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Although it is posted on the internet, this opinion is binding only on the
parties in the case and its use in other cases is limited. R. 1:36-3.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2797-16T3

THE HUNTERDON DISTRICT
SOCIETY FOR THE PREVENTION
OF CRUELTY TO ANIMALS, INC.,

Plaintiff-Appellant,

v.

NEW JERSEY SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS,

Defendant-Respondent.

Argued April 23, 2018 – Decided May 14, 2018

Before Judges Summers and Moynihan.

On appeal from Superior Court of New Jersey,
Law Division, Hunterdon County, Docket No.
L-0527-16.

Daniel S. Makoski argued the cause for
appellant (Gebhardt & Kiefer, PC, attorneys;
Daniel S. Makoski, on the brief).

Harry Jay Levin argued the cause for
respondent (Levin Cyphers, attorneys; Harry
Jay Levin and Ronald J. Bakay, on the brief).

PER CURIAM

Plaintiff, The Hunterdon District Society for the Prevention of Cruelty to Animals, Inc. (Hunterdon), appeals from the trial court's order denying its order to show cause, and compelling its payment of fees to defendant, The New Jersey Society for the Prevention of Cruelty to Animals (NJ SPCA). After discovering the cessation of mail service to its offices, Hunterdon learned NJ SPCA had filed a change-of-address request that rerouted Hunterdon's mail to NJ SPCA's headquarters. Hunterdon's order to show cause sought the return of mail that had been redirected to NJ SPCA and restraints against further redirection.

In an oral decision, the trial court noted the parties' litigious history. NJ SPCA had previously sought and obtained emergent relief in July 2015: affirming its revocation of the county charter it had granted to Hunterdon; requiring Hunterdon to cede all of its assets pursuant to N.J.S.A. 4:22-11.4(j); and ordering Hunterdon to cease operations as a chartered county SPCA.¹

¹ N.J.S.A. 4:22-11.4(d) – until its anticipated repeal on August 1, 2018 – vests authority in NJ SPCA's board of trustees (board), by a majority vote, to "revoke, cancel or suspend" SPCA charters granted by the board pursuant to N.J.S.A. 4:22-11.4(c). N.J.S.A. 4:22-11.4(j) mandated the board

[h]old in escrow any assets . . . of a county society that . . . has its charter revoked, canceled, or suspended for any reason until a new county society for that county is formed and chartered or the revoked, canceled, or

In July 2016 a subsequent order was entered declaring Hunterdon's certificate of incorporation (COI) still valid notwithstanding the revocation of its SPCA charter which, the court ruled, had "no effect" on the COI. That same order also provided: "Should [Hunterdon] seek to accept and solicit contributions as a non-profit corporation, [it] may do so but not using its current name or any name including 'SCPA' or 'Society for the Prevention of Cruelty to Animals.'"

The trial court considered those orders and concluded, "Hunterdon County SPCA does not exist. It has no property rights or any standing to bring a motion. The motion is denied."

"Standing is a threshold requirement for justiciability." Watkins v. Resorts Int'l Hotel & Casino, 124 N.J. 398, 421 (1991). The issue of standing is a question of law, over which we conduct a de novo review. See In re Middlesex Reg'l Educ. Servs. Comm'n Name Change Request, ___ N.J. Super. ___, ___ (2018) (slip op. at 3); People For Open Gov't v. Roberts, 397 N.J. Super. 502, 508 (App. Div. 2008).

We agree with Hunterdon's argument that, as a valid corporation, it had standing and reverse. The Legislature conferred on each corporation the power "to sue and be sued,

suspended charter for the county is restored
.....

complain and defend and participate as a party or otherwise in any judicial, administrative, arbitratative or other proceeding, in its corporate name." N.J.S.A. 14A:3-1(1)(b). As recognized by the judge who entered the July 2016 order, although Hunterdon's SPCA charter was revoked, its corporate charter was not. As such it had statutory standing to seek redress for the redirection of its mail.

We do not pass on the merits of its application – yet to be considered by the trial court. And while we acknowledge Hunterdon is prohibited under the terms of the July 2016 order from soliciting contributions under any name that includes "Society for the Prevention of Cruelty to Animals" or its acronym, we see no judicial or other compulsion to change its name, or to cease operations other than those as a chartered SPCA.

We also vacate the award of fees; of course, the trial court is free to revisit this issue on the application of either party, depending on the results of further proceedings.

Reversed and remanded. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION