

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF	:	
GARY R. DURRANT, DVM	:	DEFAULT ORDER
TO PRACTICE AS A VETERINARIAN AND TO	:	
ADMINISTER AND PRESCRIBE CONTROLLED	:	Case No.
SUBSTANCES IN THE STATE OF UTAH	:	DOPL-OSC-2006-228

The attached Notice of Entry of Default and Recommended Order are hereby adopted by the Director of the Division of Occupational and Professional Licensing of the State of Utah. Respondent's licenses to practice as a veterinarian and to administer and prescribe controlled substances are thus revoked, effective the date of this Order.

IT IS FURTHER ORDERED that the revoked licenses, both wall and wallet sizes, as well as any embossed certificate, thus be surrendered to the Division of Occupational and Professional Licensing.

Dated this 9 day of July, 2008.



F. David Stanley
F. David Stanley
Director

Pursuant to Subsection 63G-4-209(3), Respondent may seek to set aside the above-stated default order by filing such a request with the Division consistent with the procedures outlined in the Utah Rules of Civil Procedure.

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE LICENSES OF	:	NOTICE OF ENTRY
GARY R. DURRANT, DVM	:	OF DEFAULT AND
TO PRACTICE AS A VETERINARIAN AND TO	:	RECOMMENDED ORDER
ADMINISTER AND PRESCRIBE CONTROLLED	:	Case No
SUBSTANCES IN THE STATE OF UTAH	:	DOPL-OSC-2006-228

BY THE ADMINISTRATIVE LAW JUDGE:

This adjudicative proceeding was initiated pursuant to the issuance of a March 17, 2008 notice of agency action. The notice recites Respondent was required to file a written response with the Division within twenty (20) days of the mailing date of the notice. The March 17, 2008 notice was sent by both certified and first class mail on that date to Respondent's last known address of _____, Midvale, UT 84047.

The certified mailing of the notice was returned to the Division by postal authorities on or about April 4, 2008 as unclaimed. The first class mailing was not returned to the Division. Respondent did not file a response in this proceeding

The March 17, 2008 notice recited that a May 7, 2008 hearing would be conducted before the Veterinary Board. Respondent did not appear for that hearing. The Division thus requested that Respondent's default be entered based on his failure to have filed a response and his nonappearance for the May 7, 2008 hearing

Utah Code Ann. §63-46b-11(1)(c) provides an order of default may enter if a respondent in a formal adjudicative proceeding fails to file a response §63-46b-11(1)(b) provides an order of default may enter if a respondent fails to attend or participate in a properly scheduled hearing after receiving proper notice.

The Court concluded the Division had duly attempted to provide Respondent with adequate notice of this proceeding and the May 7, 2008 hearing. Given Respondent's failure to have filed a response to the March 11, 2008 Verified Motion for Order to Show Cause and his failure to have appeared for the May 7, 2008 hearing, the Court concluded a proper basis existed to enter Respondent's default and it was so entered.

After the entry of a default order, §63-46b-11(4)(a) provides the presiding officer shall conduct further proceedings as necessary to complete the adjudicative proceeding without the participation of the party in default. §63-46b-11(4)(a) also provides a determination shall be made of all issues in the adjudicative proceeding, including those affecting the defaulting party.

Based on the proffer made by the Division after the Court's entry of Respondent's default, the Court stated it would enter Findings of Fact consistent with the allegations set forth in the March 11, 2008 Verified Motion and, based on those findings, the Court would enter Conclusions of Law that Respondent had engaged

in unprofessional conduct violative of §58-1-501(2)(a) when he failed to comply with various terms and conditions of the October 30, 2006 Order governing his licenses.

Absent any matters offered in defense or mitigation, the Court also stated it would submit a Recommendation to the Division that Respondent's licenses to practice as a veterinarian and to administer and prescribe controlled substances shall be revoked, effective the date that Recommendation may be adopted.

After the May 7, 2008 hearing had concluded, Respondent placed two telephone calls to Clyde Ormond (Division Bureau Manager) at 2:29 pm and 4:30 pm on May 7, 2008. Mr. Ormond left telephonic messages for the Court at 2:53 pm and 7:55 pm on May 7, 2008, thus notifying the Court of Respondent's contacts with him. Sparing extended detail, the Court then conducted a telephonic conference with Karl G. Perry, counsel for the Division of Occupational and Professional Licensing, and Respondent at 2:00 p.m. on May 8, 2008.

During that conference, Respondent offered the reasons why he had not filed a written response in this proceeding and did not attend the May 7, 2008 hearing. Specifically, Respondent stated he never received the March 17, 2008 notice because his mail had been diverted by another individual residing at Respondent's address. Respondent stated he mistakenly believed the hearing would be conducted on May 8, 2008, based on his

discussion with his health care provider that there was a pending hearing and Respondent's contact with a Division employee as to the schedule for that hearing.

The Division opposed Respondent's request to vacate the entry of his default. However, the Court determined a sufficient factual and legal basis existed to vacate that default and it was vacated. The Court thus ordered Respondent to file a written response no later than May 15, 2008 and the hearing in this proceeding was reset to be conducted, commencing 1:00 p.m. on June 19, 2008.

Respondent submitted an undated response to the Division. This record does not reflect when that response was received. The response recites Respondent would provide various documentation to the Division by June 10, 2008.

The Court conducted another telephonic conference with the Division and Respondent at 1:30 p.m. on June 2, 2008. The Court thus informed Respondent that he should submit any proposed exhibits to Mr. Perry and the Court, but not to the Veterinary Board, by June 10, 2008. Moreover, the Court informed the parties that it would conduct a final prehearing teleconference with the parties within one week prior to the June 19, 2008 hearing.

Respondent contacted the Court by telephone on June 4, 2008 and stated he had not been contacted by Mr. Perry regarding any

possible settlement negotiations. Respondent also stated he believed Mr. Perry was going to initiate that contact immediately following the June 2, 2008 prehearing teleconference. The Court advised Respondent that it would contact Mr. Perry, alert him to Respondent's telephone contact with the Court and the parties could then coordinate any settlement discussions.

Mr. Perry subsequently informed the Court that he was scheduled to meet with Respondent at 2:00 p.m. on June 11, 2008. Shortly after that date, Mr. Perry informed the Court that Respondent did not appear for that meeting. The Court attempted to conduct a June 16, 2008 teleconference with the Division and Respondent.

However, the Court was not able to directly contact Respondent or leave any telephonic message at that time. Specifically, Respondent's cell phone was no longer a working number and the Court was not able to contact Respondent through his work phone because he was no longer employed at that business.

Respondent failed to appear for the June 19, 2008 hearing. Mr. Perry was present representing the Division at that time. Also present were five members of the Veterinary Board (Terry D. Shields, Gary L. Peterson, Vaughn R. Park, Karen Smith and Joe Roundy). F. David Stanley, Director of the Division of Occupational and Professional Licensing, was also present.

Given Respondent's failure to have appeared for the June 19, 2008 hearing, Mr. Perry requested that the Court reinstate its prior entry of Respondent's default and thus submit a notice of that default and a recommendation to the Division that Respondent's licenses be revoked.

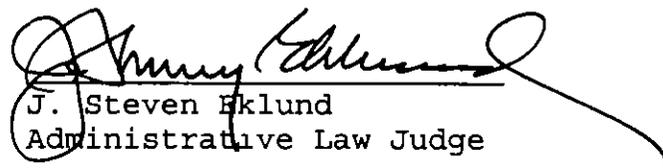
Based on Respondent's failure to have appeared for the June 19, 2008 hearing, the Court concluded Respondent's written response should be stricken and his default should be reinstated. Accordingly, the Court adopts the allegations set forth in Paragraphs (1) through (3) of the March 11, 2008 Verified Motion for Order to Show Cause as its Findings of Fact. The Court also adopts the Legal Argument set forth in the March 11, 2008 Verified Motion for Order to Show Cause as its Findings of Fact and Conclusions of Law.

Specifically, the Court concludes Respondent engaged in unprofessional conduct, violative of §58-1-501(2)(a), when he failed to comply with various terms and conditions of the October 30, 2006 Order governing his licenses. The Court thus concludes a proper factual and legal basis exists to enter a disciplinary sanction as to Respondent's licenses. Absent any matters offered in defense or mitigation, the Court concludes the following Recommended Order is warranted.

RECOMMENDED ORDER

WHEREFORE, IT IS ORDERED Respondent's licenses to practice as a veterinarian and to administer and prescribe controlled substances in this state shall be revoked, effective the date this Recommended Order may be adopted.

I hereby certify the foregoing Notice of Entry of Default, Findings of Fact, Conclusions of Law and Recommended Order were submitted to F. David Stanley, Director of the Division of Occupational and Professional Licensing, on the 8th day of July 2008 for his review and action


J. Steven Eklund
Administrative Law Judge