DOCKET NO. 2005-33

IN THE MATTER OF § TEXAS STATE BOARD OF

THE LICENSE OF §

FERDINAND TAMAS, D.V.M. § 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 FERDINAND TAMAS, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 575.27, an informal conference was held on March 3, 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. On May 9, 2004, a dachshund named “Willy” belonging to Judi Holsomback, Houston, Texas, injured his back after jumping off a bed. On May 10th, Ms. Holsomback took her dog to the Richmond Animal Hospital where he was examined by Joseph Mandola, D.V.M., a former employer of Ms. Holsomback. After taking x-rays, Dr. Mandola informed Ms. Holsomback that the dog had ruptured a disc and needed immediate surgery. The surgery (hemilaminectomy) was done on May 11th and Ms. Holsomback picked “Willy” up three days later. The dog was unable to walk following surgery, and appeared to be constipated.

2. Ms. Holsomback presented “Willy” to the clinic on May 22nd. The dog was seen by Ferdinand Tamas, D.V.M. Dr. Tamas said that the sutures were not ready to come out and he suggested that she return with the dog in a week.

3. On May 24th, Ms. Holsomback called the clinic to ask Dr. Mandola for some medications for “Willy’s” constipation. She was unable to contact Dr. Mandola although she called the clinic five times. When Ms. Holsomback arrived home from work, she found that the dog was very sick. Ms. Holsomback took the dog to the clinic where he was seen by Dr. Tamas. X-rays were taken
and Dr. Tamas said “This is not good.” The lone entry in the patient record for May 24 stated: “Holsomback ‘Willie’ x-ray abd., enema, pen., constipated.” According to Dr. Tamas, the patient was “shocky” upon presentation, and could have been developing sepsis, but this observation was not noted in the patient records. No entries were made in the patient record noting the results of the x-rays, no temperature was recorded, and details of treatment were lacking. No fluids were administered. Ms. Holsomback elected to take the dog home. There was no record entry of the condition of the patient at discharge. “Willy” died two hours later.

4. Based on Finding of Fact 3, Dr. Tamas’ failure to properly evaluate and treat the patient’s condition on May 24, 2004, 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 the locality or community in Richmond, 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 3 and 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 Finding of Fact 3, Respondent has violated Rule 573.52, PATIENT RECORD KEEPING, of the Board’s Rules of Professional Conduct.

4. Based on Findings of Fact 3 and 4 and Conclusions of Law 1 through 3, 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 4, Respondent is subject to disciplinary action under Section 801.401 of the Veterinary Licensing Act, Texas Occupations Code:
Agreed Order 2005-33
Ferdinand Tamas, D.V.M.

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:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that FERDINAND TAMAS, D.V.M., be INFORMALLY 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 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
Agreed Order 2005-33  
Ferdinand Tamas, D.V.M.  

ORDER.  

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

I, FERDINAND TAMAS, 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.  

Ferdinand Tamas, D.V.M.  

MARCH 30, 2005  

Date  

STATE OF TEXAS  
COUNTY OF FORT BEND  

BEFORE ME, on this day, personally appeared FERDINAND TAMAS, 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 30 day of March, 2005.  

MARY BETH DRISKEE  
My Commission Expires October 23, 2007  
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., President