

BEFORE THE ARKANSAS STATE BOARD OF DENTAL EXAMINERS

IN THE MATTER OF: **MARK FALKOFF, D.D.S.**

ORDER

On this day comes on for hearing the matter of Mark Falkoff, D.D.S. The Arkansas State Board of Dental Examiners appeared by a quorum of its membership, together with its attorney, William H. Trice III, and Mark Falkoff, D.D.S. appeared by and through his attorney, Thomas S. Russell. From the pleadings, evidence introduced, agreement of the parties and argument of counsel, the Board finds that:

1. Mark Falkoff, D.D.S. is a licensed dentist in the State of Arkansas under the provisions of the Dental Practice Act.

2. Mark Falkoff, D.D.S. permitted a video advertising his services to be aired on Channel 11, a CBS affiliate, in the Little Rock, Pulaski County, area on the 22nd of June, 1993, and at that time, the video stated, among other things, the following:

"Do your lower dentures float? Call the Little Rock Denture Clinic now for details on the Myoloc Bars. Immediate lower denture stability is about an hour at Dr. Falkoff's Little Rock Dental Clinic."

3. Said advertising in the video reflected in the paragraph above creates an unjustified expectation about the results that can be achieved. Thus, violating A.C.A. §17-82-316(3)(d), that is presenting an advertisement to the public which is fraudulent or does not comply with the rules and regulations of the Board, more

especially, Rule and Regulation Article V(a)(4), that is advertisement intended or likely to create an unjustified expectation about the results that dentists can achieve.

4. A.C.A. §25-15-208(b) of the Administrative Procedure Act provides that an administrative board and a party before the Board can reach informal disposition of an issue by stipulation, settlement, consent order or default.

5. The Arkansas State Board of Dental Examiners and Mark Falkoff, D.D.S. have agreed that the Practice Act has been violated as stated in Paragraph 2 above and that the only sanction for said violation should be as follows:

a. That Mark Falkoff, D.D.S. will cease from advertising using the phrase "immediate lower denture stability".

b. Pay a monetary fine of \$1,000.00 to the Arkansas State Board of Dental Examiners to be paid at the rate of \$250.00 per month, beginning the 1st day of September, 1993.

WHEREFORE IT IS CONSIDERED ORDERED AND ADJUDGED THAT:

1. Pursuant to the agreement of the parties, Mark Falkoff, D.D.S. has violated Ark. Code Ann. § 17-82-316(d) that is presenting an advertisement to the public which is fraudulent or does not comply with the Rules and Regulations of the Board, more specifically, Regulation Article V(a)(4), that is an advertisement intended or likely to create an unjustified expectation about the results the dentist can achieve.

2. Pursuant to the agreement, Mark Falkoff, D.D.S. will cease from advertising in the future with the phrase "immediate lower denture stability", as it relates to Myoloc Bars.

3. Pursuant also to the agreement, Mark Falkoff, D.D.S. will pay a fine to the Arkansas State Board of Dental Examiners of \$1,000.00 to be paid at the rate of \$250.00 per month beginning the 1st day of September, 1993.

IT IS SO ORDERED.

ARKANSAS STATE BOARD OF DENTAL EXAMINERS

BY: Robert H. Burch, D.D.S.
ROBERT H. BURCH, D.D.S., President

DATE: 31 August 93

APPROVED AS TO FORM:

William H. Trice III
WILLIAM H. TRICE III
Attorney for the Arkansas State
Board of Dental Examiners

Thomas S. Russell
THOMAS S. RUSSELL
Attorney for Mark Falkoff, D.D.S.

f:\temp\adbo\alkoff\order.fin