

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF CHIROPRACTIC EXAMINERS**



**IN RE: CHIROPRACTIC LICENSE # 5234
HELD BY Erik Simms, D.C.
ADMINISTRATIVE CASE # 10A-018**

Erik Simms, D.C.

AGREED ORDER

Parties

WHEREAS, the parties to the Agreed Order herein are the Kentucky Board of Chiropractic Examiners, hereinafter referred to as the “Board,” and Erik Simms D.C., hereinafter referred to as the “Respondent.”

Jurisdiction

WHEREAS, the Board has jurisdiction over this matter pursuant to KRS Chapter 312 and the related administrative regulations.

History

WHEREAS, the Respondent advertised a free or discounted service in a flyer at Better Bodies, without including adequate notice of the seventy-two (72) hour right of rescission required by KRS 312.019(9)(g) and 201 KAR 21:065, Section 1(2); and

WHEREAS, the parties mutually desire to settle the issue in an expeditious manner, without the need for a formal hearing.

Terms of Agreement

THEREFORE, it is hereby agreed between the undersigned parties that

this matter shall be settled and resolved upon the following terms:

1) The Respondent shall carefully review the Agreed Order herein and enters into this Agreed Order knowingly, willingly and voluntarily and after having reviewed the due process rights afforded to the respondent under KRS Chapter 312 and the accompanying regulations;

2) The Respondent, Erik Simms, D.C., accepts the reprimand of the Board for the above-stated violations. The Respondent agrees to act more diligently in the future to insure that all advertising issued by the respondent, or on the respondent's behalf, complies with KRS Chapter 312 and the accompanying administrative regulations;

3) The Respondent shall notify all consumers known to him who responded to the advertisement and advise those consumers of the complete notice of right of rescission, as required by 201 KAR 21:065, Section 1(2). A copy of the notification to all consumers who responded to the advertisement shall be mailed to the board *on or before January 20, 2011*;

4) The Respondent, Erik Simms, D.C., shall pay a fine to the board in the amount of five hundred dollars (\$500.00). Said fine shall be made payable to the "Kentucky Board of Chiropractic Examiners." The fine may be paid in five (5) one hundred dollar (\$100.00) installments due by the twentieth day of each month beginning January 2011 with the final installment due by May 20, 2011.

5) The original, executed Agreed Order and first one hundred dollar (\$100.00) fine installment must be received in the office of the board,

postmarked no later than January 20, 2011.

6) The Respondent acknowledges that he is ineligible for participation in any chiropractic preceptorship program for three (3) years pursuant to 201 KAR 21:085, Section 2(7); and

7) The Respondent, Erik Simms, D.C., agrees that the failure to comply with any of the terms and conditions of this Agreed Order may result in the board setting the matter for an administrative hearing in accord with KRS Chapter 13B.

Voluntary Waiver of Rights

The Respondent, Erik Simms, D.C., has had the opportunity at all times to seek advice from competent counsel of choice. No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Agreed Order.

Publication of Settlement Agreement

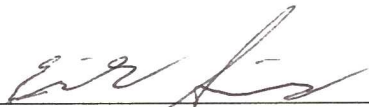
The Respondent acknowledges that, once adopted by the Board, this Agreed Order may be considered a public document, available for inspection at any time by any member of the public under the Kentucky Open Records Act, and may be reportable under federal law. This Agreed Order may at any time be published on the Board's website, www.kbce.ky.gov.

Complete Agreement

This Settlement Agreement consists of four (4) pages and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and Erik Simms, D.C.. It may not be altered, amended or modified without the

express written consent of both parties.


Have Seen, Understood and Approved:



Erik Simms, D.C.
License No. 5234
Respondent

1-10-2011

Date



MARK WOODWARD, D.C.
President
Kentucky Board of Chiropractic
Examiners

01-25-11

Date

Certificate of Service

I hereby certify that a true and correct copy of the foregoing **Agreed Order** was mailed via U.S. mail, postage pre-paid to the following this 28th day of Jan ~~28~~, 2011:

Erik Simms, D.C.

Respondent

HON. MICHAEL WEST
Office of the Attorney General
700 Capitol Ave., Ste. 118
Frankfort KY 40601
Board Counsel

And the original shall be maintained by the Board

Karalee P. Oldenkamp, D.C.
Karalee P. Oldenkamp, D.C.
Board Administrator
Kentucky Board of Chiropractic Examiners