

ROYAL COLLEGE OF VETERINARY SURGEONS

MISS JUDITH LESLEY KAY

DECISION

- 1) Miss Kay appeared before a Disciplinary Hearing on 11 December 2006 charged that having been convicted and imprisoned for a drink driving offence, she was rendered unfit to practise as a veterinary surgeon.
- 2) The Committee postponed judgment on the case to allow Miss Kay the opportunity to put together a structured plan to deal with a number of issues, which were:
 - a) *That Miss Kay does not practise veterinary medicine alone, but in a multi-vet practice or institution.*
 - b) *That she meets with a member of the Veterinary Surgeons Health Support programme, and accepts whatever recommendations are made by them. The Committee will require regular progress reports.*
 - c) *That she registers with a registered medical practitioner and that she consults him or her on a regular basis, who will report to the Committee upon her progress.*
 - d) *That any expenses arising out of the above should be borne by her.*
 - e) *The Committee would also be helped by Miss Kay providing references from previous employers commenting upon sobriety and veterinary ability.*

- 3) However, at the hearing of 26 January 2007, the Committee concluded:

"It is concerned that Miss Kay has not shown sufficient effort in complying with the conditions laid out on 11 December 2006. The Committee has to be sure that Miss Kay accepts that her commitment to abstinence is an essential first step. It is clear that she is unable to satisfy that principle at this time. The Committee was disappointed that Miss Kay had misled them in the matter of her alcohol consumption as this goes to the very heart of the problem. Miss Kay had been warned on 11 December 2006 that the consequence of not being able to comply with the Committee's conditions would result in her name being removed from the Register.

In the Committee's opinion, a period of time needs to elapse for Miss Kay to gain control of her addiction. We therefore consider it unsafe for Miss Kay to continue practising as a veterinary surgeon at this time."

- 4) The Registrar was instructed to remove Miss Kay's name from the *Register of Veterinary Surgeons* on 26 January 2007.
- 5) On the 28 January 2008 Miss Kay appeared before the Committee to pursue her application of 7 December 2007 for her name to be restored to the Register.

- 6) Miss Kay pointed out to the Committee that, as is indicated by paragraph 45 of the Disciplinary Committee Guidance issued on 19 December 2007, her removal from the Register is to be regarded not as a punitive measure but as a measure imposed for the protection of the welfare of animals and in the public interest. The Committee accepts that. Upholding the standards of the profession and the reputation of the profession are matters of public interest.
- 7) The Committee was advised by the Legal Assessor that it was incumbent on the applicant to prove to the Committee on a balance of probabilities that it was appropriate in all the circumstances for her to be restored to the Register. The Committee needs to be persuaded by Miss Kay that if she were to be restored to the Register there would be no real risk to the welfare of animals in her care or to the reputation or standards of the profession. In other words, that she is fit to practise as a veterinary surgeon.
- 8) The Committee bears in mind that restoration to the Register cannot be on a conditional basis and that it is not open to this Committee to impose on Miss Kay any particular requirements as to future monitoring of her condition or practice. The Committee needs to be satisfied that she will be able to cope on her own.
- 9) The Legal Assessor also advised the Committee that it should consider her conduct after her removal from the Register; her ability to run her practice properly; and other considerations relevant to her restoration such as the needs of the community in which she lives for her services.
- 10) Miss Kay was removed from the Register on the grounds that her addiction to alcohol was not under control and it was unsafe for her to continue in practice.
- 11) Miss Kay presented no substantive evidence that her addiction has now been controlled. The Committee was presented with a letter, dated 27 January 2008 (the day before the hearing) and signed by a long-term friend and qualified medical doctor, Dr. J R Eames (not Miss Kay's registered GP) to the effect he had taken two random blood samples over the preceding two months for blood alcohol levels but too recently for any analysis to be available to the Committee. When questioned, Miss Kay said that it would take a minimum of six to eight weeks from the tests for the results to be available, the samples having been taken in mid-December and between Christmas and the New Year.
- 12) Although she did not ask for an adjournment to enable those results to be procured, the Committee considered whether it would be necessary in the interest of justice to adjourn for that purpose and decided that it would not. The results themselves would only have been two in number and would only have shown a snapshot of her condition at a later stage of the ten-month period since she was removed from the Register.
- 13) Miss Kay submitted to the Committee two letters. One dated 29 November from the Director of the Chrysalis Drug Project of Bishops Stortford indicating that she had met with a counsellor between April and September 2007. No comment was made of any testing for evidence of alcohol abuse. The second letter, also from Dr Eames and dated 20 November 2007, recorded his long-term friendship and his confidence in her skills and competence as a veterinary surgeon. Miss Kay also presented two

references, from a cleaning company for which she had worked, and from a client and friend who had supported Miss Kay throughout 2007.

- 14) The Committee is concerned that she had dispensed with all counselling help, had cancelled her planned meeting with the Veterinary Surgeons' Health Support Programme, had given up attending Alcoholics Anonymous (AA) in August 2007 and had been without any support or counselling advice for the last five months.
- 15) Despite the passage of ten months since the first hearing, and the advice given to her by that Disciplinary Committee, Miss Kay has not provided the restoration hearing with documented evidence of having properly controlled her psychological and addiction problems.
- 16) Having heard her, the Committee did not form the impression that she recognised the severity of her condition and it could not be satisfied that if she returned to the stresses and strains of practice she would not have sought comfort in drink. She offered no structured plan of counselling and monitoring of her condition to demonstrate that she took it seriously. She had even given up her regular attendance at AA upon which, at earlier hearings, she mainly relied to show the strength of her resolve.
- 17) The Committee has not been persuaded of her fitness to return to veterinary practice. The Committee therefore cannot say that animal welfare will be protected and public confidence in the veterinary profession maintained.
- 18) On that ground alone, the Committee would have decided to refuse her application.
- 19) In addition, however, immediately prior to the start of the hearing, the Committee was presented with statements from four witnesses, namely Mr Malcolm Avis, his partner Ms Helen Gilbert, and from Mrs Christine Mills and Mr John Mills. The Committee read all four statements before the hearing. These statements were formally laid before the Committee by the College and these witnesses were called to give evidence before it.
- 20) Miss Kay raised no objection to their acceptance as evidence and, with the exception of her recollection that she had told Ms Gilbert that she was not registered as a veterinary surgeon, Miss Kay did not dispute the substance of the evidence that was given.
- 21) The evidence of Mr Avis and Ms Gilbert was that they had, in August 2007, decided that their elderly pet dog, Pippa, needed a check up. Ms Gilbert made an appointment with Miss Kay to take Pippa to her surgery. Miss Kay could not remember the appointment but the Committee accept Ms Gilbert's evidence about it. On the morning of the appointment Mr Avis and Ms Gilbert decided that Pippa had reached a stage at which euthanasia was necessary and they rang Miss Kay to tell her that. Miss Kay attended at their house, in mid afternoon and examined the dog, saying that in her opinion euthanasia was unnecessary. In her opinion, Pippa was overweight and therefore she recommended a change of diet and also discussed Pippa's arthritis. For this she advised that the owners should purchase glucosamine from an internet website. She proceeded to prescribe and subsequently dispense tablets of phenylbutazone; a POM-V drug (Prescription Only Medicine – Veterinary). Payment for the visit was offered, but refused by Miss Kay. On a

subsequent visit to the surgery by Ms Gilbert, Miss Kay dispensed a further supply of phenylbutazone, with a charge of £12, paid in cash. The evidence of both Mr Avis and Ms Gilbert was that at no point did Miss Kay make them aware that her name had been removed from the Register. The Committee accepts this evidence. Both witnesses stated that they had contacted Miss Kay believing that she was a fully qualified veterinary surgeon and would not have done so had they been aware of her unregistered status.

- 22) The evidence given by Mr and Mrs Mills was that in the early summer of 2007, after trying to contact their usual veterinary surgeon late in the day without success, their daughter suggested they could try Miss Kay. They therefore took their dog Kimberly to Miss Kay's premises and were admitted to the surgery. Miss Kay then examined Kimberly, made a diagnosis and prescribed treatment, administering an injection (later identified by Miss Kay as long-acting penicillin). They paid Miss Kay £40, in cash, for this consultation, advice and treatment.
- 23) A few weeks later they again took Kimberly to Miss Kay's premises as the dog had bad breath. Miss Kay diagnosed problems with the teeth and advised dental treatment. This was carried out a few days later, with Miss Kay informing the Mills by telephone that six or seven teeth needed to be removed. Payment of £160, in cash, was made to Miss Kay.
- 24) Miss Kay told the Committee that she considered that she was doing no wrong as the dental operation was in fact carried out by a veterinary nurse, Mrs Caroline Braid. Miss Kay stated that she herself administered and monitored the anaesthesia whilst supervising Mrs Braid. Mrs Braid did not appear at the hearing but Miss Kay produced a letter dated 25 January 2008 from her stating that she had "untaken varied work for the Sawbridgeworth veterinary surgery including a dentistry work" [sic]. Both Mr and Mrs Mills stated that Miss Kay did not at any time indicate that she was no longer a registered veterinary surgeon. Mr Mills added that he was "under the impression that she was a fully qualified and professional vet, that's why I went there".
- 25) The Committee was shown photographic evidence of a board outside Miss Kay's premises, taken on 16 January 2008, which advertised them as a veterinary surgery. This was consistent with her continuing to practise.
- 26) Miss Kay's name was removed from the Register in January 2007 because the Committee at that time concluded that it was unsafe for Miss Kay to continue practising as a veterinary surgeon. Nonetheless, the Committee finds that the evidence, essentially admitted by Miss Kay, proves that she continued to practise as a veterinary surgeon, including the administration of an anaesthetic, conducting consultations and providing veterinary advice. She advised, prescribed and dispensed POM-V drugs including phenylbutazone and an injectable antibiotic. She advised her client upon the necessity of euthanasia when that act had been requested and also gave dietary advice. She also advised clients to obtain medicaments from internet sources.
- 27) Miss Kay sought to persuade the Committee that some of this work was not that of a veterinary surgeon but was simply advice from an experienced dog owner. This is a distinction that the Committee does not accept. However, she admitted that many of the steps she had taken were taken as a veterinary surgeon. She accepted that she

knew that her involvement in the practice should have been limited to an administrative role and that she was not allowed to practise as a veterinary surgeon. She claimed ignorance of the fact that to carry out such acts of veterinary surgery whilst unregistered is also a criminal offence.

- 28) Miss Kay took no account of the fact that by employing a veterinary nurse to undertake dentistry without supervision by a registered veterinary surgeon she compromised the professional status of that nurse and exposed her to the possibility of prosecution under the Veterinary Surgeons Act 1966.
- 29) The Committee finds that Miss Kay's conduct is conduct which has the effect of bringing the profession into disrepute. It is conduct the opposite of that which the Committee would expect of a veterinary surgeon. Her conduct gave the Committee no confidence that the public interest in the profession's reputation and standards would be served by restoring her to the Register.
- 30) On its own, this evidence of her conduct would have caused the Committee to refuse her application.
- 31) The Committee was neither persuaded that Miss Kay understood that her actions were reprehensible, nor that it would be safe for Miss Kay to be restored to the Register.
- 32) The Committee's decision is based on its findings about Miss Kay's addiction and subsequent conduct, rather than any other considerations. Miss Kay must abstain from any act which could be construed as being that of a qualified veterinary surgeon and her application is hereby refused.

**DISCIPLINARY COMMITTEE
JANUARY 2008**