NEGOITIATED SETTLEMENT AGREEMENT

This negotiated settlement agreement has been entered into by agreement among Dr. Donald L. Ross, Dr. Harold M. Mark, Dr. James G. Sloat and Dr. James R. Weedon and the Texas State Board of Veterinary Medical Examiners Executive Director, with the concurrence and approval of the Board Secretary. It is being presented to the Texas State Board of Veterinary Medical Examiners (the "Board") as a recommendation only. If the Board should opt to reject or amend the negotiated settlement, this proposed Draft Negotiated Settlement Agreement shall automatically become null and void and be of no further force or effect and may never be used for any purpose against any party hereto in any context. The parties acknowledge that the Board may treat the allegations of fact and law contained in the Amended Complaint, which is attached hereto as Exhibit "A" and incorporated herein for all purposes, exclusively for the purposes of its consideration of this negotiated settlement, as true. However, it is expressly understood and agreed that by their entering into this agreement and
executing same Drs. Ross, Mark, Sloat and Weedon are in no manner admitting to the truth of the allegations contained in Exhibit "A".

**SUMMARY OF CHARGES**

It has been alleged that, among other things, Drs. Donald L. Ross, Harold M. Mark and James G. Sloat, as corporate officers and shareholders of NeuterCorp Animal Population Control Clinics of America, Inc. ("NeuterCorp"), and that Drs. Ross, Mark, Sloat and James R. Weedon, as corporate officers of MRSW, Inc., have established and/or implemented, policies for the employees of NeuterCorp, by which unlicensed persons have been allowed to examine dogs and cats upon presentation, determine whether or not an animal is in a healthy condition, inoculate animals with rabies and commonly employed vaccines, and/or examine, prepare and anesthetize animals for surgery, all of which, from time to time, were performed without a veterinarian/client/patient relationship having been established by a licensed NeuterCorp veterinarian. It should be noted that since this Complaint was filed, Drs. Mark, Ross, Sloat and Weedon have caused NeuterCorp to amend its policy manual and operating procedures so as to satisfactorily address the allegations contained in the Complaint.

**RECOMMENDED DISCIPLINARY ACTION**

1. Official Reprimand for Dr. Donald L. Ross, Dr. Harold M. Mark and Dr. James G. Sloat.

2. $5,000 administrative penalty each for Dr. Donald L. Ross, Dr. Harold M. Mark and Dr. James G. Sloat.

**CONDITIONS**

1. Consistent with the Board's policy in regard to settlements of this type, Dr. Donald L. Ross, Dr. Harold M. Mark, Dr. James G. Sloat and Dr. James R. Weedon are required to take and
pass the State Jurisprudence examination within ninety (90) days of the Board accepting this negotiated settlement.

2. Dr. Donald L. Ross, Dr. Harold M. Mark, Dr. James G. Sloat and Dr. James R. Weedon are required to expand the NeuterCorp policy manual to include an enhanced section on technicians training for pre-surgery, surgery, and post surgery for small animals, detailing policies and procedures for technicians in compliance with the Texas Veterinary Licensing Act and Rules of the Board. This enhanced section is to be produced within ninety (90) days of the Board accepting this negotiated settlement. One copy is to be sent to the Board within ninety (90) days of the Board accepting this negotiated settlement.

3. Within one hundred twenty (120) days of the Board accepting this negotiated settlement, all veterinarians and technicians employed by respondents are required to sign off that they have received, read and understand the above referenced enhanced section of the NeuterCorp policy manual.

4. Dr. Donald L. Ross, Dr. Harold M. Mark, Dr. James G. Sloat and Dr. James R. Weedon agree to be bound by the laws and rules of the State of Texas that pertain to the practice of veterinary medicine.

Donald L. Ross 6-8-94
DONALD L. ROSS, DVM DATE

Harold M. Mark 6-8-94
HAROLD M. MARK, DVM DATE
The foregoing Negotiated Settlement, entered into between Donald L. Ross, DVM, Harold M. Mark, DVM, James G. Sloat, DVM, and James R. Weedon, DVM, the Board Secretary, and Board Executive Staff, and having been presented to the Texas State Board of Veterinary Medical Examiners, was accepted by the Board, and the Board, on the $9^{th}$ day of June, 1994, ORDERED that all penalties and conditions as stated therein be complied with the same as if evidence had been heard and Findings and Orders issued.

Executed this the $9^{th}$ day of June, 1994.

Clark S. Willingham, President

Alton F. Hopkins, Jr., DVM, Vice President

John A. Wood, DVM, Secretary

Sharon O. Matthews, Member
DOCKETED COMPLAINT NO. 1993-14

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

DONALD L. ROSS, D.V.M., LICENSE NO: 2551, 1993 RENEWAL CERTIFICATE NO: 2560

HAROLD M. MARK, D.V.M., LICENSE NO: 2538, 1993 RENEWAL CERTIFICATE NO: 2643

JAMES G. SLOAT, D.V.M., LICENSE NO: 4820, 1993 RENEWAL CERTIFICATE NO: 2644

JAMES R. WEE DON, D.V.M., LICENSE NO: 2567, 1993 RENEWAL CERTIFICATE NO: 2645

AMENDED COMPLAINT AFFIDAVIT

BEFORE ME, the undersigned authority, a Notary Public in and for Texas, on this day personally appeared Matthew Wendel, who after being duly sworn, did depose and say:

On or about May 4, 1992, Matthew Wendel, being an employee of the Texas State Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of Donald L. Ross, D.V.M., 11000 S. Wilcrest, #150, Houston, Texas, 77099; Veterinary License Number 2551, 1993 Renewal Certificate Number 2560; Harold M. Mark, D.V.M., 11000 S. Wilcrest, #150, Houston, Texas, 77099; Veterinary License Number 2538, 1993 Renewal Certificate Number 2643; James G. Sloat, D.V.M., 11000 S. Wilcrest, #150, Houston, Texas, 77099, Veterinary License Number 4820, 1993 Renewal Certificate Number 2644; James R. Weedon, D.V.M., 11000 S. Wilcrest, #150, Houston, Texas, 77099, Veterinary License Number 2567, 1993 Renewal Certificate Number 2645; all practitioners of veterinary medicine in the State of Texas.
As an employee of the Texas Board of Veterinary Medical Examiners, I, Matthew Wendel, do hereby present the following complaint against Donald L. Ross, Harold M. Mark, James G. Sloat, James R. Weedon, D.V.M.s:

I.

Doctors Donald L. Ross, Harold M. Mark, and James G. Sloat, corporate officers and shareholders of NeuterCorp, and Doctor James R. Weedon of MRSW, the management company for NeuterCorp, have established and/or implemented from 1988 to the present, policies for the employees of NeuterCorp by which unlicensed people are allowed to examine dogs and cats upon presentation; determine whether or not an animal is in a healthy condition; inoculate animals with rabies and commonly employed vaccines; and/or examine, prepare and anesthetize animals for surgery, all of which are also routinely performed without a veterinarian/client/patient relationship established by a licensed veterinarian.

II.

On or about January 25, 1992, Kevin Ballard and Elizabeth Johnson presented a six month old male kitten, "Fussy", to NeuterCorp to be vaccinated for rabies, distemper and feline leukemia and to have him neutered. Instead of neutering him, a veterinarian for NeuterCorp declawed "Fussy". No veterinarian examined "Fussy" before "Fussy" was vaccinated. No veterinarian examined or prepared "Fussy" before "Fussy" was placed under anesthesia.
III.

By doing the actions described in paragraphs I and II, Doctors Donald L. Ross, Harold M. Mark, James G. Sloat and James R. Weedon have violated Tex. Rev. Civ. Stat 8890 Section 14 (a) (5), by engaging in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law:

(a) In particular, by making and/or implementing policies that allow unlicensed personnel to examine dogs and cats upon presentation, determine whether or not an animal is in a healthy condition, inoculate animals with rabies and commonly employed vaccines, all of which are also routinely performed without a veterinarian/client/patient relationship established by a licensed veterinarian and/or the veterinarian seeing the animal to determine if the animal’s state of health is such that inoculation or vaccination is appropriate. The four above named doctors have encroached on the practice of veterinary medicine of the doctors who practiced at the clinics and/or hospitals maintained by NeuterCorp, in violation of Rule of Professional Conduct 573.2.

(b) In particular, by making and/or implementing policies that allow unlicensed personnel to examine
donald l. ross, harold m. mark, 
James g. sloat, James r. weedon, D.V.M.s 

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dogs and cats upon presentation, determine whether or not an animal is in a healthy condition, determine what is the appropriate dosage of anesthesia drugs, prepare the animal and anesthetize the animal, all of which are also routinely performed without a veterinarian/client/patient relationship established by a licensed veterinarian and/or the veterinarian seeing the animal to determine if the animal should be anesthetized and if so what drugs and in what amounts should be used. The four above named doctors have encroached on the practice of veterinary medicine of the doctors who practiced at the clinics and/or hospitals maintained by Neuter-Corp, in violation of Rule of Professional Conduct 573.2.

c) They have corrupted their unlicensed employees by allowing them to practice veterinary medicine without a license, thereby betraying a private trust and deceiving and betraying the public who believe that when they bring their animals to a clinic for veterinary treatment that their animals will be treated by veterinarians or personnel supervised by veterinarians in appropriate circumstances, in violation of Rule of Professional Conduct 573.5.
(d) By allowing unlicensed employees to perform the diagnosis or prognosis of animal diseases and/or conditions, and/or to prescribe drugs and medicine and/or doing these things prior to a veterinarian’s having determined the care necessary and/or the establishment of a veterinarian/client/patient relationship, the four doctors have violated Rule of Professional Conduct 573.10 (b) (e).

(e) The four doctors are professionally and legally responsible for the unauthorized practice of veterinary medicine by employees acting under their direction, as set forth in Rule of Professional Conduct 573.11.

(f) By establishing and implementing policies that allow for unlicensed employees to diagnose animals and prescribe drugs and medicine the four doctors have violated the humane standard of care of the average member of veterinary profession in good standing in the community, as described in Rule of Professional Conduct 573.22.

IV.

By establishing and/or implementing a long standing policy that results in unlicensed employees continually practicing veterinary medicine without a license, deceiving the public,
and/or encroaching on the practice of veterinary medicine the four doctors have engaged in a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine in violation of Texas Revised Civil Statute 8890, Section 14(a) (15).

V.
The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Drs. Ross’s, Mark’s, Sloat’s and Weedon’s Veterinary License under the Texas Veterinary Licensing Act, V.A.C.S., Article 8890, (formerly Article 7465a) Section 14 which states in part:

ARTICLE 8890, SECTION 14 (a)
". . . the Board may revoke or suspend a license, impose a civil penalty, place a person whose license has been suspended on probation, or reprimand a licensee . . if it finds that a licensee:

(5) has engaged in practices or conduct in connection with the practice of veterinary medicine which are violative of the standards of professional conduct as duly promulgated by the Board in accordance with law;

(15) has committed gross malpractice or is guilty of a pattern of acts indicating consistent malpractice, negligence, or incompetence in the practice of veterinary medicine;
ARTICLE 8890, SECTION 14B

(a) If a person violates this act in a manner that constitutes grounds for disciplinary action by the Board, the Board may assess a civil penalty against that person in addition to taking action under Section 14 or 14A of this Act.

The foregoing complaint is submitted to the Secretary of Texas Board of Veterinary Medical Examiners on this the 7th day of December, 1993.

Further, Affiant sayeth not.

Matthew Wendel, Affiant

SUBSCRIBED and SWORN TO before me by the said Matthew Wendel this the 7th day of December, 1993.

Joseph J. Rizzo, Notary Public
STATE OF TEXAS
My Comm. Exp. 12-20-97

The foregoing Complaint is hereby filed and docketed with the Texas State Board of Veterinary Medical Examiners and styled Texas State Board of Veterinary Medical Examiners vs. Donald L. Ross, D.V.M., Harold M. Mark, D.V.M., James G. Sloat, D.V.M., and James R. Weedon, D.V.M. under Docketed Number 1993-14, this the 10th day of December, 1993.

Alton F. Hopkins, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners