TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH 35, Box 113
Austin, TX 78704

DOCKET NUMBER 1991-20
DON RAITH SMITH, D.V.M.
LICENSE NUMBER: 2080

NEGOTIATED COMPROMISE SETTLEMENT

This negotiated compromise settlement has been entered by agreement between Dr. Smith, Mr. J. D. McLaughlin, legal counsel for Dr. Smith, the Texas State Board of Veterinary Medical Examiners staff in concurrence with the Board Secretary. It is presented to the Board as a recommendation only. If the Board elects to reject or amend this negotiated settlement the defendant, Dr. Smith, will be granted a continuance at his option.

Dr. Smith does not contest the allegations set forth in the Complaint, attached as Exhibit "A" and incorporated herein for all purposes, and agrees that, accordingly, the Board may treat the allegations of fact and law as true, which findings shall have the same force and effect as if evidence and argument were presented in support of the allegations, and based thereon, the Board found the allegations to be true. Respondent understands and intends that by so stating, he is not admitting the truth of the allegations, but is merely agreeing that the Board may enter an Order treating the allegations as true without the necessity of receiving evidence in support thereof.

SUMMARY OF CHARGES:

Violation of the standards of professional conduct by accepting a fee for services not performed, i.e. euthanasia for the dog "Sasha".

RECOMMENDED DISCIPLINARY ACTION:

1. Official Reprimand
2. Pay a Civil Penalty in the sum of $500.00.

CONDITIONS:

1. Abide by the laws and Rules of the State of Texas as they pertain to the practice of veterinary medicine.
2. Take and pass the State Board Jurisprudence Examination as scheduled by the Board staff.
3. Obtain twenty (20) hours of Continuing Education prior to February 5, 1992.

SUBSCRIBED TO and SWORN before me by Don Raith Smith, this the 28th day of January, 1991.

DON RAITH SMITH, D.V.M.

Donald B. Wilson, Executive Director
TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
The foregoing Agreed Settlement, entered into between Dr. Don Raith Smith, the Board Secretary, and Board Executive Staff and having been presented to the Texas State Board of Veterinary Medical Examiners as a No contest Plea, was accepted by the Board, and the Board, on the 6th of February, 1991, ORDERED that all penalties and conditions as stated therein be complied with the same as if the Board had heard evidence and testimony and as a result of such hearing had issued Findings and Orders.

Executed this the 6th, day of February, 1991.

Robert D. Lewis, D.V.M., President

Mary E. Mainster, D.V.M., Vice-President

RECUSED
Guy A. Sheppard, D.V.M., Secretary

Larry M. Dubuisson, D.V.M., Member

Mrs. Olivia R. Eudaly, D.V.M., Member

Alton F. Hopkins, Jr., D.V.M., Member

Mr. Mike Levi, Member

Fred K. Solfer, D.V.M., Member

Mr. Clark S. Willingham, Member

2-6-91

Date
DOCKETED COMPLAINT NO. 1991-20
TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

vs.

DON RAITH SMITH, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 2080
1990 RENEWAL CERTIFICATE NUMBER 2560

COMPLAINT AFFIDAVIT FORM

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

On or about October 1, 1990, Ernie M. Carroll, being an employee of the Texas Board of Veterinary Medical Examiners, did in the course of such employment, make certain investigations into the professional conduct of one DON RAITH SMITH, D.V.M., Paris Veterinary Clinic, 2105 North Main Street, Paris, Lamar County, Texas, Veterinary License Number 2080, 1990 Renewal Certificate Number 2560, a practitioner of veterinary medicine in the State of Texas. As an employee of the Texas Board of Veterinary Medical Examiners, I, Ernie M. Carroll, do hereby present the following complaint against DON RAITH SMITH, D.V.M., who is hereinafter called Respondent.

I.

On or about July 2, 1990, Dr. Lyle D. Nottingham, D.V.M. diagnosed Mr. & Mrs. Robert Renfro’s dog "Sasha" as suffering from spinal problems. Dr. Mark E. White, an Associate in the Respondent’s clinic, suggested confinement in a severely restricted cage for an extended period of time and then only offered a guarded prognosis following confinement.

II.

On or about July 3, 1990, Mr. & Mrs. Robert Renfro’s canine, "Sasha", was presented to the Respondent’s clinic to be euthanized. Respondent was paid for the requested service, and Mr. & Mrs. Renfro left Respondent’s clinic with the understanding that "Sasha" would be euthanized.

III.

Or or about August 1, 1990, the dog appeared at the Renfro’s home. Respondent admitted to the Renfros that he had not euthanized the dog as he originally intended, since there did not appear to be a legitimate medical reason to do so, and had subsequently given the dog to the Niblett family.

IV.

Through acceptance of a fee for a service which Respondent never performed, and failure to inform the Renfros of the change in the planned course of action, Respondent has violated Rule 573.26 of the Rules of Professional Conduct and Article 8890, Section 14(a) (3) and (5) of the Veterinary Licensing Act which state in part:

Correction to Paragraph II made part of record.
HONESTY, INTEGRITY, AND FAIR DEALING
Licensed veterinarians shall conduct their practice with honesty, integrity, and fair dealing to clients in time and services rendered, and in the amount charged for services, facilities, appliances, and drugs.

ARTICLE 8890. SEC 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:

(3) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(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;

VIII.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. Smith's Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14 which states in part:

Article 8890, Section 14a
"...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:

(3) has engaged in dishonest or illegal practices in or connected with the practice of veterinary medicine;

(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;

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 the Texas Board of Veterinary Medical Examiners on this the 14th day of January, 1991.

Further, Affiant sayeth not.

[Signature]
ERNIE M. CARROLL, Affiant
SUBSCRIBED and SWORN TO before me by the said ERNIE M. CARROLL, this the 14th day of January 1991.

JUDY C. SMITH, Notary in and for Texas

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. DON RAITH SMITH, D.V.M. under Docket Number 1991-20, this the 16th day of January, 1990.

GUY A. SHEPPARD, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners