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25 March 2002

VIA FACSIMILE 743-2201

Mr. George G. Hearn  
Johnson, Hearn, Vinegar & Gee, PLLC  
Two Hannover Square, Suite 2200  
Raleigh, North Carolina 27601

Re: *Kevin Monce*

Dear George:

Thank you for your continuing work to resolve the complaint against Dr. Monce. Although we appreciate the effort you and the committee have made, he cannot agree to a consent agreement that results in any form of suspension of his license.

Dr. Monce is willing to accept a reprimand on the non-medical issues and would consider paying a modest civil penalty, but we do not believe that a suspension is justified. A suspension signifies a level of neglect or incompetence that is not warranted by his actions, and it can have a long-lasting effect on his professional reputation and ability to move from place to place.

If the committee accepts that Dr. Monce was acting as a consultant and was not primarily responsible for the care of the Deas' dog, his most serious remaining offenses relate to the inspection of facilities where he worked and the trailer. We believe that the statutes and rules are ambiguous on the need for those inspections and that Dr. Monce's violations — if, indeed, there are any — do not support as drastic a punishment as suspension of his license. We also think that if the board applies this very strict view of the inspection requirements to other situations it will find itself in a difficult position.

THARRINGTON SMITH, L.L.P.

Mr. George G. Hearn  
25 March 2002  
Page Two

Dr. Monce very much would like to put this matter behind him, but he cannot do so at the cost of his professional reputation. If the board believes that something more than a reprimand is required in order to monitor his future compliance with its rules, we suggest that you consider an order that leaves one portion of the non-medical complaint in abeyance for a specified period of time, say a year, as a means of exercising such control. If, during that period of time, there are further problems with Dr. Monce, the matter could be reopened; otherwise, whatever portion of the complaint was left would be dismissed at the end of the year. Such a resolution would satisfy the board's need to be sure that Dr. Monce is complying with its directives, while avoiding the harshness of suspension.

Again, thank you for your assistance in attempting to resolve this matter. We hope that the committee will see that our proposal is reasonable and appropriate and that we all can avoid the difficulties of a hearing.

Sincerely,

THARRINGTON SMITH, L.L.P.

*Michael Crowell*

Michael Crowell

MC/em

cc: Dr. Kevin Monce

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May 31, 2002

Michael Crowell, Esq.  
Tharrington Smith, LLP  
P.O. Box 1151  
Raleigh, NC 27602-1151

Re: North Carolina Veterinary Medical Board / Kevin Monce, D.V.M.

Dear Michael:

I regret that our discussions on behalf of our respective clients were unable to produce a negotiated consent order settlement of the pending complaints involving your client, Dr. Monce.

The Committee and I appreciated your and Dr. Monce's meeting with the Committee on March 21. By telephone in the presence of the Committee March 22, I conveyed to you a settlement proposal (in lieu of a hearing at which potential suspension, costs and civil monetary penalty would be at issue) with the following general elements: (1) Dr. Monce would accept a suspended suspension (of a duration to be determined) and there would be no active loss of license. The suspended (probation) suspension would be generally based on facts supporting certain violations of the principal aspects of the complaints we had discussed, but the actual findings of course had not been agreed to. I believe the Committee was somewhat flexible on this point. (2) The Committee also proposed a probationary period of two years under standard terms, including primarily that Dr. Monce would comply with all the Veterinary Medical Board statutes and regulations. (3) Finally, Dr. Monce would pay a \$5,000.00 civil monetary penalty. There was no element that Dr. Monce pay costs to the Board as part of the Consent Order.

You replied by letter of March 25, which I forwarded to the Committee upon receipt. Your response to the proposal was that Dr. Monce was willing to accept a reprimand "on the non-medical issues" and he "would consider paying a modest civil penalty, but we do not believe that a suspension is justified." You and I talked by telephone thereafter about your response, including the issue of suspension/stayed suspension.

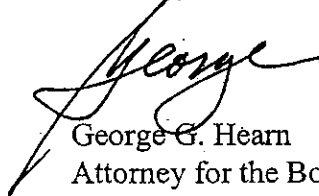
Michael Crowell, Esq.  
May 31, 2002  
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You suggested as an alternative that the Committee enter an order that leaves the non-medical aspect of the complaint in abeyance for a period of time, perhaps a year, in order to exercise supervisory control over Dr. Monce. At the end of that time, if there were no problem, you proposed that the portion of the deferred complaint would be dismissed. The Committee has rejected this counterproposal.

I and the Committee assume the negotiations are at an end, but the door is still open if you wish to correspond or talk further.

I plan to file the Notice of Hearing soon. Will you accept service of the Notice on behalf of Dr. Monce?

Sincerely,



George G. Hearn  
Attorney for the Board

GGH:jh

cc: Joseph K. Gordon, D.V.M.  
Herbert A. Justus, D.V.M.  
David T. Marshall, D.V.M

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25 July 2002

Mr. George G. Hearn  
Johnson, Hearn, Vinegar & Gee, PLLC  
Post Office Box 1776  
Raleigh, North Carolina 27602

Re: *Veterinary Medical Board/Kevin Monce*

Dear George:

The Kevin Monce matter seems to have a history of receiving only intermittent attention. Consistent with that pattern, we received a letter from you at the beginning of June following up on the discussions in March, and I am now writing in reply.

Dr. Monce would like to resolve this matter, but the sticking point is the issue of a suspension. We realize that you are talking about an arrangement in which Dr. Monce would be able to continue practicing, but whether it is called a "suspended suspension" or "probation" or "stayed suspension," it appears to us to still be a suspension. Thus, we believe that Dr. Monce would have to answer "yes," that his license had been suspended, if faced with that question on a license application for another state or an insurance form or Drug Enforcement Administration form or other document. Having to answer in that manner would create significant difficulties which are not justified by Dr. Monce's conduct — in addition to the taint on his professional reputation.

We would be glad to discuss settlement further if there is a way to address the suspension question. It does not appear that the committee has any real issue with the quality of Dr. Monce's professional care. That being the case, the use of a suspension should not be necessary to satisfy the committee's concerns about the way in which Dr. Monce has organized his practice; those concerns can be alleviated by other means.

THARRINGTON SMITH, L.L.P.

Mr. George G. Hearn  
25 July 2002  
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We would hope that now that some additional time has passed the committee will be interested in resolving this matter in a way that does not unduly punish Dr. Monce. We appreciate your using your good offices to that end.

Sincerely,

THARRINGTON SMITH, L.L.P.

*Michael*

Michael Crowell

MC/em

cc: Dr. Kevin Monce

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\*CERTIFIED MEDIATOR

July 26, 2002

Michael Crowell, Esq.  
Tharrington Smith, LLP  
P.O. Box 1151  
Raleigh, NC 27602-1151

Re: North Carolina Veterinary Medical Board / Kevin Monce, D.V.M.

Dear Michael:

It was good to receive your July 25 letter in response to mine to you of May 31.

I have sent your letter to the Committee on Investigations No. 1. You mention only the "sticking point" of the stayed suspension. What about the monetary penalty that the Committee proposed, assuming other aspects were worked out?

Sincerely,



George G. Hearn

GGH:jh

cc: Committee on Investigations No. 1  
Thomas M. Mickey

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