

4440

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

IN RE: CHIROPRACTIC LICENSE # 4440 HELD BY JOHN B. COLE, D.C.

JOHN B. COLE, D.C.
4026 Massie Ave.
Louisville KY 40207



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 John B. Cole, 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, by letter dated January 13, 2006, Ms. Sandra Nelson alleged that shortly after she and her sons were involved in a car accident she received a phone solicitation from a service representative of E-Town Accident and Injury Center. Ms. Nelson states that she received care from E-Town Accident and Injury Center for 1 ½ months. She questions the fees charged and failure to administer x-rays; and

WHEREAS, on or about July 6, 2005, following a series of complaints regarding the solicitation practices of ETown Accident and Injury Center, the Respondent entered into an Agreed Order with the Board wherein he admitted violating KRS 312.150(1)(f), (g), and (2)(f), paid a \$250 fine and agreed to submit all future advertisements and telemarketing scripts to the Board for prior approval; and

WHEREAS, in the aforementioned Agreed Order, page 4, paragraph 7, the Respondent, John B. Cole, D.C. agreed that his failure to comply with any of the terms and conditions of said Agreed Order may result in the Board setting the matter for a formal administrative hearing; and

WHEREAS, the sign and letterhead of the facility where the Respondent works do not include the name of the owner or operator of the facility in violation of KRS 312.145(3); and

WHEREAS, the Respondent failed to submit copies of advertisements and telemarketing scripts to the Board for prior approval as required by the Agreed Order of 2005, and in violation of 201 KAR 21:065, Section 3; and

WHEREAS, the parties mutually desire to settle the issues 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 has carefully reviewed the Agreed Order herein

and enters into this Agreed Order knowingly, willingly and voluntarily and after having reviewed the due process rights afforded to him under KRS Chapter 312 and the accompanying regulations;

2) The Respondent, John B. Cole, D.C., admits violating KRS 312.145(3), KRS 312.150(1)(f),(g), and 201 KAR 21:015(5), (6)(c), (13), and 201 KAR 21:065, Section 3;

3) The Respondent accepts the reprimand of the Board for the above-stated violations. The Respondent agrees he will act more diiligently in the future to insure that all advertising issued by him, or on his behalf, complies with KRS Chapter 312 and the accompanying administrative regulations;

4) The Respondent, John B. Cole, D.C., shall pay a fine to the board in the amount of one thousand dollars (\$1,000). Said fine shall be made by certified check or money order payable to the "Kentucky Board of Chiropractic Examiners," and must be received within twenty (20) days of signing the Agreed Order;

5) The Respondent, John B. Cole, D.C. shall submit all future advertisements and telemarketing scripts to the board for prior approval;

6) The original, executed Agreed Order must be received in the office of the board, *postmarked no later than **November 21, 2006***;

7) The board shall make no referral of this matter for any criminal proceeding; and

8) The Respondent, John B. Cole, D.C., agrees that his 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

No coercion has been exerted upon the Respondent, nor have any promises been made other than those reflected in this Agreed Order.

The Respondent is fully aware of his rights to contest the Board's denial of his application for renewal in a formal hearing. These rights include: representation by an attorney at the Respondent's own expense, the right to confront and cross-examine witnesses called to testify against the Respondent, the right to present evidence on the Respondent's own behalf, the right to testify on his own behalf, the right to receive written findings of fact and conclusions of law supporting the decision on the merits of the accusation and the right to obtain judicial review of the Board's decision. All of these rights are being voluntarily waived by the Respondent in exchange for the Board's acceptance of 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.

Complete Agreement

This Settlement Agreement consists of five (5) pages and embodies the entire agreement between the Kentucky Board of Chiropractic Examiners and John B. Cole, D.C. It may not be altered, amended or modified without the express written consent of both parties.

Have Seen, Understood and Approved:




JOHN B. COLE, D.C.
License No. 4440
Respondent



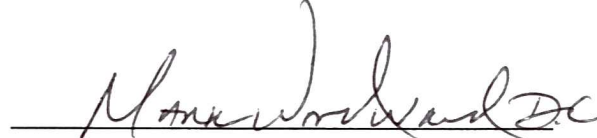
Date



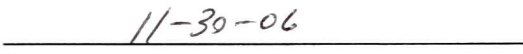
JAMES P. GROHMANN
Counsel for Respondent



Date



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



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 8th day of December, 2006:

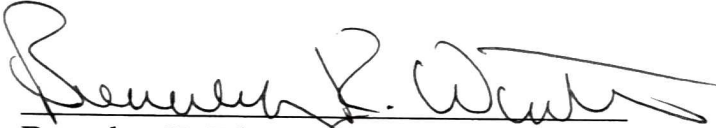
JOHN B. COLE, D.C.
4026 Massie Ave.
Louisville KY 40207

HON. DIANE SCHULER FLEMING
Office of the Attorney General
700 Capitol Ave., Ste. 118
Frankfort KY 40601
Board Counsel

And a courtesy copy via U.S. mail, postage pre-paid to:

HON. JAMES P. GROHMANN
O'Bryan, Brown & Toner, PLLC
Suite 1500 Starks Bldg.
455 S. Fourth Street
Louisville KY 40202
Counsel for Respondent

And the original shall be maintained by the Board


Beverley K. White
Board Administrator
Kentucky Board of Chiropractic Examiners