22 May 2023

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**CALVEN RUSSELL**

**and**

**SHELLY-ANN WARDE**

**Dates of hearings:** 12 April 2023, 13 April 2023 and 14 April 2023

**Panel:** Judge John Bowman (Chairperson) and Mr Greg Childs.

**Appearances:** Ms Amara Hughes instructed by Ms Yana Podolskaya appeared on behalf of the Stewards.

Mr Calven Russell and Ms Shelly-Ann Warde represented themselves.

Mr Paul Searle appeared as a witness.

Mr Ben Considine appeared as a witness.

Mr Christopher Gawne appeared as a witness.

Dr Chad Baali appeared as a witness.

**Charges and particulars: Calven Russell – Charges 1 to 5**

**Charge No. 1 of 5**

Greyhounds Australasia Rule **86 (q)**,**as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that person –*

*(q) commits or omits to do any act or engages in conduct which is any way detrimental or prejudicial to the interest, welfare, image control or promotion of greyhound racing.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27th of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1st of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
   1. “So, what do I do with the fucking dogs??
   2. How can u treat owners with such contempt that they can’t even race their dogs despite having nothing to do with any bullshit that has gone on??
   3. What a disgusting deplorable load of shit. As I’ve said before DRUG CHEATS get treated better than me.
   4. Complete joke.”
5. Your behaviour in sending the email is prejudicial to the control and image of Greyhound Racing.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (q) (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:
   1. affect the previous operation of the Old Rules (including Rule 86(q));
   2. 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(q)); or
   3. 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(q)).

**Charge No. 2 of 5**

Greyhounds Australasia Rule **86 (o)**, **as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that 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 the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27th of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1st of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
5. “So, what do I do with the fucking dogs??
6. How can u treat owners with such contempt that they can’t even race their dogs despite having nothing to do with any bullshit that has gone on??
7. What a disgusting deplorable load of shit. As I’ve said before DRUG CHEATS get treated better than me.
8. Complete joke.”
9. Your behaviour in sending the email is improper.
10. 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 5.
11. 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:
    1. affect the previous operation of the Old Rules (including Rule 86(o));
    2. 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
    3. 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 No. 3 of 5**

Greyhounds Australasia Rule **86 (p)**, **as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 24th of August 2021, you were issued with a lawful direction by a Steward by way of Directions Notice which directed you, in part, to ensure by 31st August 2021:

* Mow and clean all outside yards on your property.
* Turn over soil in outside yards to remove odour emanating from area.
* Install soft bedding in required kennel areas.
* Clean the inside of indoor kennels. This includes the removal of excessive dirt, dust and cobwebs.

1. You were required to comply with this lawful direction by 31st of August 2021 but failed to attend to any of the items listed.
2. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
3. 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:
   1. affect the previous operation of the Old Rules (including Rule 86(p));
   2. 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(p)); or
   3. 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(p)).

**Charge No. 4 of 5**

Greyhounds Australasia Rule **106 (1)(c)**, **as in force at the relevant time,** reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 17th of September 2021, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds 2018’- the standard approved by GRV,in particular;

* The outdoor yards where several greyhounds were being housed was overgrown with grass and weeds.
* Drinking water for the greyhounds being kept on the property was of poor quality with several of the receptacles containing large amounts of algae.
* A large number of kennels to be absent of suitable bedding.
* Indoor kennels and outside yards to be in poor sanitary condition with faeces, urine, dirt, dust and cobwebs present.

1. You failed to provide kennels that were compliant with the Code of Practice for the Keeping of Racing Greyhounds 2018.
2. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule **106 (1) (c)** (as then in force) to engage in the conduct described in particular 3.
3. 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:
   1. affect the previous operation of the Old Rules (including Rule **106 (1) (c)**);
   2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule **106 (1) (c)**); or
   3. 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 **106 (1) (c)).**

**Charge No. 5 of 5**

Greyhounds Australasia Rule **86 (p)**, **as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 17th of September 2021, you were issued with a lawful order by a Steward by way of Directions Notice which directed you, in part, to ensure by 24th September 2021:

* All areas where greyhounds are kept to have fresh drinking water in clean non spillable containers.
* Removal of all waste products (faeces) from where greyhounds are kept.
* Raised beds and soft bedding for all greyhounds.
* Mow all yard areas containing greyhounds as well as grass in close proximity of yards containing greyhounds.
* Thorough cleaning of indoor kennels including the removal of cobwebs and dirty surfaces. Disinfect floors to remove odour emanating from the kennels.

1. You were required to comply with this lawful order by 24th of September 2021 but did fail to attend to all items listed.
2. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
3. 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:
   1. affect the previous operation of the Old Rules (including Rule 86(p));
   2. 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(p)); or
   3. 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(p)).

**Calven Russell – Charges 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time,** reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
   1. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
   2. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
   3. Kennels had a strong odour of urine and ammonia.
   4. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
   5. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
   6. Greyhounds housed with insufficient bedding and housing.
   7. Insufficient fresh and clean water, housed in containers which were not non-spillable.
   8. Insufficient shading.
   9. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
   10. The outdoor yards had large holes likely to cause injury to the greyhounds.
   11. The outdoor yards were overgrown with grass and weeds.
4. GRV Vet, Mr Shadi ELBAALI stated:

*“I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds”.*

1. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
2. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
3. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
4. affect the previous operation of the Old Rules (including Rule 42.1);
5. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 42.1); or
6. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rule 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) –* *kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’’ for keeping of Racing Greyhounds:
   1. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
   2. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
   3. Kennels with a strong odour of urine and ammonia.
   4. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
   5. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
   6. Greyhounds housed with insufficient bedding and housing.
   7. Insufficient fresh and clean water, housed in containers which were not non-spillable.
   8. Insufficient shading.
   9. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
   10. The outdoor yards had large holes likely to cause injury to the greyhounds.
   11. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (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 106 (1) (c)),
8. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 106 (1) (c)); 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 Rule106 (1) (c).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
4. Insufficient fresh and clean water, housed in containers which were not non-spillable.
5. Water which was provided was dirty and full of algae.
6. You failed to provide greyhounds with proper and sufficient drink.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
8. 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:
   1. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
   2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
   3. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule106 (1) (a).

**Charge No. 4 of 4**

Greyhounds Australasia Rules 86 (p), **as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15th of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18th March 2022, your kennels located in Kyabram, Victoria, complied with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’’, in particular, all aspects of:
   1. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
   2. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
   3. Section 6.7.2, Minimum housing requirements.
   4. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
   1. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
   2. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
   3. Puppy yards 2 to 10 still did not have shading.
   4. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
   5. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
4. On 11th of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25th of April 2022, which was later extended to the 12th of May 2022, your kennels located in Kyabram, Victoria complied with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’, in particular, all aspects of:
   1. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
   2. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
   3. Section 6.7.2, Minimum housing requirements.
   4. Section 6.7.7, Construction of indoor kennel facilities
   5. Section 4.5, Security
   6. Section 6.7.6, Construction of housing pens and yards
   7. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12th of May 2022, but you did fail to attend to several of the listed items, namely:
   1. Section 6.7.2, Minimum housing requirements.
   2. Section 6.7.6, Construction of housing pens and yards
   3. Section 6.7.7, Construction of indoor kennel facilities
   4. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
   1. affect the previous operation of the Old Rules (including Rule 86 (p));
   2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 86 (p)); or

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 (p)).

**Shelly-Ann Warde – Charge 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time,** reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
   1. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
   2. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
   3. Kennels had a strong odour of urine and ammonia.
   4. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
   5. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
   6. Greyhounds housed with insufficient bedding and housing.
   7. Insufficient fresh and clean water, housed in containers which were not non-spillable.
   8. Insufficient shading.
   9. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
   10. The outdoor yards had large holes likely to cause injury to the greyhounds.
   11. The outdoor yards were overgrown with grass and weeds.
4. GRV Vet, Mr Shadi ELBAALI stated:

*“I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds”.*

1. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
2. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
3. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
4. affect the previous operation of the Old Rules (including Rule 42.1);
5. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 42.1); or
6. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rules 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’ for keeping of Racing Greyhounds:
   1. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
   2. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
   3. Kennels with a strong odour of urine and ammonia.
   4. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
   5. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
   6. Greyhounds housed with insufficient bedding and housing.
   7. Insufficient fresh and clean water, housed in containers which were not non-spillable.
   8. Insufficient shading.
   9. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
   10. The outdoor yards had large holes likely to cause injury to the greyhounds.
   11. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (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 106 (1) (c)),
8. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 106 (1) (c)); 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 Rule106 (1) (c).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15th of March 2022, at your kennel address in Kyabram, Victoria, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
4. Insufficient fresh and clean water, housed in containers which were not non-spillable.
5. Water which was provided was dirty and full of algae.
6. You failed to provide greyhounds with proper and sufficient drink.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
8. 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:
   1. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
   2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
   3. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule106 (1) (a).

**Charge No. 4 of 4**

Greyhounds Australasia Rule 86 (p), **as in force at the relevant time,** reads as follows:

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15th of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18th March 2022, your kennels in Kyabram, Victoria, complied with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’’, in particular, all aspects of:
   1. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
   2. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
   3. Section 6.7.2, Minimum housing requirements.
   4. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
   1. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
   2. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
   3. Puppy yards 2 to 10 still did not have shading.
   4. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
   5. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
4. On 11th of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25th of April 2022, which was later extended to the 12th of May 2022, your kennels located in Kyabram, Victoria, complied with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’, in particular, all aspects of:
   1. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
   2. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
   3. Section 6.7.2, Minimum housing requirements.
   4. Section 6.7.7, Construction of indoor kennel facilities
   5. Section 4.5, Security
   6. Section 6.7.6, Construction of housing pens and yards
   7. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12th of May 2022, but you did fail to attend to several of the listed items, namely:
   1. Section 6.7.2, Minimum housing requirements.
   2. Section 6.7.6, Construction of housing pens and yards
   3. Section 6.7.7, Construction of indoor kennel facilities
   4. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
   1. affect the previous operation of the Old Rules (including Rule 86 (p));
   2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of 86 (p)); or
   3. 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 (p)).

**Pleas:** Mr Calven Russell – Not Guilty to all charges

Ms Shelly-Ann Warde – Not Guilty to all charges

**DECISION**

**1.INTRODUCTION**

Greyhound Racing Victoria (‘GRV”) have brought two sets of charges against Mr Calven Russell and one set of charges against Ms Shelly-Ann Warde. Both are licensed trainers and were so licensed at the relevant times.

The earlier set of five charges against Mr Russell essentially arise from events and consequential behaviour in 2021. There are no charges against Ms Warde in regard to these matters.

There are four charges against both Mr Russell and Ms Warde arising out of or associated with Stewards’ inspections in early 2022. The charges against each are identical.

Matters of animal welfare are at the heart of each set of charges, although two of the 2021 charges against Mr Russell directly involve an email sent by him to Mr Paul Searle, the Chief Steward.

Both Mr Russell and Ms Warde have pleaded “not guilty” to all charges.

**2. OUR FINDINGS IN RELATION TO THE CHARGES AGAINST MR. RUSSELL ARISING OUT OF THE 2021 EVENTS.**

(a) Charges 1 and 2 concern GAR86(q) and (o) and an email sent by Mr Russell to the Chief Steward on 1 August 2021.

On 27 July 2021, Mr Russell had been suspended immediately for three months by this Tribunal. On 30 July 2021 Mr Russell emailed Mr Searle, seeking the transfer of a greyhound during his period of suspension. Mr Searle denied this request, referring to local rule 11.8.

This produced from Mr Russell an email to Mr Searle. It contained bad language and was abusive.

Whilst Mr Russell pleaded not guilty to charges of breaching GAR86(q) and GAR86(o), we are comfortably satisfied that he had engaged in conduct that was prejudicial to the control and interest of greyhound racing and had engaged in conduct that was improper. He put forward no substantial or logical argument to the contrary.

There may well be some overlapping of these charges. However, we are comfortably satisfied that the essential ingredients of each charge have been made out by the Stewards.

(b) Charge 3 concerns an alleged breach of GAR86(p), a failure to comply with the lawful order of a Steward. This involves a direction issued on behalf of the Stewards on 24 August 2021. It essentially related to matters of cleanliness and maintenance of the kennels and their surrounds.

We prefer and accept the evidence advanced on behalf of the Stewards. In this regard, we would refer to the evidence given by Steward Mr Iain Livingston and the photographs taken at the kennels on 24 August 2021. We would also refer to the record of the interview conducted with Mr Russell on that day. We accept that there was a number of unsatisfactory and unhygienic features and non-compliance issues that were identified.

Accordingly, on 25 August a directions notice outlining required improvements and work to be done was forwarded by Mr Livingstone to Mr Russell.

The Stewards attended again on 17 September 2021. We accept that essentially the unsatisfactory features of the kennels and the surrounding property still existed, and, as noted by Mr Livingstone, the facilities for the dogs were in fact” in far worse condition” than at the time of the earlier inspection. Photographs were put in evidence.

Another letter of direction was sent on this day.

A further inspection was carried out on 27 September. There were still issues that required attention and issues previously raised by the Stewards that had not been addressed.

The final visit of the Stewards in relation to the above matters was on 12 October 2021 – that is, about seven weeks after the initial inspection. At last there had been compliance with the directions.

We accept the above. Whilst excuses and attempted explanations were advanced by Mr Russell, the evidence advanced by the Stewards, including substantial photographic material, comfortably satisfies us that the charge has been proven.

(c) Charges 4 and 5 effectively deal with matters that have been discussed above and, whilst separate charges, do not need extensive further discussion.

Suffice to say that, on 17 September 2021, in breach of GAR106(1)(c), Mr Russell was found to have failed to provide kennels kept in a clean and sanitary condition. We are comfortably satisfied that charge 4 has been proven.

Notice of this was contained in the lawful direction given to Mr Russell on 17 September 2021. However, as at the inspection of 27 September 2021, there still had not been compliance with the direction. We are comfortably satisfied that charge 5 has been proven.

(d) We are comfortably satisfied that each of the five charges has been proven and that Mr Russell is guilty accordingly.

We shall hear the parties on the question of penalty at a date to be fixed.

**3. OUR FINDINGS IN RELATION TO THE CHARGES AGAINST MR RUSSELL AND MS WARDE ARISING OUT OF THE 2022 EVENTS.**

(a) Whilst the four charges against both Mr Russell and Ms Warde arising out of the 2022 events are in essence based upon identical facts, and whilst they were training out of the same premises, nevertheless we shall deal separately with each set of charges. Both declined to give evidence as such, preferring to make statements, as is their right. Accordingly, they were not cross-examined.

(b) The charges against Mr Russell.

Charges 1, 2 and 3 are dated 14 September 2022.

Charge 1 is a breach of LR42.1 – keeping greyhounds in conditions dangerous or detrimental to their health and safety. This overlaps considerably with charge 2 – failing to always keep registered kennels in a clean and sanitary condition for greyhounds (GAR106(1)(c)).

Both Charges 1 and 2 arose out of kennel inspections commencing on 15 March 2022. A large number of unsatisfactory features of the premises was brought to the attention of Mr Russell. These included poor lighting; an unsatisfactory floor; poor ventilation; poor and dirty bedding; excrement in the yards; and various other unsatisfactory features.

A lawful directions notice was issued in relation to these matters. we accept the evidence of the Stewards in relation to their observations and findings.

The Stewards attended again on 17 March 2022, this time accompanied by a veterinary surgeon, Dr Chad Baali, who gave evidence before the Tribunal. Some attempt had been made to clean up yards and kennels, but significant work was still required. None of the non-compliant yards and kennels had been altered. Dr Baali believed that there was significant risk to the physical and mental health and welfare of the greyhounds. He referred to the lack of appropriate hygiene, adequate husbandry practices, and maintenance. We accept his opinions.

We also accept the evidence of the principal investigating Steward, Mr Ben Considine, which findings have been summarised above.

In short, we are comfortably satisfied that charges 1 and 2 are proven.

Charge 3 is an alleged breach of GAR106(1)(a) – a failure to provide sufficient drinking water to greyhounds.

We appreciate the argument of Mr Russell to the effect that the irrigation channel water, which is used for a variety of purposes, is discoloured. However, having viewed the photographic material provided by the Stewards, read their material, and read the opinion of Dr Baali, we are comfortably satisfied that this charge has been proven.

We also appreciate that, as at the time of the second inspection on 17 March 2022, some attempt had been made to clean water containers, but there were still areas used by the dogs where no such work had been done. It is also to be remembered that it was on 17 March that Dr Baali inspected the kennels and referred to the lack of fresh and clean water available.

In summary, we find this charge proven.

Charge 4 is pursuant to GAR86(p), failure to comply with a lawful order of a Steward.

In particular, this involves an alleged failure to comply with lawful orders of the Stewards contained in lawful directions notices of 15 March 2022 and 11 April 2022.

The earlier notice followed the Stewards’ visit of 15 March. The direction required Mr Russell to supply photographs in relation to water supply and cleanliness by the following day. It is alleged that this was not done.

The later notice was subsequent to a Stewards’ visit on 6 April 2022. In this latter case, several extensions of time were granted, but an inspection on 17 May 2022 showed that there had been non-compliance in various regards.

We are comfortably satisfied that this charge has been proven.

In summary, we are comfortably satisfied that all four charges are proven.

We shall hear the parties on the question of penalty at a date to be fixed.

(c) The charges against Ms Warde.

The four charges against Ms Warde are identical to the four 2022 charges against Mr Russell. This decision should be read in conjunction with the decision involving those charges against him. Ms Warde pleaded not guilty to the charges.

At the relevant time, the pair were both registered trainers with the same kennels’ address. In addition, they were in a partnership relationship, which, as we understand it, has more recently come to an end. However, the operation of the kennels remains the same.

We also accept that, at the relevant time in 2022, Ms Warde was working full time away from the kennels. She did have some input, however limited, into their operation, including the training and upkeep of the dogs.

Ms Warde elected not to give evidence, as is her right, and made a brief statement. This was more an explanation as to what had occurred, rather than a vigorous contesting of the facts.

We are comfortably satisfied that the charges against Ms Warde have been made out. She may have been absent from the kennels for a large part of each working day and played a comparatively minor part in their operation, but, as a licensed trainer, some responsibility must rest with her.

In short, we find Ms Warde guilty of each of the four charges. We would refer again to our decision in the case against Mr Russell in relation to these 2022 charges.

We shall hear the parties on the question of penalty on a date to be fixed.

Mark Howard

Registrar, Victorian Racing Tribunal