

**BEFORE THE WEST VIRGINIA BOARD OF VETERINARY MEDICINE**

**WEST VIRGINIA BOARD OF  
VETERINARY MEDICINE,**

**Complainant,**

**v.**

**Case No. 1007B**

**STEVEN ZUCKER,  
Veterinarian License Number: 28-2005**

**Respondent.**

**CONSENT AGREEMENT AND ORDER**

After due investigation of a written complaint, the West Virginia Board of Veterinary Medicine (hereinafter "Board") determined that there was probable cause to believe that Steven Zucker (hereinafter "Respondent") has exhibited unprofessional conduct in the practice of veterinary medicine, in violation of the provisions of W. Va. Code § 30-10-1 *et seq.* and on the rules of the Board R. Set 26.1, *et seq.* The Respondent was provided with written notice of the allegations against him pursuant to the rules of the Board and the laws of this State.

Now, in lieu of a hearing, the parties have reached an agreement for the resolution of Case Number 1007B and the parties agree to entry of the following Order in disposition of this matter.

**FINDINGS OF FACT**

The Board adopts the following findings in this matter:

1. That Steven Zucker is a licensee of the Board with license number 28-2005 and is subject to the license requirements of said Board.

2. That the Board is a regulatory board created for the purpose of regulating the practice of veterinary medicine. W. Va. Code § 30-10-1 *et seq.*

3. That in order to carry out its regulatory duties, the Board is empowered to suspend, revoke or otherwise discipline an individual's veterinary medicine license because of authority granted to it by W. Va. Code §§ 30-1-7 and 30-10-11.

4. That on or about October 29, 2007, the Board received a written complaint from an individual complaining of the treatment that her animal had received while in the care of the Respondent who, at all times relevant to this Complaint, practices at the Animal Medical Center in Morgantown, West Virginia, which he is the owner.

5. That the written complaint alleged that a cat was misdiagnosed and subsequently developed peritonitis following surgery. On September 11, 2007, the Complainant brought her approximately one year old cat to the Respondent for treatment after the cat had thrown up a rubber band and some partially digested food. The Respondent gave the cat some barium and sent the Complainant home with the cat and instructions to return if the cat had not eaten nor gone to the bathroom by morning.

6. That upon waking, the Complainant returned the cat to the Respondent since the cat had neither eaten nor gone to the bathroom. The Respondent determined that the cat still had barium in his stomach and recommended surgery in order to remove the blockage which was causing the barium to stay in the cat's stomach. The Respondent later informed the Complainant that the reason for the barium not emptying from the stomach was from a rubber band that was discovered and removed from the colon.

7. That when the cat continued to not eat nor act himself, the Complainant called the Respondent's office to express her concerns. Ms. Rogers alleges that the

Respondent failed to return the telephone call which Respondent denies. Respondent states that a call was made to the home and a message left on an answering machine. The following day, the Complainant again called the Respondent's office with continued concerns regarding the condition of her cat and to explain that her cat appeared to have a fever; she was advised to bring the cat back to the clinic. After bringing the cat to the Respondent's office, the cat was kept over the weekend to better monitor his condition since the cat did indeed have a fever; however, all the blood work and x-rays indicated no signs of an infection.

8. That over the weekend, the Complainant spoke with the Respondent on Sunday who informed her that the cat seemed to be doing better. Respondent examined the cat on both Saturday and Sunday. Respondent spoke to Ms. Rogers on Sunday and indicated that he hoped the cat could return home Monday. On Monday, the Complainant called the Respondent's office and was informed that her cat had ripped open the incision and may again require surgery in order to correct this problem. This information was provided by a nurse who made an incorrect assessment. Respondent, through evaluation, determined that the incision was opening from the inside as opposed to the outside, caused by licking. Complainant went to the Respondent's office to inquire about her cat's condition. The Respondent informed her that the cat had developed peritonitis and that a second surgery was necessary. Respondent advised Ms. Rogers that he could perform the surgery and/or that he advised her a board-certified surgeon could perform the surgery at a clinic in Pittsburgh, Pennsylvania. Respondent and Ms. Rogers discussed potential outcomes and that Euthanasia was an option. The Complainant agreed to the

euthanization, but then subsequently changed her mind upon seeing the cat. She requested her records and took her cat to another veterinary facility for treatment.

9. Respondent completed two surgeries; the first to fix the colon and the second to repair the opening in the skin.

10. That the Complainant stated that no e-collar was used during the cat's hospitalization after the surgery by the Respondent. Respondent denies this allegation.

11. That the Respondent did file a response to these allegations, and states that he discussed treatment options with the Complainant. Moreover, the Respondent found that some of the barium had not made it out of the stomach which was "suspicious." This type of finding was suggestive that there may be something that was partially blocking outflow from the stomach. Exploratory surgery was one of the options as discussed with the Complainant and the one that was elected by the Complainant.

12. That upon exploring the stomach, no obstructions were found; however, an area of thickened, purplish colon around something firm and immovable was found in the colon. Respondent incised the colon and removed a hair band embedded in firm stool. The incised section of colon appeared healthy and viable, so he determined that there was no need to resect any of it. He removed some of the firm stool through the incision, and tried to gently express the rest out the rectum. The rest of the stool was not coming out easily, so he gave an enema post-operatively to decrease potential straining and pressure in the colon.

13. That post-surgery, the Complainant was sent home with her cat, but the Respondent stated that he was unsure whether he had determined the cause of the problem. The Complainant did bring the cat back to the Respondent's office since he was

not doing well. Respondent stated that he was not working that day and another veterinarian treated the Complainant's cat. At that time, peritonitis was suspected, but the diagnostic tests indicated otherwise; however, the Complainant's cat was hospitalized for monitoring of his condition. The Respondent stated that over the weekend, he did check on the cat and at some point an e-collar was used on the cat. But by Monday, it appeared that peritonitis was the source of the problems, and the incision was open.

14. That the Respondent's actions in administering an enema after the first surgery constitutes a violation of W. Va. Code § 30-10-11(f) in that it is possible that doing so was a contributing factor in the development of the peritonitis.

#### **CONCLUSIONS OF LAW**

1. That the Board has jurisdiction to take disciplinary action against Respondent.

2. That based upon the allegations of unprofessional or unethical conduct set out above in the *Findings of Fact* section, the Board is authorized to suspend, revoke or otherwise restrict the license of the Respondent to practice veterinary medicine, pursuant to W. Va. Code § 30-10-11.

3. That the Board served a *Complaint* upon the Respondent pursuant to the laws and regulations of West Virginia. Respondent has provided a written response to the Complaint and has denied any unprofessional or unethical conduct.

4. Whereas, in order to resolve the matter and to avoid a contested hearing on the Complaint, the Board and Dr. Zucker hereby agree to the entry of this Consent Order, as follows:

## CONSENT OF LICENSEE

I, Steven Zucker, by affixing my signature hereto, acknowledge the following:

1. That I have had the opportunity to consult with counsel and execute this Consent Agreement voluntarily, freely, without compulsion or duress and am mindful that it has legal consequences.

2. That no person or entity has made any promise or given any inducement whatsoever to encourage me to make this settlement other than as set forth herein.

3. That I acknowledge that I am aware that I may pursue this matter through appropriate administrative and/or court proceedings, and I am aware of my legal rights regarding this matter, but intelligently, knowingly and voluntarily waive such rights.

4. That I admit that my action in administering a post-surgical enema to Elvis on September 12, 2007, was a deviation of the standard of care for abdominal surgeries and; therefore, a violation of the West Virginia Code.

The Respondent, Steven Zucker, by affixing his signature hereon, agrees to the following:

### ORDER

On the basis of the foregoing, the Board does hereby ORDER and DECREE that:

1. Respondent is hereby REPRIMANDED for the above agreed-to deviation of the standard of care of the Complainant's cat. In violation of W. Va. Code § 30-10-11(f).

2. Respondent shall complete six (6) classroom hours of Board approved continuing education in the area of abdominal surgery. These six (6) classroom hours are in addition to the standard requirement of eighteen (18) contact hours that a licensee must complete for license renewal.

3. Respondent shall pay a one thousand dollar fine (\$1,000.00), and Respondent shall reimburse the Board for the costs of these proceedings, including but not limited to, the actual administrative and legal expenses incurred by the Board in the investigation and disposition of this case up to one thousand five hundred dollars (\$1,500.00), after said expenses have been determined and provided to Respondent to review. Both the fine and reimbursement shall be paid within three (3) months from the entered date of this *Consent Agreement and Order*.

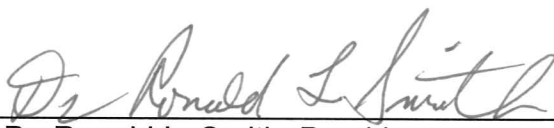
4. The Board is bound by agreement and by law to report the results of all disciplinary actions, including the instant matter, for posting in the AAVSB Veterinary Practitioners Disciplinary Database.

5. That this document is a public record as defined in W. Va. Code § 29B-1-2(4).

6. This *Consent Agreement and Order* constitutes the entire agreement between the parties.

In recognition of this *Consent Agreement and Order* and these terms, we hereby affix our signatures.

**WEST VIRGINIA BOARD OF  
VETERINARY MEDICINE**

By:   
Dr. Ronald L. Smith, President

Entered: Nov 6, 2008  
DATE

Reviewed and agreed to by:



Steven Zucker, Respondent

10/28/08

DATE