25 February 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**BARBARA CHENEY**

**Date of hearing:** 11 December 2020

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

**Appearances:** Mr Damian Hannan, instructed by Mr Marwan El-Asmar, appeared on behalf of the Stewards.

Mr Diarmaid McGann appeared on behalf of Ms Cheney.

Ms Barbara Cheney appeared as a witness.

Mr Daniel Gleeson appeared as a witness.

Mr Gary Harrison appeared as a witness.

Dr Nicholas Evans appeared as a witness.

Mr Simon McLean appeared as a witness.

**Charges and Particulars:**

**Charge No. 1 of 23**

The Investigative Stewards charge you with a breach of Local Racing Rules **42.1**,which 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 owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between December 2019 and July 2020, you had the care and custody of up to 45 greyhounds.
3. These greyhounds were kept in conditions where they failed to have regular access to clean fresh water, they failed to be provided with suitable dry and soft bedding and their kennels and yards failed to be cleaned regularly, and in an appropriate manner, including the build up of faeces.
4. These conditions in which the greyhounds were kept were dangerous and detrimental to their health and safety.

**Charge No. 2 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(a)**,which reads as follows:

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

* *Proper and sufficient food, drink and protective apparel*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between December 2019 and July 2020, you had the care and custody of up to 45 greyhounds.
3. These greyhounds failed to be provided with regular access to clean and fresh water.

**Charge No. 3 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(c)**,which reads as follows:

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

* *Kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in a clean and sanitary condition.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between December 2019 and July 2020, you had the care and custody of up to 45 greyhounds.
3. These greyhounds were kept in kennels and yards which were not cleaned regularly and appropriately and resulted in a strong smell of ammonia from the indoor kennels, a build up of faeces in the indoor kennels and outdoor yards and soiled bedding.
4. These conditions were unsanitary.

**Charge No. 4 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(d)**,which reads as follows:

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

* *veterinary attention when necessary.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21st of May 2020, Investigative Stewards located on your property, and under your care, a female greyhound (VIJIU) with a serious wound to her torso which required veterinarian treatment and surgery.
3. You had failed to seek nor provide veterinarian treatment for this greyhound.

**Charge No. 5 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21st of May 2020, Investigative Stewards located on your property, and under your care, a female greyhound (VIJIU) with a serious wound to her torso which required veterinarian treatment and surgery.
3. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Charge No. 6 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(d)**,which reads as follows:

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

* *veterinary attention when necessary.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 28th of May 2020, Investigative Stewards located on your property, and under your care, a male greyhound (VEDMU) with lameness to his left foreleg and requiring veterinarian treatment.
3. You had failed to seek nor provide veterinarian treatment for this greyhound.

**Charge No. 7 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 28th of May 2020, Investigative Stewards located on your property, and under your care, a male greyhound (VEDMU) with lameness to his left foreleg and requiring veterinarian treatment.
3. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Charge No. 8 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(d)**,which reads as follows:

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

* *veterinary attention when necessary.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between 21st of May 2020 and 16th of July 2020, a greyhound under your care and control, an unnamed female (VIEBZ), was suffering from a Corneal Ulcer that required veterinary treatment.
3. You had failed to seek nor provide veterinarian treatment for this greyhound.

**Charge No. 9 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between 21st of May 2020 and 16th of July 2020, a greyhound under your care and control, an unnamed female (VIEBZ), was suffering from a Corneal Ulcer that required veterinary treatment.
3. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Charge No. 10 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(d)**,which reads as follows:

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

* *veterinary attention when necessary.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between 21st of May 2020 and 16th of July 2020, a female greyhound under your care and control, “Fog Light” (QABNY), was suffering the eye condition ‘Pannus’ that required veterinary treatment.
3. You had failed to seek nor provide veterinarian treatment for this greyhound.

**Charge No. 11 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between 21st of May 2020 and 16th of July 2020, a female greyhound under your care and control, “Fog Light” (QABNY), was suffering the eye condition ‘Pannus’ that required ongoing veterinary treatment.
3. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Charge No. 12 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(1)(d)**,which reads as follows:

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

* *veterinary attention when necessary.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 3rd of July, a female greyhound under your care and control, kennel name “Julie” (VEDMW), was suffering from a chest and eye injury requiring veterinary treatment.
3. You had failed to seek nor provide veterinarian treatment for this greyhound.

**Charge No. 13 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 3rd of July, a female greyhound under your care and control, kennel name “Julie” (VEDMW), was located suffering from a chest and eye injury requiring veterinary treatment.
3. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Charge No. 14 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(p)**,which reads as follows:

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

* *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 owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 12th of July 2019, you were served with a ‘Letter of Direction’ which directed you -:
* “Prior to the commencement of any part of the breeding process (this includes servicing or use of a straw) you MUST first seek and gain the approval from GRV to commence breeding. You must first email the GRV Integrity Office on intelligence@grv.org.au to advise of you intentions.

No action should be taken until such time as GRV advises you in writing of whether the request is approved or not”

1. On the 25th of February 2020, a greyhound “Ghost Girl” (VEDSE), which is owned and was in your care, did have a litter of 9 pups.
2. No application was made to, nor was any approval granted, by GRV for this breeding to occur.

**Charge No. 15 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **127(1)**,which reads as follows:

 *A greyhound shall not be used as a sire unless registered as a sire.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On or about the 23rd of December 2019, an unnamed greyhound (VHDKT), which was owned by you and in your care, was used as a sire for breeding purpose.
3. This greyhound was not registered with the GRV as a sire.

**Charge No. 16 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **127(6)**,which reads as follows:

 *A bitch shall not be used for breeding purposes unless registered as a ‘breeding female’.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 25th of February 2020, a greyhound “Ghost Girl” (VEDSE), which is owned and was in your care, did have a litter of 9 pups.
3. This greyhound was not registered with the GRV as a ‘breeding female’.

**Charge No. 17 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(p)**,which reads as follows:

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

* *Disobeys or fail 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 owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 3rd of April 2020, in regard to your kennels, you were issued with a lawful order by a Steward in the form of Compliance Notice No. 1255. This Compliance Notice required you to -:
* *Ensure each greyhound had sufficient clean water (rectify immediately)*
* *All kennels/yards to have raised bedding and shelters compliant with Code of Practice (rectify by 17th of April 2020)*
1. You failed to comply with the conditions and timeframes of this Compliance Notice.

**Charge No. 18 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(p)**,which reads as follows:

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

* *Disobeys or fail 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 owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 21st of May 2020, in regard to your kennels, you were issued with a lawful order by a Steward in the form of Compliance Notice No. 1860. This Compliance Notice required you to -:
* *Ensure appropriate bedding is supplied in all kennels (rectify by 25th of May 2020)*
* *Indoor kennels to be maintained in a clean and hygienic condition (rectify immediately)*
1. You failed to comply with the conditions and timeframes of this Compliance Notice.

**Charge No. 19 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(p)**,which reads as follows:

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

* *Disobeys or fail 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 owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 28th of May 2020, in regard to your kennels, you were issued with a lawful order by a Steward in the form of Compliance Notice No. 1861. This Compliance Notice required you to -:
* *All water bowls to be cleaned, filled and maintained with fresh water (to be rectified immediately)*
* *All kennels to be cleaned and maintained in hygienic conditions (to be rectified by 29th of May 2020)*
* *Appropriate bedding to be supplied to all kennels (to be rectified by 30th of May 2020)*
1. You failed to comply with the conditions and timeframes of this Compliance Notice.

**Charge No. 20 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(e)**,which reads as follows:

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

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

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 15th of May 2020, an Investigative Steward opened an Inquiry with you at your kennelling address in regard to the death and disposal of a greyhound.
3. You refused to give evidence in this Inquiry.

**Charge No. 21 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **86(f)(i)**,which reads as follows:

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

* *Engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting or offensive language, conduct or behaviour in any manner or form towards, or in relation to –*
1. *A Steward.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 15th of May 2020, an Investigative Steward conducted a kennel inspection at your address.
3. During this inspection you used improper, insulting and offensive language towards the Investigative Steward including the terms, “Don’t waste my time mate. Go away, piss off”, “Fuck off, get off my property” and “Fuck off. Go and play with yourself”

**Charge No. 22 of 23**

The Investigative Stewards charge you with a breach of Local Racing Rule **42.9(a)**,which reads as follows:

* *Where a greyhound has died (whether due to natural causes, accident, misadventure, euthanasia or otherwise):*
1. *Within 2 working days of the date of death (and prior to the disposal of the body of the deceased greyhound), the owner or person responsible for the greyhound must notify the Board in the prescribed form of the death of the greyhound and provide a veterinary certificate of euthanasia where available.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 4th of April 2020, the skeletal remains of a greyhound was located at your property. This greyhound is believed to be from litter Amicability/Lethal Mariah and whelped on 27/01/2010.
3. This greyhound died at your property within the previous 12 months.
4. You failed to notify GRV of the death of this greyhound.

**Charge No. 23 of 23**

The Investigative Stewards charge you with a breach of Greyhounds Australasia Rules **106(2)**,which reads as follows:

*A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person’s care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of the Charge being**:

1. You were, at all relevant times, a public owner/breeder registered with Greyhound Racing Victoria (**GRV**) (Member No. 313842) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 22nd of August 2020, a blue brindle female greyhound (approximate age 10 years) and unable to be identified, which had been under your care and control, was located deceased in the front room of your home.
3. The post mortum examination of this greyhound indicated it had suffered from Pyometra and would have been in severe pain prior to death.
4. You failed to exercise reasonable care and supervision to prevent this greyhound from being subjected to unnecessary pain or suffering.

**Plea:** Not guilty to all charges

**DECISION**

1. Ms Barbara Cheney is a registered public owner/breeder with Greyhound Racing Victoria (“GRV”). She lives alone at her kennel address in Katamatite, about 50 kilometres North-East of Shepparton, near Cobram. The property has eight indoor kennels and several yards at the front and rear of the property for a large number of greyhounds. It is just under 15 acres in size.
2. In the background section of the brief supplied to the Tribunal by the Stewards of GRV, the following is set out:

“Between 23 December 2019 and 27 August 2020, Investigative Stewards conducted twelve (12) separate kennel inspections at the registered kennel address of Ms Cheney. These repeated kennel visits were conducted due to concerns over the condition of the greyhounds, the conditions in which they were housed, the lack of compliant kennels and consistent lack of availability of fresh clean water. The number of greyhounds located at the property varied between approximately thirty (30) and forty-five (45). Three (3) retired greyhounds were allowed to roam the property. Due to the poor conditions encountered, several of these visits were conducted with GRV Vets and/or inspectors and Team Leaders from the RSPCA”.

1. As explained below, in dealing with the 23 charges laid against Ms Cheney, evidence before the Tribunal bore out the factual contents of that summary. Ms Cheney pleaded not guilty to all charges.

**CHARGE 1**

1. The first charge alleged that Ms Cheney had up to 45 greyhounds in her care and custody between December 2019 and July 2020. It alleged that the greyhounds were “kept in conditions where they failed to have access to clean fresh water, they failed to be provided with suitable dry and soft bedding and their kennels and yards failed to be cleaned regularly, and in an appropriate manner, including the build-up of faeces”. Its alleged that those conditions were dangerous and detrimental to the health and safety of the greyhounds in Ms Cheney’s care.
2. The charge was brought under GRV Local Racing Rule (“LR”) 42.1. That provides that it is a serious offence “if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of greyhounds”.

**EVIDENCE – CHARGE 1**

1. As at 23 December 2019, Mr Daniel Gleeson was an Investigative Steward with the GRV Integrity Unit and remained in that position until May 2020. Mr Gleeson was at kennel inspections on 23 December 2019, 17 January 2020, 7 February 2020, 3 April 2020 and 15 May 2020.
2. During the kennel inspection on 23 December 2019, Mr Gleeson observed that the water provided to the kennels in the indoor area was minimal, the water in the galloping yards was dirty, with the containers requiring cleaning and the water in the outdoor kennels was very low.
3. Mr Gleeson also observed a large pile of household rubbish on the outside of a shed containing racing kennels. The rubbish was such that it would attract vermin and snakes.
4. Mr Gleeson issued Ms Cheney with a compliance notice to clean and fill all water bowls before the end of the day and to clean the rubbish outside the shed and fill in holes in the yard by 6 January 2020.
5. Under cross-examination from Mr Diarmaid McGann, counsel for Ms Cheney, Mr Gleeson referred to a build-up of faeces, a strong stench of urine, dust and dirt in the kennel area, holes in the yards, fences that could not restrict dogs properly and water bowls green with mould and half filled with fungus and algae build up. The build-up of faeces was throughout the property.
6. Mr Gleeson attended the property again on 17 January 2020 with Investigative Steward, Mr Gary Harrison. Mr Gleeson observed that some of the drinking bowls were placed too high for the greyhounds to access. Mr Gleeson said that issues arising from the compliance notice given on 23 December remained unresolved.
7. Under cross-examination, he said that the water bowls only had a little water in them, but they were not up to the minimum standard required to have clean water for greyhounds.
8. Mr Gleeson next attended the property on 7 February 2020 and required Ms Cheney to complete an environmental plan called an “EHMP” within 14 days.
9. Mr Gleeson again attended the property on 3 April 2020, with Mr Harrison. Prior to attending, he had been informed that Ms Cheney had bred a litter of pups, allegedly in breach of a July 2019 order from GRV that she refrain from breeding. Mr Gleeson observed that Ms Cheney had not attended to the matters that were the subject of the compliance notice given on 23 December 2019. Mr Gleeson observed that:
* The indoor kennels had a build-up of dirt and faeces and a strong smell of ammonia;
* Bedding for all greyhounds was minimal or non-existent;
* Water for greyhounds kept in the outside kennels or yards was minimal and dirty;
* Large holes were dug in grounds of 2 outdoor kennels;
* Full skeletal remains of a greyhound were found in the front yard with a hole in its skull.
1. Mr Gleeson issued Ms Cheney with a compliance notice to rectify the issues he had observed.
2. Mr Gleeson next attended the property on 15 May 2020. Mr Gleeson observed that no water had been provided for the pups. Mr Gleeson saw the skeletal remains of another greyhound in a fire pit in the front yard.
3. Mr Harrison gave evidence that he attended the property with Mr Gleeson on 23 December 2019. He confirmed the evidence of Mr Gleeson about the lack of water and the dirtiness of what water there was at the property for the 39 greyhounds present. He also confirmed the evidence about the faeces build up and the large holes in the dirt in the outdoor kennels. He described the living conditions as unsafe and unsanitary.
4. He also confirmed Mr Gleeson’s evidence about inadequate bedding and a build-up of faeces in the outdoor kennel area, as well as large holes being dug into the dirt. He confirmed that he was present with Mr Gleeson on 3 April 2020 and that the issues identified on 23 December 2019 had not been resolved.
5. Mr Harrison gave evidence that bedding needs to be clean, soft and being capable of being slept on as well as elevated. No such bedding was provided by Ms Cheney. Mr Harrison observed a food bowl with rancid food in it. He produced a photograph of the food bowl and photographs of dirty water bowls, as well as the pup stall with strewn straw on the floor and urine and faeces through it.
6. Mr Harrison confirmed Mr Gleeson’s account of what occurred on 3 April 2020.
7. Mr Harrison attended the property on 21 May 2020 with GRV Steward, Mr Blood and GRV Veterinarian, Dr Nicholas Evans. He observed that the pups had been moved to one of the stalls in the shed, but without access to fresh clean water, with a large amount of faeces and rancid food on the floor and with minimal soiled bedding. The water provided was minimal and contaminated. He saw a greyhound housed in a dog trailer in the yard without access to water. There was no clean water or appropriate bedding in the outside yards. Mr Harrison said under cross-examination that Ms Cheney seemed unable to clean the various water bowls from what he observed over a reasonable period due to her physical condition. He also said that there were large weeds around the property which attract snakes.
8. Prior to leaving the property on 21 May 2020, Mr Harrison issued a compliance notice to rectify the issues observed on the property, including immediate cleaning of the kennels and the supply of appropriate bedding within 4 days.
9. Mr Harrison next attended the property on 28 May 2020 with Dr Evans and RSPCA Inspector, Ms Rosie Walsh. Various photographs were taken of the property, which reveal its poor condition, as well as the water bowls with no water or dirty water or being set too high for the dogs to reach.
10. Ms Cheney had failed to comply with the compliance notice issued 4 days earlier. During the visit, two greyhounds were surrendered to the RSPCA. Ms Cheney was issued with a further compliance notice to immediately provide fresh water to all greyhounds, clean the kennels and provide bedding to all kennels within 2 days. A notice of immediate suspension was issued to Ms Cheney; under LR 11.14.
11. Mr Harrison next attended the property on 4 June 2020. Photos taken show that water bowls were set too high. In the outdoor kennels there was only one water container with minimal water in it and algae growing in the water bowl. Running water was available on the property to the taps on the property. The pups only had a bowl of milk with no water available. The indoor kennels had insufficient bedding. The two greyhounds in the outdoor kennels did not have any water available to them.
12. Mr Harrison attended the property again on 22 June 2020, with Dr Evans. Photographs were taken of water bowls with no water. Others had minimal water which was very dirty, with sediment at the bottom of the container. Ms Cheney was issued with a notice of suspension under Greyhounds Australasia Rule (“GAR”) 92(5)(c).
13. Mr Harrison’s next visit was on 3 July 2020. He attended with Investigations Manager, Mr Simon McLean and Ms Walsh from the RSPCA. He observed that Ms Cheney had not complied with previous compliance notices and that the overall condition of the property and the conditions for the greyhounds had deteriorated.
14. Mr Harrison noted that pups only had a small amount of water provided, the indoor kennels had not been cleaned for some time, there was no water available to the dogs in the outdoor kennels and a large amount of faeces was on the ground. Bedding in the outside yard was minimal. A black bitch called “Julie” was in the rear yard with serious injuries. Fleas were visible on most greyhounds. A further compliance notice was issued under the *Prevention of Cruelty to Animals Act 1986* addressing the consistent lack of fresh clean water, lack of hygiene in the kennels, yards and surrounds and the consistent lack of appropriate bedding.
15. On 16 July 2020, Mr Harrison re-attended the premises with Mr McLean, Dr Evans and RSPCA officials. Water issues, cleanliness issues, bedding issues and faeces issues remained. A greyhound in a rear yard continued to suffer from pannus.
16. Mr Harrison was cross-examined and agreed that he did not know when water bowls may be emptied quickly by thirsty dogs or knocked over by greyhounds. The extent of the problem does not justify that as an excuse for Ms Cheney not to keep up a regular supply of clean fresh water.
17. Mr Harrison served a notice of seizure on Ms Cheney regarding her greyhounds.
18. Mr Simon McLean gave evidence. He is the Investigations Manager of GRV and acts as an Investigative Steward. He considered, based on interactions between GRV staff and Ms Cheney, that Ms Cheney was struggling to properly look after the greyhounds in her care. He said the conditions at the property continued to deteriorate in 2019 and 2020. Ms Cheney was non-compliant with several compliance notices. He attended the inspections on 3 and 16 July 2020. He confirmed the evidence of Mr Harrison about the state of the property that day.
19. Dr Evans gave evidence. He attended the property on several occasions between May and July 2020. He said that he observed the living conditions of the greyhounds on the property to be very poor each time he attended. All greyhounds he examined at the property showed evidence of heavy flea burden and several were injured.
20. Dr Evans observed that Ms Cheney failed to provide her greyhounds access to a fresh and clean water supply. All the dogs were provided with contaminated water and 14 did not have access to water where they were housed. In the outside pens, water troughs had become embedded in mud. Lack of access to clean water can lead to diseases in greyhounds, such as, salmonella, hookworm and gardia. He observed an accumulation of faecal marks, urine soaked and dirt contaminated bedding materials and rancid food. The lack of appropriate bedding leads to skin issues, such as pressure sores or abrasions. Failure to properly clean and disinfect the kennels can result in kennel cough and gardia. Two dogs were kept in trailers with no access to water and with soiled bedding. The lack of ability to move freely impacted regularly on their welfare.
21. Due to poor management and inappropriate housing at the property, preventable injuries were caused by dogs fighting and moving between kennels. Dr Evans said that the conditions on the property were such that there was a significant risk to the welfare of the greyhounds. He particularly referred to the increased risk of stress, dehydration, skin issues, gastrointestinal and respiratory diseases due to improper care of the greyhounds by Ms Cheney.
22. Dr Evans noted that his inspection of the property on 16 July 2020 showed that none of the issues previously identified by GRV had been rectified. There was still a failure to provide clean, fresh water and appropriate housing leading to dogs incurring injuries in fighting.
23. Ms Cheney gave evidence that the condition of her water supply was muddy. However, this conflicted with evidence of Dr Evans that he scrubbed and cleaned some water containers and filled them with fresh water available on the property. Ms Cheney’s evidence did not in any meaningful way challenge the accusations that the conditions on her property were dangerous and detrimental to the health and safety of her greyhounds.
24. Counsel for GRV, Mr Damien Hannan, submitted that charge 1 is made out because the culmination of the conditions at the property between December 2019 and July 2020 was such that they were dangerous and detrimental to the health and safety of the greyhounds. He referred, in particular, to the evidence of Dr Evans, especially that referred to in [33] to [36] above.
25. Counsel referred to the evidence of lack of clean water, the build up of faeces throughout the yards, dirty kennels with inadequate bedding, lack of water to two dogs housed in a trailer and water containers too high for dogs to reach.
26. Counsel noted that none of the evidence of GRV’s witnesses about conditions on the property were seriously challenged in cross-examination.
27. Ms Cheney terminated the services of her counsel before submissions in writing were due. None of her written submissions addressed any issue relevant to charge 1 in any meaningful way or attempted to counter any argument regarding this charge, as advanced by the Stewards.
28. We are comfortably satisfied that charge 1 is made out. From 23 December 2019 to 16 July 2020, the conditions faced by greyhounds on the property were dangerous and detrimental to their health and safety by reason of:
* inadequate water;
* contaminated and/or dirty water;
* some dogs without access to water;
* filthy conditions with excessive amounts of faeces and soiled bedding;
* inadequate bedding;
* urine soaked bedding and kennels;
* all of which were capable of leading to the health issues identified by Mr Evans and outlined at [35] above.
1. We find Ms Cheney guilty of charge 1. We are comfortably satisfied of her guilt.

**CHARGE 2**

1. Charge 2 alleges that Ms Cheney failed to comply with GAR 106(1)(a) by failing to provide greyhounds in her care, at all times, with proper and sufficient food, drink and protective apparel.
2. The evidence of the GRV witnesses proves that the charge is made out in respect of proper or sufficient drink. Ms Cheney failed to address this charge in any meaningful way in submissions.
3. We are comfortably satisfied that the charge is made out. Ms Cheney is guilty on charge 2.

**CHARGE 3**

1. Charge 3 alleges that Ms Cheney breached GAR 106(1)(c) by failing to provide clean and sanitary kennels constructed to a standard approved by the controlling body.
2. The particulars of the charge referred to kennels not being cleaned regularly or appropriately, with a build-up of faeces in the kennels and soiled bedding.
3. The evidence referred to under charge 1 supports this charge. No serious attempt was made by Ms Cheney to answer it. We are comfortably satisfied that it is made out. Ms Cheney is guilty on charge 3.
4. Charges 4 and 5 have been withdrawn.

**CHARGE 6**

1. The Stewards have charged Ms Cheney under GAR 106(1)(d) with failing to ensure a greyhound in her care was provided with veterinary attention when necessary. The greyhound had the ear brand VEDMV.
2. Dr Evans gave evidence that he noticed this greyhound, referred to as greyhound 15 in his statement, with severe non-weight-bearing lameness to the left forelimb. Ms Cheney told him that it was only a little bit of soreness and had not sought treatment for it.
3. The greyhound was surrendered to the RSPCA on 20 May 2020, the day of Dr Evans’ inspection of the greyhound. The greyhound was treated after surrender for chronic inflammation of the wrist and responded to anti-inflammatory medication.
4. Dr Evans assessed the lameness as 5/5 on the lameness score. He said that the pain caused by this condition did not allow the dog to walk properly. He said, relevant to charge 7, that the failure to seek veterinary attention for VEDMU caused pain and suffering detrimental to its health and welfare.
5. Ms Cheney gave no evidence about this dog, but, after terminating the services of her counsel, in one of her many email’s containing alleged “submissions” she referred to this greyhound’s injury and said, in effect, that she rescued him from another trainer. She made no submission denying that the dog was in need of attention from a veterinarian.
6. We are comfortably satisfied that the charge is made out. Ms Cheney is guilty on charge 6.

**CHARGE 7**

1. Stewards of GRV charged Ms Cheney under GAR 106(2) with failing to exercise reasonable care to prevent VEDMU from being subjected to unnecessary pain and suffering. From her “submissions”, Ms Cheney appears to believe that “natural therapy” would have helped the greyhound. That is inconsistent with the expert evidence of Dr Evans referred to at [52] to [54] above.
2. Ms Cheney is guilty of charge 7. We are comfortably satisfied that it is made out.

**CHARGE 8**

1. Ms Cheney was also charged under GAR 106 (1)(d) with failing to provide veterinary attention when necessary to an unnamed female greyhound. That greyhound was referred to in Dr Evans’ statements as greyhound 7. During inspections on 28 May and 22 June 2020, he observed her to be suffering a corneal ulcer in her left eye. On 16 July 2020, he observed that there had been no improvement in her condition. He was concerned about ineffective treatment being given or not administered properly. As the condition was not resolving, he considered that veterinary attention was necessary.
2. RSPCA seized the bitch on 16 July 2020. Earlier on 3 July 2020, she had been examined by Dr Park of the Shepparton Veterinary Clinic for injuries sustained in a dog fight. Ms Cheney, according to Dr Evans, provided minimal treatment against the advice of Dr Park, which resulted in a non-healing wound to the left eye and inflammation and ulceration to that eye, requiring veterinary attention. Dr Evans said, relevant to charge 9, in his oral evidence to the Tribunal that the ulcer would have been painful and the loss of vision in one eye would have caused suffering.
3. Dr Evans gave evidence that the condition was often resolved with appropriate treatment, Ms Cheney did not seek or obtain that treatment. This made the greyhounds pain and suffering unnecessary, which is relevant to charge 9.
4. In her “submissions”, Ms Cheney provided an email in which she referred to a greyhound being in a dog fight and stated that the issue of blindness in her eye was not recorded.
5. We are comfortably satisfied that charge 8 is made out. Ms Cheney is guilty on charge 8.

**CHARGE 9**

1. Ms Cheney has been charged under GAR 106(2) for failure to exercise reasonable care and supervision as to prevent an unnamed greyhound being subjected to unnecessary pain and suffering. Having regard to [60] to [62] above, we are comfortably satisfied that this charge is made out. Ms Cheney is guilty of charge 9.

**CHARGE 10**

1. Dr Evans observed from three inspections in May and June 2020 that an unnamed black bitch was suffering from pannus. On 28 May 2020 there had been no improvement since 21 May 2020 when Dr Evans first observed the condition, despite assurances by Ms Cheney that she was supplying medication. She produced alleged medication, consisting of an unlabelled bottle, to Dr Evans. In his final inspection of the greyhound on 16 July 2020, Dr Evans noted no improvement. Veterinary attention was not sought by Ms Cheney despite the condition becoming worse. In his oral evidence, Dr Evans said pannus is successfully treated with a corticosteroid preparation.
2. Ms Cheney has been charged under GAR 106(1)(d) with failing to ensure that this greyhound was provided with veterinary attention when necessary. Ms Cheney’s submissions in writing on this issue do not assist in mounting a defence to this charge. She is of the view, for no valid reason, that after 28 May 2020 she was not permitted to treat the greyhound.
3. Ms Cheney is guilty of charge 10 to our comfortable satisfaction.

**CHARGE 11**

1. Ms Cheney is also charged under GAR 106(2) with failing to exercise reasonable care and supervision to prevent the greyhound, the subject of charge 10, from being subjected to unnecessary pain and suffering. This charge is also made out. As Dr Evans said in his oral evidence, reduced vision would cause suffering and the associated inflammation would cause pain. We are comfortably satisfied that Ms Cheney is guilty of this charge.

**CHARGE 12**

1. Charge 12 is another charge under GAR 106(1)(d) concerning a bitch with ear brand VEDMU and known as “Julie”. Julie sustained an injury to her eye and one to her chest which were observed by GRV officials during the inspection on 3 July 2020.
2. Ms Cheney claimed that the injury occurred early that morning when Julie caught her eye on some tin. Julie was also observed to have a chest injury. Ms Cheney claimed knowledge of that injury. She said she was waiting for a friend from New South Wales taking to arrive before the greyhound to a veterinarian. A compliance notice was issued for the seeking of immediate veterinary attention. Dr Park examined the greyhound that day. She described the neck injury as “old” and “chronic”. She prescribed pain relief. She also said that the injury to the eyelid was too large to suture and that it may drop off due to tissue death. Dr Evans gave oral evidence that veterinary treatment should have been sought for these injuries well before 3 July 2020.
3. Ms Cheney made a written submission that the injuries to this greyhound were overstated. We prefer the expert evidence of Dr Evans and the analysis of Dr Park in her report. This charge is made out to our comfortable satisfaction. Ms Cheney is guilty of charge 12.

**CHARGE 13**

1. Charge 13 is another charge under GAR 106(2) relating to “Julie” (VEDMW), the subject of charge 12. We are comfortably satisfied that this charge is made out. On Dr Evans’ evidence, Julie must have been experiencing unnecessary pain and suffering from the conditions, which were described as “chronic”. Ms Cheney is guilty of charge 13.

**CHARGE 14**

1. Ms Cheney has also been charged under GAR 86(p) with disobeying a lawful order of a Steward. On 12 July 2019, Steward, Simon McLean, served a letter of direction on Ms Cheney requiring her to seek and gain the approval of GRV to commence breeding. On 3 April 2020, Ms Cheney informed Stewards that 9 pups had recently been born on her property. She said the mating was unplanned.
2. At the time, Ms Cheney had straws of semen frozen and in the past had relied on money from breeding to maintain her property. She denied intending to breed. She said that the mating was accidental. We are not comfortably satisfied that the charge is made out. We find Ms Cheney not guilty on charge 14.

**CHARGE 15**

1. Under GAR 127(1), a greyhound is not to be used as a sire unless registered as a sire. The sire of the pups was an unknown greyhound, ear brand VHDKT. It was not registered as a sire. Ms Cheney asserts that she did not use the dog as a sire and that the mating was accidental. We are not comfortably satisfied that this charge has been established.
2. We find Ms Cheney not guilty on charge 15.

**CHARGE 16**

1. Logically, the same result applies for charge 16 in which Ms Cheney is accused of breaching GAR 127(6) by using an unregistered bitch as a breeding bitch. We also dismiss this charge.

**CHARGE 17**

1. On 3 April 2020, Mr Gleeson ordered Ms Cheney, by a compliance notice, to ensure that each greyhound had clean water immediately and that all kennels and yards had raised bedding and shelter by 17 April 2020.
2. On each inspection since 17 April, starting in May and finishing in July the notice was not complied with by Ms Cheney. The same applied to the topic of providing minimal bedding. We find Ms Cheney guilty of failing to comply with the 3 April compliance notice under GAR 86(p).

**CHARGE 18**

1. Charge 18 is another charge under GAR 86(p). This concerns a compliance notice issued by Mr Harrison on 28 May 2020 concerning the provision of clean fresh water, hygienic conditions and appropriate beddings.
2. The order required Ms Cheney to ensure appropriate bedding was provided by 21 May 2020 and all kennels were maintained in clean and hygienic conditions immediately. The notice was issued on 28 May 2020. As at July 16 the indoor kennels remained dirty and unhygienic. The notice required the bedding to be rectified by 25 May 2020. At an inspection on 28 May 2020, the bedding was still not appropriate and the kennels were not in a clean condition.
3. At each inspection on:
* 28 May 2020;
* 22 June 2020;
* 3 July 2020; and
* 16 July 2020

The kennels had soiled floors and the bedding was inadequate. We are comfortably satisfied that charge 18 is established. Ms Cheney is guilty of that charge.

**CHARGE 19**

1. This charge is also under GAR 86(p) for failing to comply with a compliance notice issued by a Steward to an industry participant. It concerned the maintenance of fresh, clean and available water, the bringing of kennels up to a hygienic standards and the provisions of appropriate bedding.
2. Ms Cheney did not comply with this notice. We are comfortably satisfied that Ms Cheney is guilty. The evidence of GRV staff, including Dr Evans, establishes that fact.
3. We find Ms Cheney guilty of charge 19, based on our comfortable satisfaction.

**CHARGE 20**

1. Ms Cheney has been charged under GAR 86(e) with refusing or failing to give evidence at an inquiry held on 15 May 2020 concerning the death and disposal of a greyhound.
2. On 15 May 2020 at a kennel inspection at the property, Mr Gleeson attempted to open an inquiry into the discovery of greyhound skeletal remains in a makeshift pit on the property. Ms Cheney refused to co-operate. She said she was not going to participate in the inquiry.
3. Ms Cheney is guilty of charge 20 to our comfortable satisfaction.

**CHARGE 21**

1. Ms Cheney is also charged under GAR 86(f)(i), in relation to the use of offensive language towards Mr Gleeson on 15 May 2020. When Mr Gleeson attempted to conduct an inquiry, he gave evidence that Ms Cheney told him to “fuck off”, “fuck off boy” and “go play with yourself mate”.
2. Ms Cheney did not address these issues in her evidence in chief. In cross-examination she admitted that she swore and that she “had enough of it”. She agreed she used the insulting words claimed by Mr Gleeson to have been used by her. However, she maintained her not guilty plea despite that. The Tribunal is comfortably satisfied of her guilt on this charge.

**CHARGE 22**

1. Ms Cheney has been charged under LR 42.9(a) with failing to notify GRV about the death of a greyhound owned by her within 2 days of its death.
2. On 3 April 2020, skeletal remains of a greyhound were found in a makeshift pit on the property. Ms Cheney said she had buried the dog in the backyard, but that greyhounds had dug up the skeleton and dragged it to the front yard, where it was found by Stewards. Ms Cheney identified the greyhound as “Makita”. She said the greyhound died 18 months earlier. She did not tell GRV of that fact.
3. We are comfortably satisfied that Ms Cheney is guilty of this charge. We find her guilty.

**CHARGE 23**

1. Finally, Ms Cheney is charged again under GAR 106(2). This time it is for failing to exercise reasonable care that a greyhound (identified as a blue/brindle bitch) under her care was not subjected to unnecessary pain and suffering.
2. On 27 August 2020, GRV officials discovered a deceased greyhound on the floor of the residence in a front room. Ms Cheney told Stewards that the bitch had recently died. A post-mortem was carried out. In Dr Evans’ expert opinion, the greyhound had died 3 to 10 days earlier. This was based on a post-mortem examination conducted by Dr Ploeg of Melbourne University. The cause of death was infection of the uterus. Dr Ploeg reported that the disease is common, but treatment is often successful.
3. Dr Evans gave evidence that this condition, untreated, was most likely to result in severe pain before death.
4. We find Ms Cheney guilty of the charge. We are comfortably satisfied that the charge is made out.

**SUMMARY**

1. Charge 1 – Guilty LR 42.1

Charge 2 – Guilty GAR 106(1)(a)

Charge 3 – Guilty GAR 106(1)(c)

Charge 4 – Withdrawn

Charge 5 – Withdrawn

Charge 6 – Guilty GAR 106(1)(d)

Charge 7 – Guilty GAR 106(2)

Charge 8 – Guilty GAR 106(1)(d)

Charge 9 – Guilty GAR 106(2)

Charge 10 – Guilty GAR 106(1)(d)

Charge 11 – Guilty GAR 106(2)

Charge 12 – Guilty GAR 106(1)(d)

Charge 13 – Guilty GAR 106(2)

Charge 14 – Not Guilty GAR 86(p)

Charge 15 – Not Guilty GAR 127(1)

Charge 16 – Not Guilty GAR 127(6)

Charge 17 – Guilty GAR 86(p)

Charge 18 – Guilty GAR 86(p)

Charge 19 – Guilty GAR 86(p)

Charge 20 – Guilty GAR 86(e)

Charge 21 – Guilty GAR 86(f)(i)

Charge 22 – Guilty LR 42.9(a)

Charge 23 – Guilty 106(2)

**FUTURE CONDUCT OF THE MATTER**

1. The Tribunal has listed a telephone directions hearing for Wednesday, 17 March 2021 at 10.00am for the programming of a penalty hearing dealing with the following:
* Charges 6, 8, 10, 12 – under GAR 106(1)(d)
* Charges 7, 9, 11, 13, 23 – under GAR 106(2)
* Charges 17, 18, 19 – under GAR 86(p)
* Charges 1, 22 – under LR 42.1 and 42.9(a)
* Charge 2 – under GAR 106(1)(a)
* Charge 3 – under GAR 106(1)(c)
* Charge 20 – under GAR 86(e)
* Charge 21 – under GAR 86(f)(i)
1. The directions hearing will be convened to determine a time for the hearing and the mode of the hearing on penalty to conclude the matter.

Mark Howard
Registrar, Victorian Racing Tribunal