

**AGREED ORDER 2010-71**

**IN THE MATTER OF** § **TEXAS BOARD OF**  
**THE LICENSE OF** § **VETERINARY**  
**JIM W. AIRHART, D.V.M.** § **MEDICAL EXAMINERS**

**AGREED ORDER**

On this the 28 day of June, 2010, came on to be considered by the Texas Board of Veterinary Medical Examiners ("Board") the matter of the license of JIM W. AIRHART, D.V.M. ("Respondent"). Pursuant to §801.408 of the Veterinary Licensing Act and Board Rule 575.27, an informal conference was held on March 23, 2010. Respondent was represented by attorney, Donald Ferrill, D.V.M. The Board was represented at the conference by the Board's Enforcement Committee.

Respondent 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 February 24, 2009, Araceli Linares of Dallas, Texas, presented "Songui," her fourteen year-old male Terrier mix dog to Jim W. Airhart, DVM at Town East Animal Hospital (TEAH) in Mesquite, Texas for an anal tumor. Dr. Airhart examined the dog and scheduled the surgical removal of the tumor. On March 4, 2009, Ms. Linares presented "Songui" to TEAH for the surgical removal of the tumor. A pre-surgical profile was performed.

2. According to Dr. Airhart, the blood panel was not normal, but Dr. Aihart considered the surgery non-elective. At 4:00 p.m., the same day, Ms. Linares arrived at TEAH to pickup and noticed that "Songui" did not appear well. Ms. Linares asked a TEAH staff member if the dog was well and was told that he was. When Ms. Linares got "Songui" home, he was unable to stand or walk and drug himself across the floor. "Songui" also appeared to be in pain.

3. On March 5, 2009, Ms. Linares presented "Songui" to Kimberly A. Whitfield, DVM at the VCA Metroplex Animal Hospital and Pet Lodge (VCA) in Irving, Texas. "Songui" was provided administered Carprofen, prescribed Carprofen and Cefpodoxime orally and released. "Songui" continued to drag himself across the floor and appeared to be breathing hard. "Songui" then started experiencing seizures.

4. At 7:00 a.m., Ms. Linares presented "Songui" to Dr. Airhart. Dr. Airhart was not at

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the clinic and would not be in until later that afternoon. Dr. Airhart informed the TEAH staff member to start "Songui" on IV fluids and administer acepromazine to treat the seizures. At 9:00 a.m., Ms. Linares' daughter called TEAH for a status report and was told that "Songui" was doing well and not experiencing seizures.

5. At 3:00 p.m., Ms. Linares and her daughter went to TEAH to see "Songui." "Songui" did not appear well, and felt like she had not been told the accurate status of her dog earlier in the day. "Songui" suffered a seizure while Ms. Linares and Dr. Airhart were present.

6. Dr. Airhart informed Ms. Linares that "Songui" could not be hospitalized at TEAH as it was not staffed twenty-four hours. Ms. Linares asked and received a copy of her medical records and left with "Songui."

7. At 6:20 p.m., March 5, 2009, Ms. Linares presented "Songui" to Taryn Eaton, DVM at VCA for examination and treatment. Dr. Eaton placed "Songui" on IV fluids and performed a sonogram "Songui" had a large abdominal tumor. Dr. Eaton recommended "Songui" be euthanized to relieve pain and suffering. Ms. Linares agreed.

### 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 1 through 7, Respondent 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, for the treatment or control of seizures with acepromazine.

3. Based on the above Findings of Fact and Conclusions of Law 1 and 2, Respondent has violated §801.402(6) of the Veterinary Licensing Act, 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 1-3, Respondent is subject to disciplinary action under §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 § 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.

.... (d) In addition to other disciplinary actions authorized by this subchapter, the board may require a license holder who violates this chapter to participate in a continuing education program.

NOW, THEREFORE, THE BOARD AND RESPONDENT AGREE AS FOLLOWS:

Based on the above Findings of Fact and Conclusions of Law, the Board ORDERS that Respondent be FORMALLY REPRIMANDED.

In addition, the Board ORDERS that Jim W. Airhart, D.V.M. complete an additional SIX (6) hours of continuing education in seizure control within one year of the date of this order. Documentation of the completion of the continuing education penalty shall be received by thirty (30) days following the end of the period to receive the continuing education required for this Order. If Respondent fails to provide documentation of completion within forty-five (45) days from the end of the period to receive the continuing education, Respondent's license shall be suspended until the continuing education penalty is completed and documentation is received by the Board.

The Board further ORDERS that:

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.

Respondent shall cooperate with the Board's attorneys, investigators, compliance officers and other employees and agents investigating Respondent's compliance with this Order.

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.

The effective date of this Agreed Order shall be the date it is adopted 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 had the right to be 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. RESPONDENT AGREES THAT THIS IS A FINAL ORDER.**

I, JIM W. AIRHART, 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.

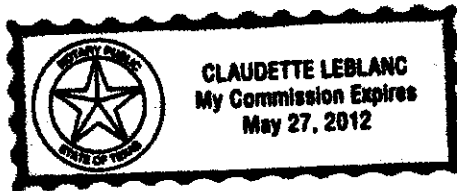
Jim W. Airhart  
Jim W. Airhart, D.V.M.

20 Apr 10  
Date

STATE OF TEXAS §  
COUNTY OF Dallas §

BEFORE ME, on this day, personally appeared Jim W. Airhart, 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 20<sup>th</sup> day of April, 2010.



Claudette LeBlanc  
Notary Public

SIGNED AND ENTERED by the TEXAS BOARD OF VETERINARY MEDICAL EXAMINERS on this the 28 day of June, 2010.

Bud E. Alldredge, Jr.  
Bud E. Alldredge, Jr., D.V.M.  
TBVME President