

ROYAL COLLEGE OF VETERINARY SURGEONS

MR LYNDON ARTHUR BASHA MRCVS

FINDINGS OF FACTS

1. The Committee has given detailed consideration to all the evidence in this case, submissions of Counsel and has taken account of the advice of the Legal Assessor. It has borne in mind that the burden of proof rests with the College and that the standard of proof required is to be sure. It has applied the standard of a reasonably competent veterinary surgeon in general practice at the relevant time. It has given careful consideration to the evidence concerning Mr Basha's good character given by other witnesses. The Committee has considered each head of charge and sub-head of charge separately.
2. Mr Basha qualified as a veterinary surgeon at the University of Queensland in 1991 and registered with the College in 1992 when he came to the United Kingdom. He was employed by the Goddard Veterinary Group ("GVG") between 1992 and 2002. He was initially employed as the sole veterinary surgeon at the Forest Gate branch of GVG, which apparently was failing at the time. He built the branch into a successful branch of GVG over a period of 9 years becoming the top earning veterinary surgeon in the group. He was remunerated on the basis of a percentage of the gross turnover. For most of the time he was the sole veterinary surgeon at the branch although for an unspecified period sometime before his dismissal there was a second veterinary surgeon at the branch. He was the subject of disciplinary proceedings at GVG in April 2001 for which he received a final written warning from Mr Robinson, general manager, which was reduced on appeal by Mr Goddard to a written warning. He was suspended for gross misconduct in May 2002 after the Goddard Veterinary Group found out that Mr Basha's brother was planning to open a veterinary practice close to another of its branches in Goodmayes, Essex. Since his dismissal Mr Basha has been employed at the Animal Ark Veterinary Practice, Goodmayes where he has built up a successful practice now employing four veterinary surgeons. The practice is part-owned by Mr Basha's brother, Mr Nathan Basha, a chartered accountant with a specialist interest in veterinary practices.
3. The College's case relates to a number of incidents arising out of Mr Basha's small animal practice between 1996 and 2002. The heads of charge contain allegations surrounding his diagnosis and treatment of a total of seven dogs and cats whilst he was employed at GVG, and subsequently at Animal Ark. In particular the heads of charge relate to his clinical competence, maintenance of clinical records and certification of insurance claim forms during both periods of employment. During the course of the hearing the College adduced evidence from Mr Goddard and Mr Robinson of the GVG as to the procedures in place for the operation of the group and the events surrounding their disciplinary proceedings in April 2001 and Mr Basha's dismissal in 2002. The Committee questioned Mr Goddard and Mr Robinson about the procedures in place for the clinical supervision of Mr Basha's practice during his employment. The College also called the owners of three pets, Ms Robson, Mr and Mrs Webster and Ms Stanley who gave evidence concerning the treatment of their animals, where appropriate, at Forest Gate and Animal Ark. Additionally, the College relied on the evidence of a BBC production director/researcher, Ms Sutton, of a consultation which she had with a dog called "Frankie", which was the subject of a BBC Watchdog programme

broadcast on 23rd February 2003. The Committee has seen the undercover filming of the consultation but on the advice of the Legal Assessor has not seen the programme itself. The Committee has also been referred to the clinical records in all these cases, including four cases where the owners were not called by the College. The College has relied on the evidence of Mr Pocock, a veterinary surgeon in general practice of many years standing, who has produced a detailed report dealing with the clinical records in each of the seven cases.

4. Mr Basha joined GVG in 1992 at which time he had no experience in small animal practice. For the majority of his time at the Forest Gate Branch of GVG he was the sole veterinary surgeon who carried on his practice with the assistance of two veterinary nurses. It is apparent from the evidence that he gave, and the evidence of other witnesses called before the Committee, that he was popular with his clients, and as such, he built a successful practice. Other than the disciplinary proceedings in 2001 and the matters contained in the heads of charge, the Committee has not heard evidence relating to his clinical competence during his employment by GVG. The evidence of his clinical supervision by Mr Flynn, Clinical Director, given by Mr Robinson, or indeed by any other veterinary surgeon was unspecific. Mr Basha himself said that, in his early days, he learnt from attending other branches in the group at lunchtime and observing and discussing cases with his professional colleagues. Mr Basha gave evidence in which he sought to justify his clinical competence and certification of insurance forms. However, he conceded that his maintenance of clinical records was below the standard to be expected of a reasonably competent veterinary surgeon. He emphasized that his clinical record keeping had improved during his time at Animal Ark.
5. The Committee heard evidence from Mr Nathan Basha, financial director, of Animal Ark as to the operation of the veterinary practice, and as to his role in the preparation and maintenance of practice protocols. Mr Basha called on his behalf a number of other witnesses, including former employees of GVG, who now work for Animal Ark, and clients who attested to his abilities as a veterinary surgeon. Mr Basha also called Mr Bernard Richmond QC, who gave evidence as to the consideration which Mr Basha had shown to his animals and as to his abilities and professional integrity. Mr Richmond conceded that he would have to defer to the opinion of a veterinary surgeon in respect of evidence of Mr Basha's professional abilities. Mr Thompson, a holistic veterinary surgeon, was also called to give evidence in respect of one head of charge where he had treated the dog with nutritional supplements shortly before its death from a stomach tumour.
6. The Committee has carefully considered all the evidence in detail and has reached the following conclusions on the Heads of Charge.

Alfie Robson

7. **Head of Charge 1a i**
The Committee find the head of charge proved. From a careful examination of the clinical records the Committee is satisfied that there were no clinical signs recorded during these dates which required treatment with antibiotics. Furthermore the Committee accept the evidence of Mrs Robson that Alfie did not demonstrate any clinical signs either during consultations or described by her which would have led a reasonably competent veterinary surgeon to prescribe antibiotics.

8. **Head of Charge 1a ii**
The Committee find the head of charge proved. The Committee accept Mr Pocock's evidence that there was no benefit to Alfie of using antibiotics over a prolonged period. Furthermore there was a significant risk of development of bacterial resistance by such use.
9. **Head of Charge 1a iii**
The Committee find the head of charge proved. The Committee accept Mrs Robson's evidence that she received no adequate explanation of alternative treatment to antibiotics during this time.
10. **Head of Charge 1a iv**
The Committee find the head of charge partly proved. The Committee has listened carefully to Mr Basha's evidence and accept that he used the phrase "dilated cardiomyopathy" in a descriptive rather than a diagnostic sense. The Committee accept that in prescribing Vetmedin Mr Basha applied the principles of the cascade system, and that Vetmedin was used as a product authorised for the treatment of heart disease in another species (dogs) in the absence of another suitable preparation authorised for cats in the UK. However the Committee accept Mrs Robson's evidence that Vetmedin was discussed by Mr Basha and described as an "experimental" drug, but that he did not specifically inform her that it was not licensed for use in cats.
11. **Head of Charge 1a v**
The Committee find the head of charge proved. The Committee find there is no entry in Alfie's notes to describe any ECG test results. There was insufficient evidence available to the Committee to determine whether a copy of the ECG trace had been retained with the x-ray file. However, an entry in the clinical notes summarizing the outcome of the ECG would be expected from a reasonably competent veterinary surgeon.

Rusty Webster

12. **Head of Charge 1b i**
The Committee find the head of charge proved. The Committee accept the evidence of Mr and Mrs Webster that lipomata were not removed when Rusty was first taken to Mr Basha's surgery in September 2002 for dentistry. Mr and Mrs Webster had no recollection of any surgical scars on Rusty's chest but Mrs Webster remembers being shown the extracted teeth when she collected Rusty. The Committee consider that it is inherently implausible that lipomata from the same site would have been removed twice within a period of four months. This conclusion is supported by the fact that only one submission for a histology report on lipomata was made following their removal in January 2003.
13. **Head of Charge 1b ii**
The Committee find the head of charge proved. The Committee accept that teeth were extracted from Rusty in September 2002, and recorded on a dental chart attachment to Rusty's file. However, there was no concurrent entry in the clinical notes to indicate to any subsequent veterinary surgeon that extractions had taken place. A veterinary nurse from Animal Ark confirmed that normal procedure was to complete a dental chart and make an

entry in the clinical notes. The Committee accept that the dental chart is no longer available for production following a computer upgrade to the system at Animal Ark.

14. **Head of Charge I b iii**

The Committee find the head of charge proved. Mr Basha gave evidence that at an early stage he believed an 'abdominal tumour was top of his list'. The Committee consider that it is implausible that Mr Basha discussed both cancer and euthanasia with Mrs Webster on numerous occasions without Mrs Webster having any recollection of these discussions. Further there is no mention of any such discussions in the clinical notes. The Committee find that despite an inconclusive laparotomy, Rusty's condition continued to deteriorate without appropriate discussion of further investigative procedures to establish the actual cause of the condition. Mr Thompson, a holistic veterinary surgeon, who held regular clinics at Animal Ark, stated that prior to his consultation with Rusty, he was given no diagnosis by Mr Basha. He did not carry out diagnostic procedures himself and he understood he was to provide nutritional advice for 'gastro intestinal disturbance'.

15. **Head of Charge 1b iv**

The Committee find the head of charge proved. The Committee reject Mr Basha's evidence that he discussed referral to a specialist with Mrs Webster prior to December 2003. The Committee accept that Mrs Webster and Ms Plant did have an exchange of conversation at Animal Ark probably on 27 August 2003 but are not satisfied that Ms Plant accurately recollected that she was told that Mr Basha had offered Mrs Webster a second opinion. This was the first occasion that Rusty was presented with bloating. The Committee consider it highly unlikely that Mr Basha would have discussed referral at this stage of Rusty's presentation. Further investigations should have taken place once Rusty had bloated for the second time on 4 October 2003. Even on 6 December 2003 when Rusty's weight had dropped significantly and he was vomiting almost daily, Mr Basha's evidence that there was 'no cause for major alarm at that time' indicates a failure to appreciate the seriousness of Rusty's condition and a total lack of appropriate action. Rusty was euthanased four weeks later.

16. The Committee consider that the reference to referral recorded in the clinical notes of 11 December 2003 only arose in context of Mrs Webster's telephone call to the practice when she wanted to know if there was anything she could do and discussed possible referral to a specialist. Mrs Webster told the Committee that if a referral had been offered, she would have taken it, and would not now be giving evidence to the Committee. Mr Basha's note in reply on the computer system on 11 December 2003 conveyed no sense of urgency 'check with holistic vet next week inb refer asap'. The record for 18 December 2003 makes no reference to a referral to a specialist nor does it on the subsequent consultations on 20th and 24th December 2003.

Frankie Sutton

17. **Head of Charge 1c**

The Committee find the head of charge not proved. In the absence of an independent veterinary examination of Frankie's prostate gland both before and after the examination by Mr Basha the Committee cannot be sure that Mr Basha did not find an enlarged prostate. The Committee noted that Mr Basha accepted that he had over-emphasised the size of the

prostate in his conversation with Miss Sutton. The Committee is concerned that the producers of the BBC programme Watchdog did not seek advice from the College's Professional Conduct Committee before the making of the programme, in particular where it was likely that Frankie would be subject to an unnecessary invasive procedure, namely a blood test, during the consultation. The Committee consider that veterinary surgeons asked to participate in such programmes should seek advice from the College before agreeing to do so.

Bonnie Stanley

18. **Head of Charge 2a i**

The Committee find the head of charge not proved. The Committee accept that the inclusion on the clinical records for 28 December 2001 of "1 x lab fees urine se", which was charged as an external test to the Animal Health Trust was the result of a computer entry error and there was no dishonest intent. Further the Committee has heard no evidence that Mr Basha represented to Miss Stanley that he had received test results for triple phosphate urolithiasis, which were invoiced on 24 January 2002.

19. **Head of Charge 2a ii**

The Committee find the head of charge not proved. The Committee has heard evidence that it was the practice for the Goddard Veterinary Group to invoice clients for laboratory tests at the time of consultation and prior to submission. Mr Basha's actions in invoicing Miss Stanley for the tests in advance was in accordance with that practice. However, the Committee consider that pre-payment for laboratory tests confers an obligation on the veterinary surgeon to ensure the test results are received and passed on to the owner. The owner should also be informed if results are not received.

20. **Head of Charge 2b**

The Committee find the head of charge proved. The Committee accept the evidence of Miss Stanley that on 23 October 2002, Mr Basha told her the Glasgow results had been faxed through on 21 October 2002 and that the results showed that Bonnie had Canine Herpes Virus (CHV). During the course of the consultation, Mr Basha discussed antigens/antibodies and the use of Interferon as a possible treatment and mentioned cold sores as a human disease caused by herpes virus. The Committee believes such discussion was indicative of a positive result rather than that which would have taken place had the results still been awaited. Miss Stanley remembers telephoning her sister, an immunologist, immediately after leaving the surgery. She would have had no reason to do this if she had not received the results. She further contacted the owner of Bonnie's dam to check on her CHV status, if she had not been given the diagnosis of CHV positive, she would have had no reason to do this. The Committee also accept that on 1 November 2002 Miss Stanley telephoned Mr Basha to ask why the CHV result had not been faxed to another veterinary practice as she had requested and that Mr Basha told her that he could not access the results on his computer. The Committee reject Mr Basha's accounts that he did not provide a definitive diagnosis of CHV or that he informed Miss Stanley that before such a diagnosis could be made, it would be necessary for a swab test to be carried out.

Clinical Records

21. **Head of Charge 3**

The Committee find the head of charge proved in all respects. The Committee has carefully considered the 1996 and 2000 Guides to Professional Conduct respectively covering the relevant periods in the heads of charge. The committee concludes that Mr Basha's clinical records were neither properly nor efficiently maintained in accordance with the 1996 GPC prior to the publication of the 2000 Guide. The Committee is satisfied that the records, if made available to other veterinary surgeons, would have given an insufficient case history on which the veterinary surgeon could act and in addition, were difficult to interpret by veterinary nurses who were in charge of repeat prescriptions.

22. The Committee recognises that the 2000 GPC contained more detailed guidance on the keeping of case records, in particular *'case records should include details of examinations, treatment administered, medication prescribed and/or supplied, radiographs, the results of any diagnostic or laboratory tests and advice given to the client. It is prudent to include notes of telephone conversations, fee estimates or quotations, consents given or withheld and contact details'*.

23. Mr Basha's clinical records on his own admission during cross examination fell substantially below the standard required. The Committee is satisfied that throughout the whole period between 1996 and 2004 his clinical records consist largely of lists of treatment and charges without any indication of clinical signs or diagnosis.

24. In respect of each of the sub-heads of the charge, the Committee draws attention to the following: 3a - Alfie Robson, on 28 May 1997 a test for FeLv/FiV is listed, there is no record of the result; 3b - Rusty Webster, the entry for the follow-up consultation on 17 January 2003 'stable but new growth' could be taken as referring either to a fibrogingival growth or lipomata as both had featured in a previous entry; 3c - Perdita Bailey, an entry on 9 February 1999 for skin scraping shows no result for the examination of the sample; 3d - Becky Fowke Mr Basha admits that there is an incorrect entry and that no laparotomy on 10 August 1999 took place. The Committee notes that the record include a general anaesthetic, associated drugs, biopsy and laboratory fees. Mr Basha did not advance any explanation for these items subsequently claimed on Becky's insurance other than to indicate that the entry for cat laparotomy was incorrect; and 3e - Benji Goom, the Committee accept that there are some clinical observations in the notes but can see no evidence in the clinical record that would support Mr Basha's claim that the pea-sized lump could be linked to renal failure. The histology report reveals the lump to be connective tissue, muscle and well differentiated cartilage.

Insurance Claims

25. **Head of Charge 4a**

The Committee find the head of charge proved. The Committee consider that Mr Basha in good faith made an incorrect diagnosis in that a skin problem involving the nose was wrongly described as dermatophytosis, which led to an inaccurate insurance claim form being submitted. The Committee notes that subsequently once a biopsy revealed this to be exudative dermatitis, this formed part of a separate claim.

26. **Head of Charge 4b**
Mr Basha admitted the head of charge.
27. **Head of Charge 4c**
The Committee find the head of charge proved. The Committee accept the evidence of Miss Forster who was employed on a temporary basis as an unqualified veterinary nurse by the Goddard Veterinary Group in spring 2001.
Whilst working at the Forest Gate branch of GVG, she was asked by Mr Basha to record the treatment for a cat on another cat, Missy's records because that cat was the only one of six cats belonging to a client which was insured. The Committee accept Miss Forster's evidence that the cat owner made a joke about Missy being the most accident prone cat as all her other cats' ailments were put down under Missy's name. The Committee also accept that she heard Mr Basha explain that he was helping the client out financially by enabling her to claim her other cat's treatment on Missy's insurance plan. The Committee reject Mr Basha's evidence that no such conversation occurred. In reaching this decision the Committee has carefully considered that Miss Forster did not provide a statement to Mr Robinson until approximately 14 months after the incident but are satisfied that her recollection of the incident is accurate.
28. **Head of Charge 4d**
The Committee find the head of charge proved. The Committee is satisfied that Mr Basha in good faith wrongly diagnosed that the lump was associated with renal disease despite the lack of clinical evidence to support his opinion, which led to an inaccurate insurance claim form being submitted.
29. Following further submissions from Counsel the Committee will consider whether the heads of charge found proved, and admitted, amount to disgraceful conduct in a professional respect.