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December 22, 2000

George G. Hearn, Esq.
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Post Office Box 1776
Raleigh, North Carolina 27602

Re: File No. 00006-1-1
North Carolina Veterinary
Medical Board
Our File No. 15096.001

Dear Mr. Hearn:

In connection with the above-styled matter, we wanted to inform you of a recent development concerning the audio tapes that were submitted with the complaint in the above-styled matter.

On February 4, 2000, the Deases submitted copies of audiotapes which were termed Tapes Nos. 1-5 along with the complaint filed in the above-styled matter. The Deases retained the original tapes and submitted copies thereof to the North Carolina Veterinary Medical Board ("Board"). The Board retained a legal stenographer to transcribe the tapes, but we are informed that the Board has not yet released copies of the transcripts to the Deases. Tape No. 6 was submitted to the Board on April 4, 2000. In addition, Tapes Nos. 7-12 were referenced in a letter dated October 30, 2000, letter from the Deases to the Board. These tapes are available for review and transcription by the Board. To date Tapes Nos. 7-12 have not been submitted to the Board because the Deases were not allowed to appear at the November 1 meeting of the Committee on Investigations No. 1 and thereafter have not been permitted to

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submit any further information. The Deases retain all original tapes.

An apparent problem with respect to the copy of Tape No. 3 submitted to the Board has arisen. Tape No. 3 is a telephone conversation on January 12, 2000, between Dr. Monce and Ms. Nancy Deas. On December 13, 2000, at the request of the Deases, Mr. Mickey provided the Deases with a copy of Tape No. 3. This was supposed to have been a copy of the Tape No. 3 submitted with the complaint.

It is now apparent that the original Tape No. 3 currently in the possession of the Deases and the copy of the Tape No. 3 provided to the Deases on December 13, 2000, by the Board itself are not the same.

Approximately 4.5 minutes of conversation from the first side of the original Tape No. 3 is missing from the December 13 copy. The issues discussed on the missing minutes from the tape are (1) Nancy Deas' request for euthanasia at the end of the ultrasound, and (2) Dr. Monce's statement that Dr. Feimster was wrong when Dr. Feimster told the Deases that Alex was in renal failure and that the Deases had made an irreversible mistake by euthanizing Alex.

Thus, the copy of Tape No. 3 submitted with the complaint appears to have been altered while in the possession of the Board.

One may reasonably ask how the Deases know this. The first side of original Tape No. 3 is 23 minutes long, as is the December 13 copy. The Deases considered whether Tape No. 3 may have been submitted incompletely at the time it was submitted with the complaint. However, the Deases played both the original and the December 13 copy simultaneously on two different tape recorders. The December 13 copy is recorded at a slower speed which explains how it is 23 minutes long yet still misses 4.5 minutes of conversation. Also, there is an audible click on the December 13 copy at the end of side 1. This click is probably from the recorder stopping at the end of side 1. This is where the missing 4.5 minutes would have been. The audible click heard on the December 13 copy is not present on the original.

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It is our understanding that the copy of Tape No. 3 that was submitted with the complaint in the above-styled matter has at all times thereafter been in the possession or control of the Board. Apparently, someone took the copy of Tape No. 3 that was submitted with the complaint, copied the copy to a second tape, albeit at a slower speed, with the 4.5 minutes of conversation omitted from side 1 of the second tape. The click on the December 13 copy is probably the recorder stopping at the end of side 1 from the recording of the second copy. The second copy was then inserted in the Board's files in place of the copy of Tape No. 3 that the Deases submitted with the complaint. This second copy was then copied and the third copy delivered to the Deases.

The Deases do not know why or how an imperfect copy of Tape No. 3 was made or how it came to be included in the Board's file as purporting to be that which was submitted with the complaint as being Tape No. 3. More troubling, it is apparent that the substitution has been made while the tapes were in the possession of the Board. We can only speculate as to who would have had the time, inclination and access to the files of the Board and therefore would have had the opportunity to make the copy of the Tape No. 3.

If the integrity of the Board's file has been compromised, we assume that the Board would be concerned.

Of course, there may be other explanations for how the altered tape came to be in existence. However, the Deases are at a loss to provide an explanation other than that set forth herein.

We have enclosed a copy of an unofficial transcript of both the missing text of what should have been in the December 13 copy, as well as a complete unofficial transcript of Tape No. 3 taken from the original.

If the Board has another explanation for this apparent alteration of Tape No. 3, we would be pleased to hear it.

In view of the foregoing, we are currently requesting the following from the Board:

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1. Copies of transcripts of Tapes Nos. 1-5 submitted with the complaint and a transcript of Tape No. 6, if available.
2. If the Board determines that the transcripts should not be made available for whatever reason, then we request copies of all 6 submitted tapes. The Deases will then run appropriate tests of all 6 tapes to compare them for authenticity to the originals, which are still in their possession.
3. We respectfully request that this letter be included in the record of the materials to be reviewed by Committee No. 1 on Investigations with respect to the foregoing matter.
4. We request permission to resubmit a correct copy of Tape No. 3 in its entirety, as copied from the original tape currently in the Deas' possession.

We would be pleased to send a runner over to the Board's office to pick up the transcripts or tapes.

Of course, there is some degree of urgency to this, due to the January 9 meeting. We have previously requested a short postponement of the January 9 meeting, but we have not yet been advised of the Board's decision in this respect.

Thank you for your courtesy. If you have any questions, please do not hesitate to call.

Very truly yours,



Steven D. Simpson

Enclosures

cc: Ms. Nancy G. Deas (with enclosures)

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Unofficial Transcript
Missing Text on Copy of Tape 3 Obtained from NCVMB on 12/13/00

Taped telephone conversation January 12, 2000. Kevin Monce returns Nancy Deas' call.

NGD = Nancy Deas

KAM = Kevin Monce

NGD When Jones and I spoke. That was the first thing he ever brought up to me.

KAM Was?

NGD That we should not have euthanized our pet. I will not accept that guilt trip.

KAM Oh, no. I'm not not putting a guilt trip on you. You, you make me, no, no, understand where I come from. I am, there and I'm I'm not putting that on you. Ah you mentioned something to me about euthanasia. You asked honestly. And I said no

NGD Oh, I talking about over at the emergency clinic.

KAM No, no. Let's let's take it one step at a time. OK. When you asked me and you said do you think this is justified, that to me means that you're thinking about it. It's a difficult thing to think about. And owners vacillate.

NGD I know it was justified. Medically. I'm saying that it has already once tried by Dr. Jones to

KAM I'm do

NGD Make us feel

KAM Miss Deas, please

NGD Guilty

KAM Please, you're being defensive. And

NGD Yes I am. And I brought that up at the start that this was going to be difficult

KAM OK

NGD And you had to be aware that

KAM OK

NGD there were some problems.

KAM You can't be that way. You have to be objective. Or you are wasting your time and my time.

NGD OK

KAM I

NGD That's fair.

KAM I am not going, I'm not going to play games. I'm not going to put guilt trips on you. There's not guilt trip to be put on you. If you understood that your dog was in renal failure

NGD I was definitely proved that fact

KAM What was the creatinine? No, that was absolutely not definitely proved. There is no urinalysis (?).

NGD As far as I was told there including your dog is in terminal renal failure. The point blank question was, "How do you know?" I accepted and Edna accepted the answer given us.

KAM Well, ok. You want to know my concern. You said am I holding anything back. Here's what I'm holding back. That was wrong.

NGD Well, then, someone was terribly wrong. Because we point blank asked, how do you know. We were given an explanation

KAM This is a general veterinarian that you were talking with?

NGD Why weren't we at State? Why weren't we there noon on Monday?

KAM I don't know.

NGD I don't either. We did have an emergency that did not evolve that time of night.

KAM No, I don't I don't think so. When you called me at eleven I didn't consider it to be an emergency at that stage. Ah, no um

NGD Well you didn't have the opportunity to see or examine the dog.

KAM Right

NGD Dr. Jones did.

KAM Well, (long pause) I really and and again. Here's a guilt trip. Ah this is ah this is a guilt trip that I'm going to give you. Now

NGD OK, do it.

KAM I, I wish you could have called me at four in the morning before you made your decision. I would have I, I was not upset to be called at eleven. I wasn't upset to be called at midnight. We go back a long way.

NGD Right

KAM And I wasn't upset to be be called by Alan at two in the morning or whenever it was that he called me.

NGD Right

KAM I gave him recommendations and told him this is what you need to do based on the information that we've got.

NGD And as far as I know, he did.

KAM Right

NGD I don't know exactly what you did tell him

KAM Right, right. Yeah, and that's fine. But the thing is when you get to the point of making this irreversible decision why couldn't I have been called one more time. Alex is a complicated case and his assessment of this case. A general veterinarian cannot assess, can't take a case like this and make an accurate assessment.

NGD OK

KAM They just can't do it. It's not fair. Uh, it wouldn't be fair for you to get um an internal resident that doesn't understand what's been going on with this guy. They, they could, they could. Actually a resident probably could help. And would be, I mean, basically they don't give up. They're not they not going to say, they're not going to make that kind of a decision without information. But the definition of renal failure

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January 6, 2001

Steve D. Simpson, Esq.
4601 Six Forks Road, Suite 530
Raleigh, NC 27609

Re: Your letter of December 22, 2000

Dear Steve,

First, let me say that I am incensed, outraged and livid to the point of spitting nails. How unprofessional to attack my personal integrity? I expected better. At anytime you could have picked up the telephone and said, "Tom, we have a question about the tape". There is nothing more to say.

Regarding the tapes. You now have in your possession the exact tapes that were given to the Board by Nancy and Edna. You may do with them what you wish. As for the transcripts of the tapes, seeing as they are now in your possession, I am sure that you and your clients will have no trouble finding evidence that these have been altered while in the possession of the Board as well.

Concerning the meeting with Committee Number 1 on Tuesday, January 9, 2001 at 2:30 p.m., it will be in the main conference room of the Methodist building, which is located at 1307 Glenwood Ave. Committee Number 1 is not going to record the meeting.

Final subject. All further written or verbal communications with the North Carolina Veterinary Medical Board from Nancy or Edna Deas should be through your office only. They should make no attempt to contact the Board office, its staff, Members of the Board or the Board's attorney. Any such attempt at communication will be directed back to your office. Should they 'drop-in' to the Board office they will be asked to leave.

Very truly yours,

A handwritten signature in cursive script that reads "Thomas M. Mickey".

Thomas M. Mickey
Executive Director

CC: Board Members & George G. Hearn, Esq.