DOCKET NO. 2009-03

IN THE MATTER § TExAS STATE BOARD OF
OF THE LICENSE OF § VETERINARY
LIAT E. ZILKHA, D.V.M. § MEDICAL EXAMINERS

AGREED ORDER

On this, the 12th day of February, 2009, came on to be considered by the Texas State Board of Veterinary Medical Examiners ("Board") the matter of the license of LIAT E. ZILKHA, D.V.M. ("Respondent"). Pursuant to Section 801.408, Texas Occupations Code and Board Rule 573.22 an informal conference was held on October 17, 2008. The Respondent was not represented by 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 conference under Section 801.2056 and thereby dispose of the compliance issues set out below. Respondent agrees to comply with the terms and conditions set forth in this Order. In waiving the right to a conference, Respondent acknowledges his/her understanding of the alleged violations and the adequacy and sufficiency of the notice mailed to him/her.

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. The Board has jurisdiction over the subject matter and Respondent. Respondent has received all notice that may be required by law and by the Board's rules. All jurisdictional requirements have been satisfied.

2. As the result of an investigation initiated by a complaint, the Board determined that Liat Zilkha, D.V.M., Austin, Texas, placed an advertisement that stated: "The Best Vets," "The Lowest Prices," and "Nobody Beats These Prices!" In addition, the advertisement compared prices with other competing clinics in the area, specifically for heartworm testing and vaccines. The advertisement contained statements that were false, deceptive or misleading. The advertisement states White Angel Animal Hospital are the "best vets" without a statement to corroborate such a claim. The advertisement also states White Angel Animal Hospital has "the lowest prices" and "nobody beats these prices!" without a statement to corroborate such a claim. The comparison of pricing for the heartworm test and distemper vaccines is misleading as the advertisement does not state what kind of heartworm or distemper vaccine is being run or given. The heartworm test being run by White Angel Animal Hospital may only be a heartworm antigen while the test given at other clinics may be the 4DX test which is testing for multiple things and...
costs more to run. The distemper vaccine given by the other clinics may have leptospirosis or corona virus added into the mix. The rabies vaccine may be for multiple years rather than one year.

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 Facts 2, Respondent has violated Rule 573.30, ADVERTISING, of the Board’s Rules of Professional Conduct, which states a veterinarian may not engage in advertising that is false, deceptive, or misleading.

3. Based on 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;
(3) place on probation a license holder or person whose license has been suspended;
(4) reprimand a license holder; or
(5) impose an administrative 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 Liat Zilkha, 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 provision of the Act or the Board Rules, may result in further disciplinary action.

Respondent, by signing this Agreed Order, acknowledges his/her understanding of the Agreed Order, the notice, Findings of Fact and Conclusions of Law herein set forth, and agrees that he/she 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/her right to a hearing and any right to seek judicial review of this Order. Respondent acknowledges that he/she is entitled to be represented by an attorney of Respondent’s choice at his/her expense in any hearing before the Board.

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 date of this Agreed Order shall be the date it is adopted by the Texas Board of Veterinary Medical Examiners.
I, LIAT ZILKHA, D.V.M., HAVE READ AND UNDERSTAND THE FOREGOING AGREED ORDER. I UNDERSTAND THAT 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.

Liat Zilkha, D.V.M.  
11/10/2008  
Date

STATE OF TEXAS
COUNTY OF TRAVIS

BEFORE ME, on this day, personally appeared Liat Zilkha, D.V.M., known to me to be the person whose name is subscribed to the foregoing Agreed Order, and acknowledged to me that she executed the same for the purposes stated therein.

Given under the hand and seal of office this 10 day of November, 2008.

Notary Public

SIGNED AND ENTERED by the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS on this the 18 day of February, 2009.

Bud E. Alldredge, Jr., D.V.M.  
President of the Board