DOCKET NO. 2005-08

IN THE MATTER OF

TEXAS STATE BOARD OF

THE LICENSE OF

§

8

δ

TIMOTHY R. STONE, D.V.M.

VETERINARY MEDICAL EXAMINERS

AGREED ORDER

On this the 17th day of February, 2005, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of TIMOTHY R. STONE, D.V. M. ("Respondent") Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on November 9, 2004. 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. In December, 2003, Michael J. Gallagher, San Antonio, Texas, noticed that his dog "Buffy" was eating less than usual and appeared to be losing weight. On January 5, 2004, Mr. Gallagher presented "Buffy" to Timothy R. Stone, D.V.M., Rittiman Road Animal Hospital, San Antonio, Texas. Dr. Stone noted that the dog had lost 7.6 pounds since she was last weighed in January, 2003. Dr. Stone observed that the dog was active but thin. Dr. Stone suggested trying a variety of foods in order to find something the dog would readily eat.
- 2. On January 19th, Dr. Stone re-examined "Buffy" and found that she had lost another .7 pounds, but otherwise seemed bright and alert. Dr. Stone did not suggest blood work but dispensed prednisone tablets to try to stimulate the dog's appetite. On February 12th, Dr. Stone re-examined the dog. She was eating more consistently, but she was now occasionally vomiting undigested food. No blood work was done, but Dr. Stone dispensed metoclopramide tablets for vomiting.
- 3. On February 20th, "Buffy" was again scheduled to be seen by Dr. Stone, but he was out of

Agreed Order 2005-08 Timothy R. Stone, D.V.M.

town. Mr. Gallagher presented the dog to Ray M. Ayers, D.V.M. Perrin Beitel Veterinary Hospital, San Antonio, Texas. Dr. Ayers performed a fecal examination and blood profile. Blood work showed evidence of renal failure. "Buffy" failed to respond to treatment and was euthanized on February 23, 2004. A necropsy confirmed Dr. Ayers' diagnosis of renal failure.

4. Dr. Stone's failure to perform diagnostics such as a fecal examination and blood work for a patient presented several times for chronic weight loss and vomiting, does not represent the same degree of humane care, skill, and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in San Antonio, Texas, or similar communities.

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.
- 2. Based on Findings of Fact 1 through 4, Respondent has violated Rule 573.22, PROFESSIONAL STANDARD OF HUMANE TREATMENT, of the Board's Rules of Professional Conduct, which requires veterinarians to exercise the same degree of humane care, skill and diligence in treating patients as is ordinarily used in the same or similar circumstances by average members of the veterinary medical profession in good standing in the locality or community in which they practice, or in similar communities.
- 3. Based on Findings of Fact 1 through 4 and Conclusions of Law 1 and 2, Respondent has violated Section 801.402 (6) of the Veterinary Licensing Act, Texas Occupations Code, and is subject to disciplinary action by the Board:
 - 801.402. GENERAL GROUNDS FOR LICENSE DENIAL OR DISCIPLINARY ACTION. A person is subject to denial of a license or to disciplinary action under Section 801.401 if the person:
 - (6) engages in practices or conduct that violates the board's rules of professional conduct.
- 4. Based on Conclusions of Law 1 through 3, 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;

Agreed Order 2005-08 Timothy R. Stone, D.V.M.

- (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:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Timothy R. Stone, D.V.M., be FORMALLY REPRIMANDED.

The Board further ORDERS that:

- 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.

Agreed Order 2005-08 Timothy R. Stone, D.V.M.

I, **TIMOTHY R. STONE**, 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.

Jonathy Restone	3 Dec 04
Timothy R. Stone, D.V.M.	Date
STATE OF TEXAS §	

BEFORE ME, on this day, personally appeared TIMOTHY R. STONE, 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 day of



EXAMINERS on this the 17th day of February, 2005.

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL

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