

DOCKETED COMPLAINT NOS. 1992-08 & 1992-09

TEXAS STATE BOARD OF VETERINARY	{ }	
MEDICAL EXAMINERS	{ }	
vs.	{ }	
JAMES C. VULGAMOTT, D.V.M.	{ }	LICENSE NO. 5415
and	{ }	1991 RENEWAL NO. 2094
CYNTHIA ANN RIGONI, D.V.M.	{ }	LICENSE NO. 4662
		1991 RENEWAL NO. 4934+P

FINDINGS, CONCLUSIONS AND ORDERS OF THE BOARD

On the 12th day of June, 1992, the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS, being in regular meeting in the fourth floor Conference Room, 1946 South IH-35, Austin, Travis County, Texas, such meeting being called for the purpose of considering the Proposal for Decision on the above numbered and entitled complaints as well as for consideration of other Board business. The above entitled and numbered complaints having been heard by David M. Grassbaugh, presiding hearings officer, on March 17, 1992, and said Defendants, JAMES C. VULGAMOTT, D.V.M. and CYNTHIA ANN RIGONI, D.V.M., having been duly notified and the following members of the TEXAS STATE BOARD OF VETERINARY MEDICAL EXAMINERS being present:

Guy A. Sheppard, D.V.M., President	of San Angelo, TX
Clark S. Willingham, Vice President	of Dallas, TX
Larry M. Dubuisson, D.V.M., Secretary - Recused	of Weslaco, TX
Olivia R. Eudaly, Member	of Fort Worth, TX
James N. Gomez, D.V.M., Member	of Brownsville, TX
Alton F. Hopkins, Jr., D.V.M., Member	of Dallas, TXX
Robert D. Lewis, D.V.M., Member	of Elgin, TX
Joyce G. Schiff, Member	of Dallas, TX
John A. Wood, D.V.M., Member	of Lufkin, TX

At the appointed hour, the President of the Board, DR. GUY A. SHEPPARD, ordered the case to proceed at which time it was ascertained that Drs. Vulgamott and Rigoni were present.

The Board then reviewed a Proposal for A Decision prepared by David Grassbaugh, and on the same day, June 12, 1992, all of the above members of said Board being present and participating, with the exception of Dr. Dubuisson, recused from voting since he served as Secretary of the Board in this case, adopts the Findings of Fact and Conclusions of Law as found in the Proposal for Decision to-wit:

I.

FINDINGS OF FACT

1. On December 19, 1991, Matthew Wendel, an employee of the Texas Board of Veterinary Medical Examiners, swore a complaint against Dr. Rigoni. (Board Exhibit #1)

2. On December 20, 1992, this complaint was docketed as No. 1992-09, and notice of this complaint given to Dr. Rigoni. (Board Exhibits #1 & #5)

3. Notice of the March 17, 1992 hearing was mailed to Dr. Rigoni on February 20, 1992.

4. Dr. Rigoni holds Texas Veterinary Medical License No. 4662, 1991 Renewal Certificate No. 4934+P.

5. Pursuant to Art. 8890, and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensee, Cynthia Ann Rigoni, D.V.M.

6. On December 19, 1991, Matthew Wendel, an employee of the Texas Board of Veterinary Medical Examiners, swore a complaint against Dr. Vulgamott. (Board Exhibit #2)

7. On December 20, 1992, this complaint was docketed as No. 1992-08, and notice of this complaint given to Dr. Vulgamott. (Board Exhibits #2 & #7)

8. Notice of the March 17, 1992 hearing was mailed to Dr. Vulgamott on February 20, 1992. (Board Exhibit #8)

9. Dr. Vulgamott holds Texas Veterinary Medical License No. 5415, 1991 Renewal Certificate No. 2094.

10. Pursuant to Art. 8890, and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensee, James C. Vulgamott, D.V.M.

11. At the hearing, all parties agreed to consolidate docketed complaints 1992-08 and 1992-09.

12. At the beginning of the hearing, The Board elected not to proceed on Paragraph's IV. and VII. of the docketed complaint 1992-09 regarding Dr. Rigoni.

13. At the conclusion of the fact-finding portion of the hearing, the Board elected not to proceed on Paragraph VI or under authority of Article 8890, Section 14(a)(3) of the docketed complaint 1992-08 regarding Dr. Vulgamott.

14. On June 5, 1991, Dr. Rigoni telephoned Dr. Vulgamott to consult with him regarding her horse, "A Rare Breed of Cat" Rigoni ("Kitty").

15. Kitty, a quarter-horse mare of about seven years, was unmanageable in confined places (e.g. stocks, gates, trailers), perhaps because of past abuse and trauma.

16. Dr. Rigoni suggested the possibility of modifying Kitty's behavior with therapy involving Ritalin.

17. Dr. Rigoni requested Dr. Vulgamott to prescribe the Ritalin for Kitty because she did not have the triplicate forms required for the acquisition of Ritalin.

18. Dr. Vulgamott's only patient records concerning Kitty are his handwritten notes of the telephone conversation. (Board Exhibit 9)

19. Dr. Vulgamott never examined Kitty; his only information about the animal came from this call from Dr. Rigoni.

20. After the call, Dr. Vulgamott issued a prescription to Dr. Rigoni for 100 20mg. Ritalin to administer to Kitty.

21. Ritalin (Methylphenidate HCL) is a Schedule II Controlled Substance.

22. The amount prescribed, 100 tablets, was determined by the size of the available bottle and not because it was the amount needed to treat Kitty.

23. Dr. Vulgamott used proper triplicate forms, and properly recorded and reported the prescription.

24. Dr. Rigoni had the prescription filled within seven days.

25. After reflecting on the risks involved because of the location and limitations of facility where Kitty boarded, Dr. Rigoni decided not to attempt the Ritalin therapy.

26. The unopened bottle of Ritalin was stolen, along with other items, in a burglary of Dr. Rigoni's office on November 2, 1991.

27. Dr. Rigoni, as Kitty's owner, was very familiar with the animal, but did not keep any patient records concerning the animal.

28. Dr. Rigoni kept the envelope and receipt in which the Ritalin prescription came, but made no other record of her possession of the Ritalin.

## II.

### CONCLUSIONS OF LAW

1. The notice and hearing requirements of Art. 8890, Sec. 14 and Art. 6252-13a, Texas Revised Civil Statutes, Annotated, have been met, and The Board of Veterinary Medical Examiners has jurisdiction over this matter and the licensees.

2. The Board does not have grounds to discipline Dr. Rigoni pursuant to Article 8890, Sec. 7(b), which requires record keeping "as prescribed by The Texas Controlled Substances Act" because that Act exempts her as "a person in possession under a lawful order of a practitioner", Dr. Vulgamott's Prescription for Kitty. (Health and Safety Code Sec. 481.062(a)(3)).

3. The Board does not have grounds to discipline Dr. Rigoni pursuant to Article 8890, Sec. 14(a)(3) because she did not engage in a dishonest or illegal practice in connection with the practice of veterinary medicine.

4. Dr. Rigoni violated rule 573.50, which requires, "Texas veterinarians shall maintain at their place of business records of all scheduled drugs listed in the Texas Controlled Substances Act, in their possession." (Emphasis added.) The Rules of Professional Conduct, unlike the Controlled Substances Act, make no exceptions. Thus, by possessing a controlled substance, Ritalin, and not keeping records in the form required, Dr. Rigoni violated Rule 573.50.

5. Dr. Rigoni violated Rule 573.52 by not maintaining patient records regarding Kitty. There is no exception to patient record keeping requirements created by ownership.

6. The Board has grounds to discipline Dr. Rigoni pursuant to Article 8890, Section 14(a)(5) because she violated Rule 573.50 and Rule 573.52 of The Rules of Professional Conduct.

7. Dr. Vulgamott violated 573.41(a) by prescribing Ritalin for Kitty without establishing a veterinary/patient relationship by personally examining the animal.

8. Dr. Vulgamott violated Rule 573.52 because his only records, the notes of the telephone call (Exhibit 9) are not adequate to meet the standards of this Rule.

9. The Board has grounds to discipline Dr. Vulgamott pursuant to Article 8890, Sections 14(a)(5) and (a)(12).

ORDERS

It is therefore ORDERED that License Number 5415 heretofore issued to JAMES C. VULGAMOTT, D.V.M. by the Texas Board of Veterinary Medical Examiners be and the same is hereby OFFICIALLY REPRIMANDED.

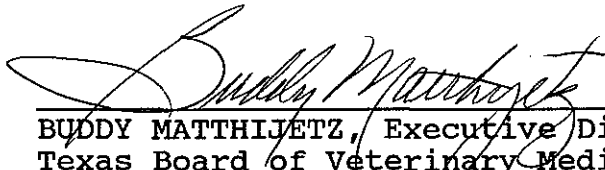
It is therefore ORDERED that License Number 4662 heretofore issued to CYNTHIA ANN RIGONI, D.V.M. by the Texas Board of Veterinary Medical Examiners be and the same is hereby SUSPENDED FOR ONE (1) YEAR, WITH THE ENTIRE PERIOD BEING PROBATED. Dr. Rigoni is FURTHER ORDERED to file with the Board offices, semi-annual reports of all controlled substances she purchases and the disposition of the controlled substances. The first report will be due December 1, 1992.

It is further ORDERED that each Finding of Fact found herein is adopted as a Conclusion of Law, and each Conclusion of Law is adopted as a Finding of Fact.

The foregoing Findings and Orders of the Texas Board of Veterinary Medical Examiners are ORDERED to be entered as the FINDINGS AND ORDERS of the Board, a quorum and a majority of the members of such Board being present and participating in such hearing, deliberations and decision, and such FINDINGS AND ORDERS are made on the 12th day of June, 1992, in Austin, Travis County, Texas.

As Executive Director of the Board I have been directed to prepare the Board's Findings and Orders in appropriate format and submit a copy of same to you.

Executed this 25<sup>th</sup> day of June, 1992.

  
BUDDY MATTHIJETZ, Executive Director  
Texas Board of Veterinary Medical Examiners