Slacks were providing buyers with sick puppies. Ms. Bagwell undoubtedly spent even more time on the matter than I did.

Ms. Bagwell and I succeeded in putting the Slacks out of business in May 2005, but only as a result of two lucky and unusual breaks: First, in December 2004, the Slacks' former bookkeeper (a) provided Ms. Bagwell with extensive computer records concerning the Slacks' puppy business and their financial affairs, (b) allowed me to interview her, and (c) provided us with a detailed sworn statement concerning the Slacks' business and business practices. Second, in January 2005, the Slacks foolishly filed for bankruptcy in an effort to escape about \$12,000 in small claims judgments that buyers had obtained against them. Following up on

information provided by the Slacks' former bookkeeper, I was able to demonstrate to the Trustee that the Slacks had undisclosed assets. The Slacks then converted their bankruptcy petition to a petition for reorganization under Ch. 13 of the Bankruptcy Code. I was able to persuade the Ch. 13 Trustee to include a provision in the reorganization plan for the Slacks that prohibited them from buying, selling and kenneling dogs until the end of their five-year payout plan, because they had represented that they lost money on their puppy importing business and should not be allowed to gamble with money due their creditors. Had those two lucky breaks not occurred, the Slacks would still be in business, still cheating buyers, despite the strenuous efforts of Ms. Bagwell and myself.

LARGE NUMBERS OF PUPPIES ARE BEING COMMERCIALY IMPORTED

Shortly after I began assisting with the Slacks, I started to look at the Internet to see what I could learn about the scope of importing of young puppies from low cost countries for retail resale. I found that the sale over the Internet of both domestically-bred puppies and imported puppies has become a big business - and probably considerably outstrips sales of puppies through pet shops. Many substandard breeding kennels and importers have their own web sites. Many advertise as well or instead, on one or more of the many websites that carry classified ads by commercial puppy sellers. Those websites include www.terrificpets.com, www.nextdaypets.com, www.puppyfind.com, www.dogbreedinfo.com, and many others.

I was unable to obtain reliable statistics on the numbers of puppies being commercially imported each year, but the numbers are clearly large and growing rapidly. The schedules provided by the Slacks' former bookkeeper indicate that they alone imported more than 300 puppies during the one year period from June 2003 through May 2004, for total gross sales of more than \$440,000 for the one year period. (See schedules attached at Tab 1.) Last year, when I searched using Google, I was able to find more than 20 persons advertising imported Bulldogs and French Bulldogs over the Internet. A few samples of current ads are attached at Tabs 2 through 14. The ads at Tabs 2 through 7, 10, 11, and 14, illustrate sellers who openly advertise imported puppies for sale in violation of federal law on quarantine of imported puppies (discussed below). The sellers whose ads appear at Tabs 10 and 11 represent sellers who openly advertise imported puppies for sale at less than 8 weeks of age, though puppies may not be transported when younger than 8 weeks. (9 CFR §§ 2, et seq.) The sellers whose ads appear at Tabs 8 and 9 represent another class of deceptive sellers. Both of those importers, who are located in California, fail to disclose in their websites that they are selling imported puppies. My knowledge that they do sell imports comes from complaints to FBRN by buyers who have purchased from them. Europuppy, Tab 4, deceptively states that it is located in Budapest, Hungary, but provides no address, telephone number or contact information other than an email form on the website. However, I discovered from its classified ads on other websites that it is operated by someone in Massachusetts.

It is impossible to know how many others with Internet websites or internet ads sell puppies without disclosing that they are imported from eastern Europe. Additionally, I learned there are

many commercial puppy importers who sell through newspaper ads rather than through the Internet, and that others are selling through pet shops. I have no information concerning the numbers of such sellers or the volumes they sell.

Many of the commercial puppy importers who sell over the internet advertise 10+ puppies available at any given time. (Big Bulldogs, Tab 8, shows 24 puppies available for sale as of October 18, 2005!) Thus, I estimate that the numbers of Bulldogs and French Bulldogs being imported and sold over the Internet is at least 5,000 per year.

Additional puppies are sold by commercial puppy importers who do not advertise over the Internet (that is, who sell through newspaper ads and/or sales to pet shops). Furthermore significant numbers of puppies of other breeds are imported as well. Taking into account a recent estimate by the CDC office at Los Angeles International Airport that the volume of commercially puppies there is about 600 puppies per month, I estimate that at least 10,000 puppies are being imported into the U.S. each year by commercial puppy importers. At this time, most of the commercially imported Bulldog and French Bulldog puppies seem to come from low-cost European countries formerly in the Soviet bloc, most prominently Russia, Ukraine, Hungary, Poland, Latvia, and Lithuania. However, I have received email solicitations to purchase puppies from someone in Argentina who was offering about two dozen breeds of puppies for sale. I have also been told by a supervisory airport inspector of the CDC (Centers for Disease Control) that South America is exporting large numbers of puppies to the United States.

Upon the arrival of puppies from a foreign country at a port of entry, the Centers for Disease Control issues a Form CDC 75.37 which lists the number, age, type and description of the puppies in the shipment, the flight number, the point of origin, and the name and address of the importer. The form provides the importer with notice of the confinement regulations - regulations which are almost universally ignored as discussed below. A fairly exact computation of the number of commercially imported puppies in any given year could be compiled from CDC 75.37 forms for the period in question that show shipments of 4 or more puppies. A sample of Form CDC 75.37 is attached at Tab 15.

ABUSES IN THE COMMERCIAL PUPPY IMPORT TRADE

Many of the abuses that are occurring in the sale of commercially imported puppies are identical to those found in domestic substandard breeding kennels. They are the same abuses that led to the passage of the Animal Welfare Act in 1970. That is not surprising. Many of the commercial puppy importers operated domestic substandard breeding kennels and have turned to imports only because it is an easier and less expensive method of procuring puppies. (See, e.g., Puppy Love, Tab 14, which claims to have been breeding Bulldogs for 15 years.) Furthermore, some of them both breed puppies domestically and import puppies from abroad for resale. (See, e.g., ads at Tabs 11, 13 and 14.) Some even warn that others selling imported puppies over the Internet are "puppy mills." (See, e.g., Top Gun ad at Tab 12.)

Commercially imported puppies suffer even more than do puppies bred and raised in abusive substandard breeding kennels in the U.S. First, the puppies are subjected to significant stress in being shipped from abroad. The fragmentary information we have obtained from responsible breeders in some of the countries of origin (see, for example, the emails attached at Tab 16) indicates that the export brokers buy their puppies from producers in the countryside, ship the puppies by rail or truck to international airports in the capital city, and then ship the puppies by air to the U.S. The importer then transports them by car or truck to the importer's place of business. That means that the puppies often spend 3-4 days in transit, under stressful conditions, and in close proximity to each other where disease can spread among them like wildfire. We are further advised that the required pre-departure veterinary checks are often avoided through payment of bribes.

We know for a fact that many of the puppies the Slacks received were sick, dying, and covered with urine and feces upon arrival. During 2003-2004, the Slacks bought their puppies from an export broker in Moscow named Marina Kanevsky, who sent them puppies from the Ukraine and from Russia. We know some of the other importers also purchased from Ms. Kanevsky. The puppies they received were almost certainly no different than the ones the Slacks received. We know less about the puppies that come from other export brokers, but there is no reason to believe that the conditions of those puppies were much different. (See, for example, at Tab 17, the samples of complaints FBRN has received from buyers who bought puppies from importers other than the Slacks.) One reason that there are comparatively fewer complaints about some of the importers than about others appears to be that some apparently hold the puppies for 10 days before sale, whereas the Slacks often had buyers waiting at their home while they drove the puppies home from the airport. Holding the puppies for 10 days does not lessen the carnage in puppies - it simply means that the puppies die before rather than after sale.

A second problem with commercially imported puppies is the ease of falsifying foreign registration documents, and the greater difficulty a buyer has in discerning that he has been furnished with phony papers. The pedigrees the Slacks furnished to their buyers were purportedly issued by the Polish Kennel Club, though most of their puppies came from the Ukraine and the rest came from Russia. The CDC forms that Ms. Bagwell received as the local Humane Officer indicate that none of the Slacks' shipments during 2003-2004 came from Poland. In early 2005, the Slacks sent purported Polish registrations to a large number of buyers to whom they had sold puppies during 2004. The papers appeared to have been altered. Those papers were accompanied by AKC registration applications that the Slacks had filled out to falsely show the puppy buyers as the initial US importers. In December 2004, I had sent the AKC copies of the records we had obtained from the Slacks' former bookkeeper. Thus alerted, the AKC forwarded the purported Polish registrations to the Polish Kennel Club for information as to the validity of the papers. It turned out that the foreign registration papers were not merely altered, they were completely fraudulent. The Polish Kennel Club had no record of the dogs shown on the export pedigrees it had purportedly issued. Indeed, it had no record even of the purported breeders. Those papers were furnished to the Slacks by Ms.

Kanevsky. It is probable that she furnished similarly fraudulent papers to her other U.S. importer customers.

I also learned that fraudulent foreign pedigrees were being furnished to buyers of imported puppies at pet shops in New York. As part of my Internet investigation, I discovered web pages of the Companion Animal Protection Society ("CAPS"), which was investigating such abuses. I spoke to Deborah Howard, the President of CAPS. She told me that, after receiving complaints from buyers from some pet shops in New York, her organization had investigated and found that the purported registrations for puppies imported from Hungary came from a registry set up specifically to provide papers for commercial puppy export brokers. She said that her organization had contacted the owners of champion dogs from other countries that appeared on the pedigrees, and that her organization had ascertained that some of the purported matings had never taken place.

EXISTING STATE REGULATION OF COMMERCIAL IMPORTERS IS INEFFECTIVE

Some of the anti-PAWS articles argue that PAWS is unnecessary because any abuses can be solved by better enforcement of existing federal, state and local laws and ordinances. Unfortunately, however, state and local enforcement against the importers and others who sell puppies over the Internet is ineffective - for exactly the same reasons the Animal Welfare Act became necessary in 1970.

State and local funding for animal welfare is virtually non-existent outside of large cities such as Los Angeles. Thus, in most localities around the country, animal control and animal welfare is delegated to private organizations such as SPCAs and Animal Friends of the Valley, the organization in Lake Elsinore by which Ms. Bagwell is employed. Seizure of animals for neglect or cruelty results in large costs for such organizations, many of which can barely maintain their normal operations. This is particularly so if seized animals must be held indefinitely pending resolution of a criminal proceeding against the owner.

Even if the local humane organization is willing to take action, it can do so only if the local or state prosecuting authority is willing to bring criminal charges or a forfeiture action. Humane organizations often have great difficulty in persuading local and state prosecutorial offices to take such action because those offices are busy with theft, assault, murder and drug cases. They generally regard animal offenses as low priority. Furthermore, outside of large cities which may have a deputy prosecutor assigned to animal matters, prosecutors are rarely familiar with animal protection laws. Prosecution of animal cases therefore requires an additional expenditure of time to learn the relevant statutes and ordinances by prosecutors who may never have prosecuted such cases before. Prosecutors are particularly reluctant to devote the needed resources to prosecuting animal welfare cases where most of the victims are outside of the jurisdiction, as is commonly the case with sellers, including commercial puppy importers, who sell over the Internet.

Because of the foregoing factors, neither Ms. Bagwell nor I were able to persuade the Riverside County District Attorney's office or the Lake Elsinore City Attorney's office to take action against the Slacks. During the course of providing free legal advice to rescue groups around the country over the years, I have learned that such reluctance of local authorities to devote prosecutorial resources to abusive puppy sellers is the general rule, particularly where most of the sales are to buyers who live outside the jurisdiction.

PRESENT FEDERAL REGULATION OF COMMERCIAL IMPORTERS IS INEFFECTIVE

The Animal Welfare Act covers breeders but not importers. Indeed, one of the primary purposes of PAWS is to bring large scale importers under the same regulation that presently applies to commercial breeders who sell at wholesale.

There are federal laws that apply to imported puppies. Those, however, do not directly regulate the care and treatment of the imported puppies after arrival, or the sale of the puppies with fraudulent pedigrees and registration papers. Furthermore, those laws are not being enforced.

CDC regulations concerning importation of dogs, 42 CFR § 71.51, require prior rabies vaccination or confinement until 30 days after vaccination. With respect to puppies, § 71.51(c) (2) provides in pertinent part that:

(2) Regardless of the provisions of paragraph (c)(1) of this section, the Director may authorize admission as follows:

...

(ii) If the dog is less than 3 months of age, it may be admitted, but must be confined until vaccinated against rabies at 3 months of age and for at least 30 days after the date of vaccination.

Thus, the minimum age at which an imported puppy may be sold is 4 months (5 months in some States, including California). The CDC allows the importer to confine the imported animals at his own premises. The CDC itself does nothing to ensure that importers comply with the confinement obligation. (The CDC has told me it has no funds for enforcement.) The CDC sends a copy of the Form CDC 75.37 (see Tab 15), which is completed for each arriving shipment of puppies, to an agency designated by each State. That State agency is responsible for forwarding the copy to the local Humane Officer. In California, the State agency sends the copy to the County Health Department, which then in turn forwards the copy to the local Humane Officer. Ms. Bagwell advised me that she normally received the Forms CDC 75.37 for the Slacks' shipments about a month after the shipments arrived and that the puppies were normally sold by then. Even if there were prompter transmission of the copies to the local Humane Officers, they are not motivated to enforce the CDC's confinement regulations absent complaints from buyers. Even if the Humane Officers tried to enforce the confinement

regulations, they are unlikely to get cooperation in that regard from City Attorneys and District Attorneys, who rarely take action to enforce even their own animal laws and ordinances, let alone federal regulations.

CDC representatives told me that the practice of home confinement was developed when most dogs were being imported by persons who were keeping the dogs and that it worked well in such circumstances. The practice is not working well now that the business of commercial puppy importing has developed, because commercial puppy importers are highly motivated to sell the puppies as soon as possible after arrival. Furthermore, the complete lack of enforcement is so well known to, and relied upon by, commercial puppy importers that they feel free to openly advertise for sale 7 and 8-week old imported puppies. (See Tabs 2 through 7, 10, 11, and 14.)

Realistic enforcement of 42 CFR § 71.51 (such as by requiring confinement at third party facilities licensed by the CDC for imports of four or more puppies in a single shipment) would effectively end the abuses of the commercial puppy import business because the cost of keeping an imported puppy until it is at least four months of age before sale would remove the cost advantage of importing over breeding in the U.S., particularly since puppies older than four months of age typically bring lower prices than younger puppies. (See, for example, the statement on Bulldog Alley's website (Tab 6) that "Many of the pups below have been reduced in price to make room for our new litters" and the apparent reduction in price of about \$200 per puppy for the 10 week old puppies.)

USDA regulations prohibit carriers from accepting animals for transport without a health certificate signed by a licensed veterinarian (9 CFR § 2.78) and from transporting puppies younger than 8 weeks (9 CFR § 2.130). It appears that both regulations are routinely flouted by commercial puppy exporters abroad. That health certificates are being forged is evidenced by the large incidence of illness and death among puppies within a day or two of arrival in the U.S. and by anecdotal reports from responsible breeders abroad that forged signatures are commonplace in eastern European countries - which is corroborated by the fact that the pedigrees from those countries are frequently forged. That puppies are being shipped at younger than 8 weeks of age is evidenced by the ads at Tabs 10 and 11 and by reports of buyers of imported puppies that their veterinarians have told them on their first visit after buying their puppy that the puppy was younger than 8 weeks old. Furthermore, there is a strong economic incentive to both exporter and importer to ship puppies as young as possible. For the seller, selling younger puppies brings in the profits earlier, reduces expenses of care, and avoids the risk of loss as soon as shipment is made. For the buyer, as noted above, younger puppies bring higher prices and a longer "shelf life."

CONCLUSION

Enactment of PAWS, combined with realistic enforcement, including prompt and effective response to complaints by consumers and humane officers is sorely needed to combat the evils of the commercial puppy import trade. Those evils include (a) a high death rate of young

puppies during and shortly after transport to the United States, and (b) defrauding of buyers and causing them needless heartache and expense when a newly purchased puppy requires expensive treatment to save its life, and often dies even with such treatment, or when a fairly young pet develops serious genetic problems requiring the buyer to choose between very expensive ongoing treatment or euthanasia.

Many opposing PAWS have posited that, if it passes, the USDA would unnecessarily harass quality breeders whose sales are just above the regulatory limits, prohibit their keeping dogs in their homes, and other silly hypotheses spread around the Internet rumor mill. Others are likely opposing PAWS because they do not report sales and do not pay sales tax on the sales or income tax on the profits from those sales.

I have heard no sensible, legitimate arguments against the passage of PAWS. On the other hand, abuses among unregulated sellers of puppies, including both domestic puppy mills and importers, is real, widespread and serious, resulting in substantial harm to the puppies, to the buyers, and to shelters and rescue organizations, such as the FBRN, who are asked to take unhealthy dogs for whom the owners cannot or will not pay for expensive ongoing veterinary care.