

**STATE OF FLORIDA
BOARD OF VETERINARY MEDICINE**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

vs.

MUSTAFA SALEH, D.V.M.,

Respondent.

CASE NO.: 2001-06355
LICENSE NO.: VM 0002759

Final Order No. BPR-2002-02210 Date: 6-25-02
FILED
Department of Business and Professional Regulation
AGENCY CLERK
Sarah Wachman, Agency Clerk

FINAL ORDER

By: Brandon M. Nichols

THIS MATTER came before the Board of Veterinary Medicine (hereinafter referred to as the "Board") pursuant to Section 120.57(2), Florida Statutes, on June 12, 2002, in Celebration, Florida, for consideration of the Administrative Complaint (attached hereto as Exhibit A) in the above styled case. At the hearing, Petitioner was represented by Tiffany Short, Senior Attorney. The facts are not contested. The Respondent was present.

Upon consideration, it is ORDERED:

1. The allegations of fact set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the findings of fact of the Board.
2. The conclusions of law alleged and set forth in the Administrative Complaint are approved and adopted and incorporated herein by reference as the conclusions of law of the Board.
3. The foregoing facts constitute a violation of Section 474.214(1)(k), Florida Statutes, for which the Board may impose discipline pursuant to Section 474.214(2), Florida Statutes.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED:

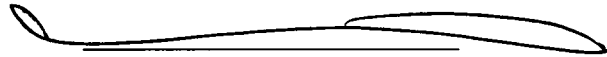
Respondent shall pay a FINE of \$400 and COSTS of \$274.47 no later than 30 days after receipt of this Order.

Pursuant to Section 120.59, Florida Statutes, the Parties are hereby notified that they

may appeal this Order by filing one copy of a Notice of Appeal with the Clerk of the Department of Business and Professional Regulation, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0792, and by filing the filing fee and one copy of the Notice of Appeal with the District Court of Appeal within thirty (30) days of the effective date of this Order.

This Order shall become effective upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this _____ day of _____, 2002.



DR. ROBERT O'NEIL,
CHAIRMAN
Board of Veterinary Medicine

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by U.S. Mail to Mustafa Saleh, DVM, 950 S. Flamingo Road, Davie, FL 33325; and by hand delivery/United States Mail to the Board Clerk, Department of Business and Professional Regulation and its Counsel, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-0792, on or before 5:00 p.m., this _____ day of _____, 2002.

**STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF VETERINARY MEDICINE**

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

DBPR Case No. 2001-06355

MUSTAFA SALEH,

Respondent.

MOTION FOR DEFAULT AND FINAL ORDER

The Department of Business and Professional Regulation ("Petitioner"), by and through the undersigned attorney of record, moves the Board of Veterinary Medicine for a finding of Default by Respondent and a Final Order. As grounds therefor, Petitioner states the following:

1. On February 20, 2002, an Administrative Complaint was filed in this case, a true and correct copy is attached hereto as Exhibit "A."

2. On February 25, 2002, the Administrative Complaint was served on Respondent via U.S. Certified Mail. Proof of Service is attached hereto as Exhibit "B" and incorporated herein by reference.

3. The Election of Rights and Explanation of Rights informed Respondent that a response to the Complaint, including an election of hearing, was due within twenty-one (21) days of service of the Complaint. Respondent was informed further that failure to respond to the Administrative Complaint would result in a waiver of Respondent's right to a hearing in this matter.

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4. Respondent's response to the Administrative Complaint was due March 25, 2002. To date, the Respondent has not filed an Election of Rights form or otherwise established a disputed issue of material fact in response to the Administrative Complaint filed and served in this action. Pursuant to Rule 28-106.111, *Florida Administrative Code*, if the Respondent fails to request a hearing within twenty-one (21) days of receipt of an agency pleading, the Respondent shall have waived her right to request a hearing of the facts alleged.

5. By failing to file a response within twenty-one (21) days' receipt of the Administrative Complaint, Respondent has waived her right to request a hearing in which there is a disputed issue of material fact. Therefore, Petitioner submits this matter for final action by the Board of Veterinary Medicine pursuant to Section 120.57(2), *Florida Statutes*.

6. Respondent has been advised by copy of this Motion that a copy of the Department of Business and Professional Regulation file regarding the violations alleged in the Administrative Complaint shall be furnished to the Board of Veterinary Medicine in support of this Motion.

WHEREFORE, the Petitioner moves the Board of Veterinary Medicine to issue an Order declaring Respondent to be in Default, and enter a Final Order deeming all allegations of fact in the Administrative Complaint as admitted and adopting them as Findings of Fact; adopting the alleged violations in the Administrative Complaint as Conclusions of Law; and imposing any penalty deemed appropriate pursuant to Chapters 474 and 455, *Florida Statutes*.

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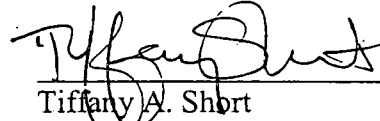
Respectfully submitted,



Tiffany A. Short
Assistant General Counsel
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, FL 32399-2202

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION FOR DEFAULT has been provided via Certified U.S. Mail to MUSTAFA SALEH, at Extra Care Animal Hospital, 950 S. Flamingo Road, Davie, Florida 33325 this 2 day of April, 2002.



Tiffany A. Short
Assistant General Counsel

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U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only, No Insurance Coverage Provided)

7000 0600 0020 9365 0301

| | | |
|---|----------------------------|------------------------------|
| Article Sent To: | | |
| Postage | \$ | FEB 22 2002 Postmark Here |
| Certified Fee | | |
| Return Receipt Fee (Endorsement Required) | | |
| Restricted Delivery Fee (Endorsement Required) | | |
| Total | MUSTAFA SALEH DVM | |
| Name (| EXTRA CARE ANIMAL HOSPITAL | |
| Street, | 950 S FLAMINGO RD | |
| City, St | DAVIE FL 33325 | |
| | VM2001-06355 | |

PS Form 3800, July 1999 See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
 MUSTAFA SALEH DVM
 EXTRA CARE ANIMAL HOSPITAL
 950 S FLAMINGO RD
 DAVIE FL 33325
 VM2001-06355

COMPLETE THIS SECTION ON DELIVERY

| | |
|---|------------------------------------|
| A. Received by (Please Print Clearly) | B. Date of Delivery |
| Rose Admond | 2/15/02 |
| C. Signature | |
| <i>Rose Admond</i> | <input type="checkbox"/> Agent |
| | <input type="checkbox"/> Addressee |
| D. Is delivery address different from item 1? | <input type="checkbox"/> Yes |
| If YES, enter delivery address below: | <input type="checkbox"/> No |

3. Service Type

| | |
|--|--|
| <input checked="" type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail |
| <input type="checkbox"/> Registered | <input checked="" type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail | <input type="checkbox"/> C.O.D. |

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number (Copy from service label)
 7000 0600 0020 9365 0301

PS Form 3811, July 1999 Domestic Return Receipt 102595-99-M-1789

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FEB 22 2002

MUSTAFA SALEH, D.V.M.
Extra Care Animal Hospital
950 South Flamingo Road
Davie, Florida 33325

Case No.: 2001-06355

SERVICE OF ADMINISTRATIVE COMPLAINT

Florida's Future...
**Right Here.
Right Now.**

Jeb Bush
Governor

Kim Binkley-Seyer
Secretary

Dear Dr. Saleh:

This is to inform you that probable cause has been found to believe that you violated certain provisions of the Florida Statutes governing veterinary medicine. The enclosed Administrative Complaint contains the formal charges filed against you. Receipt of these documents constitutes legal service upon you.

Office of the
General Counsel
1940 North Monroe Street
Tallahassee, Florida

32399-2202

VOICE
850.488.0062

FAX
850.414.6749

INTERNET
www.MyFlorida.com

Options available to you under Florida law are:

- (a) Choose not to dispute the material facts alleged, and request a hearing before the Department of Business and Professional Regulation which will only hear evidence regarding the conclusions of law and the penalty for violations; or
- (b) Dispute the material facts alleged and request a hearing before an administrative law judge with the Division of Administrative Hearings; or
- (c) Waive your right to either type of hearing and put yourself completely at the Department's discretion.

Please be advised, pursuant to Section 120.573, *Florida Statutes*, that mediation is not available for this type of agency action. You must respond by selecting one of the options on the enclosed Election of Rights form, and forwarding the executed Election of Rights form to this office **within 21 days of your receipt of this letter**. Failure to respond within the 21 day period may be deemed a waiver of the rights outlined above, and the Department may proceed against you by default.

Sincerely,

Tiffany A. Short
Assistant General Counsel

ATTCHS: Administrative Complaint; Election of Rights Form; Explanation of Rights

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

EXPLANATION OF RIGHTS

In response to the allegations set forth in the Administrative Complaint issued by the Department of Business and Professional Regulation, hereinafter referred to as the Department, you should make one of the following elections within twenty-one (21) days from the day of receipt of the Administrative Complaint. Please make your election on the attached Election of Rights form and return it fully executed to the address listed on the form.

1. If you do not dispute any material fact alleged in the Administrative Complaint, you may request an informal hearing **not involving disputed issues of material fact** pursuant to §120.57(2), *Florida Statutes*, before the Board of Veterinary Medicine. At the informal hearing, you will be given an opportunity to present both written and oral evidence in mitigation. A request for an informal hearing in this matter should be directed to the Department by checking the appropriate space, marked as 1, on the Election of Rights form within twenty-one (21) days from the date of receipt of the Administrative Complaint.

2. If you determine that the allegations set forth in the Administrative Complaint contain any disputed issue(s) of material fact, you may request a formal hearing **involving disputed issues of material fact** with the Division of Administrative Hearings of the Department of Administration pursuant to §120.57(1), *Florida Statutes* by checking the appropriate space, marked as 2, on the Election of Rights form and returning it to the Department within twenty-one (21) days of the date of receipt of the Administrative Complaint. If you elect a formal hearing, you must keep the Department informed as to your current mailing address. Failure to do so may be considered a waiver of your right to a formal hearing.

3. If you wish to waive your right to object or be heard in this matter, you may do so by checking the appropriate space marked as 3, on the Election of Rights form. Please understand that if you choose this option the Board of Veterinary Medicine can take whatever action they deem appropriate against you and your license, including, but not limited to the imposition of fines and/or revocation of your license.

4. If one is provided and you wish to settle your case as proposed in the Settlement Stipulation, you may do so pursuant to Section 120.57(4), *Florida Statutes*. You must execute the Stipulation before a notary and returning the same to this office within twenty-one (21) days of your receipt of the Administrative Complaint. The Stipulation will be presented to the Board of Veterinary Medicine for approval at the next available meeting. If the Board accepts the Stipulation as an appropriate resolution to your case, a Final Order will be issued and the case will be considered closed. If the Board rejects the proposed settlement, it will make a counter-offer of settlement for your consideration. Electing this option will not preclude you from requesting a hearing involving dispute issues of material fact for a hearing not involving disputed issues of material fact at a later date.

In the event that you fail to make an election in this matter within twenty-one (21) days from receipt of the Administrative Complaint, your failure may be considered as a waiver of your right to elect the forum, and the Department may proceed to hear any and all evidence that may be presented to it, in disposing of your case.

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
BOARD OF VETERINARY MEDICINE

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2001-06355

MUSTAFA SALEH, D.V.M.,

Respondent.

ADMINISTRATIVE COMPLAINT

Petitioner, DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION ("Petitioner"), files this Administrative Complaint before the Board of Veterinary Medicine against MUSTAFA SALEH ("Respondent"), and alleges:

1. Petitioner is the state agency charged with regulating the practice of veterinary medicine, pursuant to Section 20.165, *Florida Statutes*, and Chapters 455 and 474, *Florida Statutes*.
2. At all times material hereto, Respondent was licensed in the State of Florida as a veterinarian, license number VM 0002759.
3. Respondent's address of record is 950 South Flamingo Road, Davie, Florida 33325.
4. At all times material hereto, Respondent was the owner of Extra Care Animal Hospital.
5. Extra Care Animal Hospital was previously located at 11372 State Road 84, Davie, Florida 33325.
6. Since at least April 17, 2001, Respondent has been practicing veterinary medicine at Extra Care Animal Hospital, located at 950 South Flamingo Road, Davie, Florida 33325.

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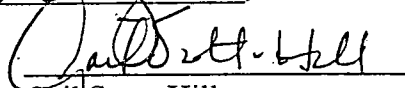
7. Extra Care Animal Hospital at 950 South Flamingo Road, Davie, Florida 33325 did not have a premises permit until about November 16, 2001, when it obtained a temporary permit.

8. Section 474.213(1)(k), *Florida Statutes*, states that no person shall knowingly operate a veterinary establishment or premises without having a premise permit issued under Section 474.215, *Florida Statutes*.

9. Based on the foregoing, Respondent has violated Section 474.213(1)(k), *Florida Statutes*.

WHEREFORE, Petitioner respectfully requests the Board of Veterinary Medicine enter an order imposing one or more of the following penalties: revocation or suspension of the Respondent's license, restriction of the Respondent's practice, imposition of an administrative fine not to exceed \$5,000 per violation, issuance of a reprimand, placement of the Respondent on probation, assessment of costs association with the investigation, imposition of any or all penalties delineated within Section 455.227(2), *Florida Statutes*, and/or any other relief that the Board is authorized to impose pursuant to Chapters 455 and/or 474, *Florida Statutes*, and/or the rules promulgated thereunder.

Signed this 13th day of February, 2002.


Gail Scott-Hill
Lead Professions Attorney

Counsel for the Department:
Tiffany A. Short
Assistant General Counsel
Florida Bar Number: 505994
Department of Business and
Professional Regulation
Office of the General Counsel
1940 North Monroe Street
Tallahassee, FL 32399-2202

FILED
Department of Business and Professional Regulation
DEPUTY CLERK

CLERK Brandon M. Nichols
DATE 2-20-2002

TAS/jar
Case #2001-06355

PCP 1/11/02

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STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida's Future...
**Right Here.
Right Now.**

FEB 22 2002

Theresa Labita
11960 NW 29th Street
Sunrise, FL 33323-4504

RE: Mustafa Saleh, D.V.M.
Case # 2001-06355

Jeb Bush
Governor

Kim Binkley-Seyer
Secretary

Dear Ms. Labita:

Office of the
General Counsel

1940 North Monroe Street

Tallahassee, Florida

32399-2202

This is in reference to your complaints against the above named veterinarian.

The Probable Cause Panel of the Board of Veterinary Medicine found that the charges brought in your complaint do not warrant further prosecution at this time. However, the Department has filed an administrative complaint against the subject for a different violation unrelated to the complaint.

VOICE

850.488.0062

FAX

850.414.6749

INTERNET

www.myflorida.com

Sincerely,

Tiffany A. Short
Assistant General Counsel

TAS/jar

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MEMORANDUM OF FINDING OF PROBABLE CAUSE

TO: DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
OFFICE OF THE GENERAL COUNSEL

FROM: CHAIRPERSON, PROBABLE CAUSE PANEL

BOARD: VETERINARY MEDICINE

RE: MUSTAFA SALEH, D.V.M. CASE NUMBER: 2001-06355

LICENSE NO.: VM 0002759

DATE OF PROBABLE CAUSE PANEL MEETING: 1/11/02

THIS MATTER WAS BROUGHT BEFORE THE PROBABLE CAUSE PANEL MEMBERSHIP COMPOSED OF: Jones & Lewis ON THE DATE SET FORTH ABOVE. THE PANEL, HAVING RECEIVED THE INVESTIGATIVE REPORT, HAVING CAREFULLY REVIEWED THAT REPORT, HAVING REVIEWED THE RECOMMENDATION OF THE DEPARTMENT AND HAVING HAD THE OPPORTUNITY TO INQUIRE OF COUNSEL AND BEING OTHERWISE DULY ADVISED IN THE PREMISES THEREOF, FINDS THAT:

 PROBABLE CAUSE WAS NOT FOUND IN THIS CASE.

 X PROBABLE CAUSE WAS FOUND ON THE FOLLOWING STATUTORY AND RULE GROUNDS, INCLUDING BUT NOT LIMITED TO, SECTIONS:

 474.213(1)(k)

 PROBABLE CAUSE WAS FOUND TO AMEND THE ADMINISTRATIVE COMPLAINT AS FOLLOWS:

Kandra A. Jones DVM
CHAIRPERSON, PROBABLE CAUSE PANEL