

ROYAL COLLEGE OF VETERINARY SURGEONS

V

MR JOHN BRENNAND WILLIAMS

FINDINGS

Mr Williams faces one charge, namely:

That being registered in the Register of Veterinary Surgeons:

1. (a) On 17 October 2006, you signed as Official Veterinarian an export health certificate bearing serial number 06/29/06571 in respect of the export of a stallion, "Russel", to the United States of America, in which you falsely certified that on 9 October 2006 swabs were taken from the prepuce, urethral sinus, fossa glandis (including the diverticulum) and submitted to a bacteriological test for the contagious equine metritis organism at a DEFRA approved export laboratory, with a negative result in each case, when you had no knowledge of any such results; and/or
- (b) On 17 October 2006, you signed as Official Veterinarian an export health certificate bearing serial number 06/29/06572 in respect of the export of a stallion, "Centos", to the United States of America, in which you falsely certified that on 9 October 2006 swabs were taken from the prepuce, urethral sinus, fossa glandis (including the diverticulum) and submitted to a bacteriological test for the contagious equine metritis organism at a DEFRA approved export laboratory, with a negative result in each case, when you had no knowledge of any such results; and/or
- (c) On 17 October 2006 you signed as Official Veterinarian an export health certificate bearing serial number 06/29/06573 in respect of the export of a mare, "Namur 47", to the United States of America, in which you falsely certified that on 9 October 2006, swabs were taken from the clitoral fossa and clitoral sinuses of the said mare and submitted on 10 October 2006 to a bacteriological test for the contagious equine metritis organism at a DEFRA approved export laboratory, with a negative result in each case, when you had no knowledge of any such results

And that in respect of the above charge (or each of the above heads of charge, either individually or in any combination), you have been guilty of disgraceful conduct in a professional respect.

The facts behind this charge are not disputed by the Respondent, but he denies that it amounts to Disgraceful Professional Conduct.

On 8 October 2006 Mr Williams was requested by an agent of the transport company Shelley Ashman to arrange the certification, for export to the USA, of three horses, "Russel", "Centos" and "Namur 47", which were at a yard run by Mr Nick Skelton, one of Mr. Williams' clients. Transport had been organised which required the horses to leave Mr Skelton's yard on 17 October.

Realising the timescale was tight, Mr Williams visited Mr Skelton's yard the following morning, 9 October, around 9.00am and took the necessary swabs for CEM (Contagious Equine Metritis) testing. He took these samples back to his practice premises where the laboratory technician was responsible for packaging and dispatching them to the appropriate laboratory. Samples for export certification must go to a DEFRA approved laboratory, in this case the VLA at Bury St Edmunds. Mr Williams was informed that results of the CEM test were expected around lunchtime on the 17 October.

At 9.00am on 17 October, before the laboratory results were expected to be available, Mr Williams again visited Mr Skelton's yard, re-examined the animals in respect of their freedom from clinical signs of disease. He also completed the sketch and description of each animal which is required by the USA authorities. He then signed the Export Health Certificates (EHC), supplied by DEFRA, which included a paragraph stating that swabs had been taken from specific sites in each animal, and had been *"submitted to a bacteriological test for the contagious equine metritis organism at a DEFRA approved export laboratory with negative results"*.

The signed certificates were then taken by one of Mr Skelton's staff to the DEFRA office in Leicester for countersignature. The DEFRA veterinary officer had to be satisfied that firstly the samples had been sent to a DEFRA approved laboratory, and that secondly, Mr Williams was an Official Veterinarian (OV) authorised to sign EHCs. There was no requirement that they should check that the laboratory results were negative.

The DEFRA VO, Mrs Exell, found that she was unable to sign the certificates as the necessary laboratory reports were not attached. Enquiries of Mr Williams' practice resulted in the laboratory reports for Centos and Namur 47 being transmitted by fax to DEFRA at Leicester which enabled Mrs Exell to countersign the EHCs. In the absence of laboratory results for the horse Russel, Mrs Exell declined to countersign his certificate, which was returned to Mr Skelton's representative.

Although Mr Williams had taken a swab from Russel, and delivered it to the practice for dispatch to the DEFRA Laboratory, no such swab had been received at the Bury St Edmunds VLA, and therefore no result was available.

In the event, the transport agents were able to obtain a waiver overnight from the USA authorities for Russel so that this particular animal could travel to the USA without a current CEM laboratory result. Mr Williams signed a replacement certificate the following day with the benefit of a derogation to delete the paragraph relating to CEM testing, which the DEFRA VO was then prepared to countersign. This completed EHC was sent to Holland by courier to catch up with the exported horses. Mr Williams stated to the Committee that he was not aware that such waivers were available until this occasion.

The DEFRA veterinary staff at Leicester reported Mr Williams to higher authority within DEFRA who, after some investigation, decided to remove Mr Williams' name from the Official Veterinary Surgeons list, and report his actions to the Royal College of Veterinary Surgeons.

The College, in taking action against Mr Williams, alleges that he is guilty of disgraceful professional conduct in that he signed the three EHCs stating that laboratory tests for CEM had been carried out with negative results when, at the time of signature, he had no knowledge of the results of these tests. A veterinary surgeon is required by the Guide to Professional Conduct only to certify to matters that he knows to be true, either directly from his own observations or on the basis of a certificate from another veterinary surgeon. This requirement is also set out in a DEFRA notice to Official Veterinary Surgeons.

Mr Williams admitted the facts as outlined above, but maintained that, whilst admitting his actions may have been naive, they did not amount to disgraceful professional conduct. He asserted that firstly, from his knowledge of the horses breeding history it was extremely unlikely that they would be positive to a test for CEM. Secondly, that the certificates would need countersignature by the DEFRA VO and that if the results were not available by the time that such countersignature was requested the certificates would not be countersigned and the horses could, therefore, not travel. Thirdly, it was a pragmatic decision as he wished to facilitate for his client the completion of the horses' travel documents when he was unable, for reasons of workload, to be available to sign the certificates when the laboratory results were expected to be available. Mr Williams also told the Committee that due to the distance between Mr Skelton's yard and the Leicester DEFRA office it was necessary for a member of Mr Skelton's staff to leave for Leicester with the certificates for countersignature before the results were available. He stated that no animal had suffered as a result of his actions, nor had any animal been exported that should not have been.

One of the most important functions for a veterinary surgeon is the signing of certificates. The validity of any certificate is essential to transactions which may relate not only to animal health but also to the proper conduct of commerce. The whole process of exporting or importing animals – in this case horses – is complex and detailed and every importing country is anxious to ensure that disease is not brought into that country. Each country has its own requirements which are issued from time to time and are subject to change. These may include requirements for quarantine (or isolation) and laboratory tests for specified diseases. The importing country relies upon assurance from the country of origin that all particulars concerning the animal are true and that all of its requirements have been complied with. This assurance is vested in the signature of a veterinary surgeon.

In the UK, DEFRA is responsible for the granting of export licences for animals. Much of this process places heavy reliance upon the certification of a veterinary surgeon, who will have been appointed as an Official Veterinarian (OV) by DEFRA. The importance of the duties of an OV is illustrated and emphasised by the extent of the advice and guidance given by the College in the RCVS Guide to Professional Conduct and by DEFRA in Inset 22A (LVIs) Section D. OVs are obliged to read the Notes for Guidance in respect of each country to which exportation is desired and for completion of a current Health Certificate. The RCVS *Guide to Professional Conduct* states, "*The simple act of signing their names on documents has great potential for error for veterinary surgeons. A certificate is 'a written statement of fact made with authority' the authority in this case coming from the veterinary surgeon's professional status.*" The process can be detailed and OVs are advised to allow enough time for completion before the date of export. It is important that all information and supporting documentation is obtained before signing a certificate and the vital and essential fact that on the date of signature, everything stated in any certificate is true. Warning is also given about relying upon the information of others. In her opening submission, Counsel for the College pointed out that the obligation on a veterinary surgeon acting as LVI/Official Veterinarian is all the greater, as he/she is acting as the representative of the Government. The College submits that this makes compliance with the rules of certification even more important.

It must be remembered that although in many cases a veterinary surgeon may be advising and helping a client, his duty in carrying out the investigation for and the signing of a certificate is to DEFRA and to anyone whom he knows may or will rely upon the validity of that certificate. These provisions which are set out in Section G of the RCVS "Guide to Professional Conduct" are well known to the profession. It is essential that a certificate should be accurate at the date of signing. If members of the profession fail to observe the requirements pertaining to certification, their conduct must be subjected to close scrutiny and will usually be regarded as a serious failure to uphold the high standards of the profession. This case dealt with allegations that the Respondent had failed to follow those principles and in so doing had been guilty of disgraceful conduct in a professional respect.

The Committee, in reaching its decision, has to be sure that the behaviour of a veterinary surgeon falls far short of that to be expected of a professional person before finding that he is guilty of serious professional misconduct. In this case, the Committee accepted the difficulties of the timescale that had been imposed on Mr Williams and the complexity of ensuring that certificates for export were completed in accordance with all the various requirements. However, the Committee was also mindful that much equine commerce and transport takes place on the basis of veterinary certificates which, if they are to have value, must be capable of being relied upon as truthful documents. It therefore follows that certifying matters which are not known by the signing veterinary surgeon to be true must risk damaging the reputation of all veterinary certificates. The Royal College of Veterinary Surgeons has always given a high priority to the maintenance of accuracy and truthfulness of veterinary certificates. The Committee feels that it was completely unacceptable for Mr Williams to rely upon the DEFRA Veterinary Officer to check all the details of the certificates (which was outside her remit) without consulting her beforehand. Mr Williams gambled on the likelihood that the swab results would be negative. This can never be the basis for proper certification.

The Committee finds, therefore, that Mr Williams' conduct fell so far short of that which is to be expected of a veterinary surgeon that it constitutes disgraceful conduct in a professional respect on each of the three charges.

DISCIPLINARY COMMITTEE

13 NOVEMBER 2007