

STATE OF FLORIDA
BOARD OF CHIROPRACTIC MEDICINE

By: Raenele Bles
Deputy Agency Clerk

DEPARTMENT OF HEALTH,

Petitioner,

vs.

Case No.: 2006-21936

License No.: CH 7634

DAVID J. GOLINGER, D.C.,

Respondent.

FINAL ORDER

This matter appeared before the Board of Chiropractic Medicine (hereinafter "Board") at a duly-noticed public meeting on April 13, 2007, in Tampa, Florida, for consideration of a Settlement Stipulation. Petitioner filed an Administrative Complaint seeking disciplinary action against Respondent's license to practice as a chiropractic physician. A copy of the Administrative Complaint is attached to and made a part of this Order. Petitioner was represented by Cecilia Jefferson, Assistant General Counsel. Respondent was present.

Upon consideration of the Settlement Stipulation, the documents submitted in support thereof, the arguments of the parties and otherwise being advised in the premises, the proposed Settlement Stipulation was rejected. The Board offered a counter Settlement Agreement with the following terms:

1. **Letter of Concern**. Respondent shall receive a Letter of Concern from the Board.
2. **Administrative Fine**. The Board shall impose a fine in the amount of two thousand dollars (\$2,000.00).

3. **Administrative Costs.** Respondent shall pay the costs of investigation and prosecution of this matter in the amount of nine hundred ninety-five dollars and thirty-eight cents (**\$995.38**).

4. **Payment of Fine and Costs.** The fine and the costs are payable within **one (1) year** of the filing date of this Final Order.

5. **Continuing Education.** Within **one (1) year** of the filing date of this Final Order, Respondent shall complete **five (5) hours** of additional continuing education offered by the Florida Chiropractic Association or the Florida Chiropractic Society. These hours shall be in addition to the hours required for license renewal. At least **two (2)** of the additional hours shall pertain to the laws and rules regulating the practice of chiropractic medicine in the State of Florida. Within **ten (10) days** of completion of the course(s) and/or receipt of the certificate(s) of completion, Respondent shall mail a copy of the continuing education certificate(s) of completion to the Board of Chiropractic Medicine Compliance Officer.

6. **Address.** Respondent shall keep his residential address and practice location address(es) on file with the Board. Respondent shall notify the Board within **ten (10) days** of any address change.

7. **Future Conduct.** Respondent shall not violate Chapter 456 or Chapter 460, Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice chiropractic medicine.

8. **Violation of Order.** Respondent understands that a violation of the terms of this Order shall be considered a violation of a Final Order of the Board for which

disciplinary action may be initiated pursuant to Chapters 456 and 460, Florida Statutes.

9. **No preclusion of additional proceedings.** Respondent and the Department understand that this Final Order will in no way preclude additional proceedings by the Board and/or Department against Respondent for acts or omissions not specifically set forth in the attached Administrative Complaint.

10. **Waiver of attorney's fees and costs.** Respondent waives his right to seek attorney's fees and costs.

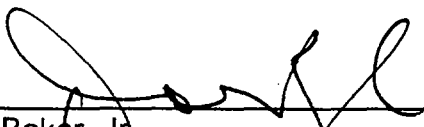
11. **Compliance Address.** The address for submission of documents and/or monetary payments (including fines & costs) is: Department of Health, HMQ/AMS, Client Services, PO Box 6320, Tallahassee, Florida 32314-6320, attn: Chiropractic Medicine Compliance Officer.

Respondent accepted the counter settlement agreement on the record at the April 2007 meeting.

This Order shall become effective upon filing with the Clerk of the Department of Health.

DONE AND ORDERED this 24th day of April, 2007.

BOARD OF CHIROPRACTIC MEDICINE



Joe Baker, Jr.
Executive Director *on behalf of*
Salvatore LaRusso, D.C., CHAIR

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to **David J. Golinger, D.C.**, 10450 West Atlantic Boulevard, Coral Springs, Florida 33071; and by interoffice mail to **Deborah Bartholow Loucks**, Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050; **Cecilia Jefferson**, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin # C-65, Tallahassee, Florida 32399-3265, on 25 of April 2007.

Deborah Bartholow Loucks

Deputy Agency Clerk

STATE OF FLORIDA
DEPARTMENT OF HEALTH
BOARD OF CHIROPRACTIC MEDICINE

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *Rachel Brown*
DATE 1-10-07

DEPARTMENT OF HEALTH

Petitioner,

v.

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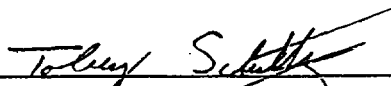
DAVID GOLINGER, D.C.

Respondent,

MOTION FOR FINAL ORDER BY STIPULATION

Petitioner, Department of Health, by and through its undersigned counsel, moves the above-styled cause be scheduled before the Board of Chiropractic for consideration of the Stipulation entered into between the parties as settlement of this cause.

Respectfully submitted,



Tobey Schultz
Assistant General Counsel
Department of Health
Prosecution Services Unit
4052 Bald Cypress Way, Bin #C-65
Tallahassee, FL 32399-3265
(850) 245-4640 ext. 8176
Fax: (850) 245-4682 FAX
Florida Bar No. 0542131
tobey_schultz@doh.state.fl.us

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished via certified U.S. Mail to: David Golinger, D.C., 10450 West Atlantic Boulevard, Coral Springs, Florida 33071, this 9th day of January, 2007.



Tobey Schultz

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-21936

DAVID J. GOLINGER, D.C.,

RESPONDENT,

_____ /

SETTLEMENT STIPULATION

Pursuant to Section 120.57(4), Florida Statutes, the above named parties hereby offer this Stipulation to the Board of Chiropractic Medicine as disposition of the Administrative Complaint, attached hereto as Exhibit "A," in lieu of any other administrative proceedings. The terms herein become effective only if and when a Final Order accepting the Settlement Stipulation is issued by the Board and filed. In considering this Stipulation, the Board may review all investigative materials regarding this case. If this Stipulation is rejected, it, and its presentation to the Board, shall not be used against either party.

STIPULATED FACTS

1. For all times pertinent herein, Respondent was a licensed Chiropractor in the State of Florida, having been issued license number CH 7634.


Initial

2. The Respondent was charged in an Administrative Complaint filed by the Board of Chiropractic Medicine and properly served upon Respondent with violations of Chapters 456 and/or 460, Florida Statutes. A true and correct copy of the Administrative Complaint is attached hereto and incorporated by reference as Exhibit A.

3. Respondent admits the factual allegations contained in the Administrative Complaint for the purposes of settlement in these administrative proceedings only.

STIPULATED LAW

1. Respondent admits that he is subject to the provisions of Chapters 456 and 460, Florida Statutes, and the jurisdiction of the Board and Department of Health.

2. Respondent admits that the stipulated facts, if proven true, constitute violations of laws.

3. Respondent admits that the stipulated disposition in this case is fair, appropriate, and acceptable to Respondent.

PROPOSED DISPOSITION

1. **Letter of Concern** - Respondent shall receive a Letter of Concern from the Board of Chiropractic Medicine.

2. **Fine** - The Board of Chiropractic Medicine shall impose an administrative fine in the amount of **two thousand, five hundred dollars (\$2,500.00)** against the Respondent, to be paid by Respondent to the Department of Health, HMQAMS/Client Services, Post Office Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Chiropractic Medicine Compliance Officer,

within twelve months of the Final Order accepting this Agreement. All fines shall be paid by check or money order.

3. **Reimbursement of Costs-** The Respondent shall reimburse the Board of Chiropractic Medicine for the actual cost for the investigation and prosecution of this case. Respondent will pay costs to the Department of Health, HMQAMS/Client Services, P.O. Box 6320, Tallahassee, Florida 32314-6320, Attention: Board of Chiropractic Medicine Compliance Officer within twelve months from the entry of the Final Order in this cause.

4. **Continuing Education** - Within one year of the date of the filing of a Final Order in this cause, Respondent shall attend 5 hours of Continuing Education, 2 of which must be in laws and rules regulating Chiropractic Medicine administered by either the Florida Chiropractic Association or the Florida Chiropractic Society. Respondent shall submit documentation in the form of certified copies of the receipts, vouchers, certificates, or other papers, such as recognition awards, documenting completion of this course within one (1) year of the entry of the Final Order in this matter. All such documentation shall be sent to the Board of Chiropractic Medicine, regardless of whether some or any of such documentation was provided previously during the course of any audit or discussion with counsel for the Department. These hours shall be in addition to those hours required for renewal of licensure. Unless otherwise approved by the Board, said continuing education course shall consist of a formal, live lecture format.

5. **Modification of Current Advertisements-** To the extent it is feasible, Respondent shall arrange to have all of his/her current advertisements modified to comply with the Board of Chiropractic Medicine.

STANDARD PROVISIONS

1. **Appearance:** The Respondent shall be present when this Stipulation is presented to the Board, and under oath shall answer questions by the Board concerning this case and the disposition thereof.

2. **No force or effect until final order** - It is expressly understood that this Agreement is subject to the approval of the Board and the Department. In this regard, the foregoing paragraphs (and only the foregoing paragraphs) shall have no force and effect unless the Board enters a Final Order incorporating the terms of this Agreement.

3. **Addresses** - Respondent must keep current residence and practice addresses on file with the Board. Respondent shall notify the Board within ten (10) days of any changes of said addresses.

4. **Future Conduct** - In the future, Respondent shall not violate Chapter 456 or 460 Florida Statutes, or the rules promulgated pursuant thereto, or any other state or federal law, rule, or regulation relating to the practice or the ability to practice chiropractic medicine. Prior to signing this agreement, the Respondent shall read Chapters 456 or 460 and the Rules of the Board of Chiropractic Medicine, at Chapter 64B2, Florida Administrative Code.

5. **Violation of terms considered** - It is expressly understood that a violation of the terms of this Agreement shall be considered a violation of a Final Order of the Board, for which disciplinary action may be initiated pursuant to Chapters 456 and 460, Florida Statutes.

6. **Purpose of Agreement** - Respondent, for the purpose of avoiding further administrative action with respect to this cause, executes this Agreement. In this regard, Respondent authorizes the Board to review and examine all investigative file materials concerning Respondent prior to or in conjunction with consideration of the Agreement. Respondent agrees to support this Agreement at the time it is presented to the Board and shall offer no evidence, testimony or argument that disputes or contravenes any stipulated fact or conclusion of law. Furthermore, should this Agreement not be accepted by the Board, it is agreed that presentation to and consideration of this Agreement and other documents and matters by the Board shall not unfairly or illegally prejudice the Board or any of its members from further participation, consideration or resolution of these proceedings.

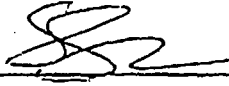
7. **No preclusion of additional proceedings** - Respondent and the Department fully understand that this Agreement and subsequent Final Order incorporating same will in no way preclude additional proceedings by the Board and/or the Department against Respondent for acts or omissions not specifically set forth in the Administrative Complaint attached as Exhibit A.

8. **Waiver of attorney's fees and costs** - Upon the Board's adoption of this Agreement, the parties hereby agree that with the exception of costs noted above, the parties will bear their own attorney's fees and costs resulting from prosecution or defense of this matter. Respondent waives the right to seek any attorney's fees or costs from the Department and the Board in connection with this matter.

9. **Waiver of further procedural steps** - Upon the Board's adoption of this Agreement, Respondent expressly waives all further procedural steps and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreement and the Final Order of the Board incorporating said Agreement.

WHEREFORE, the parties hereby request the Board to enter a Final Order accepting and implementing the terms contained herein.

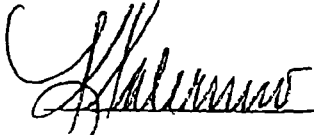
SIGNED this 6 day of NOVEMBER, 2006.



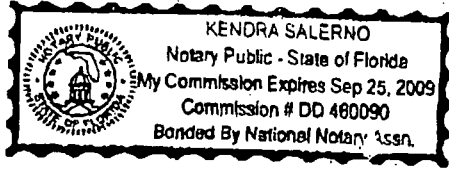
David J. Gollinger, D.C.

Before me personally appeared DAVID GOLINGER, whose identity is known to me by (KNOWN TO ME) (type of identification), and who, under oath, acknowledges that his signature appears above.

Sworn to and subscribed by Respondent before me this 6th day of NOVEMBER, 2006.



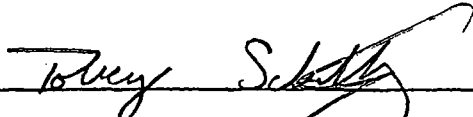
Notary Public



My Commission Expires: 9-25-2009

APPROVED this 6th day of NOVEMBER, 2006.

M. Rony François, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health



COUNSEL FOR PETITIONER:

Cynthia L. Jakeman
Assistant General Counsel
(850) 245-4640 ext. 8133

STATE OF FLORIDA
DEPARTMENT OF HEALTH

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-21936

DAVID J. GOLINGER, D.C.

RESPONDENT.

ADMINISTRATIVE COMPLAINT

COMES NOW, Petitioner, Department of Health, by and through its undersigned counsel, and files this Administrative Complaint before the Board of Chiropractic Medicine against Respondent, David J. Golinger, D.C., and in support thereof alleges:

1. Petitioner is the state department charged with regulating the practice of chiropractic medicine pursuant to Section 20.43, Florida Statutes; Chapter 456, Florida Statutes; and Chapter 460, Florida Statutes.
2. At all times material to this order, Respondent was licensed to practice chiropractic medicine in the State of Florida, having been issued license number CH 7634 on or about February 23, 1999.
3. Respondent's address of record is 10450 West Atlantic

Boulevard, Coral Springs, Florida, 33071.

4. Respondent placed an advertisement in the South Florida Sun Sentinel on June 25, 2006, offering a free report about a space age technology for solving back pain without drugs or surgery.

5. Respondent's advertisement made many claims concerning non-surgical spinal decompression which overstated the potential benefits of non-surgical spinal decompression to prospective patients. For instance, the Respondent's advertisement stated that non-surgical spinal decompression was an "amazing space-age medical breakthrough to treat back pain, disc herniations and sciatica." Respondent's advertisement also claimed that "sciatica had puzzled doctors and frustrated patients for years...but now space travel and modern technology may have finally cracked the back pain and sciatica code."

6. Respondent also failed to identify himself as a chiropractic physician when he advertised in the June 25, 2006, edition of the South Florida Sun Sentinel.

Count One

7. Petitioner re-alleges and incorporates paragraphs one (1) through six (6) as if set forth fully herein.

8. Section 460.413(1)(e) Florida Statutes (2005)-(2006), subjects a chiropractic physician to discipline when a practitioner causes to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

9. Respondent failed to identify himself as a chiropractic physician when he advertised in the June 25, 2006, edition of the South Florida Sun Sentinel.

10. Based on the foregoing, Respondent has violated Section 460.413(1)(e), Florida Statutes (2005)-(2006), by causing to be advertised, by any means whatsoever, any advertisement which does not contain an assertion or statement which would identify herself or himself as a chiropractic physician or identify such chiropractic clinic or related institution in which she or he practices or in which she or he is owner, in whole or in part, as a chiropractic institution.

Count Two

11. Petitioner re-alleges and incorporates paragraphs one (1) through six (6) as if set forth fully herein.

12. Section 460.413(1)(d), Florida Statutes (2005)-(2006), subjects a chiropractic physician to discipline for false, deceptive or misleading advertising.

13. Rule 64B2-15.001(1)(c), Florida Administrative Code (F.A.C.), states that any advertisement shall be deemed by the Board to be false, deceptive or misleading if it creates false, or unjustified expectations of beneficial treatment or successful cures.

14. Respondent's advertisements created false or unjustified expectations of beneficial treatment or successful cures in one or more of the following ways:

a. When Respondent's advertisement indicated that non-surgical spinal decompression was an "amazing space-age medical breakthrough to treat back pain, disc herniations and sciatica."

b. When Respondent's advertisement stated that "sciatica had puzzled doctors and patients for years...but now space travel and

modern technology may have finally cracked the back pain and sciatica code."

15. Based on the Foregoing, the Respondent violated Section 460.413(1)(d), Florida Statutes (2005)-(2006), by false, deceptive, or misleading advertising.

WHEREFORE, the Petitioner respectfully requests that the Board of Chiropractic Medicine enter an order imposing one or more of the following penalties: permanent revocation or suspension of Respondent's license, restriction of practice, imposition of an administrative fine, issuance of a reprimand, placement of the Respondent on probation, corrective action, refund of fees billed or collected, remedial education and/or any other relief that the Board deems appropriate.

SIGNED this 7th day of November, 2006.

M. Rony Francois, M.D., M.S.P.H., Ph.D.
Secretary, Department of Health

Cynthia L. Jakeman

Cynthia L. Jakeman
Assistant General Counsel
DOH Prosecution Services Unit
4052 Bald Cypress Way, Bin C-65
Tallahassee, FL 32399
Florida Bar # 0714690
(850) 245-4640 ext. 8133

FILED
DEPARTMENT OF HEALTH
DEPUTY CLERK
CLERK: *[Signature]*
DATE 11/8/06

PCP: Waived

NOTICE OF RIGHTS

Respondent has the right to request a hearing to be conducted in accordance with Section 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoena and subpoena duces tecum issued on his or her behalf if a hearing is requested.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 456.072(4), Florida Statutes, the Board shall assess costs related to the investigation and prosecution of a disciplinary matter, which may include attorney hours and costs, on the Respondent in addition to any other discipline imposed.

**STATE OF FLORIDA
DEPARTMENT OF HEALTH**

DEPARTMENT OF HEALTH,

PETITIONER,

v.

CASE NO. 2006-21936

DAVID J. GOLINGER, D.C.,

RESPONDENT.

**WAIVER OF FINDING OF PROBABLE CAUSE
AND WAIVER OF CONFIDENTIALITY**

1. A confidential Uniform Complaint Form was filed in the referenced case with the Department of Health on July 12, 2006. An Administrative Complaint, which will be filed, along with this waiver, with the office of the agency clerk of the Department of Health, is attached as Exhibit A.

2. Pursuant to Section 456.073(10), Florida Statutes, I, **David J. Golinger, D.C.**, license number CH-7634, have been advised of my right to a finding of probable cause and of the confidentiality provisions of Section 456.073(4) and (10), Florida Statutes. I understand that if I choose not to waive the privilege of confidentiality or the right to a

determination of probable cause by the Probable Cause Panel or by the Department, the complaint and all information obtained pursuant to the department's investigation would be confidential until 10 days after probable cause has been found to exist by the Probable Cause Panel or by the Department. I also understand that if there is no finding by a Probable Cause Panel or the Department that probable cause exists, then in the absence of my waiver of probable cause and waiver of confidentiality, the complaint and all information obtained pursuant to the investigation would remain confidential.

3. I, **David J. Golinger, D.C.**, being fully advised of the consequences of so doing, hereby admit probable cause exists for a violation of Sections 460.413(1)(d)&(e), Florida Statutes (2005)-(2006); ~~waive the statutory privilege of confidentiality; and waive the right to a~~ determination of probable cause by the Probable Cause Panel, or the Department when appropriate, regarding the complaint, the investigative report of the Department of Health, and all other information obtained ~~pursuant to the Department's investigation in the above-styled action in~~ order to expedite consideration and resolution of this action by the Florida Board of Chiropractic Medicine in a public meeting.

By signing this waiver, I, **David J. Golinger, D.C.**, understand that the complaint and all information obtained pursuant to the investigation by the Department, as well as the Administrative Complaint, will immediately become a public record that is immediately accessible to the public; Section 456.073(10) Florida Statutes.

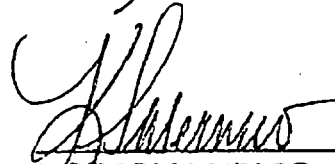
I AFFIRM THAT I HAVE READ AND UNDERSTOOD THE FOREGOING AND CONSENT TO ALL TERMS HEREIN.



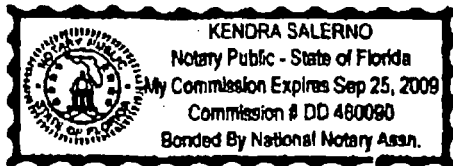
David J. Golinger, D.C.

STATE OF FLORIDA
 COUNTY OF BROWARD

Sworn to and subscribed before me this 6th day of NOV 2006, by DAVID J. GOLINGER who is personally known to me or who had produced PERSONALLY KNOWN TO ME (type of identification) as identification.



 NOTARY PUBLIC, STATE OF FLORIDA



KENDRA SALERNO

 (Print, Type of Stamp Commissioned Name of Notary Public)