

THE ROYAL COLLEGE OF VETERINARY SURGEONS

V

ROBERT WILLIAM MORRIS

DECISION ON APPLICATION FOR RESTORATION

1. The Disciplinary Committee of the Royal College of Veterinary Surgeons heard the case against Mr Morris on 2nd October 2007. He faced an allegation that, in March 2004, he had falsely completed a certificate of veterinary examination of a horse on behalf of a prospective purchaser. He signed a certificate to the effect that he found no clinically discoverable signs of disease, injury or physical abnormality, when he had found a respiratory roar at exercise. He did not attend the hearing but sent a letter dated 26th September 2007 in which he set out his case. On 2nd October 2007, the Disciplinary Committee found Mr Morris guilty of disgraceful conduct in a professional respect and ordered that his name be removed from the Register. Mr Morris did not appeal against the decision. His name was removed from the Register on 6th November 2007. On 26th October 2009 Mr Morris made an application for restoration to the Register.
2. At this hearing Mr Morris was represented by Mr Stephens, a non-practising barrister, as a friend of Mr Morris pursuant to rule 24.3 of The Veterinary Surgeons and Veterinary Practitioners (Disciplinary Committee) (Procedure and Evidence) Rules 2004.
3. The Committee has given careful consideration to the advice of the Legal Assessor, the submissions of Counsel for the College, Mr Stephens on behalf of Mr Morris, and the Disciplinary Committee Guidance. The Committee has been reminded by the Legal Assessor that the onus is on Mr Morris to establish on the balance of probabilities that he should be restored to the Register. The Committee has also accepted the advice of the Legal Assessor that the previous findings of this Committee made in 1983 and 1987 should be disregarded because of the length of time that has now elapsed.
4. Mr Morris gave oral evidence, which has been supported by references from a veterinary surgeon and clients in the equine world. He qualified as a veterinary surgeon from the Royal Veterinary College, London, in 1973. Before his removal from the Register he practised at the Broughton Veterinary Centre, Brant Broughton, Lincolnshire. Since that time the practice has been operated by Broughton Practice Limited, a company of which his wife is a director. The practice continues from the premises where Mr and Mrs Morris live. It presently employs one veterinary surgeon, Mrs Lawrence, who has been employed since April 2009. Mrs Morris is neither qualified as a veterinary surgeon nor as a veterinary nurse.

5. The College opposed the application and placed particular reliance on four matters relating to Mr Morris' conduct since his removal from the Register.
6. The College relied upon his conviction at the Grantham Magistrates Court on 1st November 2007 for possession of unauthorised veterinary medicinal products on 7th March 2006 when he was fined a total of £1000 and ordered to pay £1,000 costs.
7. The College relied upon the written evidence from Mr Sutton MRCVS that Mr Morris had falsely certified on 3rd October 2007 that two horses belonging to Mr Whittaker, an international show jumper, had been fully vaccinated every six months by his practice when this was not the case. The certificate enabled the horses to participate in the Horse of the Year Show at Olympia. They also relied upon the fact that he signed the certificate on the day after the hearing which ordered his removal from the Register. The written statement of Mr Sutton was admitted by agreement between the parties.
8. The College relied upon the oral evidence of Mr and Mrs Fotheringham that he had treated a horse belonging to them on 15th September 2009 and the oral evidence of Mrs Johnston and written evidence of Ms Alexander that he had treated a dog belonging to Mrs Johnston on 18th October 2009 whilst he was not on the Register. The written statement of Ms Alexander was admitted by agreement between the parties.
9. This Hearing raised important issues over Mr Morris' conduct since the removal of his name from the Register. In considering the issues raised by the College, the Committee has accepted the advice of the Legal Assessor that it should apply the same standard of proof to those issues as it would in a disciplinary hearing, namely that it should be satisfied so that it is sure before finding any of those facts or matters alleged, proved. The Committee then considered the relevance of the conduct found proved to Mr Morris' application.
10. First, Mr Morris admitted that on 3rd October 2007 he certified that two horses belonging to Mr Whittaker had been fully vaccinated every six months by his practice when he was not in position to verify that they had been. Mr Morris told the Committee that he made enquiries of Mr Whittaker's yard that the horses had been vaccinated by his practice. He said that he was also aware that they had competed in an FEI competition two weeks previously for which they would have been required to have been vaccinated. In fact, one of the horses had been purchased by Mr Whittaker in Belgium and had not been vaccinated by Mr Morris' practice at any stage. He relied wholly upon the information provided by Mr Whittaker's yard. The Committee has concluded that he did not have an appropriate level of personal knowledge to provide the certificate.
11. Mr Morris told the Committee that he was not fully familiar with the Twelve Principles of Certification set out below. The Committee is surprised that a veterinary surgeon of Mr Morris' experience in the equine field was unaware of the detail of those principles, particularly as he was the subject of a disciplinary hearing in respect of false certification. The relevant principles are that:

- "1. A veterinarian should be asked to certify only those matters which are within his own knowledge, can be ascertained by him personally or are the subject of a supporting certificate from another veterinarian who does have personal knowledge of the matters in question and is authorised to provide such a document. Matters not within the knowledge of a veterinarian and not the subject of such a supporting certificate but known to other persons e.g. the farmer, the breeder or the truck driver, should be the subject of a declaration by those persons only.*
- "2. Neither a veterinarian nor any person described in 1 above should be requested or required to sign anything relating to matters which cannot be verified by a signatory."*

12. Second, Mr Morris admitted that he attended a horse, Molly, belonging to Mr and Mrs Fotheringham on 15th September 2009. There is no dispute as to the content of their witness statements. The Committee found them to be credible witnesses and accepted their evidence. They had telephoned the Broughton Veterinary Centre requesting a visit because the horse was lame. The Committee does not accept that Mr Morris was acting, as he described, as agent for Mrs. Lawrence when he examined the horse, made a diagnosis that an infected scratch to her leg may have caused lameness and gave an injection of antibiotics. Whether he did or did not telephone Mrs Lawrence at the time, the Committee is satisfied that, by his actions, he was holding himself out as, and acting as, a veterinary surgeon in his examination, diagnosis and treatment of the horse. There is no provision in the Veterinary Surgeons Act 1966 for an unregistered person to act as agent in these circumstances. Mrs Fotheringham said in evidence that she had no reason to doubt that her horse was being attended by a veterinary surgeon.
13. Mr Morris' actions were compounded the following day when Mr Fotheringham telephoned the practice and spoke to Mr Morris to inform him that a round headed nail had been found by his wife in the foot of the horse. Whether the nail was or was not present at the time that Mr Morris examined the horse is irrelevant. Mr Morris admitted that he told Mr Fotheringham to remove the nail and treat the wound with a poultice and, if it did not recover, seek further veterinary attention. Further the practice invoiced Mr and Mrs Fotheringham for the cost of Mr Morris's visit at the standard practice rate for a veterinary surgeon. The Committee is satisfied that by his actions, Mr Morris was holding himself out, and acting as, a veterinary surgeon. It rejects Mr Morris' evidence that he was merely giving advice that was common sense within the equine world.
14. Third, Mr Morris admitted that on 18th October 2009 he administered eye ointment and provided antibiotics to a German Shepherd dog, Sunny, belonging to Mr and Mrs Johnston whilst the dog was in kennels belonging to Ms Alexander. There is no dispute as to the content of Ms Alexander and Mrs Johnston's witness statements. The Committee found Mrs Johnston to be a credible witness and accepted her evidence. The Committee was impressed by the measured way in which she gave her evidence in view of the fact that her dog had died in difficult circumstances. The Committee does not accept Mr Morris' evidence that he was only acting at the

- direction of a neighbouring veterinary surgeon, Mr Baker. At no stage had Mr Baker examined the dog nor had had the dog under his care. Mr Morris should not have involved himself in any way with the diagnosis and treatment of the dog. There is no provision in the Veterinary Surgeons Act 1966 for an unregistered person to act at the direction of a veterinary surgeon in these circumstances. Mr Morris' actions were compounded the following day when he telephoned Mrs Johnston to discuss the dog's treatment. Indeed, Mrs Johnston said in evidence that she believed that Mr Morris was a veterinary surgeon when she spoke to him. The Committee is satisfied that Mr Morris was again holding himself out, and acting, as a veterinary surgeon when he examined the dog and when he spoke to Mrs Johnston.
15. The Committee has paid particular regard to the guidance in the Disciplinary Committee Guidance and has addressed each of the matters listed in reaching its decision.
 16. The Committee is satisfied that Mr Morris accepts the previous finding of the Committee but for the reasons set out in relation to his conduct since he was removed from the Register it is not satisfied that he understands its seriousness. For this purpose the Committee has disregarded the convictions relating to the possession of medicines for offences which occurred in March 2006 before his removal from the Register. However, the decision of the Committee to remove him from the Register should have sent him a clear message of the importance of certification. The Committee has concluded that his actions in certifying on 3rd October 2007 that two horses had been fully vaccinated every 6 months by his practice, which he was not able to verify, demonstrate a continuing disregard for the process of certification.
 17. The Committee considers that his restoration to the Register would not be of benefit either to the public or the welfare of animals. In the light of its finding that Mr Morris does not fully understand the importance of accurate certification, nor of practising as a veterinary surgeon when he was not entitled to do so, the Committee considers that there is a risk to the future welfare of animals in the event of his name being restored to the Register. The Committee considers that the convictions for possession of unauthorised veterinary medical products are also relevant to the issue of protection of the public and to the future welfare of animals. Mr Morris' admitted failure to keep adequate clinical records, as advised in the Guide to Professional Conduct, is an area of continuing concern which also is highly likely to have an adverse impact on the future welfare of animals.
 18. The Committee was seriously concerned about the lack of Continuing Professional Development that Mr Morris has undertaken both before and since his removal from the Register. Mr Morris told the Committee that he had not undertaken any CPD at all before his removal. He still had no knowledge of the RCVS requirement of 35 hours per year. He only began to attend meetings which were organised by the BEVA, Animal Health Trust and the Association of Racecourse Veterinary Surgeons in October 2009, a total of 10 hours to date. In an application for restoration to the Register, the Committee would ordinarily expect that an applicant would have undertaken a structured programme in all areas in which he intended to practice before the hearing. Mr Morris's evidence indicated an intention to return to

- general practice, with an emphasis on equine work, should his name be restored to the Register. His evidence also showed a lack of familiarity with veterinary medicines regulations.
19. For the reasons set out above the Committee does not consider that Mr Morris has used his time usefully since his name was removed from the Register.
 20. Having made the findings above concerning Mr Morris' conduct since his removal from the Register, the Committee has concluded that his conduct is highly relevant to his application for restoration. The Committee cannot ignore actions which any reasonably minded person would consider as the acts of a veterinary surgeon, being undertaken by a person whose name has been removed from the Register. Mr Morris appears to be woefully ignorant of their illegality. This does not re-assure the Committee that Mr Morris's knowledge of the legislative framework under which veterinary practitioners must operate is adequate to permit his name to be safely restored to the Register. Further by Mr Morris alleging that two fellow veterinary surgeons each gave advice and prescribed for an animal not under their care Mr Morris put at risk the professional standing of those colleagues.
 21. The Committee accepts that removal of his name from the Register would have been highly significant for Mr and Mrs Morris both financially and emotionally. Mr Morris told the Committee that the practice has been taken over by a limited company owned and operated by his wife, who has not given evidence. Mr Morris has told this Committee that he has lost about £50,000 per annum since the removal of his name. He has produced a letter from his accountant regarding the finances of his practice before his removal but there is no information about the practice finances since that time.
 22. The Committee recognises that Mr Morris has made progress with his health problems. However, it would like to have seen evidence from a qualified medical practitioner. Similarly, he has not produced any evidence to support his assertion that he does not continue to suffer from an alcohol problem.
 23. At the hearing on 2nd October 2007 Mr Morris had received significant support from clients of stature in the equine world which was taken into account at the previous hearing. He has not produced the same level of support at this hearing. Albeit that he has received support from a colleague within the profession and from clients with knowledge of the horse world, who have attested to his expertise in equine practice. The Committee does not consider that Mr Morris' evidence of a shortage of large animal and equine veterinary surgeons in rural Lincolnshire materially assists his application in view of its findings on the other matters set out above.
 24. The Committee appreciates the particular difficulties faced by Mr. Morris in attempting to separate himself fully from his former veterinary work given that the practice is based at his home and operated by a limited company controlled by his wife. The Committee would like to make it clear that veterinary surgeons who have been removed from the Register and continue to work or assist in the practice in which they have previously worked are likely to experience problems in avoiding situations where they hold themselves out, or are believed to be acting, as

veterinary surgeons. It is fully appreciated that veterinary practices may be owned and managed by lay people, however there must be a clear distinction between managing or working within a veterinary practice and practising veterinary medicine. It is of particular importance that any member who has been removed should recognise the difference between these activities. A member who has been removed must refrain from examining animals, making diagnoses or performing treatments, even under the direction of another veterinary surgeon, this includes giving veterinary advice.

25. The Committee would strongly advise that any member who is removed from the Register but still involved in the administration of a veterinary practice should make their status known clearly to any member of the public who might seek veterinary assistance at the outset of any contact. Other lay staff in the practice should be clearly briefed as to the exact status of a removed person and should not withhold that information from the general public.
26. The Committee also would like to emphasise the importance of applications for restoration to the Register being properly prepared with supporting evidence to be put before the Committee. While the Committee does not seek to be prescriptive about what is required, it considers that any such application should be prepared by reference to the matters set out in the Disciplinary Committee Guidance with full supporting evidence.
27. The Committee has concluded that the application is unsuccessful and that Mr Morris' name should not be restored to the Register.

DISCIPLINARY COMMITTEE

7 JANUARY 2010