3 March 2023

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**DAMIEN SENN**

**Date of hearing:** 24 February 2023

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Judge Marilyn Harbison.

**Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.

Mr Damien Senn did not attend the hearing.

**Charges:** Greyhounds Australasia Rule (“GAR”) 86(e) states:

A person (including an official) shall be guilty of an offence if the person -:

(e) being an owner, trainer, attendant or a person having official duties in relation to greyhound racing, refuses or fails to attend or to give evidence at an inquiry, or produce a document or other thing in relation to an investigation, examination, test or inquiry pursuant to these Rules when directed by the Controlling Body, Stewards or the committee of a club to do so.

GAR 86(o) states:

A person (including an official) shall be guilty of an offence if the person -:

(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which in the opinion of the Stewards or Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.

**Particulars of charges: Charge 1: GAR 86(e)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 18 June 2021, you were sent via email, a Notice of Inquiry scheduled for 22 June 2021.
3. On 18 June 2021, a follow up voice mail and text message was sent to you requesting your attendance at the inquiry.
4. On 22 June 2021, you responded by email stating you would not be attending the scheduled inquiry.
5. You failed to attend the scheduled inquiry on 22 June 2021, as directed by a Steward.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (e) (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
8. affect the previous operation of the Old Rules (including Rule 86(e));
9. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(e)); or
10. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(e)).

**Charge 2: GAR 86(e)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 30 November 2021, you were sent via email, a Notice of Inquiry scheduled for 14 December 2021.
3. On 13 December 2021 a follow up text message was sent to you requesting your attendance at the inquiry.
4. On 13 December 2021, you responded by text message stating you would not be attending the scheduled inquiry.
5. You failed to attend the scheduled inquiry on 14 December 2021, as directed by a Steward.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (e) (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
8. affect the previous operation of the Old Rules (including Rule 86(e));
9. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(e)); or
10. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(e)).

**Charge 3: GAR 86(o)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You had control and responsibility over the greyhound “Turbo Thomas” (NGCMJ) from 1 June 2021. You transferred ownership of Turbo Thomas (NGCMJ) to a third party on 6 June 2021.
3. New owners have not been able to provide any evidence Turbo Thomas (NGCMJ) was ever in their care.
4. You failed to provide Turbo Thomas (NGCMJ) with a secure and long-term retirement home in that the greyhound is now missing.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 4.
6. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
7. affect the previous operation of the Old Rules (including Rule 86(o));
8. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(o)); or
9. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(o)).

**Charge 4: GAR 86(o)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules
2. You had control and responsibility over the greyhound “Canya Cruise” (NHDJX) from 7 May 2021. You transferred owner ship of CANYA CRUISE (NHDJX) to a third party on 31 May 2021.
3. New owners have not been able to provide any evidence Canya Cruise (NHDJX) was ever in their care.
4. You failed to provide Canya Cruise (NHDJX) with a secure and long-term retirement home in that the greyhound is now missing.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 4.
6. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
7. affect the previous operation of the Old Rules (including Rule 86(o));
8. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(o)); or
9. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(o)).

**Charge 5: GAR 86(o)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No.318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You had control and responsibility over the greyhound “Deliver” (VFHQO) from 9 February 2021. You transferred ownership of DELIVER (VFHQO) to a third party on 20 April 2021.
3. New owners have not been able to provide any evidence Deliver (VFHQO) was ever in their care.
4. You failed to provide Deliver (VFHQO) with a secure and long-term retirement home in that the greyhound is now missing.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 4.
6. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
7. affect the previous operation of the Old Rules (including Rule 86(o));
8. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(o)); or
9. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(o)).

**Pleas:** Not Guilty

**PENALTY**

1. In a hearing on 7 February 2023, Greyhound Racing Victoria (“GRV”) Stewards made out their case for guilty verdicts in respect of five charges under the Greyhounds Australasia Rules (“GARs”). Mr Senn was advised of the hearing with ample notice and declined to participate.
2. This decision should be read in conjunction with the 7 February 2023 decision (“the liability decision”). This decision concerns the penalties which should be imposed in respect of each charge dealt with in the liability decision.
3. One of the most significant charges is Charge 3, which concerns conduct in breach of GAR 86(o), namely being part of a scheme to send greyhounds to China without GRV being informed. Charge 4 is equally significant and involves the same course of conduct as under Charge 3.
4. Charge 5 involved conduct which formed part of the deception to which Charges 3 and 4 relate.
5. Charges 1 and 2 relate to separate incidents of the same conduct, namely, the refusal to attend Stewards’ inquiries.
6. On sentencing, it is therefore appropriate to impose a sentence on Charge 3 as the head sentence and make any penalties under Charges 4 and 5 wholly concurrent with that sentence.
7. Charge 1 will be the subject of an additional penalty and Charge 2 will involve concurrency with that penalty.
8. The behaviour of Mr Senn in attempting to get around the requirements of GRV to supervise what happens to greyhounds after retirement and his defiance in refusing to be subject to an investigation of those matters are egregious and appalling breaches of the Rules of greyhound racing.
9. On Charge 3, Mr Senn is disqualified for a period of 12 months. He is subject to the same penalties on Charges 4 and 5, but they will be served concurrently with the penalty imposed on Charge 3.
10. On Charge 1, Mr Senn is disqualified for a period of six months. The same penalty applies to Charge 2 but that penalty will be served concurrently with the penalty imposed on Charge 1. The penalty imposed on Charge 1 is to be served cumulatively on the penalty imposed on Charge 3.
11. The total disqualification period of 18 months shall commence immediately. The penalty imposed reflects the seriousness of the conduct, the desire to maintain probity in greyhound racing, general deterrence, denunciation of the offending conduct and the lack of remorse.
12. We note that, after the liability decision, a copy of that decision was promptly sent to Mr Senn and he was informed of the hearing date for the penalty hearing. He informed the Assistant Registrar that he would not be participating in the penalty hearing.
13. We also note that the penalties imposed by the Tribunal were the same as those sought by GRV. Had higher penalties been sought, the Tribunal would have considered those higher penalties, having regard to the seriousness of the offending conduct.
14. At the penalty hearing, the GRV representative sought to tender a newspaper article dealing with the topic of the greyhounds referred to in the liability decision being ultimately sent to China. In that liability decision, we expressed the view that Mr Senn’s conduct was part of that process. In the newspaper article he denied that, but he gave no evidence before us on the topic. In sentencing, we have had no regard to the newspaper article.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal