

ROYAL COLLEGE OF VETERINARY SURGEONS

V

MR MARIUS RUDOLPH LOUW

FINDINGS

- 1) Mr Louw appears before the Committee to answer the charge:

“That being registered in the Register of Veterinary Surgeons, and whilst the veterinary surgeon on duty, in practice at Companion Care Veterinary Surgery, Unit 1B, East Kent Retail Park, Westwood Road, Broadstairs. Kent, between 20 April 2007 and 21 April 2007 you failed in your duties to Defor, a Yorkshire Terrier belonging to Carol Keeling, more particularly in that:

Being of the clinical opinion that Defor required ongoing assessment and/or care, and knowing that Mr Botes MRCVS had told Ms Keeling that he would rely on a webcam for overnight monitoring of Defor, and knowing that such monitoring was not taking place, you failed to provide such ongoing assessment and/or care; and/or failed to ensure that Defor received such ongoing assessment and/or care.

And that in respect of the above, you are guilty of disgraceful conduct in a professional respect.”

- 2) In examining this case, the Committee has considered the charges against Mr Botes and Mr Louw separately and applied the appropriate standard of proof in each case, namely that it has to be sure before it finds any allegation of fact contained in the charges proven.
- 3) Mr Louw qualified as a veterinary surgeon from the University of Pretoria, South Africa in 2005. He initially worked in Windhoek, Namibia before coming to the United Kingdom in 2006 to practice as a veterinary surgeon. He was employed as an assistant veterinary surgeon by Mr Botes at Companion Care in Broadstairs between September 2006 and May 2007. He subsequently worked at another practice in Rugby before he returned to South Africa in December 2007. He has recently started his own practice about 2 hours travel from Pretoria. He is married with an 8 week old son. He has travelled from South Africa at his own expense to attend the hearing before the Committee.
- 4) The background to the case against Mr Louw arises out of the same facts as in the case against Mr Botes, namely the events that followed the admission of Ms Keeling’s dog, Defor, to Mr Botes’s practice premises on 20 April 2007 until Defor’s death sometime before 8am the following day.

- 5) The case for the College is that Mr Louw was the veterinary surgeon on duty after the practice premises closed on 20 April 2007 and that after he became aware that Mr Botes had not set up the webcam he should have undertaken ongoing assessment and care of Defor himself, and that his failure to do so, amounted to disgraceful conduct in a professional respect.
- 6) Mr Louw denies that he owed a duty to Defor and Ms Keeling after the practice premises closed on 20 April 2007. He maintains that during the course of the afternoon following a disagreement between him and Mr Botes as to the extent of care required for Defor overnight Mr Botes agreed to take sole responsibility for the dog until the following morning when Mr Louw was next on duty at the practice premises.
- 7) The Committee does not propose to rehearse in these findings the narrative of events that took place which is set out in the findings made against Mr Botes. It relies upon paragraphs 10 to 26 of those findings in so far as they are relevant to the case against Mr Louw.
- 8) Mr Louw gave evidence, which is accepted by the Committee, that he was informed by Mr Botes that he was taking full responsibility for the care of the dog overnight. Mr Louw's evidence was that he was told by Mr Botes that he would be monitoring the dog overnight by webcam and visiting the practice premises. Although Mr Louw continued to believe that Defor required a greater level of monitoring than Mr Botes believed was necessary, the Committee consider that he deferred his own clinical judgment to that of a senior colleague, Mr Botes. In addition, the Committee accepts that he spoke to a veterinary surgeon in another practice, Mr Green, on two occasions, before and after he found that he could not make the webcam operational, to obtain a second opinion on the actions he was required to take. The Committee accepts that on each occasion he was told that as Mr Botes had agreed to take responsibility for monitoring Defor overnight there was no further action he was required to take.
- 9) The Committee has concluded that the College has failed to prove that no reasonably competent veterinary surgeon in general practice would have taken the actions that Mr Louw had done. In reaching this conclusion the Committee place particular reliance on the fact that he was told by Mr Botes he would take sole responsibility for Defor overnight. The Committee considers that he discharged the duty he owed to Defor and Ms Keeling by ensuring that the dog was in a stable and comfortable condition before he left the practice premises at 8pm. He administered analgesia to the dog to relieve his pain. The committee is impressed by the fact that as a young veterinary surgeon of less than three years qualification he sought a second opinion from another veterinary surgeon on two occasions during the evening as to what action he should take. The Committee considers that there was no reason why he should have questioned Mr Botes's statement that he would visit Defor during the course of the night. Once Mr Louw had found out that Mr Botes had not set up the webcam and it was not possible to make it operational, he was entitled to conclude that Mr Botes would visit the practice premises once he found out the webcam was not operational.
- 10) The Committee wishes to express its concern that the College initially approached Mr Louw as a witness in circumstances in which his close involvement in these matters was

such that he was at risk of becoming subject to investigation. The Committee considers that he should have been warned at that stage that in the event of him becoming subject to investigation any observations he made in writing could be placed before the Disciplinary Committee. It is to his credit that he has returned to the United Kingdom at his own personal expense to defend the charge against him.

11) The case against Mr Louw is dismissed.

DISCIPLINARY COMMITTEE
19 JUNE 2008