

IN THE MATTER of the Veterinarians Act 2005

BEFORE The Judicial Committee

BETWEEN **THE COMPLAINTS ASSESSMENT
COMMITTEE** of the Veterinary
Council

Complainant

AND **JAMES MASON** of Papakura,
Veterinarian

Respondent

Judicial Committee: **Mr J Morrison (Chairman)**
Dr S Butler
Dr J Hellstrom
Ms P Mudford
Dr S Skipper

Appearances: **Mr M McClelland and**
Ms P Tancock for complainant
Dr Mason in person (with McKenzie friend)

Hearing: **10 and 11 November 2008**

Decision: **9 December 2008**

DECISION OF JUDICIAL COMMITTEE

The Committee

1 The Judicial Committee ("the Committee") appointed pursuant to s83 of the Veterinarians Act 2005 commenced hearing ten charges brought by the Complaints Assessment Committee ("CAC") against James Mason ("Dr Mason") at Auckland on 10 November 2008. The Committee comprised Penny Mudford (a lay person and member of the Veterinary Council) John Hellstrom (a former practising veterinarian) Seton Butler (a practising veterinarian) Stephen Skipper (a former practising veterinarian, replacing Mike Ethig who had been originally appointed but was unavailable) and John Morrison as Chairman (a barrister of not less than seven years practice). No objection was raised to the Committee so comprised.

Procedural Issue

- 2 After introductions and before the CAC commenced its case Dr Mason raised a preliminary, or procedural, issue. In summary it was that all charges should be summarily dismissed for reasons including there was no case to answer, there was no evidence, the Committee was not a Court of law, and it had no jurisdiction.
- 3 The Committee considered it had jurisdiction and ruled that the time for making a no evidence/no case to answer submission was after, and not before, the CAC had presented its case. Counsel for the CAC, Mr McClelland, was invited to open the CAC's case accordingly.
- 4 At that point Dr Mason and a group of supporters withdrew from the hearing amidst a degree of abuse and threats addressed to the Committee and Mr McClelland. Dr Mason was advised that the hearing would continue in his absence which merely served to excite further disparagement addressed to the Committee.
- 5 Thereafter the CAC opened and called evidence. Witnesses were called and sworn (or affirmed in the case of two witnesses giving evidence by telephone link) and were questioned by the Committee.

Charges

- 6 The charges brought against Dr Mason were said to have arisen out of services for the New Zealand Greyhound Racing Association ("NZGRA") as the on-course veterinarian for various greyhound races over a period from in or about November 2003 through to July 2005. In paragraphs 7 to 16 following the charges are recorded as set out in the notice of charge dated 29 May 2008.

7 **Betting on *Fancy Bonnie* (Charge 1)**

On or about 28 July 2005 when the Respondent had duties as the official veterinarian at the race course for a meeting conducted by the Waikato Greyhound Racing Club, he placed bets on *Fancy Bonnie*, a dog racing at that meeting.

- 7.1 Dr Mason's conduct when betting on a dog racing at a race at which he was the on-course veterinarian fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, in particular but not limited to Rules 3.1,

3.3 and 3.7), and the Rules of the Greyhound Racing Association (Rule 3.2).

8 **Betting on *Fancy Joe* (Charge 2)**

On or about 28 July 2005 when the Respondent had duties as the official veterinarian at the race course for a meeting conducted by the Waikato Greyhound Racing Club, he placed bets on *Fancy Joe*, a dog racing at that meeting.

8.1 Dr Mason's conduct when betting on a dog racing at a race at which he was the on-course veterinarian fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, in particular Rules 3.1, 3.3 and 3.7), and the Rules of the Greyhound Racing Association (Rule 3.2).

9 **Betting on *Lesson in Life* (Charge 3)**

On or about 1 July 2005, when the Respondent had duties as the official veterinarian at the race course for a meeting conducted by the Auckland Greyhound Racing Club, the Respondent caused to be placed a bet on the Greyhound *Lesson in Life*, a dog racing at that meeting, by asking Mr O'Regan to place the bet on his behalf.

9.1 Dr Mason's conduct when having a financial interest in the outcome of a race at which he was the on-course veterinarian fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, in particular but not limited to Rules 3.1, 3.3 and 3.7), and the Rules of the Greyhound Racing Association (Rule 3.2).

10 **Betting on *Davron Lass* (Charge 4)**

On or about 5 July 2005, when the Respondent had duties as the official veterinarian at the race course for a meeting conducted by the Auckland Greyhound Racing Club, the Respondent caused to be placed a bet on the Greyhound *Davron Lass*, a dog racing at that meeting, by asking Mr O'Regan to place the bet on his behalf.

10.1 Dr Mason's conduct, when having a financial interest in the outcome of a race at which he was the on-course veterinarian, fell below the standards of

a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, in particular but not limited to Rules 3.3 and 3.7), and the Rules of the Greyhound Racing Association (Rule 3.2).

11 Duty to have Appropriate Systems (Charge 5)

- 11.1 At all material times, from 2003 to 2005 the Respondent was a designated on-course veterinarian for the Greyhound Racing Association at various races.
- 11.2 At all material times, the Respondent was aware or ought to have been aware of the importance of ensuring that there were adequate systems in place to ensure the veracity of any samples taken and to ensure that they were kept secure.
- 11.3 The Respondent failed to have adequate systems to:
 - 11.3.1 minimise the risk of loss, destruction or contamination of the samples; and/or
 - 11.3.2 minimise any potential for a lack of confidence and trust as to the legitimacy of samples; and/or
 - 11.3.3 minimise the risk of a lack of confidence in the reliability of results on samples taken; and/or
 - 11.3.4 minimise the risk that other persons could access, contaminate, or destroy samples; and/or
 - 11.3.5 minimise the risk of all samples not being accounted for at the time of placing them in the courier bag; and/or
 - 11.3.6 ensure there were appropriate checks in the system to avoid the loss of any sample; and/or
 - 11.3.7 ensure that any conflicts of interest were disclosed and dealt with appropriately; and/or
 - 11.3.8 ensure the retention of the trust and confidence of the public in the accuracy of drug testing; and/or

11.4 Dr Mason's conduct when carrying out duties the on-course veterinarian fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, in particular but not limited to Rules 3.3 and 3.7).

12 **Failing to ensure that *Basil Faulty's* urine sample kept secure (Charge 6)**

At all material times, the Respondent was the designated on course veterinarian for the Greyhound Racing Association for its Waikato meeting on or about 26 November 2004

12.1 As part of his duties, the Respondent was responsible for the examination of greyhounds and the collection of urine from specified greyhounds for the purpose of carrying out drug tests.

12.2 At all material times, the Respondent was aware or ought to have been aware of the importance of carrying out his duties competently by ensuring that there were adequate systems in place to ensure the veracity of any samples taken and to ensure that they were kept secure.

12.3 At the meeting the respondent took a urine sample from the dog *Basil Faulty* which was subsequently lost, misplaced or deliberately removed.

12.4 That inability to have the urine tested was caused or substantially contributed to by the Respondent's failure to:

12.4.1 properly secure the sample; and/or

12.4.2 ensure there was proof delivery of the post-racing drug sample of *Basil Faulty*, a dog racing at that meeting; and/or

12.4.3 have appropriate systems in place to ensure the sample was properly managed.

12.5 The Respondent's conduct when taking and processing the urine sample for *Basil Faulty* fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, and in particular but not limited to Rules 3.3 and 3.7).

13 Failure to Properly Secure and Deliver Post-Race Drug Testing Urine Samples of *Fancy Joe* (Charge 7)

- 13.1 On or about 28 July 2005, the Respondent was the designated on-course veterinarian for the Greyhound Racing Association for a race meeting conducted by the Waikato Greyhound Racing Club in which the dog *Fancy Joe* was racing.
- 13.2 As part of his duties, the Respondent was responsible for the examination of greyhounds and the collection of urine from specified greyhounds for the purpose of carrying out drug tests.
- 13.3 At all material times, the Respondent was aware, or ought to have been aware, of the importance of carrying out his duties competently by ensuring that there were adequate systems in place to ensure the veracity of any samples taken and to ensure that they were kept secure.
- 13.4 The respondent took a urine sample from the dog *Fancy Joe* which was subsequently lost, misplaced or deliberately removed.,
- 13.5 That inability to have the urine tested was caused or substantially contributed to by the Respondent's failure:
- 13.5.1 to properly secure the sample; and/or
 - 13.5.2 to ensure there was proof delivery of the post-racing drug sample of *Fancy Joe*, a dog racing at that meeting; and/or
 - 13.5.3 to have appropriate systems in place to ensure the sample was properly managed; and/or
 - 13.5.4 to properly secure and ensure proof of delivery of the post-racing drug sample of *Fancy Joe*, a dog racing at that meeting.
- 13.6 Dr Mason's conduct when taking and processing the urine sample for *Fancy Joe* fell below the standards of a veterinarian, breached the Code of Professional Conduct for Veterinarians 2005 (guiding principles and ethical principles, and in particular but not limited to Rules 3.3 and 3.7).

14 Providing Medicine (Charge 8)

- 14.1 At all material times, the Respondent was the veterinarian for Mr Ronald O'Regan.
- 14.2 Mr O'Regan was the trainer of dogs, including *Fancy Bonnie* and *Fancy Joe*.
- 14.3 As part of his role in providing services as a veterinarian to Mr O'Regan, the Respondent provided treatment and medicine as defined in the Code of Professional Conduct for Veterinarians.
- 14.4 On or about 26 November 2004, the Respondent had official duties for the Greyhound Racing Association, being the race day veterinarian for the Waikato Greyhound Racing Club.
- 14.5 On or about 26 November 2004, the Respondent took a urine sample from *Fancy Joe*.
- 14.6 At no time prior to or on the 26 of November 2004 did the Respondent declare or in any other way officially inform the Association of his relationship with Mr O'Regan.
- 14.7 The Respondent's conduct fell below the standards of a veterinarian and/or breached the Code of Professional Conduct for Veterinarians, in particular but not limited to Rules 3.7, 3.3(ii), (vi), (viii), and the general principles set out in the introduction to the Rules:

15 Signing of a certificate which the Respondent knew or ought to have known was untrue, misleading and/or inaccurate (Charge 9)

- 15.1 That on or about 18 November 2003, the Respondent was the designated on-course veterinarian for the Greyhound Racing Association for a race meeting conducted by the Waikato Greyhound Racing Club in which *Bonnie Token* was supposed to race.
- 15.2 In circumstances where the Respondent did not see or examine the dog, he signed a certificate stating:

“Bonnie Token - Discussed and Examined off course. This animal has a cystitis and probable Water Diabetes. Treated for cystitis S/d 10 days”

15.3 The Respondent’s conduct fell below the standards of a veterinarian and breached the Veterinarians Code of Professional Conduct 2003, in particular but not limited to Rule 2.1.

16 Supplying of Unlabelled Medicine (Charge 10)

16.1 On or about 28 July 2005, the Respondent supplied unidentified and unlabelled medicine to Mr O’Regan for administration to his dogs *Fancy Bonnie* and *Fancy Joe*. The medicine was supplied immediately before or during a greyhound race in which both dogs were racing.

16.2 The Respondent’s conduct fellow below the standards of a veterinarian and breached the Veterinarians Code of Professional Conduct in that:

16.2.1 he failed to avoid any act which had the potential to unfairly influence an animal’s performance;

16.2.2 he supplied the medication in circumstances where he had a financial interest in the outcome of the race, having placed a bet;

16.2.3 he failed to maintain adequate records of treatments carried out as required by Rule 3.2 of the Veterinarians Code of Professional Conduct.

16.3

Applicable Principles

17 The Notice of Charge alleged, and the Committee based on its own knowledge accepts, that the principles set out in paragraphs 18 to 20 following are relevant to those charges.

18 At all material times, the definition of professional misconduct in the 2003, 2004 and 2005 issues of the Veterinarians Code of Professional Conduct was:

“Professional misconduct: In general misconduct can be defined as non-compliance with this Code. It is conduct which fails to reach, by a substantial

degree, the prevailing standard of professional conduct maintained within the profession and expected of a member of the profession of good repute and competency.

- 19 In the 2003, 2004 and 2005 issues of the Veterinarians Code of Professional Conduct, the introduction stated:

“Veterinarians are expected to display high standards of expertise, performance, integrity and accountability in the course of their professional activities.

Registration as a veterinarian conveys privileges but those privileges will only last as long as the exercise of responsibilities is carried out with due diligence. Any loss of public confidence could result in removal of the profession’s rights and privileges.

Those persons registered by the Veterinary Council of New Zealand are expected to abide by the following primary tenets expounded in this Code: ...

- *To practice their profession conscientiously and follow the principles of veterinary ethics ...”*

“The guiding principles of professional conduct are:

...

- (iii) Veterinarians must conduct themselves in a manner that will maintain or enhance the reputation of the profession. ...”*

- 20 Each of the Veterinarians Code of Professional Conduct also provided:

“2.1 General ...

- (i) It is unacceptable for a veterinarian to sign a certificate which he/she knows or should have known is untrue, misleading, or inaccurate. ...*
- (iii) The certifying veterinarian must familiarise him/herself with the form of the certificate and any accompanying instructions, guidelines etc. and consider carefully all the implications of issuing it in the circumstances of each case.*

- (iv) *The certifying veterinarian must only attest to matters which:*
- a) *are within his/her current knowledge; or*
 - b) *can readily be ascertained personally; or ...*

2.8 Notifications and forms

Veterinarians are sometimes called upon to sign notifications, affidavits, forms, reports, returns, and other documents with veterinary implications which, after signing, become legal and/or statutory documents. In completing and signing such documents veterinarians must apply the principles of certification described above.

3.1 General

... The perception that members of the public have about the veterinary profession are influenced by impressions made during both professional and social contacts between them and members of the profession.

Veterinarians should endeavour to avoid behaviour which may adversely affect public confidence in the profession.”

3.3 Statutory Functions ...

The professional principles applying to work of this nature are:

- (i) *The veterinarian should seek from those in authority a full exposition of the statutory requirements he/she is expected to administer and the duties to be performed. Preferably, the veterinarian should ensure he/she has access to the relevant legislation and any associated instructions and requirements.*
- (ii) *The veterinarian must administer the statutory requirements in a manner which is demonstrably competent, complete, correct, fair, and impartial. ...*

- (iv) *The veterinarian should ensure that he/she knows who else is appointed, accredited or delegated to carry out similar statutory functions which may overlap. ...*
- (vi) *The veterinarian should endeavour to free him/herself from any commercial, financial, relationship, or other pressure that may affect his/her professional judgment in exercising the statutory function.*
- (vii) *Other than his/her entitled payment for statutory service, the veterinarian must not receive financial advantage in any form from persons subject to the statutory function; or hold financial interest in an enterprise which is the subject of those functions; or be perceived as being exceptionally well-treated by it.*
- (viii) *Where a veterinarian is asked to perform statutory functions in relation to a person who is also his/her clients in another veterinary capacity (e.g. clinical practice) he/she must declare that a conflict of interests exists but, having done so, this should not preclude the veterinarian from providing the statutory service, he/she must ensure that the principles of the provision of that service are strictly adhered to.*

3.7 Official duties

For the purpose of this Code, veterinarians officiating in their professional capacity at animal-based events such as races, shows, ... and the like, whether for fee or not, are considered to be engaged in 'official duties'.

A veterinarian with any involvement in animal [races] must: ...

- (ii) *avoid any act which unfairly influences any animal's performance;*
- (iii) *behave in accordance with the principles and rules of the competition and its organisers.*

The principles which apply to statutory functions apply equally to official duties ...

Before embarking on official duties, the veterinarian should ensure he/she has a full knowledge of the expected duties and associated rules, and possesses any special competency and equipment that the duties entail.”

- 21 In addition evidence was adduced that at all material times the relevant rules of the NZGRA set out required standards of conduct which included, at Rule 3.2:

“Persons not bet:

- (a) *No official listed in paragraph (b) of this rule, and no veterinary surgeons, on whom it is imposed by these rules, or the Greyhound Racing Rules, any function or duty in conjunction with the conduct or control of a race at a greyhound race meeting, shall bet or be interested in any wager or bet on any race at that greyhound race meeting.”*

Professional Misconduct

- 22 When considering allegations of professional misconduct the Committee undertakes a two step analysis. The first is to inquire whether, viewed objectively, the Committee is satisfied the veterinarian has committed an act or made omissions (which may include an unethical act or omission) in the discharge of professional responsibilities. If that is answered in the affirmative, then the second inquiry is whether the Committee is satisfied that the acts or omissions require a disciplinary sanction.
- 23 The second inquiry acknowledges the well established principle in professional disciplinary case law that not all acts or omissions which constitute a failure to adhere to the standards expected of the professional necessarily constitutes professional misconduct. Incidents of mere oversight may meet the first limb of the test of professional misconduct but need not necessarily result in a finding of professional misconduct unless the Committee is satisfied the established acts/omissions require a disciplinary finding.
- 24 Those matters of inquiry are to be based on the evidence adduced to the Committee. Lack of evidence, or sufficiently probative evidence, dictate that four charges could not be established.

Charges Not Established

25 Charges 3, 4, 8 and 10 relied on evidence to be called from Ronald O'Regan to whom a witness summons had been addressed pursuant to s48 of the Veterinarians Act 2005 and s4(d) of the Commissions of Inquiry Act 1908. The Committee was informed that Mr O'Regan had been served but that he had advised refusal to attend. That refusal may result in further process but is put to one side for the present.

26 It seems that Dr Mason knew Mr O'Regan was unlikely to appear because by memorandum of 7 November 2008 he gave:

"... notice to the Judicial Committee and Complaints Assessment Committee of the Veterinarian Council of New Zealand that the presence of Ron O'Regan at the hearing is required because I have a right to confront and cross examine my accuser. If Mr O'Regan fails to appear we will be demanding charges 3, 4, 8 and 10 be struck out. We note that Mr O'Regan has not prepared a brief of evidence".

Indeed Dr Mason's no evidence/no case to answer submission at the commencement of the hearing anticipated that Mr O'Regan would not appear.

27 In lieu of evidence from Mr O'Regan the CAC sought to rely on a statement he had prepared for a hearing of the Appeal Authority constituted according to the Rules of the NZGRA on 18 and 19 October 2006, the transcript of Mr O'Regan's evidence and (to a lesser extent) the decision of the Appeal Authority which had preferred Mr O'Regan's evidence before it to contradictory evidence given by Dr Mason and cross examination.

28 Without ruling on the admissibility or probative value of the evidence sought to be adduced in that way, the Committee requested and was provided with a transcript of Dr Mason's evidence to the Appeal Authority. That reinforced the impression gained from the recorded cross examination of Mr O'Regan that Dr Mason considered Mr O'Regan was motivated by ill-will and out to get him. The subsequent decision of the Appeal Authority summarises the personal attack on Mr O'Regan which is reasonably apparent from the transcript.

29 Whether or not the evidence to the Appeal Authority was given on oath, which the Committee considers was unlikely, a bare reading of the transcript simply establishes conflict between the evidence given to the Appeal Authority by Mr

O'Regan and the evidence given by Dr Mason as it would pertain to charges 3, 4, 8 and 10. The Committee is quite unable to resolve that conflict in the absence of hearing the evidence itself and forming its own view on the credibility of the witnesses. Certainly the Committee does not consider it can simply adopt the Appeal Authority's preference for Mr O'Regan's evidence and it was not urged to do so.

- 30 Somewhat reluctantly, because of its consequence as anticipated by Dr Mason's memorandum and submission, the Committee disregards Mr O'Regan's statement and the transcript relied on by the CAC. Accordingly there was no or insufficient evidence to support charges 3, 4, 8 and 10.
- 31 Also not established was Charge 5. On the Committee's analysis that charge alleged little more than generalised duties rather than particular breaches. Indeed the particular breaches appeared to form the substance of charges 6 and 7. Accordingly Charge 5 was either insufficiently particularised or a duplication of charges 6 and/or 7.

Charge 9: Signing of a Certificate which the respondent knew or ought to have known was untrue, misleading and/or inaccurate.

- 32 Charge 9 is the first in time of the charges established against Dr Mason. It refers to an occasion on 18 November 2003 when Dr Mason issued a scratching certificate for a dog called "*Bonnie Token*" trained by a Mrs Farmer. Although the certificate was not available the terms of it were recorded in a report from then Stipendiary Steward, Geoff Downey, of 27 November 2003:

"Bonnie Token – discussed and examined off course. This animal has a cystitis and probable water diabetes. Treated for cystitis. S/D 10 days".

- 33 Mr Downey was called and gave evidence confirming that and other matters set out in his report together with his notes of an interview with Dr Mason. Mrs Farmer was a client of Dr Mason's. On 17 November 2003 she had contacted him about the condition of *Bonnie Token* which had been accepted for a race at the Auckland Greyhound Racing Club meeting the following day. Dr Mason advised her he would supply her with a course of antibiotics and would issue a certificate to facilitate its withdrawal from the race, which he duly did.

- 34 The matter had been promptly investigated by the Stipendiary Steward and although he recommended a charge be brought against Dr Mason under the NZGRA Rules, in the event he was given a written warning.
- 35 From the perspective of the Veterinarians Code of Professional Conduct, particularly 2.1(i) and 2.8 quoted above, certification that a dog had been examined when it had not been was a clear breach of the required standard of conduct.

Charge 6: Failing to ensure *Basil Faulty's* urine sample kept secure

- 36 The evidence established that Dr Mason was the designated on-course veterinarian at the NZGRA's Waikato meeting on 26 November 2004. A post-race swab was taken from *Basil Faulty* and, in accordance with the procedure then in place, given to Dr Mason for dividing into three parts (samples) and held in the swab clinic to be collected with other samples and placed into a courier bag for delivery to a laboratory for testing. Later it was discovered that *Basil Faulty's* sample had not been received by the laboratory.
- 37 The procedure had its flaws but on the uncontested evidence before it the Committee was satisfied that Dr Mason had responsibility for ensuring that the samples obtained during the course of the meeting were kept secure and that, at the end of the meeting, responsibility for ensuring that they went into the sealed courier bag. That was a responsibility arising out of his duties as on-course veterinarian and was also a matter of professional responsibility carrying out those duties: see Code of Professional Conduct, Rules 3.3 and 3.7 . The Committee was also satisfied on that evidence that it was unlikely *Basil Faulty's* sample, once put into the courier bag, would fail to reach the laboratory or go missing at the laboratory.
- 38 It follows the Committee was satisfied that *Basil Faulty's* sample went missing during the time Dr Mason had responsibility for it. Apparently this was the first time that such a sample had gone missing while in a veterinarian's care. The Committee notes that the NZGRA, which carried out an investigation on learning of the missing sample, used that information to improve its procedures rather than point a finger of blame. Nevertheless, from a veterinarian's perspective, maintaining the safety and integrity of samples taken from animals – whether in the context of racing or as part of diagnosis for treatment – goes to the very core of a veterinarian's professional competence.

Charges 1, 2 and 7: Betting on *Fancy Bonnie*, Betting on *Fancy Joe*, and failure to properly secure and deliver post-race drug testing urine samples of *Fancy Joe*.

- 39 These three charges arise out of events on 28 July 2005 when Dr Mason was the on-course veterinarian at the Cambridge meeting of the NZGRA. *Fancy Bonnie* and *Fancy Joe*, raced by Mr O'Regan who was then a client of Dr Mason's, were to race that day.
- 40 Dr Mason was apparently under suspicion of betting on dogs contrary to NZGRA's Rule 3.2, and was being watched. TAB records showed that, during the course of the day, a fixed odds bet was placed on *Fancy Bonnie* for \$500 to win \$3,250 and a tote bet was placed on *Fancy Joe* of \$150 to win, those bets being placed at the Cambridge TAB. Other TAB records, in the form of video from a surveillance camera at the Cambridge TAB and photographs from that video, established that the person who had placed those bets was Dr Mason. There could be no real doubt about that and Dr Mason is on record as having admitted having placed the bets albeit variously explaining his actions on the basis that he was not an official because he did not have a contract and/or that he was placing the bets on behalf of someone else.
- 41 On the evidence as it stands the Committee is satisfied Dr Mason was an official on the day, being clearly identified in the relevant "officials list", and that there are inconsistencies in such evidence as was available through documents making it unlikely that the bets had been placed on behalf of someone else. His actions in the particulars alleged in Charges 1 and 2 were a clear breach of the Veterinarian's Code of Professional Conduct at 3.7 "Official Duties" which also incorporates the duties under Rule 3.3.
- 42 In relation to Charge 7, after *Fancy Joe* had run and won his race a swab was taken from him. As in relation to the November 2004 incident involving *Basil Faulty* (Charge 9) Dr Mason was responsible for dividing the swab into three samples and securing them for delivery to the laboratory. *Fancy Joe's* sample failed to arrive.
- 43 The CAC's evidence relating to *Fancy Joe's* sample was particularly careful in explaining NZGRA's new procedures which provided for early identification and notification of a missing sample, and protected against human error in that regard. Having been taken through that procedure, and having heard evidence from relevant witnesses for each step along the way, the Committee was satisfied that Dr Mason failed to put *Fancy Joe's* sample in the courier pack and otherwise dealt