

ROYAL COLLEGE OF VETERINARY SURGEONS

INQUIRY RE:

JAVIER SALAS NAVARRO MRCVS (1)

ROMAN KRISTIN MRCVS (2)

DECISION ON SANCTIONS

The Committee's Determination on Sanction - Dr Navarro

1. In reaching its decision on sanction, the Committee took into account the oral evidence of Dr Navarro and that of his character witness, Dr Cranke, together with the other written testimonials and the submissions made by Mr Corless. The Committee took into account all matters of personal mitigation put forward and all the facts found proved. The Committee also referred to the Guidance issued by the College. The Committee had in mind the fact that the purpose of sanctions was not to punish Dr Navarro, but to protect the welfare of animals, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Assessor.
2. The Committee considered the aggravating factors in this case to be those already referred to above when deciding the question of disgraceful conduct in a professional respect.
3. When considering mitigating factors, in addition to those found above, when deciding the question of disgraceful conduct in a professional respect, the Committee found the following to be relevant:
 - Previous good character with no issues before or since;
 - Open and frank admissions to some of the facts from the outset, together with what the Committee considered amounted to admissions to most of the other facts during his evidence;

- Genuine insight and remorse into the seriousness of his actions - he was open and honest about what he had done wrong and did not seek to blame others;
 - Although there were failures on more than one day, this was a single case, involving a single animal;
 - A long delay awaiting resolution of his case and the outcome;
 - His youth and inexperience - although the Committee considered this to be limited to the fact that he relied unduly on the greater experience of Dr Kristin, since most of the failures were basic, day-one competencies, like reading forms, taking a proper history and record keeping;
 - Relevant, good-quality testimonials from colleagues who have worked with him in a professional capacity and demonstrate how he has learned from his mistakes, matured in his practice and shown he is most unlikely to repeat his conduct.
4. The Committee noted that the testimonials provided were universally positive and demonstrated that Dr Navarro had reflected on his conduct, matured and become more confident in his practice and worked hard in those areas that had fallen far below the standard expected. This was particularly so in relation to reading forms, communicating with owners and other staff, seeking advice where necessary and keeping detailed and comprehensive records.
5. In particular, the Head Veterinary Nurse at Vetcall, who worked with Dr Navarro from January 2017 to September 2018, had this to say:

“I found Javier to be a very hard working, competent individual that always showed full commitment to the animals in his care, during the time working with him I was never concerned regarding any treatment plans or decisions that he made and felt that he always worked within his ability, he was not afraid to seek advice from other veterinary surgeons or colleagues within the practise if needed.” [sic]

“I found Javier to be very conscientious and caring, he had a very calming and gentle manor with the animals, and was always thorough with his examinations, surgically I found him very confident and competent always operating within his ability. He was never afraid to refer anything that he felt needed a more experienced surgeon if that’s what was in the best interest of the animal.” [sic]

“Javier was a very much valued member of our clinical team and out clients thought a lot of him, Javier always spent a lot of time with clients, explaining his findings and explaining ongoing tests and procedures making sure clients understood before

proceeding. Javier to my knowledge always wrote comprehensive notes, so other colleagues could easily follow his clinical plan.” [sic]

6. The Head Veterinary Nurse added that Dr Navarro was often left in sole charge of the practice and that at no time did they have any concern for animal welfare. She concluded by saying that they would employ Dr Navarro again should the opportunity arise.
7. The Committee noted the proposed sanction put forward by Mr Corless of taking no further action. However, although it agreed that Dr Navarro was highly unlikely to repeat the behaviour which brought him before this Committee and that he therefore no longer represented a risk to the welfare of animals, the Committee did not consider it appropriate to take no further action. First and foremost, Marnie had been caused unnecessary and avoidable suffering and ultimately died. Mr and Mrs Hurt were caused great distress and had to watch as their pet deteriorated and whilst it was accepted by all that bilateral ligation of the ureters is rare, the signs that Marnie was seriously ill on the Tuesday when Dr Navarro operated on her for the second time were, or should have been, apparent. Had Dr Navarro carried out his job properly and thoroughly he would have been aware that continuing with the hernia operation was certainly not the best course of action for Marnie. Thus, whilst the Committee was satisfied that he had learned from his mistakes and was unlikely to repeat them, the Committee considered public confidence in the profession, and the College as its regulator, would be undermined if no further action were taken.
8. The Committee did not consider this was an appropriate case for judgement to be postponed because, having concluded that Dr Navarro had addressed the issues which gave rise to the complaint, there was no requirement to monitor his professional conduct over a period of time.
9. The Committee next considered whether to reprimand and/or warn Dr Navarro about his behaviour. The Guidance issued by the College indicates that a reprimand may be appropriate where:
 - (a) The misconduct is at the lower end of the spectrum of seriousness and;
 - (b) There is no future risk to animals or the public; and
 - (c) There is evidence of insight.
10. Although the consequences for Marnie and her owners were clearly devastating, the Committee considered that Dr Navarro’s part in her demise has to be seen in the context of all the evidence. In light of the extensive mitigation including significant evidence of insight and remediation, the Committee was able to conclude that Dr Navarro did not represent a future risk to animals or the

public. In such circumstances, the Committee considered that it was not necessary to restrict Dr Navarro's registration and that a reprimand was the appropriate and proportionate sanction in his case. This would, in the Committee's view, send out a clear message that the Code of Practice and its Supporting Guidance must be fully complied with and that veterinary surgeons had to take full responsibility for their actions. In light of its conclusion that Dr Navarro no longer represented a risk to the welfare of animals and had learned from his experience, the Committee did not think it necessary to also warn Dr Navarro.

11. Thus, in all the circumstances, and with the significant mitigation referred to above, the Committee decided that the appropriate and proportionate sanction is to reprimand Dr Navarro.

Sanction - Dr Kristin

12. Mr Bradly informed the Committee that Dr Kristin was of previous good character and had no previous disciplinary matters recorded against him.
13. In a statement, dated 10 December 2019, Dr Kristin asked the Committee to excuse his attendance at the sanction hearing for personal reasons which made it impossible for him to travel. He said the proceedings before the committee and the Committee's findings had deeply affected him, especially when combined with the death of a close family member earlier in the year. Dr Kristin said that since his graduation in 2000, he has always tried to be a "*capable and caring veterinary surgeon*" and he was "*very regretful that my actions let Marnie and her owners down.*" He said he had "*let down the veterinary profession both in this country and Slovakia. I will never forget that. I deeply regret my actions over those few days in August 2016.*"
14. Dr Kristin said that he takes being a veterinary surgeon very seriously, both in the care he gives to animals and their owners and the quality of the clinical care and he was determined to keep that up. He added, "*Having considered carefully the Decision of the Disciplinary Committee, I can see how I failed as a veterinary surgeon and that upsets me. I am so sorry I did not do what I should have done for Marnie and her owners, Mr and Mrs Hurt. I realise that is only my fault and no one else's, and I apologise if my manner or my evidence appeared to suggest otherwise. I was trying to explain how I must have thought at the time, because I would never have knowingly left a seriously sick animal overnight unattended.*"
15. Dr Kristin went on to provide information about his on-going professional education, including details about congresses and seminars he has attended. He also informed the Committee that he currently runs his own, single-handed, mainly small-animal, practice in Slovakia, but that he

is struggling financially and needs to be able to return to undertaking regular locum work in England.

16. Mr Karel Daniel gave oral evidence on Dr Kristin's behalf. Mr Daniel is a semi-retired veterinary surgeon in the Czech Republic. He is also the Vice-President of the Czech Republic Veterinary Chamber, a body similar to the RCVS. He said he had known Dr Kristin since 2001 when he joined, as a fresh graduate, his mixed veterinary practice for about three years. He said that after that their professional pathways diverged, however they had stayed in contact and Dr Kristin had recently joined him to deliver seminars and presentations on cross-border practice provisions and details of small animal practice developments abroad.
17. Mr Daniel said that during Dr Kristin's time working at his practice they appreciated Dr Kristin's *"excellent relations with customers and his readiness to cover difficulties of the rural practice, regardless any day or night time situations."* Mr Daniel said that during that time he was not aware of any *"professional failures or complaints coming from customers, colleagues or relevant authorities onto himself."* Mr Daniel said he would not hesitate to offer a professional work position to Dr Kristin in the future. Mr Daniel said that he had no problems with Dr Kristin, who was very friendly with customers, although he acknowledged it was nearly 20 years ago. He said that whilst he knew the charges faced by Dr Kristin, he did not know anything about the detail of them and so it was difficult for him to judge Dr Kristin.
18. In her submissions to the Committee, Miss Mirchandani referred to the references and testimonials which, she submitted, spoke volumes of Dr Kristin's empathy for animals, his good reputation running his own practice and that this case represented an *"aberration from his usual modus operandi."* Miss Mirchandani said this showed Dr Kristin in his true light, that of a veterinary surgeon who had *"great patience with difficult animals and how he would go the extra mile to ensure the comfort and care of patients and their owners."* Miss Mirchandani reminded the Committee of the positive evidence given by Clinton Jefferies, who was impressed by Dr Kristin, spoke of his abilities, competence and reliability and said that he would employ him again.
19. The Committee was also provided with a number of references and testimonials from people, including professional colleagues who had worked alongside Dr Kristin and owners whose pets had been in his care, who all spoke highly of him.
20. Miss Mirchandani said the Committee in its findings on Disgraceful Conduct identified the following aggravating factors:

- *Actual injury to Marnie;*
- *Lack of insight.*

21. Miss Mirchandani raised what she considered to be mitigating factors as follows:

- *A long unblemished career;*
- *A single animal and single incident;*
- *The underlying condition was extremely rare with non-specific symptoms where the literature says it can be anywhere from 5 days onwards before the actual condition is detected and often it is the giving of IV fluids that precipitates discovery;*
- *A significant lapse of time since the events;*
- *The criticisms made by the Committee of the Gills and the way in which they approached the running of their practice;*
- *No financial gain;*
- *In his very first statement he set out how he had learned from the case and with reference to insight he had said he realised he ought to have checked what was happening with Marnie and not assumed the Practice had protocols that would be followed;*
- *In that same statement he said he would not have left Marnie if he had appreciated she was seriously ill;*
- *Also with regard to insight it is important to observe and accept that different vets react to events in different ways so not to compare Dr Navarro's responses to those given by Dr Kristin;*
- *The testimonials demonstrate his more usual approach and the way in which he deals with his clinical cases;*
- *His supplemental witness statement sets out what has happened in course of the years since the event;*
- *The circumstances in which Dr Kristin gave statements and the use of an interpreter because he could not understand the nuance of all questions asked of him;*
- *He has admitted he ought to have done things he failed to do, he knows how he has failed and is very sorry and knows it was his own fault and no one else's, thereby showing insight;*
- *Family bereavement;*
- *His severe financial position and his inability to support his family if unable to work as a veterinary surgeon.*

22. Miss Mirchandani suggested a reprimand would be the appropriate sanction in this case, but that if the Committee considered suspension was necessary she urged the Committee to make it for as short a period as possible, taking into account Dr Kristin's severe financial position. Miss Mirchandani submitted that erasure would be excessive and she referred to other cases that had appeared before the College and the sanctions given to provide some form of comparison. She concluded by reminding the committee that this had been a single incident and that Dr Kristin had learned from it.

The Committee's Determination on Sanction - Dr Kristin

23. In reaching its decision on sanction, the Committee took into account the oral evidence of Mr Daniel, together with the other written references and testimonials, including the evidence of Mr Jefferies provided at the fact finding stage of the hearing (and referred to above). The Committee also took into account the submissions made by Miss Mirchandani. The Committee took into account all matters of personal mitigation put forward and all the facts found proved. The Committee also referred to the Guidance issued by the College. The Committee had in mind the fact that the purpose of sanctions was not to punish Dr Kristin, but to protect the welfare of animals, maintain public confidence in the profession and maintain proper standards of conduct, and that any sanction must be proportionate. The Committee accepted the advice of the Legal Assessor.

24. The Committee considered the aggravating factors in this case to be those already referred to above when deciding the question of disgraceful conduct in a professional respect, namely actual injury and, at that time, a lack of insight, together with the following:

- a lack of candour when giving evidence, together with (at that time) a tendency to blame others, rather than taking responsibility for his actions and omissions;
- a recklessness in suggesting a third operation, that could not have been in Marnie's interests, once he suspected bilateral ligation of ureters, rather than making, or offering, a specialist referral.

25. When considering mitigating factors the Committee found the following to be relevant:

- A previous unblemished 19 year career;
- Although there were failures on more than one day, this was a single case, involving a single animal;

- A developing insight as demonstrated in his most recent statement following the Committee's determination on facts and disgraceful conduct in a professional respect;
- No evidence of repetition;
- A long delay awaiting resolution of his case;
- Expressions of remorse;
- Positive testimonials;
- A family bereavement during the course of these proceedings and its impact;
- His financial position.

26. In light of the seriousness of the conduct, the Committee did not consider this was an appropriate case to take no further action or for judgement to be postponed and Miss Mirchandani did not suggest otherwise.

27. The Committee then considered whether to reprimand or warn Dr Kristin about his behaviour. However, the Committee was firmly of the view that such a sanction would not reflect the seriousness of the disgraceful conduct in a professional respect in his case. When considering the welfare and care of Marnie, the Committee determined that Dr Kristin was more culpable than Dr Navarro. He faced more charges and more serious charges. He had failed to recognise that Marnie was seriously ill on 8 August 2016 and had apparently ignored the important information provided to him by Mr Hurt that Marnie had not urinated since the spay operation. Had he listened more carefully, and conducted a full examination, he would have recognised that the hernia was not the only issue of concern and taken a more appropriate course of action that could have saved Marnie's life, or at the least limited her suffering.

28. His actions on the 8 August 2016 were then severely compounded by his behaviour on 9 August 2016. On taking over responsibility for Marnie's care from Dr Navarro, Dr Kristin took the decision to place Marnie on fluids for 24 hours and that she stay in the Practice overnight. He then made no arrangements for her overnight care and just assumed others would look after her. He may have been a locum veterinary surgeon and the Practice might not have been run by the owners as well as it should have been, but that in no way absolved him from his responsibility to arrange proper care for Marnie. His failure to do so meant Marnie was left alone overnight on IV fluids when her body had no means of dealing with those fluids. He then came before his Regulatory body and, as is his right, denied all responsibility for his acts and omissions. However, he also appeared to blame others, thereby demonstrating no insight into his behaviour. In all these circumstances the Committee was of the view that, notwithstanding his recently developing insight, public confidence in the profession, and the College as its regulator, would be undermined if such behaviour were dealt with by either a reprimand or a warning.

29. The Committee then considered whether to suspend Dr Kristin. The College's guidance states that suspension may be appropriate where some or all of the following apply:

(a) the misconduct is serious, but a lesser sanction is inappropriate;

(b) the Respondent veterinary surgeon has insight into the seriousness of the misconduct and there is no significant risk of repeat behaviour;

(c) the Respondent veterinary surgeon is fit to return to practice (after the period of suspension).

30. The Committee considered that all these factors apply in this case. The misconduct is certainly serious as reflected in the Committee's findings on disgraceful conduct in a professional respect. Any lesser sanction would be inappropriate in light of Dr Kristin's inexplicable lack of interest in the fate of Marnie on 9 August 2016, when he left to go home without checking on Marnie, or asking any member of staff how she was, or making any arrangements for her overnight care. This was particularly important since he had made the decision to place Marnie on fluids overnight. Had he done his job properly he would have known Marnie was seriously ill, that she had not urinated since the spay operation four days earlier and that the hernia was not the underlying cause of Marnie's deteriorating health. All this was the case notwithstanding the fact that at that stage he did not suspect bilateral ligation of the ureters had occurred. This apparently incurious and uncaring attitude was at odds with the impression left with other professional colleagues, who have spoken well of him, leaving the Committee to conclude that this was out of character, as suggested by Miss Mirchandani. Given his otherwise blemish-free practice both before and after this incident, the salutary effect these proceedings have had upon him and the reflection and developing insight shown in his most recent statement, the Committee was satisfied that there was not a significant risk of Dr Kristin repeating the failures which brought him before this Committee. The Guidance criteria for a suspension were thereby met.

31. The Committee determined that it was important that a clear message be sent that this sort of behaviour is wholly inappropriate and not to be tolerated. It brings discredit upon the Respondent and discredit upon the profession and most importantly caused harm to Marnie and great distress to her owners.

32. The Committee did consider whether to remove Dr Kristin from the Register. However, in light of the mitigation in this case, the fact that this was a single case in an otherwise unblemished

career, together with the unlikelihood he would repeat his disgraceful conduct, the Committee decided that in all the circumstances to remove him from the Register would be disproportionate.

33. The Committee therefore decided to order that the Registrar suspend Dr Kristin's registration and considered a period of six months would reflect the seriousness of the disgraceful conduct. However, given the personal mitigation in this case, as set out above, the Committee was satisfied that a period of four months was appropriate and proportionate in all the circumstances. It would demonstrate how seriously the Committee considered such behaviour to be, whilst taking into account all the mitigation. It would also ensure the public interest is met.

34. The Order of this Committee is, therefore, that Dr Kristin's registration be suspended for a period of four months.

DISCIPLINARY COMMITTEE
11 DECEMBER 2019