

**IN THE CIRCUIT COURT OF CLINTON COUNTY
STATE OF MISSOURI**

MISSOURI VETERINARY MEDICAL BOARD)
3605 Missouri Boulevard)
P.O. Box 1335)
Jefferson City, MO 65102)

Petitioner,)

vs.)

BROOKE RENE GRAY)
6227 SE Perren Road)
Holt, Missouri 64048)

Case No. 10CN-CV00842

and)

B & B EQUINE DENTISTRY)
6227 SE Perren Road)
Holt, Missouri 64048)

Defendants.)

DEFENDANT’S RESPONSE TO PETITIONER’S MOTION IN LIMINE

Defendants, Brooke Rene Gray and B &B Equine Dentistry, respond to the
Petitioner’s Motion in Limine as follows:

1. Admitted.
2. Admitted that Petitioner alleges that Defendants have committed the crime of
engaging in the unlicensed practice of veterinary medicine and that they are
seeking one of the remedies authorized under sections 340.200 to 340.330, RSMo.
3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted.
7. Admitted.
8. No admission or denial necessary.
9. No admission or denial necessary.
10. No admission or denial necessary.
11. Admitted.
12. Admitted that the Petition requests injunctive relief; Defendants deny the implication that the injunction sought is an exercise of the court's equitable power and they deny that they have no right to a jury trial.

**DEFENDANTS' SUGGESTIONS IN OPPOSITION TO PETITIONER'S
MOTION IN LIMINE**

In opposition to the Petitioner's Motion in Limine, Defendants offer the following Suggestions.

I. INTRODUCTION

Petitioner's Motion in Limine seeks determination of two basic issues: (1) should Defendants be permitted to present a thorough defense at trial, even though they have invoked their Fifth Amendment privilege against revealing potentially incriminatory information; and (2) are defendants entitled to have a jury determine the facts to which the Court will apply the law in this case? The answer to both questions is "Yes."

The Petitioner's Motion neglected to include some context essential to the Court's consideration of these questions. Defendant Gray stands accused of violating a criminal law even though she has not injured any person or animal. She has been dragged before

this Court for no reason other than that one veterinarian filed a complaint against her. As a result of that one veterinarian's complaint the Board engaged in a years-long investigation utilizing multiple private investigators and obtaining scores of documents by subpoena. Petitioner first threatened criminal prosecution,¹ then targeted the Defendants with this attempt to enforce the criminal laws via a civil petition for injunctive relief.² While Defendant Gray feels she has nothing to hide, Defendants have declined to answer most of the Petitioner's discovery requests because Missouri law states that in a civil case, a party's response to *any* substantive questions could result in a waiver of their Fifth Amendment privilege. *State ex rel. Pulliam v. Swink*, 514 S.W.2d 559, 560 (Mo. banc 1974).

Petitioner's allegation that Defendants have engaged in criminal activity raises a second issue that this Court must address. Despite the obvious criminal implications of Petitioner's accusations, Petitioner claims that its case must be considered an action in *equity* because it has requested an injunction. For *seventy years* Missouri courts have been clear that "[o]rdinarily a court of equity has no authority to enjoin the commission of a crime." *Clark v. Crown Drug Co.*, 152 S.W.2d 145, 146 (Mo. 1941); *see also Kinder v. Nixon*, WD 56802, 2000 WL 684860 (Mo. Ct. App. May 30, 2000) (unreported) ("a court of equity will generally not permit itself to be used as a medium for the enforcement of criminal laws or quasi-criminal ordinances"). The exception to this general rule is that courts are permitted to exercise their equitable authority where a

¹ (See MVMB October 15, 2007, Cease and Desist Ltr. to Brooke Gray, Ex. A.)

² As the Court will see from the Suggestions in Support of Defendants' Motion for Summary Judgment, Petitioner has not properly invoked the authority of section 340.276.2 because it has initiated this action in lieu of an action seeking to enforce the criminal penalties provided for by section 340.294.

plaintiff demonstrates that an allegedly criminal act threatens injury to its property rights or otherwise constitutes a public nuisance. *Missouri Veterinary Medical Ass'n v. Glisan*, 230 S.W.2d 169, 171 (Mo. App. 1950).

In this case the Petitioner has not asserted any threat to its property rights, nor has it suggested that the Defendants' alleged actions constitute a public nuisance.³ (Petr.'s Resp. to Defs. First Set of Interrogs. ¶ 14, Ex. B.) Instead, Petitioner bases its request for an injunction solely on the allegation that Defendants have practiced veterinary medicine without obtaining a license and the fact that, under specified circumstances not present in this case, section 340.276.1 gives the Board standing to seek an injunction.

Petitioner's position makes clear that this is not truly a suit in equity;⁴ it is a criminal prosecution masquerading as a civil petition for injunctive relief. Missouri law disfavors "equitable" actions intended to prevent illegal activity precisely because they "deprive [a defendant] of the protection afforded by criminal law and procedure." *Glisan*, 230 S.W.2d at 171 (declining to issue injunction based on veterinary practice act where petitioner failed to demonstrate injury to property rights or public nuisance). Indeed, Petitioner's approach to this case has created the very injustice anticipated in *Glisan*.

Petitioner is accusing Defendants of engaging in criminal activity, yet it would have the

³ Absent any evidence that animals are being improperly treated, the unlicensed practice of veterinary medicine "is not of itself a public nuisance." *Glisan*, 230 S.W.2d at 172. Even a statutory declaration that "[t]he unauthorized or illegal practice of veterinary medicine is hereby declared to be inimical to the general welfare of the people of this state and to constitute a public nuisance" did not permit a group of licensed veterinarians to seek equitable relief on the theory that such unlicensed practice was a public nuisance. *Parvey v. Humane Society of Mo.*, 343 S.W.2d 678 (Mo. App. 1961). If the legislature had the power to make the practice of veterinary medicine a public nuisance for general equitable purposes, the Court of Appeals would have let the *Parvey* plaintiffs proceed.

⁴ Petitioner argues that the "equitable relief" it has requested does not require the Court to engage in the balancing of equities that is the hallmark of a traditional equitable proceeding. To the contrary, Petitioner argues that if it can show that Defendants "have performed services which constitute the practice of veterinary medicine," Petitioner would be entitled to an injunction "without any showing of particular harm." (Petition for Prelim. and Perm. Inj. ¶ 26.)

Defendants severely penalized for invoking constitutional protections designed to protect the criminally accused. If this Court allows Petitioner to prosecute this case as if it were a civil, equitable proceeding, as opposed to a criminal or quasi-criminal action, Defendants will enjoy no presumption of innocence, no right to have a jury determine the facts to which the law will be applied, and no right to demand that Petitioner prove its allegations beyond a reasonable doubt. This Court should not permit Defendants to be so deprived of their constitutional protections; it should overrule the Petitioner's Motion in Limine.

II. DEFENDANTS SHOULD BE PERMITTED TO PRESENT A THOROUGH DEFENSE AT TRIAL.

Citing the principle that a party in a civil action may incur penalties as a result of invoking its Fifth Amendment privilege, Petitioner has asked the Court to cripple Defendants' ability to present evidence at trial. Specifically, Petitioner demands that Defendants be prohibited from (1) attempting to prove that Defendant Gray is any more qualified than any member of the general public to perform such services; (2) producing clients at trial or attempting to prove the clients' satisfaction with services; (3) offering any evidence about the services [allegedly] provided; (4) personally testifying at trial. (Petr.'s Mot. in Limine ¶ 7.) The Court should reject Petitioner's request to restrict evidence and Defendants should be permitted to present a thorough defense at trial.

A. Under Missouri law, if Defendants answer any of Petitioner's questions, they would waive their Fifth Amendment privilege entirely.

Petitioner's request to restrict the Defendants' ability to present evidence puts the Defendants in a classic lose-lose scenario. Defendant Gray would be happy to produce some of the information Petitioner has requested — particularly that related to her education, training, skills, or experience. However, because Petitioner filed a civil action to enjoin what it alleges to be criminal actions, Defendants cannot provide even the most basic of the requested information without waiving their Fifth Amendment privilege.

Swink, 514 S.W.2d at 560. Without this constitutional protection, Petitioner could compel answers to a number of questions designed to produce evidence that could be used in a full-fledged criminal prosecution. (*See, e.g.*, Pet'r Interrogs. ¶¶ 8-10, 14-24, Ex.

C.) But because Defendants have invoked the privilege, Petitioner demands that this Court should make an immediate determination that Defendant will not be permitted to introduce any evidence related to Defendant Gray's education, training, and skills or that certain persons have been pleased with services she may have provided. For the following reasons, these penalties are unwarranted and the Petitioner's demand for final resolution of this issue is untimely.

B. Petitioner is not prejudiced by Defendants' invocation of their Fifth Amendment privilege.

Although the Petitioner claims to have suffered "broad prejudice" as a result of the Defendants' silence, Petitioner has not demonstrated that they are likely to suffer any particular disadvantage as a result of Defendants' assertion of their Fifth Amendment

privilege. As noted above, Petitioner has spent *years* gathering information in preparation for this action. The Defendants can hardly be blamed if Petitioner now believes it filed its lawsuit before it had adequate information to substantiate its claims.

Defendants assume that Petitioner's claim of prejudice indicates a concern that it might be surprised at trial with unexpected witnesses or evidence. Regarding Petitioner's demand that Defendants be precluded from introducing evidence regarding Defendant Gray's education, training, and experience, it is highly unlikely that Defendants could surprise Petitioner with any evidence they might introduce. In fact, Petitioner has already produced documents demonstrating not only that they are well aware of Defendant Gray's education, but that they have also identified some of the instructors who taught Defendant Gray. (*See* Dr. Leighr Compl. at 6-7, 10, Leighr Exhibits 8-11, Ex. D.) Petitioner has also produced documents making clear its awareness that certain people have a very high opinion of Defendant Gray's skills. (*See* May 27, 2010 Letter of Sharon and Sterling Silver to Mo. Vet. Med. Bd., Ex. E.) Petitioner is in no real danger of surprise in this matter; it is instead attempting to cripple the Defendants' ability to defend against the demonstrably incorrect implication that Defendant Gray "is [no] more qualified than any member of the general public to perform... services" of the nature alleged by Petitioner.

Petitioner also seeks to exclude testimony from Defendants' clients, especially if that testimony has to do with the clients' satisfaction with any services provided by Defendants. Defendant has not located any Missouri case that permits a court to foreclose an entire range of potential witnesses based strictly on a defendant's assertion

of their privilege against self-incrimination. If the Court were to grant Petitioner's request, it could potentially restrict the Defendants' ability to examine witnesses identified and/or called by the Petitioner itself. (*See, e.g.*, Pet. for Prelim. and Perm. Inj. ¶ 20.) Such a restriction would not protect Petitioner from unfair prejudice, it would only serve to penalize Defendants for asserting their constitutional privilege.

Petitioner's effort to secure these evidentiary restrictions is not only unreasonable, it is also premature. If Petitioner is concerned about the possibility of being unfairly surprised at trial, it can request that Defendant provide it with a list of prospective witnesses once such a list has been compiled and can offer any appropriate objections at that time. Similarly, if at some point during the trial Defendant Gray changes her mind about personally testifying, Petitioner will retain its ability to object and the Court will at that time be in a far better position to evaluate the utility and/or prejudicial effect of the proffered testimony. By preemptively declaring a wide range of evidence as "unfair" or "prejudicial," the Court would be forfeiting the opportunity, if needed, to craft at trial a more narrowly tailored exclusion that would preserve Defendants' right to put on an adequate defense. If any legitimate risk should arise that Petitioner will be unfairly disadvantaged as a result of Defendants' invocation of their Fifth Amendment privilege, the Court would be best able to make that determination if and when Defendant actually proposes to introduce evidence that the Petitioner is currently seeking to exclude.

C. The Court should not draw negative inferences from Defendants' invocation of its Fifth Amendment privilege.

Petitioner has also asked this Court to use Defendants' invocation of their Fifth Amendment privilege to draw certain negative inferences against the Defendants. Current Missouri law does allow finders of fact to make such inferences in civil cases, but "there are limits on the extent to which such a negative inference may be indulged by a civil fact finder" and "although a negative inference *may* be drawn from a litigant's assertion of the Fifth Amendment privilege, it is not *required* to be drawn." *Johnson v. Missouri Bd. of Nursing Adm'rs*, 130 S.W.3d 619, 631 (Mo. App. 2004) (emphasis in original) (citations omitted). Thus, the Court has discretion to determine the extent to which the Defendants should be penalized as a result of their choice to invoke their Fifth Amendment privilege, even if that means imposing no penalty at all. *Id.* at 630. Thus, the question before the court where negative inferences are concerned is one of *fairness* – the Court must determine whether Petitioner has actually suffered prejudice as a result of the Defendants' asserting their Fifth Amendment privilege against its discovery requests. Defendants submit that this is a question that can only be answered once the Court has heard the evidence that is eventually presented at trial. There is no reason for the Court to predetermine whether negative inferences might eventually be justified.

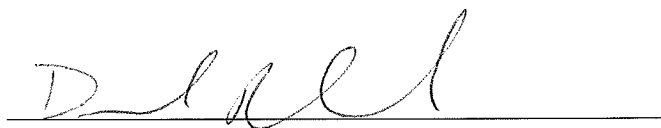
III. DEFENDANTS ARE ENTITLED TO HAVE A JURY DETERMINE THE FACTS TO WHICH THE COURT WILL APPLY THE LAW IN THIS CASE.

The Missouri Bill of Rights ensures that “the right of trial by jury as heretofore enjoyed shall remain inviolate.” Mo. Const. Art. I, § 22(a). Interpreting this provision, Missouri courts have determined that because jury trials were not traditionally afforded in courts of equity, the right to a jury trial does not apply to civil actions sounding in equity. *State ex rel. Barker v. Tobben*, 311 S.W.3d 798, 800 (Mo. banc 2010). Missouri courts have also held, however, that where a party requests an injunction to enforce a criminal statute rather than to prevent an injury to their property rights or to terminate a public nuisance, the relief demanded cannot be considered equitable in nature. *See Glisan*, 230 S.W.2d at 171.

Petitioner has admitted that the statute at issue in this case is a *criminal* statute. The alleged actions that the Petitioner is asking the court to enjoin would be *criminal* actions. Rather than calling for the balancing of equities demanded by a traditional request for an injunction, Petitioner instead argues that section 340.276, RSMo., requires the Court to issue an injunction upon a showing of certain facts, without any regard for equitable principles. As has been made clear above, even if Petitioner is correct that section 340.276 authorizes the Missouri Veterinary Medical Board to bring this action, it cannot properly be considered equitable in nature. Consequently, it is an action at law and Defendant is entitled to have a jury decide the facts to which the Court will apply the law in this case.

For these reasons, the Court should deny Petitioner's Motion in Limine to Limit Evidence and Deny Jury Trial.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "D. Roland", is written above a horizontal line.

DAVID ROLAND

MBE #60548

Freedom Center of Missouri

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St. Louis, MO 63112

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EMAIL: dave@mofreedom.org

ATTORNEY FOR DEFENDANTS.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing was served by email, on February 10, 2011, addressed to:

Edwin Frownfelter
Office of the Attorney General
615 East 13th Street, Suite 401
Kansas City, MO 64106



Attorney for Defendants



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Dana K Hoelscher
Executive Director

Defendants'
Exhibit A

October 15, 2007

Brook Gray
B & B Equine Dentistry
6227 SE Perren Road
Holt, MO 64048

Certified Mail 7160 3901 9849 4627 6419

Dear Ms Gray


The Missouri Veterinary Medical Board ("Board") has information that indicates you may be providing equine dental services without a Missouri veterinary medical license and for compensation. These actions constitute the practice of veterinary medicine in the State of Missouri in violation of Section 340.216, RSMo.

The Board is writing to request that you cease and desist your illegal activities immediately. If you do not cease and desist immediately, the Board will consider pursuing an injunction in Circuit Court thirty days from the date of this letter to stop your conduct pursuant to Section 340.276, RSMo, and/or request the prosecutor to file criminal charges against you pursuant to Section 340.294, RSMo.

Sincerely,

Dana K Hoelscher
Dana K Hoelscher
Executive Director

DKH/ps

2 Article Number		COMPLETE THIS SECTION ON DELIVERY	
 7160 3901 9849 4627 6419		A Received by (Please Print Clearly)	B Date of Delivery
		<i>Tom Gray</i> 10/17/07	
3 Service Type CERTIFIED MAIL		C Signature	<input type="checkbox"/> Agent
4 Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		<input checked="" type="checkbox"/> Addressee <input type="checkbox"/> Yes <input type="checkbox"/> No	
1 Article Addressed to		D If delivery address different from item 1? If YES enter delivery address below	
Brook Gray B & B Equine Dentistry 6227 SE Perren Road Holt, MO 64048		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
PS Form 3811, January 2005		Domestic Return Receipt	

**IN THE CIRCUIT COURT OF CLINTON COUNTY
STATE OF MISSOURI**

MISSOURI VETERINARY)
MEDICAL BOARD)
)
Petitioner,)
)
v.)
)
BROOKE RENE GRAY)
)
and)
)
B & B EQUINE DENTISTRY)
)
Defendants.)

Defendants'
Exhibit B

Case No. 10CN-CV00842

**PETITIONER'S RESPONSE TO
DEFENDANT'S FIRST SET OF INTERROGATORIES**

Petitioner, Missouri Veterinary Medical Board, responds to Defendants' First Set of Interrogatories as follows:

Interrogatories

1. Please identify the person(s) answering these interrogatories.

ANSWER:

Dana Fennewald, Executive Director

2. Please identify the person(s) who prepared or assisted in the preparation of the answers to these interrogatories and identify their relationship to you.

ANSWER:

Edwin R. Frownfelter, Assistant Attorney General

3. With reference to each person whom you expect to call as an expert witness, please state:

- (a) The name, address, and telephone number for each person;
- (b) The description of the profession or occupation and field in which you claim each person is an expert;
- (c) Each person's formal education and experience in his or her field, including dates, degrees, institutions attended, and institutions or governmental authorities from which degrees, certificates, or licenses were obtained, the length of time that the person has practiced in his or her field of expertise, and the nature of this practice (a current and complete curriculum vitae for the person may be submitted as part of the response to this interrogatory);
- (d) The subject matter to which each person is expected to testify; and
- (e) Identify all documents which each person has been provided or has reviewed in preparation for testifying.

ANSWER:

Dr. Nat Messer, DVM, will testify as an expert in veterinary medicine with a particular emphasis on equine dentistry. Dr. Messer's curriculum vitae, included in Petitioner's Response to Defendant's First Request for Production of Documents, addresses the questions in subsections (a) through (c).

Dr. Messer's testimony will address, but not be limited to, whether tooth floating is veterinary medicine, what is involved in the procedure of tooth floating, the implications of tooth floating for horses' general and dental health, the risks that negligently performed tooth floating pose, and the use of drugs and sedatives in tooth floating.

Dr. Messer has been provided with copies of the Petition for Injunction, the Defendants' Answer, and the Petitioner's Response to Defendants' Affirmative Defenses in this matter.

4. Please identify each person you expect to call as a witness, and please identify any documents that each potential witness has provided to you.

ANSWER:

The interrogatory is objected to as it is beyond the scope of discovery and calls for attorney work product and trial strategy. *State v. Jensen*, 395 S.W.2d 143 (Mo.banc 1965); *Miller v. Iler*, 556 S.W.2d 492 (Mo.App.1977).

5. For each animal on which the Board alleges the Defendants performed illegal services, please identify:

- (a) The name and age of the animal;
- (b) The name, address, and telephone number of the animal's owner;

- (c) The date on which the Board alleges Defendants provided services on the animal;
- (d) The location at which the Board alleges Defendants provided services on the animal;
- (e) Any harm or injury the Board alleges the animal suffered as a result of services provided by the Defendant;
- (f) The compensation the Board alleges Defendants received for providing services on each animal; and
- (g) Any documents supporting the Board's allegations.

ANSWER:

The Board is aware of tooth floating services performed by Defendants upon horses owned by the following individuals:

- (1) Michael and Rachel Helman. See investigative report for dates, location, and materials provided.**
- (2) Elizabeth Hill. See investigative report for dates, location, and materials provided.**
- (3) Terry and Brian McGrath. See investigative report for dates, location, and materials provided.**
- (4) Cal Middleton. See investigative report for dates, location, and materials provided.**

(5) Sharon and Sterling Silver. See investigative report for dates, location, and materials provided.

(6) Bruce and Carolyn Smith. See investigative report for dates, location, and materials provided.

(7) Michelle Wycoff. See investigative report for dates, location, and materials provided.

(8) Terry McGrath. See investigative report for dates, location, and materials provided.

(9) Keith Spencer. See investigative report for dates, location, and materials provided.

(10) Megan Schubert. See investigative report for dates, location, and materials provided.

(11) Terry Barlow. See investigative report for dates, location, and materials provided.

(12) Horse whose owner is unidentified, treated at a meeting of the 4-H Club of Blue Springs, Missouri. See March 2010 4-H newsletter, provided with investigative report, for information available at this time.

6. Please identify all documents and oral communications known to you which relate to Brooke Gray and/or B & B Equine Dentistry.

ANSWER:

The interrogatory is objected to as vague, overbroad, and beyond the scope of discovery under Rule 57.01, RSMo. Petitioner is providing, with its response to the Defendants Request for Production, copies of the investigative reports in this matter, which constitute all the information on which the Board relied in making its determination to pursue the matter.

7. Please identify all documents or oral communications of which you are aware indicating that floating presents a “substantial risk of harm” to the health, safety, or welfare of Missouri’s horses.

ANSWER:

The interrogatory is objected to as vague, overbroad, and beyond the scope of discovery under Supreme Court Rule 57.01, RSMo. There is an enormous amount of information related to the issue of tooth floating on the national level which has been known to the Board members and staff in their individual capacity, but which has not been collected or assembled in any organized way. Assembly and production of such information would be a research project to assemble a record of information which does not currently exist, which is unreasonably burdensome and not required by Supreme Court Rule 57.01 or 58.01.

8. Please identify all documents or oral communications of which you are aware indicating that horses are more likely to suffer harm or injury as a result of having their teeth floated by non-veterinarians rather than licensed veterinarians.

ANSWER:

Petitioner incorporates its response to Interrogatory No. 7, above.

9. Please identify all documents or oral communications of which you are aware indicating that any threat floating might pose to the health, safety, or welfare of Missouri's citizens is either increased or diminished if the person doing the floating is compensated for their work.

ANSWER:

Petitioner incorporates its response to Interrogatory No. 7, above.

10. Please identify all documents or oral communications of which you are aware indicating that, in the absence of non-veterinarian floaters, there are enough licensed veterinarians in Missouri providing floating services to adequately meet the needs of Missouri's horse owners.

ANSWER:

Petitioner is not in possession of any documentation addressing this question.

11. Please identify all documents or oral communications of which you are aware that address the danger posed to the health of Missouri's horse population if an inadequate number of veterinarians are available to provide floating services.

ANSWER:

Petitioner incorporates its response to Interrogatory No. 10, above.

12. Please identify all documents or oral communications of which you are aware relating to:

- (a) The use of Ketamine by horse teeth floaters;
- (b) The use of detomidine hydrochloride or xylazine by horse teeth floaters;
- (c) The use of detomidine hydrochloride, by itself, as an abortifacient or in a rape;
- (d) The use of xylazine, by itself, as an abortifacient or in a rape;
- (e) The use of detomidine hydrochloride combined with xylazine as an abortifacient, in a rape, or in any other misuse;
- (f) The contraction of the vesticular stomatitis virus by horses in Missouri; and
- (g) The contraction of any disease by humans as a result of horse teeth floating.

ANSWER:

The interrogatory is objected to as vague, overbroad, and beyond the scope of discovery under Supreme Court Rule 57.01, RSMo. The Board has dealt over time with numerous issues relating to the use and dispensing of veterinary drugs, but which has not been collected or assembled in any organized way. Assembly and

production of such information would be a research project to assemble a record of information which does not currently exist, which is unreasonably burdensome and not required by Supreme Court Rule 57.01 or 58.01.

13. Please identify all veterinarians currently licensed by the state who in the past five years have floated horses' teeth or have offered or advertised their availability to float horses' teeth.

ANSWER:

Petitioner does not have this information. The Board does not license veterinarians in Missouri by specialty; therefore, it is not able to provide the names and contact information of licensed veterinarians who provide horse teeth floating and equine dentistry in Missouri. Assembly and production of such information would be a research project to assemble a record of information which does not currently exist, which is unreasonably burdensome and not required by Supreme Court Rule 57.01 or 58.01.

14. Please identify all persons known to the Board who have alleged harm or injury to their animals as a result of horse teeth floating, and for each please identify:

- (a) The harm or injury alleged;
- (b) The person whose floating services are believed to have been the cause of the harm or injury alleged, specifically noting if that person held a license issued by the Missouri Veterinary Medical Board.

- (c) The name and age of the horse;
- (d) The name, address, and telephone number of the horse's owner;
- (e) The date on which their horse was harmed or injured;
- (f) The location at which the horse was harmed or injured;
- (g) Any documents supporting the allegations.

ANSWER:

Petitioner incorporates its answer to Interrogatory No. 5. None of the consumers identified or alleged a particular injury to a horse, but the performance of veterinary medicine by an unlicensed person carries a risk of harm.

15. Please identify the definition of animal dentistry you used to determine that the Defendants were in violation of Chapter 340, and, if applicable, specifically indicate where that definition may be found in the statutes or regulations of the State of Missouri.

ANSWER:

Section 340.200(28) provides:

(28) "Veterinary medicine", the science of diagnosing, treating, changing, alleviating, rectifying, curing or preventing any animal disease, deformity, defect, injury or other physical or mental condition, including, but not limited to, the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal, including, but not limited to, acupuncture, *dentistry*, animal psychology, animal chiropractic, theriogenology, surgery, both general and cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the procedures in this paragraph . . . [emphasis added].

Pursuant to the authority granted it by Section 340.210.1(7), the Board has legally and properly adopted a regulation published at 20 CSR 2270-4.031(8), which states:

(8) Dental Service.

(A) Dental operation shall mean—

1. The application or use of any instrument or device to any portion of an animal's tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal's tooth, gum or related tissue; and

2. Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces.

(B) Nothing in this rule shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to clean an animal's teeth.

16. Please describe what a citizen must do or demonstrate to establish that they are a full-time employee permitted to lawfully care for or treat animals belonging to their employer as referenced in §340.216.1(5).

ANSWER:

The Board has not addressed this question.

17. Please identify any circumstances under which someone who is neither a licensed veterinarian nor a full-time employee of an animal's owner could lawfully accept compensation for floating horses' teeth.

ANSWER:

Section 340.216.1 identifies the following exceptions:

(1) Any person from gratuitously providing emergency treatment, aid or assistance to animals where a licensed veterinarian is not available within a reasonable length of time if the person does not represent himself or herself to be a veterinarian or use any title or degree appertaining to the practice thereof;

(2) Acts of a person who is a student in good standing in a school or college of veterinary medicine or while working as a student preceptee, in performing duties or functions assigned by the student's instructors, or while working under the appropriate level of supervision of a licensed veterinarian as is consistent with the particular delegated animal health care task as established by board rule, and acts performed by a student in a school or college of veterinary medicine recognized by the board and performed as part of the education and training curriculum of the school under the supervision of the faculty. The unsupervised or unauthorized practice of veterinary medicine, even though on the premises of a school or college of veterinary medicine, is prohibited;

(3) Personnel employed by the United States Department of Agriculture or the Missouri department of agriculture from engaging in animal disease, parasite control or eradication programs, or other functions specifically required and authorized to be performed by unlicensed federal or state officials under any lawful act or statute, except that this exemption shall not apply to such persons not actively engaged in performing or fulfilling their official duties and responsibilities;

(4) Any merchant or manufacturer from selling drugs, medicine, appliances or other products used in the prevention or treatment of animal diseases if such drug, medicine, appliance or other product is not marked by the appropriate federal label. Such merchants or manufacturers shall not, either directly or indirectly, attempt to diagnose a symptom or disease in order to advise treatment, use of drugs, medicine, appliances or other products;

(5) The owner of any animal or animals and the owner's full-time employees from caring for and treating any animals belonging to such owner, with or without the advice and consultation of a licensed veterinarian, provided that the ownership of the animal or animals is not transferred, or employment changed, to avoid the provisions of sections 340.200 to 340.330; however, only a licensed veterinarian may immunize or treat an animal for diseases which are communicable to humans and which are of public health significance, except as otherwise provided for by board rule;

(6) Any graduate of any accredited school of veterinary medicine while engaged in a veterinary candidacy program or foreign graduate from a nonaccredited school or college of veterinary medicine while engaged in a veterinary candidacy program or clinical evaluation program, and while under the appropriate level of supervision of a licensed veterinarian performing acts which are consistent with the particular delegated animal health care task;

(7) State agencies, accredited schools, institutions, foundations, business corporations or associations, physicians licensed to practice medicine and surgery in all its branches, graduate doctors of veterinary medicine, or persons under the direct supervision thereof from conducting experiments and scientific research on animals in the development of pharmaceuticals, biologicals, serums, or methods of treatment, or techniques for the diagnosis or treatment of human ailments, or when engaged in the study and development of methods and techniques directly or indirectly applicable to the problems of the practice of veterinary medicine;

(8) Any veterinary technician, duly registered by, and in good standing with, the board from administering medication, appliances or other products for the treatment of animals while under the appropriate level of supervision as is consistent with the delegated animal health care task; and

(9) A consulting veterinarian while working in a consulting capacity in Missouri while under the immediate supervision of a veterinarian licensed and in good standing under sections 340.200 to 340.330.

18. Please identify any and all reasons that, in the opinion of the Board, justify denying horse owners the discretion to choose who they will compensate for floating their horses' teeth.

ANSWER:

The standards for who may perform veterinary dentistry were established by the General Assembly of Missouri in the adoption of Chapter 340, RSMo. No private citizen has the authority to authorize illegal conduct by contract.

19. Please identify any and all reasons that, in the opinion of the Board, justify punishing certain non-veterinarians if they perform floating services for compensation

while permitting the same non-veterinarians to perform floating services as long as they do not accept compensation.

ANSWER:

The General Assembly has determined in Section 340.216.1 that unlicensed persons may not perform veterinary medicine or acts requiring knowledge of veterinary medicine for valuable consideration. There is ambiguity in the statute as to whether the prohibition of Section 340.216.1 on acts for compensation applies to the practice of veterinary medicine, or only to the second class of acts which require knowledge of veterinary medicine. In either event, it is within the discretion of the legislature to limit the definition for which it authorizes legal action to actions performed for compensation.

20. Please identify any “exceptions or exemptions to the requirements of licensing” that the Board has made pursuant to its authority under §340.216.2, RSMo.

ANSWER:

None.

21. Please identify any persons you have compensated for obtaining information about the Defendants, including the dates on which they were provided services and what they were given or promised in exchange for their services.

ANSWER:

William Burton, contract investigator, hourly compensation for services performed between 2007 and 2010. Burton delegated some work to John Gordon, who was not compensated directly by the Board. Copies of invoices relating to the investigation of this matter are being provided in response to Defendants' Request for Production of Documents.

22. Please identify any persons to whom you have sent cease and desist letters related to any of the following activities:

- (a) Floating horses' teeth;
- (b) Horseshoeing;
- (c) Branding;
- (d) Birthing;
- (e) Dehorning;
- (f) Tail docking;
- (g) Castrating; and/or
- (h) Artificially inseminating animals.

ANSWER:

The Board has identified the following individuals to whom cease and desist letters have been issued since 2003:

Name	Date	Service performed
Bussico, Phillip	2/15/2003	Equine dentistry
Brown, Mike	7/25/2003	Equine dentistry

Ellis, David	1/26/2004	Estrus synchronization, heat detection, dehorning, castration, artificial insemination, vaccination
Neil, Roger	1/26/2004	Estrus synchronization, heat detection, dehorning, castration, artificial insemination, vaccination
Breen, Misty	3/2/2005	Vaccination, spaying/neutering, emergency services
Plant, Kathy	6/21/2005	Dental Prophylaxis
Alexander, Dean	1/31/2006	Embryo transfer
Brooks, Richard	1/31/2006	Embryo transfer
Curl, Brad	1/31/2006	Embryo transfer
Goforth, Matt	1/31/2006	Embryo transfer
Page, Derek	1/31/2006	Embryo transfer
Quinton, Alan	1/31/2006	Embryo transfer
Abernathy, Brad	7/19/2007	Equine dentistry
Belt, Stacy	7/19/2007	Equine dentistry
Jones, Kevin	7/19/2007	Herd work, vaccination, castration, dehorning
Kendrick , Earnest	7/19/2007	Herd work, vaccination, castration
Gray, Brooke	10/15/2007	Equine dentistry
Parker, Crystal	8/4/2008	Equine dentistry
Brochu, John R.	2/3/2009	Animal dentistry
D.O.L.L.Y.'S (Rhys, Dolly B.)	4/16/2009	Floating teeth, massage

23. If the Board denies Defendants' Request for Admission No. 1, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

24. If the Board denies Defendants' Request for Admission No. 2, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

25. If the Board denies Defendants' Request for Admission No. 3, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

26. If the Board denies Defendants' Request for Admission No. 4, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

27. If the Board denies Defendants' Request for Admission No. 5, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

28. If the Board denies Defendants' Request for Admission No. 6, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

29. If the Board denies Defendants' Request for Admission No. 7, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

30. If the Board denies Defendants' Request for Admission No. 8, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

31. If the Board denies Defendants' Request for Admission No. 9, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

32. If the Board denies Defendants' Request for Admission No. 10, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

33. If the Board denies Defendants' Request for Admission No. 11, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

34. If the Board denies Defendants' Request for Admission No. 12, please explain the reason for its denial.

ANSWER:

The Board fully explains its responses to the Requests for Admissions in that document.

35. Please identify all communications regarding horse teeth floating that have transpired between you and:

- (a) Boards of veterinary medicine in other states;
- (b) The American Veterinary Medical Association or any of its state chapters/affiliates; or
- (c) The American Association of Equine Practitioners or any of its state chapters/affiliates.

ANSWER:

The Board has not had formal communications with either the state licensing entity of any other state or the American Veterinary Medical Association or any of its state affiliates. The Board recently received a packet of information from the Missouri Veterinary Medical Association on the subject of tooth floating, which included a proposal for legislative and/or regulatory change. This package is included in the information provided in response to the Defendants' Requests for Production of Documents.

By the Missouri Veterinary Medical Board,

Dana Fennewald
Dana Fennewald, Executive Director

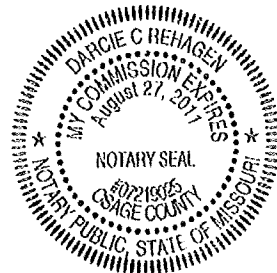
VERIFICATION

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

Dana Fennewald appeared before me and executed the foregoing Answers to Plaintiff's First Set of Interrogatories, and stated that the answers were true and correct to the best of her knowledge, information, and belief this 27th day of January, 2011.

Darcie C. Rehagen
Notary Public

My commission expires:



IN THE CIRCUIT COURT OF CLINTON COUNTY
STATE OF MISSOURI

MISSOURI VETERINARY
MEDICAL BOARD

Petitioner,

v.

BROOKE RENE GRAY

and

B & B EQUINE DENTISTRY

Defendants.

Defendants'
Exhibit C

Case No. 10CN-CV00842

**PETITIONER'S FIRST SET OF
INTERROGATORIES TO DEFENDANTS**

Petitioner, the Missouri Veterinary Medical Board ("Board"), by and through the Attorney General of Missouri, and pursuant to Supreme Court Rule 57.01, propounds the following interrogatories to Defendants, Brooke R. Gray and B & B Equine Dentistry, to be answered fully under oath. Defendants shall serve a copy of the answers upon the undersigned counsel within the time provided by the above-cited rules.

Instructions and Definitions

For the purpose of these interrogatories and answers, the following definitions shall apply, unless the context clearly implies otherwise:

(a) The words “you,” “your,” or “your firm” refer not only to Brooke R. Gray and B & B Equine Dentistry, but also include present and former representatives, officers, employees, directors, shareholders, agents, servants, or investigators, and, unless otherwise privileged, your attorneys.

(b) “Person” shall mean the plural as well as the singular and shall include any natural person, and any firm, association, partnership, joint venture, business trust, corporation, governmental or public entity, department, agency, office, or any other form of legal entity.

(c) The words “document” or “documents” include, without limitation, all books, ledgers, ledger cards, pamphlets, letters, correspondence, telegrams, cablegrams, reports, memoranda, notes, records, studies, charts, statistics, schedules, papers, graphs, indices, tapes, tabulations, checks, check stubs, vouchers, accounts, data sheets or cards, communications, minutes, transcriptions, diaries, calendars, drafts, blueprints, affidavits, sketches, photographs, movies, slides, or any other written, printed, recorded, or graphic matter, photographic matter or sound reproduction or computer input or output, however recorded or reproduced, that (1) are now or were formerly in the possession, custody, or control of you or (2) are known or are believed to be responsive to these interrogatories, regardless of who now has or formerly had custody, possession, or control. “Document” or “documents” also includes copies or reproductions of any of the foregoing which differ in any respect from the original or from one another.

(d) To “identify” a document (as defined above) or any other thing means to state its type (e.g., letter, memorandum, periodical) or otherwise describe it, and to supply the following information where applicable:

- (1) The name, address and relationship to Defendant of the person who prepared it;
- (2) The name, address and relationship to Defendant of the person who signed it or in whose name it was issued;
- (3) The name, address and relationship to Defendant of the each person for whom it was prepared;
- (4) The name, address and relationship to Defendant of each person to whom it was addressed or distributed;
- (5) The nature and substance of the writing, with sufficient particularity to enable it to be identified;
- (6) Its date, or, if it bears no date, the date of preparation;
- (7) Its physical location, the name and address of its custodian(s), and when it came into your possession or control (if such is the case); and,
- (8) If any such document is not in your possession or subject to your control, describe what disposition was made of it and identify the person who presently has custody of it.

(e) To “identify” an oral communication shall mean to state:

- (1) The identity of each person who participated in the communication and the name of each person who was present at the time it was made;
- (2) By whom each such person was employed and whom each such person represented or purported to represent in making the communication;
- (3) The date when such communication took place;
- (4) The place where such communication took place;
- (5) What each person said (if known) or the substance thereof; and
- (6) The identification of each document pertaining to such oral communication.

(f) To “identify” a person shall mean to state the following information respecting that person:

- (1) Full name;
- (2) Title and employer;
- (3) Last known business and non-business addresses and telephone numbers; and
- (4) The person’s relationship, if any, to Defendant.

(g) “Customer” shall include any person owning, possessing, or controlling an animal, who enters into a contract or agreement, or who provides, agrees to provide, or is asked to provide compensation in any form to Brooke R. Gray and/or B & B Equine Dentistry for performance of dental or other healing and/or care services for such animal.

(h) “Medication” shall include any medicine, drug, tranquilizer, anesthetic, or other substance intended for introduction into the metabolism of an animal, whether or not controlled or subject to laws of the United States or the State of Missouri with regard to pharmaceutical or controlled substances.

(i) “Source” shall include any person, corporation, or business who provides, sells, gives, or delivers to Brooke R. Gray and/or B & B Equine Dentistry or any of their agents any drug, chemical, or substance defined above as a “medication” for purposes of administration to any animal in connection with equine dentistry or other healing or care services provided by Gray and/or B & B Equine Dentistry.

These interrogatories are continuing; the answers are to be seasonably modified or supplemented as information required in these interrogatories is obtained and/or discovered at a later date by you, your representatives, employees, agents, servants, or counsel as required by Supreme Court Rule 56.01(e).

These interrogatories seek all information known to you, your representatives, officers, employees, directors, shareholders, agents, servants, or investigators, and, unless otherwise privileged, your attorneys.

If the interrogatory asks for information which could have at some time been answered by consulting one or more documents which are no longer in existence, then in answer to such interrogatory:

- (a) Identify what information was maintained in each document no longer in existence;
- (b) Identify all the type(s) of documents which contained such information;
- (c) State the time period during which such documents were maintained;
- (d) State the circumstances under which each document ceased to exist;
- (e) State the date when each document ceased to exist;
- (f) Identify all persons having knowledge of the circumstances under which each document ceased to exist; and
- (g) Identify all persons who have knowledge or had knowledge of each document and the contents thereof.

Interrogatories

1. Please identify the person(s) answering these interrogatories.

ANSWER:

2. Please identify the person(s) who prepared or assisted in the preparation of the answers to these interrogatories and identify their relationship to you.

ANSWER:

3. With reference to each person whom you expect to call as an expert witness, please state:

- (a) The name, address, and telephone number for each person;
- (b) The description of the profession or occupation and field in which you claim each person is an expert;
- (c) Each person's formal education and experience in his or her field, including dates, degrees, institutions attended, and institutions or governmental authorities from which degrees, certificates, or licenses were obtained, the length of time that the person has practiced in his or her field of expertise, and the nature of this practice (a current and complete curriculum vitae for the person may be submitted as part of the response to this interrogatory);
- (d) The subject matter to which each person is expected to testify; and
- (e) Identify all documents which each person has been provided or has reviewed in preparation for testifying.

ANSWER:

4. Please state whether you have ever been a defendant or Defendant in a civil, criminal, or disciplinary action of any type.

ANSWER:

5. If the answer to the preceding interrogatory is affirmative, please identify any and all such actions by including the following information:

- (a) Style and number of the case;
- (b) The court, agency, or other tribunal in which the case is or was filed;
- (c) The nature of the action;
- (d) The status or resolution of the action;
- (e) The name of any attorneys who represented you in the action; and
- (f) Identify the documents that set forth the basis of the action (e.g. information, indictment, petition, etc.) and that finally disposed of each action.

ANSWER:

6. Please identify each college or university you have attended including the institution's name, years or months attended, course of study, the degree received, if any, and the date of graduation. Identify the complete address, city or town, and state for each institution.

ANSWER:

7. Describe all courses of post-high school education, for credit or for purposes of occupational qualification, which you have completed or which you believe is relevant to your qualification to perform equine dentistry, including the institution's name, years or months attended, course of study, the degree received, if any, and the date of graduation. Identify the complete address, city or town, and state for each institution.

ANSWER:

8. Please state the name, address, and telephone number of each of your present employers; and fully describe your duties and responsibilities in each capacity for which you are employed.

ANSWER:

9. Please identify all businesses in which you hold an ownership interest of any type, and describe the type of business (e.g., sole proprietorship, partnership, corporation, limited liability company, etc.) and the interest held.

ANSWER:

10. If you are self-employed, hold an ownership interest in a business in which you are employed, or hold an ownership interest of over five percent (5%) in a business, please identify for each business:

(a) The names and addresses of any co-owners; and

(b) The length of time in years that you have been self-employed or held the ownership interest.

ANSWER:

11. Please identify all professional associations with which you are a member or associated in any manner and state any position, title, or office you hold.

ANSWER:

12. Do you presently hold or have you ever held any professional or occupational license of any type from this or another state? If your answer is affirmative:

(a) Identify the state, the type of license, the license number, and the period of time during which the license was held;

(b) Identify which of the licenses have been disciplined, investigated, or have pending disciplinary actions and state any disposition made; and

(c) Identify all documents which mention, refer to, or relate to any action which you answered in subpart (b).

ANSWER:

13. Describe all experience, certifications, and other qualifications which you believe are relevant to your qualification to perform tooth floating and other acts of equine dentistry.

ANSWER:

14. Describe all equine dental procedures other than tooth floating which you represent to customers you are qualified to perform or have performed for compensation in your capacity as an equine dentist.

ANSWER:

15. Identify all publications in which you have advertised the services of B & B Equine Dentistry or yourself in last two years. Please provide copies of such advertisements in compliance with the Request for Production of Documents served together with these Interrogatories.

ANSWER:

16. Identify every customer for whom you have performed tooth floating for compensation or expectation of compensation within the past three years. For each such customer, identify:

(a) the name, address, and telephone number of such customer;

(b) the name, sex, age, and color, if available, of each horse upon which such services were performed;

- (c) the date of such services;
- (d) the location at which such services were performed;
- (e) whether the services were performed with hand tools or electronic instruments;
- (f) whether any medications, tranquilizers, or anesthetics were administered; and
- (g) the amount of compensation received. Please provide copies of any bills, statements, or description of services rendered to such customers in compliance with the Request for Production of Documents served together with these Interrogatories.

ANSWER:

17. For each horse to whom medications, tranquilizers, or anesthetics were administered listed in the previous question, please identify:

- (a) the medications, tranquilizers, or anesthetics administered;
- (b) the dosages used; and
- (c) the means of administration (e.g., orally or by injection).

ANSWER:

18. For each medication, tranquilizer, or anesthetic identified in the previous question, please identify the source from which you obtained the medication, tranquilizer, or anesthetic, including the name, address, and telephone number of any business or person from whom you obtained such medications, whether or not for compensation. Please provide copies of any bills, statements, or description of such medications, tranquilizers, or anesthetics purchased in compliance with the Request for Production of Documents served concurrently with these Interrogatories.

ANSWER:

19. Please identify every customer for whom you have performed equine dental services other than tooth floating for compensation or expectation of compensation within the past three years. For each such customer, identify:

- (a) The name, address, and telephone number of the customer;
- (b) the name, sex, age, and color, if available, of each horse upon which such services were performed;
- (c) the date of such services;
- (d) the location at which such services were performed;
- (e) the services that were performed;
- (f) whether any medications, tranquilizers, or anesthetics were administered; and

(g) the amount of compensation received. Please provide copies of any bills, statements, or description of services rendered to such customers in compliance with the Request for Production of Documents served concurrently with these Interrogatories.

ANSWER:

20. For each horse to whom medications, tranquilizers, or anesthetics were administered listed in the previous question, please identify:

- (a) the medications, tranquilizers, or anesthetics administered;
- (b) the dosages used; and
- (c) the means of administration (e.g., orally or by injection).

ANSWER:

21. For each medication, tranquilizer, or anesthetic identified in the previous question, please identify the source from which you obtained the medication, tranquilizer, or anesthetic, including the name, address, and telephone number of any business or person from whom you obtained such medications, whether or not for compensation. Please

provide copies of any bills, statements, or description of such medications, tranquilizers, or anesthetics purchased in compliance with the Request for Production of Documents served.

ANSWER:

22. Identify any customers for whom you have performed dental services or any other healing services on animals other than horses, within the past three years. For each such customer, please identify:

- (a) The name, address, and telephone number of such customer;
- (b) the species, name, sex, age, and color, if available, of each animal upon which such services were performed;
- (c) the date of such services;
- (d) the location at which such services were performed;
- (e) the services that were performed, whether any medications, tranquilizers, or anesthetics were administered; and
- (f) the amount of compensation received. Please provide copies of any bills, statements, or description of services rendered to such customers in compliance with the Request for Production of Documents served together with these Interrogatories.

ANSWER:

23. For each animal to whom medications, tranquilizers, or anesthetics were administered listed in the previous question, please identify:

- (a) the medications, tranquilizers, or anesthetics administered;
- (b) the dosages used; and
- (c) the means of administration (e.g., orally or by injection).

ANSWER:

24. For each medication, tranquilizer, or anesthetic identified in the previous question, identify the source from which you obtained the medication, tranquilizer, or anesthetic, including the name, address, and telephone number of any business or person from whom you obtained such medications, whether or not for compensation. Please provide copies of any bills, statements, or description of such medications, tranquilizers, or anesthetics purchased in compliance with the Request for Production of Documents served.

ANSWER:

25. With respect to any documents you are requested to produce pursuant to Petitioner's First Request for Production of Documents and which document is withheld

upon the basis of any claim of privilege, whether attorney-client, physician-patient, work product, or otherwise, please:

- (a) State the title of the document;
- (b) State the date of the document;
- (c) Identify the author of the document;
- (d) Identify all persons to whom such document was sent, or who have otherwise read, reviewed, or been granted access to such documents;
- (e) State the purpose for which such document was prepared; and
- (f) State the privilege asserted and the grounds for asserting such privilege.

ANSWER:

Brooke R. Gray

Before me, the undersigned authority, personally appeared, Brooke R. Gray, who first being duly sworn on her oath stated that she had read the foregoing interrogatories and her answers thereto are true and complete to the best of her knowledge, information, and belief.

Subscribed and sworn to before me this ____ day of _____ 2010.

Notary Public

(SEAL)

My commission
expires _____.

Respectfully submitted,

CHRISTOPHER A. KOSTER
Attorney General

Edwin R. Frownfelter
Assistant Attorney General
Missouri Bar No. 59477
615 East 13th St., Suite 401
Kansas City, MO 64106
Telephone (816) 889-5019
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Attorneys for Petitioner

LEIGHR VETERINARY CLINIC, LLC

d/b/a LONG VETERINARY CLINIC

David R. Leighr, DVM

19615 Highway 92 East

Kearney, Missouri 64060-9201

Phone: 816-635-6616 Fax: 816-628-7358

Defendants'
Exhibit D

September 6, 2007

Missouri Veterinary Medical Board
P O Box 633
Jefferson City, Missouri 65102-0633

CONFIRMATION RECEIPT

No. 0303 2460 0002 4217 7009

STATEMENT OF COMPLAINT PURSUANT TO 20 C.S.R. § 2270-6.011(17) OF AN UNLICENSED INDIVIDUAL PRACTICING VETERINARY MEDICINE

In compliance with my obligation under the *Rules of Professional Conduct*, 20 C.S.R. § 2270-6.011(17)¹ and the power granted to the Board by R.S. Mo. § 340.276, I hereby provide to the Board information which I have regarding what is or may be the unlawful or unlicensed practice of veterinary medicine in Missouri

1. *SUBJECT OF COMPLAINT*

Brooke Gray² (*nee*' Neubauer)
d/b/a B & B Equine Dentistry
6227 S E Perren Road
Holt, Missouri 64048-8364

The Board's website does not identify Brooke Gray or a Brooke Neubauer as an individual licensed to practice veterinary medicine in Missouri. Also, while the *2007 AVMA Membership Directory & Resource Manual*, p 421, col 2 & p 490, col 1 lists veterinarians named "Gray" and "Neubauer", Brooke Gray or Brooke Neubauer is not one of them. On the off-chance that Gray / Neubauer is a dentist, the Missouri Dental Board website reveals that no

¹ "A licensee shall not aid or abet, either directly or indirectly, the unlawful practice of veterinary medicine and shall be obligated to report to the board any information which the licensee has regarding the unlawful or unlicensed practice of veterinary medicine "

² Missouri circuit court records give a full name of Brooke Rene Gray with a date of birth of June 27, 1982. See *State v. Brooke Rene Gray* (Clay County, Missouri, 07-114777), *State v. Brooke Rene Gray* (Clay County, Missouri, 06-178949), and *State v. Brooke Rene Gray* (Harrison County, Missouri, 04-1110795). See <www.courts.mo.gov/casenet/cases/nameSearch.do>

person named Brooke Gray or Brooke Neubauer is licensed to practice dentistry in Missouri³ Indeed, an examination of all professional licenses in Missouri does not show any person named Brooke Gray or Brooke Neubauer as a licensee⁴

2. **DETAILS OF COMPLAINT** I first became aware of Brooke Gray (hereafter "Gray") during the summer of 2004 I had presented a talk for Kearney Feed & Supply on the topic of equine dentistry to a few hundred local clients At the end of the talk, Kelle Brammer, the owner of Kearney Feed & Supply, introduced Gray to the audience as an equine dentist As clients left the presentation, Gray distributed her business cards identifying her as such See Exhibit 1 attached

After this presentation, many of Gray's cards were distributed from local horse barns and feed stores Some of these include Stonewall Farms (Kearney), Richardson Ranch (Trimble), Kearney Feed & Supply (Kearney), and Holt Feed (Holt) Many of my clients picked up her cards at the feed stores and have used her services, not aware that she was not licensed to perform such procedures Gray's services are still promoted through the feed stores to this day

The name "B & B Equine Dentistry" mentioned on Gray's business card was registered by her (then Neubauer) as a fictitious business name with the Missouri Secretary of State on May 21, 2004 See Exhibit 2 attached On that document, Gray identified herself as owning one hundred percent of the business⁵ The Missouri Secretary of State's records also show that B & B Equine Dentistry's name registration currently does not expire until August 28, 2009

In the past three years I have received numerous questions and/or complaints about Gray's work The following is a sample list of some of my clients' experiences

First, in the fall of 2004, Donna Frie, a client with therapeutic riding horses, was upset with Gray for representing herself as more qualified to perform equine dentistry than local veterinarians Donna, like most of my clients, was not aware of Gray's lack of formal training and/or lack of licensure Donna became suspicious and voiced her concerns to me when Gray demonstrated considerable anxiety with sedation of Donna's horses Donna was visibly upset

After Donna complained to me, I attempted in the fall of 2004 to report Gray to the Board However, the Board staff did not know how to instruct me to file a complaint against a non-veterinarian While I appreciated what assistance the staff could provide, they kept sending me the *Official Statement of Complaint* form for lodging a complaint against a veterinarian

³ Even if Gray was a licensed Missouri dentist, she still would not be able to treat an animal except under the immediate supervision of a licensed veterinarian See, e.g., 20 C.S.R. § 2270-4.060, Required Levels of Supervision, Routine Dental Prophylaxis, Consulting Licensee from Allied Profession, which means the licensed veterinarian is in the immediate area and within audible and visual range of the animal patient and the person treating the animal See <<http://pr.mo.gov/boards/veterinary/VetSupervisionChart.pdf>>

⁴ See, e.g., <<http://pr.mo.gov/licensee-search.asp>>

⁵ On that document, Gray listed an address of 6195 S E Oakridge Lane, Holt, Missouri, 64048-8325 See attached Current Missouri circuit court records give an address of 6227 S E Perren Road, Holt, Missouri 64048 See *State v. Brooke Rene Gray* (Clay County, Missouri, 07-114777), *State v. Brooke Rene Gray* (Clay County, Missouri, 06-178949), and *State v. Brooke Rene Gray* (Harrison County, Missouri, 04-1110795) See <www.courts.mo.gov/casenet/cases/nameSearch.do>

Second, recently, one of my 4-H families, the Reckrodt's, had used Gray for their horses' dentals. They were referred to her through Gray's business cards available at the local feed stores. The parents of the students did not know Gray's procedures were unlawful and told me that Gray had sedated their horses with tranquilizer she had. Gray also asked them to sign a waiver form which released Gray of all liability. The waiver form also stated that my clients acknowledged Gray was not a veterinarian.

I find Gray's administration of sedatives particularly disturbing given that Missouri law states, among other things, that no legend drug shall be administered without the establishment of veterinarian-client-patient relationship or the direct order of a licensed veterinarian who has an established veterinarian-client-patient relationship with the animal(s). 20 C.R.S. § 2270-4.042(3)(A). Also, that all drugs are to be administered in compliance with state and federal laws 20 C.R.S. § 2270-4.042(3)(C). Additionally, while I do not currently know if Gray is using any controlled substances, if she is a review of the Missouri Bureau of Narcotics & Dangerous Drugs' website shows she (under either Gray or Neubauer) is not a registrant with that agency.

Third, the April 2006 issue of the *4-H News*, p 2, col 2, for Clay County, Missouri, lists Gray, as an equine dentist, giving a demonstration on April 29, 2006, at the Walnut Hills' 4-H Building & Livestock Barn, Carrollton, Missouri. See Exhibit 3 attached. The *Monroe County 4-H* news letter, p 2, for April 2006 and the *4-H Family Newsletter, News & Notes 2006*, p 5, also carried the same information. See Exhibits 4 & 5 attached.

Fourth, Paul Coblenz, a client of mine from Weatherby, Missouri, stated to me that Gray had been floating teeth for several of his friends and neighbors. He said her prices for sedation and floating were about twenty dollars per horse cheaper than mine. He did not realize her activities were unlawful, but he was suspicious. He told me he would rather have a veterinarian perform these procedures on his horses. I did float his horses' teeth.

Fifth, Paul Dauschmidt, a new client of mine in the Kearney area, stated to me both of his horses were floated by Gray in the spring of 2007. He found out about Gray through the Kearney Feed & Supply.

Sixth, this summer I was at a barn in Trimble, Missouri. It was recently purchased by Eric Dunham. He hired a trainer to come to the barn and work horses. The trainer is John White. For the past three-years I have floated John White's training horses. However, I have not floated teeth for him this year. When I went to the barn, I noticed Gray's name was on the dry erase board with instructions to float several horses.

Seventh, I spoke with Dr. Wes Cowan of the Holt Animal Clinic in July 2007. Gray is a sometime client of Holt Animal Clinic. According to Dr. Cowan, she has approached Holt Animal Clinic about sedating horses, but they refused to do so.

Eighth, in August 2007 I did some corrective dental work on an older horse owned by Angela Searcy. Earlier this summer Gray had extracted teeth from this animal, sedated the horse

⁶ See <www.dhss.mo.gov/cgi-bin/bnudd_new.pl>

and cleaned its teeth. It is my understanding that Gray routinely cleans sheaths for horse owners when she is performing dental procedures.

Ninth, this spring Gray contacted me directly at the office to inform me of impending legal action she was going to file against me. She had hired an attorney to sue me for slander. She said her activities were legal and demanded I quit telling my clients of her illegalities. I politely explained that her activities were not legal in Missouri. I told her to have her attorney contact Gregory M. Dennis to discuss the legalities of her practice. She became worried that she maybe turned into the State if Mr. Dennis was contacted.

During this conversation, Gray said she wanted to demonstrate her competency by floating a horse for me at the clinic. I refused this request as this had no bearing on the legalities of her practice. I tried to explain the complexity of the anatomy, pharmacology, physiology, etc. involved when floating a horse's teeth. I informed her that it takes a formal veterinary education and years of practical experience to identify and diagnose problems in the dental arcades. When asked about the use of sedation, she said her clients provide their own sedative and sedate their horses for her. She appeared to realize that the act of sedating a horse for her procedures was illegal and did not realize I already knew she was providing sedative and sedating horses.

Gray then wanted to know how she could legally float horses in Missouri. I told her without formal education in veterinary medicine, she cannot legally perform these procedures without direct veterinary supervision. I told her I would continue to educate and inform my clients until she received her veterinary degree and license or began working under the direct supervision of a licensed veterinarian. Gray responded that she makes a good living now and did not want to pay a veterinarian part of her fees to supervise her activities nor did she want to attend veterinary school. She said that the dental school she attended in Idaho told her it was legal for her to float horses' teeth in Missouri. My response to her was that she should be upset with them and not me.

This conversation was polite and matter of fact. I did my best to educate her about the illegalities of her work. Gray agreed there was no licensing board to control her work or anyone else's that decided to print up cards and float teeth in the community. The conversation ended when Gray commented that she floats teeth in five-states and that supposedly I was the only veterinarian she has encountered who criticizes her practice.⁷ This upset her because my veterinary practice is in her back yard. My response was that I, with all of my education and experience, could not even travel outside Missouri to float teeth until I had taken each state's respective board examination. If I were to practice outside Missouri, I could lose my license to practice or be disciplined.

Tenth, on May 11, 2007 after my conversation with Gray, my attorney Gregory M. Dennis sent Gray a Priority Mail-Confirmation Receipt letter to Gray concerning her statement that she was going to sue me for slander. See **Exhibit 6 attached**. In his letter, Mr. Dennis

⁷ Among those states might be Iowa where, like Missouri, Gray has received traffic citations. E.g., *State of Iowa v. Brooke Rene Neubauer* (Bremer County, Iowa, 02091-STWG662998, March 1, 2004), *State of Iowa v. Brooke Rene Neubauer* (Taylor County, Iowa, 05871-ST2200, December 6, 1999). See <www.iowacourts.state.ia.us/ESAWebApp/TrialSimpFrame>

specifically referred to provisions of the practice act that make her conduct unlawful. Also, he made her aware of numerous court decisions holding that it is unlawful for non-licensed individuals to engage in dentistry upon animals. Despite having received Mr. Dennis' letter on May 12, 2007 (**Exhibit 6 attached**⁸), Gray has continued to perform dental treatments and procedures on horses.

Eleventh, another veterinarian who has heard about Gray is Dr. James "Jim" F. Peddicord in Odessa, Missouri. As I understand it, Dr. Peddicord was told by one of his clients that Gray had pulled wolf-teeth and done some floating. Also, another one of his clients might have had an animal(s) treated by Gray.

Twelfth, in an article entitled *Say Cheese!* that appears in John Deere's *Homestead* magazine, Gray is pictured treating a horse and showing various implements she uses. See **Exhibit 7 attached**⁹. See also **Exhibit 8 attached**. In the same article, the following is said:

"Three-year-old Leo, our Quarter Horse gelding, taught us the importance of equine dental care. He had started dribbling grain from his mouth at feeding time and sometime chewed on the bit during training sessions.

So we called on Brooke Gray, an equine dentist from nearby Holt, Mo., to have a look. She quickly found the culprit. A thin sharp fragment from a baby tooth, or 'cap,' was stuck in front of a premolar tooth in the roof of Leo's mouth.

Gray selected a long stainless-steel tool and quickly removed the offending shard. 'That must have been hurting you, boy,' she said as she patted her brave patient." **Exhibit 7, p. 1, col. 1**

Continuing

"At other times, dentists must become detectives. 'Horses can't tell you their mouth is hurting,' Gray says. 'But they can show you in other ways.'" **Exhibit 7, p. 1, cols. 2-3**

Further

"When I have the horse's mouth set up in the speculum, I often have the owner feel the edges of these teeth,' Gray says. 'They usually are surprised by just how sharp these edges can become.'" **Exhibit 7, p. 1, col. 4**

The article succinctly states that "Brooke Gray turned her love of horses into a career in equine dentistry." **Exhibit 7, p. 1**

When I first became aware of Gray's activities, my initial thought was that maybe dentistry on animals was not considered the practice of veterinary medicine in Missouri. However, when I looked at the practice act, I found that it was

⁸ United States Postal Service, Track & Confirm, noting the letter was received at 1:09 p.m., May 12, 2007.

⁹ See also attached <www.deere.com/en_US/ag/homestead/articles/animals/dec05_say_cheese.html>

“Practice of veterinary medicine’, [mean] to represent directly, indirectly, publicly or privately an ability and willingness to do any act described in subdivision (28) of this section ” R.S. Mo. § 340.200(15)

“Veterinary medicine’, [means] the science of diagnosing, treating, changing, alleviating, rectifying, curing or preventing any animal disease, deformity, defect, injury or other physical or mental condition, including, but not limited to, the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthesia or other therapeutic or diagnostic substance or technique on any animal, including, but not limited to, acupuncture, *dentistry*, animal psychology, animal chiropractic, theriogenology, surgery, both general and cosmetic surgery, any manual, mechanical, biological or chemical procedure for testing for pregnancy or for correcting sterility or infertility or to render service or recommendations with regard to any of the procedures in this paragraph ” R.S. Mo. § 340.200(28)

See also, 20 C.S.R. § 2270-4.031(8)(A), defining dental services / operations as

1 The application or use of any instrument or device to any portion of an animal’s tooth, gum or any related tissue for the prevention, cure or relief of any wound, fracture, injury or disease of an animal’s tooth, gum or related tissue, and

2 Preventive dental procedures including, but not limited to, the removal of calculus, soft deposits, plaque, stains or the smoothing, filing or polishing of tooth surfaces ”¹⁰

Thirteenth, as mentioned above, Gray told me she had attended a dental school in Idaho. Apparently this was the Academy of Equine Dentistry, P O Box 999, Glenns Ferry, Idaho 83623-0999, Tel (208) 366-2315 or (208)-366-2318, Fax (208) 366-2340, E-mail academy@equinedentalacademy.com. The Chairman of the Board of Directors of this entity is or may be gentlemen named Dale Jeffrey. Mr Jeffrey was originally from Waverly, Nebraska. In 1994, the Nebraska Supreme Court upheld a judgment against him, based on his equine dentistry activities, prohibiting from unlawfully practicing veterinary medicine in that state. See, e.g, *State ex rel. Dept. of Health v. Jeffrey*, 247 Neb 100, 525 N W 2d 193 (1994)¹¹. As I understand, after the adverse action in his home state, Mr Jeffrey moved to Idaho.

The Academy of Equine Dentistry’s website names a John Fortkamp of Forstell, Missouri, 63348, as an instructor and “an equine dental practitioner since 1997 ”¹². There is a 2004 St Charles County traffic case--where Forstell is--of *State v. John D. Fortkamp* (St Charles County, Missouri 0215-10648), that recorded an address for Mr Fortkamp of 13705 Rhynard-Fink Road, Rossburg, Ohio, 45362-9745, with a DOB of October 28, 1977. A website

¹⁰ While C.S.R. § 2270-4.031(8)(B) says “nothing in this rule shall prohibit any person from utilizing cotton swabs, gauze, dental floss, dentifrice, toothbrushes or similar items to *clean* an animal’s teeth,” I believe Gray’s activities are well beyond mere “cleaning ”

¹¹ My counsel’s letter of May 11, 2007, to Gray, specifically referred to this decision against Mr Jeffrey.

¹² See Exhibit 9 <www.equinedentalacademy.com/Staff/instructor.html>

for the International Association of Equine Dentistry gives the same address information for Mr Fortkamp but provides a St Louis area telephone number to reach him (314) 409-1957¹³ This website states that Mr Fortkamp's full-time occupation as an equine dental practitioner¹⁴

Another website¹⁵ identifies the following individuals in Missouri as equine dentists

Tara Brooks, 36 Walker Road, Troy, Missouri 63379-5502, Tel (314) 568-6165, E-mail tarajbrooks@yahoo.com,¹⁶ and

Lee Minks, 6600 Lawrence 2137 Stotts City, Missouri, 65756-9148, Tel (920) 915-0877

A reverse phone number directory for Lee Minks' 920 area code shows this number being assigned to Appleton, Wisconsin. However, a reverse street address directory shows Lee Minks being the resident at 6600 Lawrence 2137, Stotts City, Missouri, with a telephone number of (417) 285-6654. A reverse phone number directory for this number shows it being assigned to Lee Minks at the same address in Stotts City, Missouri. An MS Power Point *Informational Booklet* by the Broken Wheel Riding Club in Wisconsin, identifies Lee Minks as a horse dentist from Missouri.¹⁷ See **Exhibit 12** attached.¹⁸

I understand the Board has authority to bring legal actions against non-licensed individuals engaged in the unlawful or unlicensed practice of veterinary medicine. R.S. Mo. § 340.276¹⁹ Further, I understand the unlawful practice of veterinary medicine is deemed a separate offense for each animal treated by a person engaged in such unlawful practice. R.S. Mo. § 340.294

¹³ A reverse phone number directory shows this number being assigned to Ladue, Missouri

¹⁴ See Exhibit 10

<<http://aeqd.addr.com/listmembers.php?memberinfo=513&Session=5197f2e02e793459e2d7f7cedd41a38a>>

¹⁵ See Exhibit 11 <www.equinedentistry.com/DentalPrac.html>

¹⁶ There is a Tara T Brooks, D V M (License no 2004013856), but her address is listed with the Board as being at 5021 Nottingham Avenue, St Louis, Missouri 63109. The Tara Brooks in Troy has an E-mail address of "tarajbrooks", suggesting the Tara Brooks in Troy has a middle initial of "J" rather than "T."

¹⁷ The Missouri Dental Board has no listing for a Lee Minks

¹⁸ See <www.brokenwheelridingclub.com/InformationalBooklet.pps>

¹⁹ "Injunctions, restraining orders, other orders, when, grounds —commencement of action, where 1 Upon application by the board, and the necessary burden having been met, a court of general jurisdiction may grant an injunction, restraining order or other order as may be appropriate to enjoin a person from

(1) Offering to engage or engaging in the performance of any acts or practice for which a license, certificate, permit or other authority is required by sections 340.200 to 340.330 upon a showing that such acts or practices were performed or offered to be performed without a license, certificate, permit or other authority, or

(2) Engaging in any practice authorized by a license, certificate, permit or other authority issued pursuant to sections 340.200 to 340.330 upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of the state or client or patient of the licensee

2 Any such action shall be commenced either in the county in which such conduct occurred or in the county where the defendant resides. Any action brought under this section shall be in addition to and not in lieu of any penalty or other discipline provided for by sections 340.200 to 340.330 and may be brought concurrently with other actions to enforce sections 340.200 to 340.330 "

Finally, while I know the Veterinary Medicine Board has no jurisdiction over licensed dentists, I wonder if Gray's use of the word "dentist" on her business cards and in her advertising and/or related activities should be reported to the Missouri Dental Board²⁰

4. WITNESSES

Kelle Brammer
Kearney Feed & Supply
300 West Washington Street
Kearney, Missouri 64040-8626²¹
Tel (816) 903-4611

Donna M Frie
6309 S E Oak Hollow Lane
Holt, Missouri 64048-9618
Tel (816) 320-3063

Paul Coblentz
3600 N E Highway W
Weatherby, Missouri 64497
Tel (816) 449-5173
or
Tel (816) 560-0386

Brooke Gray (*nee* Neubauer)
d/b/a B & B Equine Dentistry
6227 S E Perren Road
Holt, Missouri 64048-8364
Tel 404-925-5278

Wesley "Wes" Cowan D V M
Holt Animal Clinic
17126 Jackson Avenue
Holt, Missouri 64048-8853
Tel (816) 320-3726
Tel (816) 628-6891

Dean Houghton²²
Rural Route 2, Box 164A
Polo, Missouri 64671
Tel (816) 586-5641
or
5555 S W Peak Drive
Polo, Missouri 64671-8742
Tel (816) 586-4361

Paul Dauschmidt
17814 Highway C
Trimble, Missouri 64492-9134
Tel (816) 635-9932

²⁰ For instance, while the *Dentistry Practice Act*, R.S. Mo. § 322.011 *et seq*, appears to pertain to treatment of humans, its definition of the "practice of dentistry" nonetheless includes, among other things, without reference to whether the patient is a human or an animal

"(7) Administ[ing] an anesthetic in connection with dental services or dental operations or dental surgery,

(8) Undertak[ing] to or does remove hard or soft deposits from or polishes natural and restored surfaces of teeth,

(9) Uses or permits to be used for the person's benefit or for the benefit of any other person or other entity the following titles or words in connection with the person's name 'Doctor', '*Dentist*', 'Dr ', 'D D S ', or 'D M D ', or any other letters, titles, degrees or descriptive matter which directly or indirectly indicate or imply that the person is willing or able to perform any type of dental service for any person or persons, or uses or permits the use of for the person's benefit or for the benefit of any other person or other entity *any card*, directory, poster, sign or any other means by which the person indicates or implies or represents that the person is willing or able to perform any type of dental services or operation for any person,

(10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an office or establishment of any kind in which dental services or dental operations of any kind are performed for any purpose, but this section shall not be construed to prevent owners or lessees of real estate from lawfully leasing premises to those who are qualified to practice dentistry within the meaning of this chapter, (Bold & italics supplied) R.S Mo. § 322.071

²¹ Another possible address for Kelle Brammer might be 24808 Highway 92, Excelsior Springs, Missouri, 64024-8126

²² Author of *Say Cheese!*, John Deere *Homestead* magazine article on Gray

David R Leighr, D V M
Long Veterinary Clinic, L L C
19615 Highway 92 East
Kearney, Missouri 64060-9201
Tel (816) 635-6616
Fax (816) 628-7358

Angela Searcy
8140 North Hickory, Apt 11-026
Gladstone, Missouri 64118-6422
Tel (816) 383-2376

Robert L Mitts D V M
Holt Animal Clinic
17126 Jackson Avenue
Holt, Missouri 64048-8853
Tel (816) 320-3726

Secretary of State
Corporations Division
Missouri State Information Center
600 West Main Street, Room 322
Jefferson City, Missouri 65101-1592
Tel (573) 751-4153

James "Jim" F Peddicord, D V M
Odessa Animal Clinic
100 West Main Street
Odessa, Missouri 64076-1165
Tel (816) 633-5712

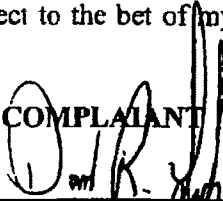
John White
1799 Bittersweet Lane
Lathrop, Missouri 64495-8600

Ronald C & Teresa G Reckrodt
16412 NE 138th Street
Kearney, Missouri 64060-8786
Tel (816) 903-4031

If the Board has any questions, I would be glad to answer them

AFFIRMATION I hereby affirm under penalties of perjury that the foregoing information which I have supplied is true and correct to the best of my knowledge, information and belief

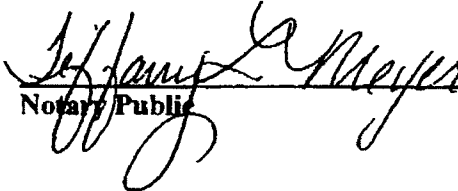
COMPLAINANT



David R. Leighr, D.V.M.
Long Veterinary Clinic, L.L.C.
19615 Highway 92 East
Kearney, Missouri 64060-9201
Tel: (816) 635-6616
Fax: (816) 628-7358

Subscribed and sworn to before me this 6th day of September 2007 in Overland Park, Johnson County, Kansas

Tiffany L. Meyer
Notary Public
State of Kansas
My appt exp 10/31/09
My Commission / Appointment Expires:



Notary Public

EXHIBITS

- 1 Brooke Neubauer, *B & B Equine Dentistry* business card
- 2 Missouri Secretary of State *Registration of Fictitious Name* by Brooke Neubauer for B & B Equine Dentistry, filed May 21, 2001
- 3 University of Missouri Extension, 4-H News Information for Clay County 4-H Families and Friends (April, 2006), identifying Brooke Gray as giving an demonstration as an equine dentist
- 4 University of Missouri Extension, Monroe County 4-H (April 2006), identifying Brooke Gray, an equine dentist, as a equine dentist giving a demonstration at a horse clinic
- 5 University of Missouri Extension, 4-H Family Newsletter, News & Notes 2006, identifying Brooke Gray, an equine dentist, as a equine dentist giving a demonstration at a horse clinic
- 6 Gregory M Dennis letter of May 12, 2007, to Brooke Gray with U S Postal Service, Track & Confirm
- 7 *Say Cheese! Brush up on dental care to keep your horse healthy and happy, Homestead magazine*
- 8 *Say Cheese! Brush up on dental care to keep your horse health and happy, Homestead Magazine* (December 2005)²³
- 9 *Academy of Equine Dentistry* website, *Instructors Principal Instructors of the Academy of Equine Dentistry*, identifying John Fortkamp, Foristell, Missouri
- 10 *International Association of Equine Dentistry* website, *Detailed View* for John Fortkamp
- 11 *Academy of Equine Dental International Directory* website, *Practitioners*, identifying Tara Brooks, Troy, Missouri and Lee Minks, Stotts City, Missouri
- 12 MS Power Point Broken Wheel Riding Club, *Information Booklet*, identifying Lee Minks of Missouri as a horse dentist

²³ <www.deere.com/en_US/ag/homestead/articles/animals/dec05_say_cheese.html>



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▼ **Say cheese (December 2005)**

Brush up on dental care to keep your horse healthy and happy

By Dean Houghton

Three-year-old Leo, our Quarter Horse gelding, taught us the importance of equine dental care. He had started dribbling grain from his mouth at feeding time and sometimes chewed on the bit during training sessions.



So we called on Brooke Gray, an equine dentist from nearby Holt, Mo., to have a look. She quickly found the culprit: A thin sharp fragment from a baby tooth, or "cap," was stuck in front of a premolar tooth in the roof of Leo's mouth.

Gray selected a long stainless-steel tool and quickly removed the offending shard. "That must have been hurting you, boy," she said as she patted her brave patient.

Our "people" dentist accuses my wife and me of waiting until we have a toothache to schedule a dental appointment. And we quite likely could have headed off Leo's sore jaw had we followed a recommended horse dentistry schedule. We've decided to put all our horses, from youngsters to the old retired mare, on a regular schedule for dental exams.

Many of our fellow horse enthusiasts are discovering what professionals on the racetrack and in the show circuit have known for years—that a good dentist can be as important to a performance horse as a good farmer. Experts agree that regular dental care not only helps maintain good body condition but also can extend the life of your horse.

Tooth doctor

Today's equine dentist does more than just "float," or remove the sharp enamel points, from teeth. You'll often find that today's equine dentist also keeps a chart that chronicles the condition of your horse's mouth, documenting how the teeth are wearing over time and giving clues as to any problems that might be prevented. At other times, dentists must become detectives. "Horses can't tell you their mouth is hurting," Gray says. "But they can show you in other ways." Those may show up as behavior and performance problems if soft tissue is getting pinched between the teeth and the bit. Horses may tilt their head or extend their tongue, or they may just become less flexible when you're out for a ride.

Checking for teeth problems also is a good idea when horses can't maintain weight or are dropping grain while eating. Equine are unique creatures, and a well-developed, properly maintained set of teeth is a key first step in a horse's complex digestive process.

Horses select their food with sensitive upper and lower lips. They draw the lips back while their front teeth (the incisors) grab the forage. Molars, or cheek teeth, grind the food into small particles. Since horses do not regurgitate food like cows, this chewing action must be thorough or nutrients will not be fully absorbed. Nature boosts this chewing action by providing an offset arrangement for the molars, with the upper set of molars spread apart a bit more than the lower set. Wavy tooth surfaces and a side-to-side chewing action helps the horse get the most from grasses.

Worse for wear

That arrangement, however, also means the chewing surface of the tooth is tilted, with the inner edge of the lower teeth sitting taller than the outer edge. Over time, the inner portion of the lower teeth as well as the outer edge of the upper teeth develop sharp tooth points. That's why horses need regular "floating" to smooth these edges. "When I have the horse's mouth set up in the speculum, I often have the owner feel the edges of these teeth," Gray says. "They usually are surprised by just how sharp these edges can become."

EXHIBIT 8

What we feed horses may also influence how often they need to be floated. When eating grain or pellets, horses have less lateral jaw movement as compared to horses eating forages. Less jaw action may result in a greater chance of developing sharp points.

The design of horse teeth also is quite unique. Adult teeth have deep crowns, and the tooth continues to emerge over the life of the horse as the grinding surface wears off. Eventually, like a piece of chalk, the tooth wears down to a nub as the horse becomes elderly. Some "senior" diets are now available for the older horse with limited ability to process food.

Tools and techniques

Various shapes and sizes of rasps have been used over the past several hundred years to help balance and maintain the mouth of the horse. "These manual tools can do a perfectly good job today in the hands of a good practitioner," says Dale Jeffrey, who heads up the Academy of Equine Dentistry at Glens Ferry, Idaho. "But there is no question that technology has produced terrific new dentistry tools."

Many horse dental specialists carry around a set of tools rivaling that of their human dentist counterparts. Pneumatic or electric dental power units drive small grinding heads made of advanced substances such as tungsten-carbide and diamond chips.

These new tools allow dentists to shape and smooth teeth with a minimum of damage to gums and soft tissue. "That makes it easier on the horse and limits the amount of recovery time after a dental session," Jeffrey says. Equine dentists can do just about everything from extractions to fillings on your location. Selecting an equine dentist may be as simple as checking with other area horse owners for a word-of-mouth recommendation. Or, if you want to check on-line, you can locate a dentist by visiting the American Veterinary Dental Society (avds-online.org), International Association of Equine Dentists (iaeqd.org), or International Directory of Equine Dentistry (equinedentistry.com). Your current equine vet may have the training and desire to meet your needs. Some states require licensed veterinarians to do dental procedures, while others allow lay dentists who work in cooperation with veterinarians for sedation and other procedures.

Just remember to start young. Experts say two-year-old horses should be checked a couple of times a year to see how those baby teeth are doing. Regular checkups and floating of an adult horse's teeth each year will help make sure you and your equine friend can share a smile for years to come!



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Continuing education is at the heart of all Academy programs. The Academy of Equine Dentistry is a school of responsible working practitioners. All instructors work at the equine dental trade and return to the school on a regular basis to share their knowledge and skills. This is the greatest reason for such a rapid rate of advancement in this industry. The instructors are committed to sharing knowledge concerning the art and science of equine dental equilibration. At least eight certified equine dentists come to assist in the wet lab and give lectures on a rotating basis.

PRINCIPAL INSTRUCTORS OF THE ACADEMY OF EQUINE DENTISTRY

Dale Jeffrey PCEqD has been involved in the Equine Dental Business for over 27 years as a writer, teacher and instrument maker. He became committed to it slightly before the age of 40 in the late 1970's and was first exposed to the trade in the late 1960's. His first experiences were dreadful but led to an attempt over the years to develop and train interested individuals in the use of practitioner and horse friendly instruments. Dale and his brother, Lloyd, own World Wide Equine, Inc. in Glens Ferry, Idaho, which employs about twenty people who build and ship quality instruments to over fifty countries around the world. Dale is the principal lecturer for the Anatomy, Physiology and Biophysics Course held at the Academy and Chairman of the Board of Directors.

John Fortkamp MCEqD of Fonstell, Missouri, USA has been an equine dental practitioner since 1997. His practice has taken him through most of the United States, England, Australia, South Africa and other countries. He serves as the Dean of Admissions, Business Administration and Education at the Academy of Equine Dentistry in Glens Ferry, Idaho where he shares his knowledge and reflections on various topics concerning equine dentistry through teaching and writing numerous articles on the subject. Along with other members of this staff he has worked to standardize lectures and practice protocol. John has a great love and passion for horses and people. His gentle manner and ability to teach has earned him the respect of talented equine practitioners around the World.

Bernard Fletcher DVM from Bennington, Nebraska has run a respected practice limited to horses for over 30 years. He is extremely adept in all aspects of Eastern and Western medicine and a thorough, competent equine dentist. Through his love for horses and passion for teaching, he has set a good example for many years at the Academy, helping to train many of the great equine dental practitioners of our time. He is in charge of all veterinarian procedures, surgery and the radiology department, and serves on the Board of Directors.

Jeff Micheel MCEqD was raised on a ranch near Ainsworth, Nebraska. He graduated from the University of Nebraska in 1992 with a Bachelors of Science degree, majoring in Animal Science. He started equine dentistry in 1993 and works in over six states. Jeff has been influential as an instructor at the Academy and serves on the Board of Directors.

Ben Koertje MCEqD started practicing equine dentistry in 1982. He apprenticed with his Uncle Larry Mitchell, and for the first eight years, worked on racetracks in northern California. Ben became involved in cutting horses and started working at major barns in California, Texas, Oregon, Nevada, and Hawaii. He works with a lot of renowned



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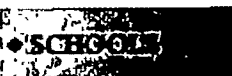
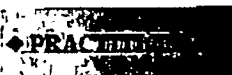
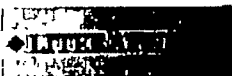
Detailed view

<p>Name</p> <p>Post address</p> <p>Zip code</p> <p>City</p> <p>State</p> <p>Country</p> <p>Phone no</p> <p>laed title</p> <p>Certification</p> <p>Full time occupation</p> <p>Dental Schools</p> <p>Other equine dental certification</p> <p>Member since</p>	<p>John Fortkamp</p> <p>13705 Rhynard-Fink Rd</p> <p>45362</p> <p>Rosburg</p> <p>Ohio</p> <p>USA</p> <p>314-409-1957</p> <p>member</p> <p>Non-Certified</p> <p>equine dental practitioner</p> <p>AED</p> <p>MCEqD</p> <p>2006-02-04</p>	
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EXHIBIT 10





























ACADEMY OF EQUINE DENTISTRY INTERNATIONAL DIRECTORY

PRACTITIONERS

If you are a Dental Practitioner and would like to have your name added to our list or would like a webpage advertisement on this site [click here](#)

Comments on Credentials

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EXHIBIT 11

May 27, 2010

000235 JUN-10

Missouri Veterinary Medical Board

To whom it may concern,

We received a subpoena regarding the investigation of B & B Dentistry and Brooke Gray. Enclosed are the documents described in the subpoena.

We have had veterinarians perform dentistry work on our horses in the past. We can compare the work done by veterinarians to the work done by Brooke Gray. Her work is exceptionally professional and thorough. We could not be more pleased with the empathy she shows working with our horses. We have found her work product to be excellent. She has proven that she can care for the dentistry needs of our horses in a skilled and proficient manner.

We are deeply troubled that this investigation has been launched into her business.

Sincerely,

Sharon and Sterling Silver

7288 SW State Route J

Osborn, Missouri 64474

Defendants'
Exhibit E