TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS
1946 South IH 35, Suite 306
Austin, TX 78704

DOCKET NUMBER 1991-02
JOHN P. SOHMER, D.V.M. - LICENSE NUMBER 5069

NEGOTIATED SETTLEMENT

This negotiated settlement has been entered by agreement between Mr. Ken Stone, legal counsel for Dr. Sohmer, 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. Sohmer, will be granted a continuance at his/her option.

Dr. Sohmer does not contest the allegations set forth in the Complaint, for this proceeding only, and agrees that, accordingly, the Board, for this proceeding only, 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, in this proceeding only, and based thereon, the Board found the allegations to be true for this proceeding only. Respondent understands and intends that by so stating, he/she is not admitting the truth of the allegations, and denies any negligence herein, but is merely agreeing, for the purposes of this proceeding, that the Board may enter an Order treating the allegations as true, for this proceeding only, without the necessity of receiving evidence in support thereof.

Nothing herein shall be construed as an admission of negligence or liability on the part of Dr. John Sohmer and any other, whether civil or criminal, such being expressly denied.

SUMMARY OF CHARGES: Failure to exercise humane care, skill and diligence in declawing Melinda Jo Kurtzman's cat.

RECOMMENDED DISCIPLINARY ACTION:
1. Two years suspension of veterinary license, all probated.
2. Pay a Civil Penalty in the sum of $500.00.

CONDITIONS:
1. Submit quarterly reports certifying continued compliance with the Orders during the probationary period, with the first report due (to be set).
2. Abide by the laws and Rules of the State of Texas as they pertain to the practice of veterinary medicine.
3. Take and pass the State Board Jurisprudence Examination as scheduled by the Board staff.
4. Obtain twenty (20) hours of Continuing Education per year of probation in small animal medicine prior to end of probationary period.

John P. Sohmer, D.V.M.

Date: 9-21-90

Donald B. Wilson, Executive Director
TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS
The foregoing Agreed Settlement, entered into between Dr. John P. Sohmer, the Board Secretary, Dr. Mary E. Mainster 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 October 4, 1990, 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 4th, day of October, 1990.

Fred K. Sohmer, D.V.M., President
10/4/90

Robert D. Lewis, D.V.M., Vice-President
10-4-90

Mary E. Mainster, D.V.M.
Mary E. Mainster, D.V.M., Secretary
10/4/90

Larry M. Dubuisson, D.V.M., Member
10/4/90

Mrs. Olivia R. Eudaly
Mrs. Olivia R. Eudaly, D.V.M., Member
10/4/90

Alton F. Hopkins, Jr., D.V.M., Member
10-4-90

Mr. Mike Levi, Member
10/4/90

Guy A. Sheppard, D.V.M., Member
10-4-90

Mr. Clark S. Willingham, Member
11/4/90
DOCKETED COMPLAINT NO. 1991-02

TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS

-vs.-

JOHN P. SOHMER, D.V.M.

TEXAS VETERINARY MEDICAL LICENSE NO. 5069
1990 RENEWAL CERTIFICATE NUMBER 2824

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 February 7, 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 JOHN P. SOHMER, D.V.M., 2212 Northcrest, Plano, Collin County, Texas, Veterinary License Number 5069, 1990 Renewal Certificate Number 2824, 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 John P. Schmer, D.V.M., who is hereinafter called Respondent.

I.

On Thursday, September 7, 1989, Respondent performed declaw surgery on Ms. Kurtzman’s cat, "Diamond" at Ms. Kurtzman’s home. While cleaning up hair on the floor following the surgery, Ms. Kurtzman found one of "Diamond’s" claws with the pad attached among the discarded hair.

On Friday, September 8, 1989, upon Ms. Kurtzman’s request, Dr. Ted R. Staph removed the bandages from "Diamond". At this time Dr. Staph was unable to identify any toe pads and instructed Ms. Kurtzman to let the cat recuperate and he would recheck "Diamond" on the following week.

On September 12, 1989, upon reexamination it was revealed that most of the toe pads were missing with only a partial toe pad on the left paw and most of a single toe pad on the right paw. The cat was very lame and a dose of steroids was given to ease inflammation. Subsequent examinations revealed very little change in the cat’s condition and as of March, 1990 "Diamond" was still limping.

A second opinion obtained from Dr. Cathy A. Eastman of the Cat Hospital of Dallas on March 29, 1990 states that the digital pads were totally absent from seven of the weight-bearing toes and only a small portion of the digital pad remained on the eighth toe. Dr. Eastman states that "The cat walks with its carpi ‘dropped’, and it holds its front paws in a non-weight-bearing manner when at rest."

II.

By improperly performing a declaw surgery on Ms. Kurtzman’s cat, "Diamond" and thereby removing a majority of the toe pads, ultimately causing the cat to suffer needlessly, Respondent has violated rule 573.22 of the Rules of Professional Conduct and Article 8890, Veterinary Licensing Act, Section 14(a)(5), (15) which state:
573.22 PROFESSIONAL STANDARD OF HUMANE TREATMENT

Veterinarians shall exercise the same degree of humane care, skill, and diligence in treating patients as are 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.

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 license ... 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.

III.

The Texas State Board of Veterinary Medical Examiners has grounds to take disciplinary action against Dr. John Sohmer’s Veterinary License under the Texas Veterinary Licensing Act, V.A.T.S., Article 8890, (formerly Article 7465a) Section 14(a)(5), and (15) Which state.

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 license ... 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.

The foregoing complaint is submitted to the Secretary of the Texas Board of Veterinary Medical Examiners on this the ___ day of September, 1990.

Further, Affiant sayeth not.

ERVIE M. CARROLL, Affiant
SUBSCRIBED and SWORN TO before me by the said ERNIE M. CARROLL, this the 5th day of September, 1990.

JUDY C. SMITH
Notary Public in and for Texas

My Commission Expires: September 13, 1993

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. JOHN P. SOHMER, D.V.M. under Docketed Number 1991-02, this the 7th day of September, 1990.

MARY E. MAINSTER, D.V.M.
Mary E. Mainster, D.V.M., Secretary
Texas Board of Veterinary Medical Examiners