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DOCKET NO. 2005-46

IN THE MATTER OF § TEXAS STATE BOARD OF
THE LICENSE OF §
DONALD S. FLETCHER, D.V.M. § VETERINARY MEDICAL EXAMINERS

TEXAS STATE BOARD OF
VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 9th day of June, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of DONALD F. FLETCHER, D.V. M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on May 6, 2005. The Respondent appeared without counsel. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent, without admitting the truth of the findings and conclusions set out in this Agreed Order, wishes to waive a formal adjudicative hearing and thereby informally dispose of the issues without a formal adjudication. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving an adjudicative hearing, Respondent acknowledges his understanding of the alleged violations and the adequacy and sufficiency of the notice provided to him.

Upon the recommendation of the Enforcement Committee and with Respondent's consent, the Board makes the following Findings of Fact and Conclusions of Law and enters this Agreed Order as set forth below.

Findings of Fact

1. Upon information provided by the Texas Animal Health Commission (TAHC), the Board opened a complaint against Donald S. Fletcher, D.V.M., Stephenville, Texas, for possible violations of Board rules and the Texas Veterinary Licensing Act. The complaint is based on allegations made by Mitzi Blankenship, Stephenville, Texas, a former employee of Dr. Fletcher, and reports from David Martin, an inspector for the TAHC.
2. During the years 2000 through 2002, Ms. Blankenship assisted Dr. Fletcher with market testing at Erath County Dairy Sale (ECDS) and Wichita Falls. On some occasions she observed Dr. Fletcher applying brucellosis eartags and tattoos to heifers and not vaccinating them.
3. In March, 2004, at a special sale at the ECDS, Ms. Blankenship completed a Certificate of Veterinary Inspection (CVI) on 157 holstein heifers destined for the Overland Stockyards in California. These heifers were not TB tested. Approximately two weeks later, Dr. Fletcher gave Ms. Blankenship some blank TB test charts, a copy of the CVI, and instructed her to put those heifers on the test chart in the name of David Howze, the buyer of the cattle. She witnessed Dr. Fletcher signing the chart. Recently, Ms. Blankenship accompanied Dr. Fletcher on some fee

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basis TB tests at dairies. Several time, Dr. Fletcher instructed her to record the identifications of cows that were not injected.

4. CVI 74-323971, dated April 22, 2004, and signed by Dr. Fletcher, listed 35 head of cattle from ECDS to Pecos Valley Dairy Sale (PVDS), New Mexico. The brucellosis test lab is recorded as ECDS 4/22/04. None of the 35 eartags are listed on the ECDS brucellosis test record, Form 4-54, for 4/22/04.

5. CVI 74-349530-37, dated May 8, 2004, and signed by Dr. Fletcher, listed 113 head from ECDS to PVDS. The TB injection date is recorded as 5/5/04. On 5/6/04, Inspector Martin observed these cattle being worked, bled, but not injected. These cattle were no longer on the yards, at the market, at 8:00 a.m. on 5/8/04.

6. CVI 74-349594, dated May 12, 2004, and signed by Dr. Fletcher, listed one 13- month old bull consigned to Texas Breeders Classic, Glen Rose, Texas, by Hard Eight Bucking Bulls of Stephenville (Chad Decker). The brucellosis test lab was recorded as "State Fed lab FW" 5/7/04. Inspector Martin observed Dr. Fletcher obtaining a blood sample from the bull. According to lab records, this sample was never received by either the Fort Worth or Austin labs, nor did Dr. Fletcher ever call for results.

7. CVI 74-349617, dated May 18, 2004, and signed by Dr. Fletcher, listed 30 head shipped from ECDS to PVDS and recorded 30 backtags that match backtags listed on Missouri CVI 1473567 for cattle shipped from Norwood Producers, West Plains, Missouri, to ECDS. The brucellosis test lab on the Texas CVI indicated ECDS. The eartags listed are not on ECDS Form 4-54.

8. CVI 74-349633-38, dated June 6, 2004, and signed by Dr. Fletcher, listed 78 head shipped from ECDS to PVDS. Inspector Martin photocopied these documents on June 4, 2004. The top copy to accompany shipment was missing, and the TB observation date of June 6, 2004, was already written in. Inspector Martin was unable to locate anyone who saw the cattle being injected with tuberculin. The cattle left ECDS prior to 12:22 p.m. on 6/6/04. On June 11, 2004, Dr. Fletcher told Inspector Martin that he had spent the entire previous weekend in San Saba doing electrical and plumbing work, and pouring concrete.

9. According to TAHC records, since January 2003, the number of cattle TB tested by Dr. Fletcher exceeds the amount of tuberculin that he was issued by more than 4000.

Conclusions of Law

1. Respondent is required to comply with the provisions of the Veterinary Licensing Act, Chapter 801, Texas Occupations Code, and with the Board's Rules.

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2. Based on Findings of Fact 1 through 9, Dr. Fletcher has violated Rule 573.24, ISSUANCE OF CERTIFICATES THROUGH DIRECT KNOWLEDGE ONLY, of the Board's Rules of Professional Conduct, which states:

"Licensed veterinarians in this state shall not issue any certificate attesting to the physical condition and/or soundness of an animal without first having personally examined the individual animal and know of their own knowledge, by actual inspection and appropriate tests, that said animals meet the requirements for the issuance of such certificate."

3. Based on Findings of Fact 1 through 9, Dr. Fletcher has violated Rule 573.4, ADHERENCE TO THE LAW, which requires that a veterinarian shall not commit any act that is in violation of the laws of the State of Texas, other states, or of the United States.

4. Based on Findings of Fact 1 through 9, Dr. Fletcher has violated Sections 801.402 (6), (8) and (10) of the Texas Veterinary Licensing Act, which prohibit conduct that violates the Board's rules of professional conduct; the fraudulent issuance of a health certificate, vaccination certificate, test chart, or other form that relates to the presence or absence of animal disease; or the commission of fraud in connection with the application or reporting of a test of animal disease, respectively.

4. Based on Conclusions of Law 1 through 4, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:

801.401. DISCIPLINARY POWERS OF BOARD. (a) If an applicant or license holder is subject to denial of a license or to disciplinary action under Section 801.402, the Board may:

- (1) refuse to examine an applicant or to issue or renew a license;
- (2) revoke or suspend a license;
- (3) place on probation a license holder or person whose license has been suspended;
- (4) reprimand a license holder; or
- (5) impose a civil penalty.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

The Board ORDERS that Respondent's license be SUSPENDED for a period of not less than two years from the date of this Order.

The Board further ORDERS that after the two years suspension, Respondent may petition the Board for reinstatement of his suspended license. The suspension shall continue for as long as reinstatement is not authorized.

The Board further ORDERS that:

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1 Respondent shall abide by the Rules of Professional Conduct, the Texas Veterinary Licensing Act, and the laws of the State of Texas and the United States.

2. Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.

3. Failure by Respondent to comply with the terms of this Agreed Order or with any other provisions of the Licensing Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his understanding of the Agreed Order, the notice, and Findings of Fact and Conclusions of Law herein set forth herein, and agrees that he will satisfactorily comply with the mandates of the Agreed Order in a timely manner or be subject to appropriate disciplinary action by the Board.

Respondent, by signing this Agreed Order, waives his right to a formal hearing and any right to seek judicial review of this Agreed Order. Respondent acknowledges that he is not represented by legal counsel in this matter.

RESPONDENT WAIVES ANY FURTHER HEARINGS OR APPEALS TO THE BOARD OR TO ANY COURT IN REGARD TO ALL TERMS AND CONDITIONS OF THIS AGREED ORDER. NOTHING IN THIS ORDER SHALL BE DEEMED A WAIVER OF RESPONDENT'S RIGHTS UNDER STATUTE OR UNDER THE UNITED STATES OR TEXAS CONSTITUTIONS TO APPEAL AN ORDER OR ACTION OF THE BOARD SUBSEQUENT TO THIS AGREED ORDER EXCEPT AS RESPONDENT MAY HAVE OTHERWISE AGREED TO HEREIN. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.

The effective date of this Agreed Order shall be the date it is adopted by the Board.

I, **DONALD FLETCHER, D.V.M.**, HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND BY SIGNING IT, I WAIVE CERTAIN RIGHTS. I SIGN IT VOLUNTARILY. I UNDERSTAND THAT THIS ORDER CONTAINS THE ENTIRE AGREEMENT AND THERE IS NO OTHER AGREEMENT OF ANY KIND, VERBAL, WRITTEN OR OTHERWISE.


Donald Fletcher, D.V.M.

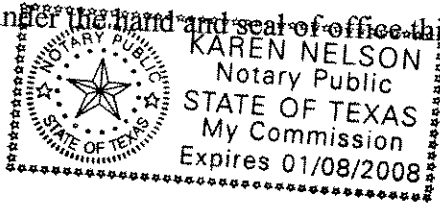
6/2/05
Date

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STATE OF TEXAS §
COUNTY OF ERATH §

BEFORE ME, on this day, personally appeared DONALD FLETCHER, D.V.M., known to me as the person whose name is subscribed to the foregoing document, and acknowledged to me that he executed the same for the purposes stated therein.

Given under the hand and seal of office this 2nd day of June, 2005.



Karen Nelson
Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 9th day of June, 2005.

Gary C. Brantley, D.V.M.
Gary C. Brantley, D.V.M., President