

ROYAL COLLEGE OF VETERINARY SURGEONS

V

MR PAUL ANTONY EVANS MRCVS

FINDINGS

Mr Paul Antony Evans appears before the Disciplinary Committee of the RCVS on the following charges:

That, while being registered in the Register of Veterinary Surgeons, whilst in practice at Greyhound Consultancy Service, 25 Highlands Rd, Royton, Oldham:

1. On a day unknown between 1 January 2006 and 20 February 2006, having prescribed Norethindrone to Confident Bunny, a racing greyhound:

You advised Elaine Parker, the National Greyhound Racing Club (NGRC) licensed greyhound trainer for Confident Bunny, that she could race Confident Bunny when under treatment with Norethindrone (a substance prohibited by Rule 217 of the NGRC rules) when you knew or ought to have known that to race Confident Bunny in those circumstances could result in a breach of the rules of NGRC racing.

Confident Bunny was raced contrary to the rules of racing and following a NGRC stewards' enquiry, you were severely reprimanded and fined £750 and Elaine Parker was reprimanded and fined £450.

2. On a day unknown between 1 January 2006 and 31 March 2006, having prescribed and supplied Norethindrone to Checkinpost, a racing greyhound:

You advised Elaine Parker, the NGRC licensed greyhound trainer for Checkinpost, that she could race Checkinpost when under treatment with Norethindrone (a substance prohibited by Rule 217 of the NGRC rules) when you knew or ought to have known that to race Checkinpost in those circumstances could result in a breach of the rules of NGRC racing.

Checkinpost was raced contrary to the rules of racing and following a NGRC stewards' enquiry, you were severely reprimanded and fined £750 and Elaine Parker was reprimanded and fined £450.

And that in relation to the facts alleged, you have been guilty of disgraceful conduct in a professional respect.

1. Mrs Elaine Parker is an experienced and licensed greyhound trainer. Mr Evans has been her veterinary surgeon for many years. Mrs Parker trains upwards of eighty greyhounds at any one time and was accustomed to suppressing the oestrous periods of her bitches with the injectable product Durateston®. Three of her young bitches, two of which were named Confident Bunny and Checkinpost respectively, were particularly nervous and averse to being injected. When Mrs

Parker discussed this issue with Mr Evans in the early part of 2006, they were both of the opinion that the only oral product licensed by the Veterinary Medicines Directorate for the suppression of oestrus, Ovarid[®], was unsuitable for the purpose as it was commonly held to have an adverse effect on racing performance together with a significant risk of other side effects. That being the case, Mr Evans used the provisions of the Cascade to justify prescribing norethindrone tablets, a human product without a veterinary product licence, to suppress oestrus in these three bitches. The other bitches trained by Mrs Parker continued to have their oestrous periods suppressed with Durateston[®].

2. On the 20th February 2006 Confident Bunny was subject to random urine testing before a race at the Sheffield race track and that sample was shown to contain residues of norethindrone. On 6th March 2006 Checkinpost was subject to random urine testing before a race at the Sheffield race track and that sample also was shown to contain residues of norethindrone. On the basis of these two results the National Greyhound Racing Club (NGRC) held a stewards' enquiry at which Mrs Parker was found guilty in her absence of breaching rule 152 (i) and/or (ii) (*"A person commits a breach of these rules if the NGRC Stewards finds: (i) that person to have been wholly or partly responsible for taking any action expressly or impliedly forbidden by these Rules or for failing to take any action which, under these Rules, he/she was expressly or impliedly required to take; or (ii) that person to have acted in a manner prejudicial to the integrity, proper conduct or good reputation of NGRC Greyhound racing."*), rule 174(i)(a) (*"Subject to the proviso to sub-paragraph (i) (b) below the NGRC Stewards shall have power at any NGRC Inquiry to make such order as is contained in rule 160 (iv) if they are satisfied that such person: (i)(a) has administered or attempted to administer or has allowed or caused to be administered or connived at the administration to a Greyhound of any quantity of any substance which by its nature could affect the performance or prejudice the well-being of a Greyhound the origin of which on or in the tissues, body fluids or excreta of a Greyhound could not be traced to normal and ordinary feeding or care"*) and rule 217 (*"A Greyhound when taking part in a Race or Trial must at that time be free of medicines, tonics or substances that could affect its performance or well-being, the origin of which could not be traced to normal and ordinary feeding. The only permitted exceptions to this rule are:- (i) medicinal products which have been authorised by the Veterinary Medicines Directorate for the suppression of a bitch's season, prescribed by a Veterinary Surgeon (ii) medicinal products which have been authorised by the Veterinary Medicines Directorate as anti-parasitic drugs (for internal/external parasites) or as vaccines. The application of any substance, for any purpose on a Greyhound in the racing paddock, unless supplied, administered by and supplied under the direct supervision of a licensed Veterinary Surgeon is prohibited. Any tonics, medicaments or other substances administered or applied to a Greyhound by a Trainer or Veterinary Surgeon shall be duly recorded in the Trainer's Greyhound Treatment Book, and that Greyhound must not race or trial for seven Days thereafter."*) of the NGRC's rules of racing and given a reprimand and a fine of £450 per dog. At the same enquiry Mr Evans was found guilty in his absence (due to the hearing being held at very short notice) of charges of breaching rule 152 (i) and/or (ii) and rule 174(i)(a) of the NGRC's rules of racing and given a severe reprimand and a fine of £750 per dog. He was also charged with breaching Rule 217, but was not found guilty of that charge. The Committee was not able to ascertain on what grounds Mr Evans was not found guilty of that charge.

3. Mr Evans had not paid this fine, maintaining that the NGRC had no jurisdiction over him as he was not currently licensed by them.
4. The Committee heard from Mrs Parker, who stated that Mr Evans had explained to her that norethindrone did not hold a veterinary product licence. She said that he had explained the potential benefits and disadvantages of using this product and had said that, to the best of his knowledge, it was widely used within the greyhound racing industry and that no dog so far had tested positive for it. Mrs Parker agreed that she gave her fully informed consent to the use of the drug norethindrone and admitted, on questioning, that she knew that its use could possibly be held to be in contravention of Rule 217 of the NGRC's rules of racing. She had recorded the use of this drug in her Greyhound Treatment Book, a document subject to regular inspection by the NGRC, but omitted to record it in the list of bitches whose oestrous period had been suppressed, which she was required to submit to the Sheffield race track management on an approximately monthly basis. This document stated instead that they had been treated with the licensed product Durateston[®], an omission which she attributed to an oversight on the part of her senior kennel maid. Mrs Parker said that she had full confidence in Mr Evans and still used him as one of her veterinary surgeons.
5. The Committee heard from Noel Thompson, NGRC Security Coordinator. Mr Thompson explained the procedures involved in the taking and handling of urine samples from greyhounds tested at random and the way in which they were submitted to the Horseracing Forensic Laboratory for analysis.
6. The Committee also heard from Alastair McLean, Chief Executive of the NGRC. Mr McLean was questioned about the testing procedures undertaken on urine samples taken at random from greyhounds. Despite anecdotal evidence and evidence in published papers that norethindrone had been used for many decades in greyhounds racing under NGRC rules, he stated that March 2006 was the first occasion on which urine samples submitted to the Horseracing Forensic Laboratory by the NGRC had tested positive for the substance. On the day of the stewards' enquiry into Mrs Parker and Mr Evans, another stewards' enquiry had been held into another trainer on the basis of norethindrone residues having been found in the urine of their racing greyhounds, and a similar case two days later, but there had been no such cases prior to this date. When asked if this was a result of changes to the testing procedures Mr McLean conceded that this may have been the case but admitted that he had taken no steps to find out if it was or was not so.
7. Mr McLean was asked about Mr Evans' contention that he was not under the jurisdiction of the NGRC at the time of his alleged offence as he was no longer licensed by them, in reply to which Mr McLean argued that rule two of the NGRC's rules of racing should be interpreted as meaning that once a person had been licensed by the NGRC they were held to be under its jurisdiction for life. Despite Mr Evans' opposing view, Mr McLean had not taken legal advice on this point. Mr Evans' Counsel, Mr Edis, gave cogent arguments to the contrary but the Committee did not form an opinion, feeling that this was not relevant to the charges on which Mr Evans appeared before them.
8. The Committee questioned Mr McLean on the fact that Mr Evans had initially been asked by the NGRC to appear before their Stewards' Enquiry on three separate charges but had only been found guilty on two, having apparently not been found guilty (although this is not specifically stated) of the charge of breaching rule 217, a rule which specifically bans the use of "*medicines, tonics or substances which*

could affect its performance or well-being, the origin of which could not be traced to normal or ordinary feeding" in racing greyhounds other than certain limited exceptions, of which norethindrone was not one. Mr McLean was able to give no explanation of this finding, saying that it was not usual practice for stewards' enquiries to give reasons for their findings.

9. Mr Evans had not appealed against the decision of the stewards' enquiry, despite feeling himself both to be justified in his actions and to be outwith the jurisdiction of the NGRC. Mr McLean said it was not the NGRC's usual practice to set out the details of the appeals procedure in the letter which informed respondents of the results of a stewards' enquiry and confirmed that he had not informed Mr Evans of the appeals procedure until after the deadline for appeals had lapsed.
10. The Committee also heard evidence from Mr Jack Robinson, the NGRC's Area Stipendiary Steward for the region which includes the Sheffield race track. He explained the procedures used in taking random samples from greyhounds and how a stewards' enquiry would be held in the event of any positive test result. He told the Committee that the two bitches in question, Confident Bunny and Checkinpost, had shown no variation from their normal performance at the race meetings at which the samples were taken, nor were there any unusual patterns of betting activity concerning those races.
11. Mr Evans gave evidence on his own behalf, beginning by apologising to Mrs Parker for what had occurred. Mr Evans said that he had first become interested in greyhounds as a student. He had owned greyhounds and had seen practice with greyhound veterinarian David Poulter. After graduating in 1990 he had worked in general small animal practice but had undertaken locum work for Mr Poulter and had set up his own single-handed practice, named the Greyhound Consultancy Service, in Oldham in 1995. His practice included clients in Northern England, Scotland, Wales and the Midlands. He stated that approximately 90% of his clinical workload was with greyhounds, around half of which were racing under NGRC rules. Suppression of oestrus was not a significant part of his workload, most products for this purpose being prescribed by the NGRC-licensed track veterinarians. He had been a NGRC licensed veterinary surgeon briefly on three occasions, but was not one currently.
12. Mr Evans stated that he had first seen a copy of the NGRC Rules of Racing as a student and had obtained his own copy, with some difficulty, when he first became a NGRC licensed veterinarian. He claimed to have a "good working knowledge" of its contents but had not read it in detail recently. He said that it was his invariable practice to decline to advise clients of what drugs may or may not be acceptable for use in racing greyhounds, suggesting instead that they contacted the NGRC for a definitive ruling.
13. Mr Evans told the Committee that he had first come across the use of norethindrone for the suppression of oestrus in racing greyhounds while seeing practice with Mr Poulter. Since then he had had conversations with other veterinary surgeons about its use on several occasions and had undertaken considerable reading on the subject. He freely admitted to having prescribed the drug regularly for his entire professional career, and asserted that its use was widespread within the industry and had been so for many decades. Whenever he prescribed the drug to greyhounds racing under NGRC rules, he stated, this was recorded in his clinical records and in the trainer's Greyhound Treatment Book, a document which was subject to biannual inspection by the NGRC Area Stipendiary Stewards. On no occasion had such an inspection raised any concerns

about the use of this drug. In addition, Mr Evans asserted that the scientific literature showed that metabolites of norethindrone were readily detectable in the urine of dogs and had been for at least thirty years, yet on no previous occasion had dogs tested while being raced under NGRC rules “shown positive” for this drug. Based on these facts, he stated that he had believed that the use of the drug was permitted by the NGRC and that he had prescribed it on the basis of that belief. He now understood that his belief had been mistaken and regretted his error. He admitted that he ought to have known that norethindrone was prohibited under NGRC rules.

14. On questioning, Mr Evans said that he did still prescribe norethindrone but only for retired greyhounds, those not currently racing and those racing other than under NGRC rules and always specified, both on the dispensing label and verbally, that the drug must not be given to dogs racing under NGRC rules.
15. Mr Evans’ Counsel, Mr Edis, pointed out that Mr Evans had left a clear written record of his use of norethindrone, in the form of invoices and trainers’ Greyhound Treatment Books, which he would not rationally have done had he been aware that its use was prohibited under NGRC rules.
16. Having heard all the evidence in this case and having considered the submissions of both Counsel, the Committee is not sure that Mr Evans did know that the advice that he gave Mrs Parker was wrong, namely that she could continue to race her greyhounds whilst they were being treated with norethindrone. It accepts his explanation that he mistakenly believed that the prohibition did not apply to norethindrone, having regard to its widespread use in racing greyhounds over many years. However, Mr Evans has accepted that he ought to have known that the advice was wrong. Accordingly, it finds the facts set out in the charge proved, on the basis that the respondent ought to have known that to race the greyhounds when under treatment with norethindrone could result in a breach of the NGRC rules.

DISCIPLINARY COMMITTEE

13 DECEMBER 2007