

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

VLAD BUTNARU MRCVS

COMMITTEE DECISION ON FINDING OF FACTS

1. Dr Butnaru appeared before the Disciplinary Committee (“the Committee”) to answer the following charge (as amended):

That, being registered in the Register of Veterinary Surgeons and whilst in practice at DRBVM LTD, 3 Manor Road, Folkestone, CT20 2RZ, (“the practice”), you:

1. On or around 20 May 2021 signed a passport and/or passport application for a horse named Joey (‘Best Catch’) and electronically signed a declaration that you “had read the above microchip, which had previously been implanted for the animal” (microchip number 276099200072535), when:

- a) microchip 276099200072535 had not been inserted into any horse; and/or
- b) you had not read microchip 276099200072535 implanted in Joey.

2. With regards to the matters set out at 1 above:

- (a) the declaration which you signed was false; and/or
- (b) your conduct was dishonest; and/or
- (c) your conduct was misleading; and/or
- (d) your conduct risked undermining procedures designed to promote animal welfare; and/or

(e) you failed to take sufficient steps to ensure that the microchip number recorded for Joey was accurate.

AND that in relation to the matters set out above, whether individually or in any combination, you are guilty of disgraceful conduct in a professional respect.

Preliminary matters

3. Miss Sheppard-Jones appeared on behalf of the College. Mr Wood appeared on behalf of Dr Butnaru, who was present for the first two days of the hearing, but thereafter was unable to remain for personal reasons. Dr Butnaru was content for the matter to continue in his absence with Mr Wood, who was fully instructed, remaining to act on his behalf.

Admissions

4. Dr Butnaru admitted the following alleged facts: 1 (a), 1 (b), 2(a), 2(c) and 2(e). He denied 2(b) and 2(d).

Application for certain individuals to be anonymised

5. Miss Sheppard-Jones made an application that three individuals mentioned in the papers be anonymised. The basis of the application was that these lay individuals were not witnesses in this case, they had not provided statements, nor had they given permission for their names to be used. Furthermore, she submitted, there may be a suggestion of their having been involved in wrongdoing and they are not here to defend themselves. In such circumstances, Miss Sheppard-Jones suggested, there could be unfairness to the individuals in question. Mr Wood did not oppose the application.

6. The Committee considered the application with care and accepted the advice of the Legal Assessor. The Committee considered the reasons proffered by Miss Sheppard-Jones to be cogent reasons for why it would be wrong to name these individuals, particularly the suggestion that they may have been involved in wrongdoing and were not here to defend themselves. The Committee took into account the lack of any

opposition from Mr Wood and decided in all the circumstances that in the interest of fairness it was appropriate to allow the application in relation to all three individuals. No prejudice would be caused to any party and there was no pressing public interest need to name the individuals in question.

7. No similar application was made by Mr Wood in relation to persons mentioned in the statement of Dr Butnaru and accordingly they are not anonymised.

Background

8. Miss Sheppard-Jones opened the case on behalf of the College.
9. At all times material to the allegation before the Committee Dr Butnaru was registered as a Veterinary Surgeon with the RCVS.
10. The allegations in this matter relate to Dr Butnaru's declaration within the horse passport application for Joey (Best Catch), hereinafter referred to as 'Joey'. In his capacity as a veterinary surgeon, Dr Butnaru electronically signed the declaration within the horse passport application, which declared that he had read the microchip number 276099200072535 ("535"), which had "*previously been implanted*" in the horse. The College's case is that that microchip cannot have been implanted in Joey or any other horse, as it was later found sealed complete with its implanter, in its original packaging at the back of the passport issued for Joey.
11. Veterinarians are frequently required to sign certificates as part of their day to day professional duties. An example is the signing of equine passport applications. Veterinary certification plays a significant role in the control of animal health and welfare. Veterinarians have a professional responsibility to ensure the integrity of veterinary certification.
12. Veterinarians must certify facts and opinions honestly and with due care, taking into account the 10 Principles of Certification referred to in the Code of Professional Conduct for Veterinary Surgeons ("the Code"), in force at the relevant time. They should not sign certificates which they know, or ought to know, are untrue, misleading or inaccurate. This applies equally to hand-written, printed and electronic certificates. Principle 1 states:

“A veterinarian should certify only those matters which:

a) are within his or her own knowledge;

b) can be ascertained by him or her personally;

c) are the subject of supporting evidence from an authorised veterinarian who has personal knowledge of the matters in question; or

d) are the subject of checks carried out by an Officially Authorised Person (OAP).

13. Mr Andrew Davis is the owner of the Horse Passport Agency (“HPA”). He provided a witness statement dated 28 November 2023, setting out the purpose of the HPA, the process involved in obtaining a horse passport and details in respect of the application made by Dr Butnaru to the HPA in relation to Joey.

14. In summary, Mr Davis stated that a horse passport is a legal document identifying the horse to which it relates. All horses owned in the UK must have a horse passport. Microchipping is an essential part of the horse passport process.

15. An application for a horse passport to the HPA is made by both a veterinary surgeon and the horse owner, either by post or online. The veterinary surgeon examines the horse and identifies it by its species, colour and age; as well as completing silhouette drawings which record the horse’s markings and coat colour. They must declare whether they have read a microchip previously implanted or whether they have implanted a microchip and provide details of the same.

16. The veterinary surgeon can then either hand the application for the owner to send to the HPA, or they can act as the owner’s agent and submit the passport application online. Once submitted, applications are processed and passports issued. The HPA rely to a large extent on the accuracy of the information provided in the application.

17. In respect of Joey, the HPA received an application on 20 May 2021. The application came into the online portal and was signed by Dr Butnaru. The declaration stated that Dr Butnaru had read microchip 535, which was already implanted in the horse. Payment

was made and a passport issued that day, on the basis of the information provided in the application.

18. Mr Davis set out the correspondence he received in respect of the passport issued for Joey after the passport was issued. The correspondence revealed the impact of Dr Butnaru's declaration that microchip 535 was implanted in the horse, when it was not. The declaration enabled the registration of a horse on the basis of one identity (Joey/Best Catch), when in fact it appears that the horse may already have had a different identity (Best Catch USA).
19. Dr Uppal is a qualified veterinary surgeon and specialises in equine related practice. He has been the vet for RA's horses since 2015. He provided a statement dated 22 February 2023.
20. On 29 July 2021, Dr Uppal examined Joey, a horse recently purchased by RA. The general purpose of the examination was to check the horse's teeth and to give it a check over. Dr Uppal did not have any background information, save that RA told him that he had purchased Joey from KL and her veterinary surgeon had been Dr Butnaru.
21. Before he started the examination, RA provided Dr Uppal with a passport for Joey. The first page of the passport included the microchip number, recorded as 535. The same microchip number also appeared in box 5 on page 2. Page 3 of the passport included diagrams of the horse's markings and the same microchip number that appeared at pages 1 and 2, was also entered under the horse's completed silhouette, with a declaration immediately underneath. That declaration stated:

"I am a Veterinary Surgeon and member of the RCVS.

In accordance with EC 262/2015

I have read the above microchip, which had previously been implanted

For the animal identified on this application

With an ISO 11785 scanner.

Electronically signed by VLAD MIHAIL BUTNARU on 20/05/2021 12:54"

22. However, at the back of the passport there was an unopened microchip (and applicator), the number of which was also 535. Dr Uppal described this as *“highly unusual”* because *“the microchip for a horse and its passport should be in the horse, not still unopened with the passport.”*
23. Dr Uppal explained that each microchip has a unique number. If a microchip fails then a second microchip can be implanted in the horse, the number of which should be added to the original passport and sent to the HPA for them to update their records.
24. During his examination of Joey, Dr Uppal scanned the horse and found that it contained a microchip with the number 985101045124638 (“638”). He does not recall that he had any difficulty in locating the chip and in the medical notes for Joey recorded that the chip could be read from both the left and right hand sides of the horse’s neck. As a result of this finding, and further inconsistencies between the age and markings recorded in the passport and those he noted, Dr Uppal formed the view that either the passport was incorrect or that it did not belong to the horse he was examining.
25. Dr Uppal understood that, due to the inconsistencies between the passport and those found upon the examination of Joey, RA returned the horse to the seller. Dr Uppal gave evidence to the Committee in accordance with his witness statement.
26. Dr Butnaru was written to by the College by way of letter dated 27 October 2021, to advise that concerns had been raised by RA that the College was investigating. The College asked for Dr Butnaru’s comments on the following areas of concern:
- “1. You failed to check Joey for a microchip.*
 - 2. You provided a false certificate to the Horse Passport Agency.*
 - 3. You falsely certified that Joey had a particular microchip to the Horse Passport Agency.”*
27. Dr Butnaru was also requested to send to the College the full clinical records for Joey, any relevant correspondence, statements from other members of staff involved and any other information that may assist.

28. On 28 December 2021, Dr Butnaru emailed the College and answered the specific areas of concerns as follows:

"1. I always check for the microchip, just like in the day the horse was checked for the passport.

2. No I didn't do that.

3. No, I didn't do that."

29. Dr Butnaru did not provide any other details regarding his involvement with Joey or the passport in respect of the horse named Joey. Nor did he provide any documentation as requested.

30. On 15 February 2022, Dr Butnaru provided the following further information to the College by way of email,

"I inspected the horse for the passport, not for Vetting.

I understand from seller [PL] that there were misunderstandings about the purchase price of the horse. In the end the money was returned.

I have the silhouette of the horse, which I filled in and sent to the passport agency. I attached to this email."

31. Dr Butnaru attached a document which contained the silhouette and stated that "Best Catch" was examined on 15/5/2021. The document also recorded the markings as drawn onto the silhouette.

32. On 23 February 2022, Dr Butnaru sent an email to the College which provided the following further details:

"The client, [PL], called me to check the horse that bought it (BEST CATCH) he was clinically healthy, but I didn't find any microchips when I scanned with my microchip scanner and the owner said he didn't get a passport with the horse. Then I told the owner that this horse had to be checked for a passport.

I completed the silhouette on the 15th May 2021 for horse identification. He called me next day and he said that the horse had a microchip when he scanned with his scanner so I asked him to give me the microchip number he had scanned. He scanned the microchip and showed me number on video conference.

I selected on Agency Horse Passport website: "microchip already present". I sent the unique silhouette to Horse Passport Agency."

33. As a result of the information provided by Dr Butnaru, the College asked for a detailed chronology of his involvement with Joey and for the outstanding clinical records.

34. On 28 April 2022, Dr Butnaru emailed the College and provided his clinical notes and the following further information:

"On the day of 15th May 2021 my scanner didn't show microchip presence, on both sides of the neck, I didn't find any scars made by previous procedures to remove a microchip. Because the owner [PL] previously said the horse has a microchip, I didn't bring with me a new microchip.

I planned with [PL] to return for to insert a new microchip.

I completed the silhouette on the 15th May 2021 for horse identification. [PL] called me next day and he said that the horse had a microchip when he scanned with his scanner, he was coughing very hard on the phone, because of Covid restrictions I decided to do video conferencing, this was the first time I've tried video confirmation method. During the video conference on 16th May 2021 I saw [PL] scan the horse: Best Catch and show me the scanner with number: The Microchip number provided by owner [PL] : 276099200072535. I haven't seen the horse Best Catch after video conference on 16th May 2021. [PL] said he sold it with new Passport."

35. Dr Butnaru clarified by way of email dated 27 May 2022, that:

"I only I wrote (sic) on the paper the clinical notes + silhouette because I was in the field at the client's farm.

"Microchipped: not scanned" means that the my (sic) microchip reader did not scan/find any microchip on that day."

36. Dr Butnaru provided a witness statement dated 18 December 2023, the first day of the hearing. In it he stated that in May 2015 he worked at Lakeview Veterinary Centre in Folkestone for three months where he gained some experience with horse passport applications. He said that he met Kirsty Ford whilst at Lakeview. Ms Ford worked for a horse exporter Peter Damgaard, who had a contract with Lakeview. Mr Damgaard had worked in the business for 30 years and knew all the exporters in the area, which is how Ms Ford knew PL. Dr Butnaru said that whilst at Lakeview he was aware PL was a client of theirs, but he had no dealings with him. He went on to say:

“In around 2020, I did work for him two or three times relating to Animal Health Certificates for horses that he was exporting. I also did some online applications for horse passports for him. I would estimate that I did no more than 10 passport applications for him.

On 15 May 2021 I saw that [PL] had tried to contact me by phone as I had a missed call from him. Kirsty then called me and said that [PL] was looking for a vet to do a horse passport application for him.

I spoke to [PL]. He told me that the horse needed a passport. He said that he had bought the horse from a gypsy and it did not have any documents. He said that it had a microchip. He did not say how long he had had the horse. I agreed to go to the address that he had given me [address redacted] on 15 May 2021.

When I arrived at the address that I refer to above, [PL] was there and some others who I did not know. The horse that [PL] brought over to me was already on a lorry. He told me that it had a microchip but no documents and that he had waited around an hour for me and had been ready to go to see someone else in Ashford if I hadn't arrived. He was in a rush, and he tried to rush me while I was there. It was on this visit that [PL] told me that the horse was called “Best Catch”.

[PL] was coughing badly on the day that I saw him, and he said that he did not care about Covid vaccines. I asked him to stay a distance from me but he did not listen to me.

[PL] brought the horse off the lorry and over to me. I first of all carried out a visual and physical inspection of the horse and wrote down the information to include the information needed for the silhouette. I wrote it on a piece of paper that got dirty. I gave this to Kirsty to write out on a fresh piece of paper. This is the document at 4-10 of the Inquiry Bundle. I no longer have the piece of paper I wrote on when I went to see the horse.

Based on my inspection of the horse teeth, I estimated its age to be around 10 years. I should point out that it is difficult to age a horse exactly.

I then scanned the horse with my scanner to read its microchip. I do not have the scanner that I used any more, but it was the type shown in the screenshot on page 1 of 'VMB 1'. I had previously used it to read microchips in horses as well as dogs and cats and it had worked satisfactorily.

I scanned both sides of the horse's neck. My scanner did not pick up a microchip. [PL] then tried to locate the microchip with his scanner, which was larger than mine. His scanner did not pick up a microchip either.

When no microchip could be detected, I told [PL] that I would come back and bring a microchip and implant it. I order the microchips myself directly online, and they are sent to my home address, and at this particular point in time I already had microchips ready at home, but as [PL] had told me on the phone that the horse was already microchipped, I had not brought one with me.

[PL] was cross because he would have to pay for a microchip and wait for me to come back. He asked me to come back the next day, and said that he wanted the passport the next day. I said that I could not come back the next day but that I would call him to tell him when I would be able to come back.

During this visit I wrote down, by hand, the information needed for the silhouette, which is needed for the passport application.

The next day, i.e. 16 May 2021, [PL] called me. I did not answer, because I was busy. Kirsty then rang me on [PL's] behalf and I spoke to her. She said that she had received a message from [PL] saying that he had found the

microchip. I then had a conversation with [PL], who said that he had found a microchip on the horse, using his scanner. He said: "I told you it had a microchip." He said that he would send me the number, but I said that I needed to see it. A younger man who was with [PL] suggested that we did a WhatsApp video call. [PL] was coughing badly on the phone, so because I was worried about Covid, instead of going back in person, I agreed. I felt that provided I had seen the microchip scanned in a video call and had read the number myself on the scanner via the video call then this would be satisfactory.

During the Covid pandemic I had been doing small animal consultations sometimes via video call and at the time I felt that it was acceptable practice to see the microchip number in this way. I now realise that this was not a good idea and I would never do this again in the future.

[PL] said he did not have WhatsApp on his phone. The younger man then started a WhatsApp video call on his phone and he showed me [PL].

During the WhatsApp call, the younger man at [PL's] end was holding the phone towards [PL] and the horse; I saw the horse, [PL] and a scanner in [PL's] hand. I saw the horse's head, and I said "go to the front to see the white star", which the person holding the phone did. I was satisfied that the horse I could see was the horse that I had seen the day before.

I saw [PL] scan this horse using a big scanner. I do not know if this was the same scanner that he had used the day before. I saw him move clearly from the back of the horse to the front. He only scanned the neck of the horse on the right side. I heard the scanner beep. There was someone else there holding the horse while he did this. He then showed me the microchip reading on the scanner. I took a screenshot of the scanner with the microchip number on my phone. I changed my phone and no longer have this screenshot.

I remember that at the start, [PL] did not want to do a video call as he wanted just to give me the microchip number, and I pushed him.

I believed that both my scanner and also the scanner used by [PL] complied with the requirements of ISO 11785.

After this WhatsApp video call, I completed the Horse Passport Agency application. I did this online.

When I logged onto the Horse Passport Agency website I remember that I selected the relevant information from the drop-down menus given for each point, and I filled in the owner's details with [PL's] details and put in the microchip number referred to above. The application was for a duplicate passport which would mean that the horse could not be used for human consumption.

When the RCVS contacted me in October 2021 I got in touch with [PL] and told him what the RCVS were saying. He told me that when he was scanning the horse, the scanner must have picked up a microchip that was in his pocket at the time, which he was going to implant in a foal. He did not say where that microchip had come from. He said that he put that microchip, i.e. no. 276099200072535, with the passport to help me as that was the microchip number that he had given to me on 16 May 2021. I asked him to give me a hand written statement about the microchip. [PL] sent me a photograph of the handwritten note 22 April 2022 (see the attached screenshot at page 2 of VMB 1).

I understand that [PL] passed away earlier this year.

I now understand that the horse had been reported missing in April 2021 but I was not aware of that at the time. I only found out about the horse being reported missing after September 2023.

I realise and accept that I made a serious mistake in the declaration that I made for the horse passport application in this case and I should have made sure that I myself scanned the microchip myself. It was an honest mistake and I believe I was tricked. I am very upset that this happened. I understand that veterinary surgeons are in a position of trust. I am aware of the Code of Conduct and the Principles of Certification. I am aware that there are some limitations on my knowledge of English and I take extra care on the work which I do. I do not undertake OV work any more and have not done so since late

2021.”

37. Following receipt of that statement the College obtained a further statement from Mr Davis, dated 19 December 2023, adding the following to his evidence:

“The microchip number associated with the horse in this matter, Best Catch, under passport number 826069000244619 (“the Passport”) is 276099200072535. This is an unusual microchip for the Horse Passport Agency (“HPA”) because the prefix of 276 on ISO microchips indicates that the country in which the microchips were manufactured, was Germany.

A total of 279 passport applications have been made by Dr Butnaru to the HPA. I have reviewed the records held at the HPA and performed searches on the microchip prefix. This included a search on the first six digits of the microchip prefix “276099”. Out of the 86 matches yielded from this search of the whole database, our records show that Dr Vlad Butnaru submitted 66 passport applications to the HPA between 28 July 2020 and 18 October 2021 related to this microchip. A search of the whole database for the first 12 digits of the microchip prefix “276099200072” produced 65 unique microchip number matches. Our records show that Dr Butnaru submitted all 65 of these applications. I exhibit a copy of the search results as “Exhibit AD7”. The first document (5-6 to 5-7) shows the time and date the passport applications were received by the HPA. The second document (5-8 to 5-9) shows the same applications, but appearing in sequential order in terms of the microchip numbers. In my view, this would suggest that the microchips are being implanted into the horse by Dr Butnaru, rather than already being present.

I further narrowed the search parameters and searched the microchip number range from 276099200072530 to 276099200072539. Our records show that eight applications within these search parameters, including that of Best Catch (microchip ending 535), were submitted by Dr Butnaru within an eight month period between 22 September 2020 and 20 May 2021. I produce a copy of these applications at “Exhibit AD8”.

“We would normally expect to see this frequent use of consecutive numbers if the microchips had been supplied to and implanted by the same vet practice. However on all of these eight applications at AD8, Mr Butnaru has declared that he did not implant the microchip and that it was already present in the horse.”

38. Mr Davis added that historically the HPA supplied microchips to the veterinary industry as an incentive to use the HPA as the issuing organisation for an equine passport. He said that he had searched the HPA records and could confirm:

“... that we posted via Royal Mail tracked delivery, a box of 30 microchips to Dr Butnaru on 30 July 2019 after he had completed 30 applications. However this box was returned to the HPA as undeliverable by Royal Mail, though I cannot confirm the return date. We therefore contacted Dr Butnaru and left him a voicemail to inform him that the microchips had been returned to us. On 8 October 2019, we received a contact request via our website from Dr Butnaru, requesting that we posted the microchips directly to “Peder Dammagard.”

39. Mr Davis gave oral evidence to the Committee and confirmed the contents of his two statements. He confirmed he was not present when the microchips were implanted and that he could not tell from the data when chips were implanted and by whom, but that the sequential nature and destination implied it had been the same vet.

40. In his oral evidence Dr Butnaru said the contents of his statement were a true and accurate record of what happened. He said he qualified as a veterinary surgeon in Romania in 2010 and registered with the RCVS in 2012. He had never been referred to the College before and it was later confirmed that he has no criminal convictions. With regard to charge 2(a), Dr Butnaru said he accepted the declaration he signed was false and misleading, but said that he was not trying to mislead anyone. However, he could now accept that it was misleading because the microchip 535 was not in the horse and that by signing the declaration it could be implied that he had scanned the microchip in Joey when he had not in fact done so. He also accepted that he had not done enough checks to identify Joey. He said he had learned that it is easy to be cheated and he should not have trusted the WhatsApp video and he said he would not do it this way ever again. He said he had thought it was acceptable to do it this way on this occasion

because of Covid and the fact that they had been carrying out remote consultations with small animals during the Covid period.

41. Dr Butnaru said he did not know where batch 276 came from and they had not been sent to him. He said he had not implanted any microchips into the horses with that prefix. He said that at the time he signed the declaration for Joey's passport he thought microchip 535 was in the horse because the number was on the scanner shown to him on the WhatsApp video. He said that at the time he signed the declaration he understood that to mean he had seen the number on the scanner with his own eyes.

42. When cross-examined Dr Butnaru did not accept that he was an experienced vet, saying he had experience in some fields but he met a lot of vets who were more experienced than him. He accepted that he had signed 279 declarations for horse passports and that he understood the importance of honesty and care when signing such declarations. He accepted he was bound by the Code and the 10 Principles of Certification. He said he thought he was acting within the spirit of the guidance as he had seen the horse the day before and on 16 May 2021 he saw PL go around the horse with the scanner and he thought this was okay, although he *"now knows it was stupid."* It was put to him that we know he did not scan microchip 535 in Joey as it was not in the horse. Dr Butnaru said that scanners have memories and, *'What I think he did was push the memory button and showed me a number that had been stored in the memory, that is what I think now.'* He denied he was just making things up as he went along. When asked why this new account was not in his very recent statement, he said that this was not something he knew as a fact, but was something he presumed.

43. Dr Butnaru was asked about the different account in his statement of PL telling him he had accidentally scanned a microchip that was in his pocket and he said, *"I really don't know what happened. Yes, this is what he told me, but it doesn't mean that now I believe him."* He was taken to his correspondence with the College in October and December 2021 and again in February 2022 where no mention was made of PL scanning a chip in his pocket. Dr Butnaru said he repeatedly asked PL to provide a statement, which he eventually did in April 2022, but he denied he was making up his defence as he went along.

44. Dr Butnaru was taken to the eight passport applications completed by him with near sequential numbers starting 276 and ending 530, 531, 533, 535, 536, 537, 538 and 539, suggesting they were all from the same batch. They were issued to horses owned by three different people and spread over an eight month period. It was put to him that he was the one thing that linked all eight and he accepted that. However, he said he had not been sent the 276 microchips and he had not implanted any of them. He accepted that the HPA had tried to send him a batch of microchips but they had not been delivered because his address was not a practice and so he arranged for them to be sent to Peder Damgaard so that he could collect them from him.
45. Dr Butnaru said he would not have signed the declaration for Joey without believing he was acting honestly as *"I am not that stupid."* He denied his conduct risked undermining the passport procedure because he had drawn an accurate silhouette of Joey and that showed him it was the same horse when doing the WhatsApp video call. He pointed out the level of detail he went into when completing horse silhouettes.
46. In answer to Committee questions, Dr Butnaru explained in more detail the process that was followed by PL when scanning Joey on the WhatsApp video call. He was not able to see the scanner at all times as the person holding the mobile phone to video the call kept moving about and it was *"as if they didn't know how to hold a phone straight"* but he saw the number on the scanner and for him that was enough. He was unsure about the date when PL told him about the scanner picking up a microchip in his pocket. He said it was in 2021, towards the end of 2021. He was then taken to the correspondence to the College in late 2021 and early 2022 where he had not mentioned the microchip in his pocket explanation and he then said PL told him about the microchip in his pocket in the Summer of 2022.
47. Dr Butnaru confirmed he was essentially a small animal vet, but said that he had received training and became an Official Veterinarian (OV) and at Lakeview he was asked if he wanted to learn about horses and he said *"yes, why not"* but he added that he did not want to only work with horses as he was particularly interested in orthopaedic surgery on small animals. With reference to the 279 passports he had submitted he said he had not implanted the microchips in any of them, they were already present. He accepted he purchased microchips online from eBay, but said he only implanted in *"little horses"* and none of the ones on Mr Davis' list.

48. When being asked further questions by Mr Wood, Dr Butnaru said, *“these people used me, but I was stupid to do the things, but now I see. I feel so mad about it now and so embarrassed I don’t even want to work.”*

The Committee’s determination on the Particulars

49. The Committee considered with care all the evidence relied on by the parties, together with the submissions made by Miss Sheppard-Jones and those made by Mr Wood. The Committee accepted the advice of the Legal Assessor and bore in mind that it was for the College to prove the disputed facts and to do so to the highest civil standard of proof, that is to say the Committee must be sure of the matters alleged in order to find them proved. When considering the question of dishonesty, the Legal Assessor referred the Committee to the test in the case of *Ivey v Genting Casinos (UK) Ltd t/a Crockfords* [2017] UKSC 67.

50. In reaching its decision on the disputed facts the Committee took into account all the oral evidence together with the documents relied on by both parties. It also took into account Dr Butnaru’s good character. In addition, the Committee took into account that English is not Dr Butnaru’s first language. However, he had passed the IELTS (International English Language Testing System) test at Level 7 in order to be able to practise veterinary surgery in the UK, which evidences a proficient level of English and he was able to answer most questions in English during his evidence to the Committee.

51. The Committee made the following findings on the Particulars:

Particular 1

On or around 20 May 2021 signed a passport and/or passport application for a horse named Joey (‘Best Catch’) and electronically signed a declaration that you “had read the above microchip, which had previously been implanted for the animal” (microchip number 276099200072535), when:

- a) microchip 276099200072535 had not been inserted into any horse; and/or***
- b) you had not read microchip 276099200072535 implanted in Joey.***

52. Admitted and found proved.

Particular 2

With regards to the matters set out at 1 above:

(a) the declaration which you signed was false;

53. Admitted and found proved.

(b) your conduct was dishonest;

54. The Committee then considered whether such behaviour was dishonest. The Committee first needed to ascertain, subjectively, the actual state of Dr Butnaru's knowledge or belief as to the facts and whether his belief was genuinely held, in accordance with the test in the case of Ivey. The Committee would then have to decide, objectively, whether the ordinary decent person would find that conduct dishonest.

55. Dr Butnaru admitted that he examined Joey on 15 May 2021. He further admitted that he completed documentation for the passport agency. He did not dispute that he made the declaration set out in the passport documentation for Joey and that it was both false and misleading. Dr Butnaru stated that he made the declaration following information provided to him by PL, in circumstances where he had been unable to locate any microchip when he scanned the horse. Dr Butnaru admitted that he did not personally scan microchip 535 in Joey.

56. The evidence of Dr Uppal is that, when he examined Joey on 29 July 2021, the microchip 535 was sealed at the back of the passport for Joey and he took a photograph of the same. It follows that, as a matter of fact, Dr Butnaru cannot have scanned or read that microchip whilst implanted in Joey.

57. Dr Butnaru's assertion is that he watched PL scan Joey with the resulting 535 microchip number. He said, *"I saw him move clearly from the back of the horse to the front. He only scanned the neck of the horse on the right side. I heard the scanner beep. There was*

someone else there holding the horse while he did this. He then showed me the microchip reading on the scanner.”

58. Dr Butnaru subsequently spoke about having been “tricked” by PL. The Committee considered this an odd thing for him to have said, since, in his statement provided on the first day of the hearing, Dr Butnaru claimed he was subsequently contacted by PL and told that: *“when he was scanning the horse, the scanner must have picked up a microchip that was in his pocket at the time, which he was going to implant in a foal. He did not say where that microchip had come from. He said that he put that microchip, i.e. no. 276099200072535, with the passport to help me as that was the microchip number that he had given to me on 16 May 2021.”*

59. Thus, if Dr Butnaru’s account of what he said PL said to him is to be believed, it was not a case of being “tricked”, but rather an innocent mistake by PL. The Committee considered this account was undermined by the subsequent evidence from Mr Davis. In his second statement, dated 19 December 2023, Mr Davis exhibited eight passport applications submitted by Dr Butnaru to the HPA over an eight month period. Those passports revealed that the microchip numbers all indicated an ISO country code for Germany as they all started with 279. Furthermore, they ended in 530, 531, 533, 535, 536, 537, 538 and 539. Mr Davis said that they would normally expect to see this frequent use of consecutive numbers if the microchips had been supplied to and implanted by the same vet practice. In such circumstances the Committee considered it implausible that amongst this batch all authenticated by Dr Butnaru and used on horses owned by three different people, PL just happened to have one of these microchips in the middle of this batch himself.

60. The Committee also noted that during his oral evidence Dr Butnaru came up with a further possible explanation, not previously mentioned in any of his correspondence with the College and not even in his statement provided on the first day of the hearing. This latest possible version of events was that PL had already ensured the 535 microchip number was in the scanner’s memory and then simply pressed a button to bring the number up from the memory when pretending to scan Joey and that is what he showed Dr Butnaru. At this point in his evidence Miss Sheppard-Jones asked Dr Butnaru if he was making up his defence as he went along and the Committee considered that this was the impression he was giving.

61. In order to assess his credibility the Committee considered in detail the genesis of Dr Butnaru's accounts. When the College wrote to him on 22 December 2021 Dr Butnaru was asked to respond to the allegation that he failed to check Joey for a microchip. On 28 December 2021 he responded saying, *"I always check for the microchip, just like in the day the horse was checked for the passport."* There was no mention of the WhatsApp video call with PL or the account of a microchip being in PL's pocket or the microchip number 535 being in the memory of the scanner, all things he later relied on in his defence. In his next response on 15 February 2022 there was no mention of those matters either. It was not until 23 February 2022 that Dr Butnaru first mentioned the video conference with PL and seeing the 535 on PL's scanner. Still no mention was made of the microchip being in PL's pocket or the possibility of the 535 number being in the scanner's memory. Dr Butnaru's next response to the College was on 28 April 2022 and again no mention was made of the account of the microchip 535 being in PL's pocket or the number being in the memory of the scanner. The same was true of his email to the College on 27 May 2022. In his email sent to the College on 8 July 2022 Dr Butnaru still did not mention these two accounts. On 28 March 2023, Dr Butnaru was asked by the College if there was any other information he wished the Committee to consider. His response on 29 March 2023 was, *"I said everything what I know about this case"* and yet, if his accounts to this Committee were to be believed he had not said everything he knew about this case, since he had omitted to mention that after he had scanned Joey and found nothing PL then used his own scanner and he too did not find anything, as stated in his statement on the first day of the hearing. In addition, he did not mention the very important conversation he said he had with PL about the scanner accidentally picking up the microchip in PL's pocket, which could have put a completely different complexion on the case.

62. The Committee also considered the way in which the date PL allegedly told Dr Butnaru about the scanner picking up a microchip in his pocket became a movable feast during his oral evidence so as to be able to explain why he had not mentioned it in any of his correspondence to the College, as detailed above. In his statement, dated 18 December 2023, he said, *"When the RCVS contacted me in October 2021 I got in touch with [PL] and told him what the RCVS were saying. He told me that when he was scanning the horse, the scanner must have picked up a microchip that was in his pocket at the time, which he was going to implant in a foal."* This suggested it was around October 2021. Dr

Butnaru was asked questions about this to try and narrow down the time when he purportedly knew about the microchip in the pocket explanation and initially he said, quite clearly, that it was towards the end of 2021. When he was asked why he had not mentioned this in his response to the College in February, April, May and July 2022, he moved the date he said he learned of it to the Summer of 2022. This led the Committee to believe that he was not providing a credible account and appeared to be changing his story to fit with the evidence he was being presented with.

63. The Committee did not consider Dr Butnaru to be a credible or reliable witness. As well as introducing new versions of what happened for the first time at the hearing and changing his account as he went along, he was also evasive when answering questions, often in fact not answering the question asked at all. For all these reasons the Committee was satisfied so that it was sure that Dr Butnaru's account that he had read the 535 microchip number on a scanner held by PL over a WhatsApp video was untrue.

64. The Committee does not know the true reason for why Dr Butnaru was prepared to sign a false declaration on a passport application, but was satisfied so that it was sure that he, by his own admission, had made a false declaration, which he also admitted was misleading. His intention must have been to deceive the HPA into believing the microchip 353 was implanted in Joey. The end result of his doing so was that, for a while at least, the fact that Joey was a stolen horse with another identity was hidden. Applying the second part of the test in the case of Ivey, the Committee was satisfied that, objectively, the ordinary decent person, in full possession of all the facts of this case would find this conduct to be dishonest.

65. Accordingly, the Committee found charge 1(b) proved.

(c) your conduct was misleading;

66. Admitted and found proved.

(d) your conduct risked undermining procedures designed to promote animal welfare;

67. Dr Butnaru denied his conduct risked undermining procedures designed to promote animal welfare because he had completed a detailed silhouette of Joey.

68. Miss Sheppard-Jones submitted that since it is admitted by Dr Butnaru that he had signed a false declaration and that by doing so his conduct had been at the very least misleading, it has to follow that his conduct risked undermining procedures designed to promote animal welfare.

69. The Committee noted the evidence of Mr Davis, who set out the correspondence he received in respect of the passport issued for Joey after the passport was issued. The correspondence revealed the impact of Dr Butnaru's declaration that microchip 535 was implanted in the horse, when it was not. The declaration enabled the registration of a horse on the basis of one identity (Joey/Best Catch), when in fact it appears that the horse already had a different identity (Best Catch USA) and was a stolen horse. By making a false declaration Dr Butnaru prevented this from becoming known until such time as it was discovered by Dr Uppal. Had it not been discovered then RA may have kept Joey, entirely unaware that he had bought a stolen horse with a different identity.

70. The passport system promotes animal welfare by identifying a horse from its microchip and silhouette markings, providing details of ownership and its status as a food producing animal. If the passport has been issued on a false premise as a result of misleading information provided by Dr Butnaru, then it cannot function as it is meant to and that would clearly, in the Committee's view, risk undermining procedures designed to promote animal welfare.

71. Accordingly, the Committee found 2(d) proved.

(e) you failed to take sufficient steps to ensure that the microchip number recorded for Joey was accurate.

72. Admitted and found proved.

Disciplinary Committee

20 December 2023