1 June 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**BARBARA CHENEY**

**Date of hearing:** 14 May 2021

**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.

Ms Barbara Cheney failed to appear.

**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. On 25 February 2021, the Tribunal published its Reasons for Decision in the matter of charges laid by Greyhound Racing Victoria (“GRV”) Stewards against Ms Cheney. These Reasons should be read in conjunction with that decision.
2. The Tribunal found Ms Cheney guilty of 18 charges laid against her. Four charges concerned a breach of Greyhounds Australasia Rule (“GAR”) 106(1)(d), when greyhounds in her care and custody were not provided with veterinary attention when necessary. These instances included a greyhound with lameness to the left foreleg, another with a corneal ulcer, another suffering from pannus and one suffering from chest and eye injuries.
3. The Tribunal also found Ms Cheney guilty of 5 charges under GAR 106(2) – failing to prevent greyhounds under her care or custody from being subjected to unnecessary pain and suffering.
4. One charge related to each of the greyhounds referred to in paragraph 2 above and one related to a greyhound which had suffered with pyometra.
5. The charges under GAR 106(2) are particularly serious and deserving of severe sanctions. In 2014, GRV produced a document entitled “Animal Welfare Penalty Guidelines”. We are informed by those Guidelines, but not bound by them. Those Guidelines suggest a minimum period of 6 months disqualification and a $1,000 fine when lack of veterinary care requires extensive rehabilitation to restore a greyhound to an acceptable level of health. The Guidelines suggest a minimum 12 months disqualification where the welfare of numerous greyhounds is involved and particularly, as in this case, where the registered person has been involved in the breeding of greyhounds.
6. In the case of charge 23, the greyhound which was subject to unnecessary pain and suffering died. On that charge we impose a penalty of 4 years disqualification. We also impose penalties of 12 months disqualification on each of charges 7, 9, 11 and 13, but make these penalties wholly concurrent with the penalty on charge 23.
7. In the case of charges 6, 8, 10 and 12, we impose a period of 3 months suspension on each charge, but make the penalties concurrent with the 4 years disqualification on charge 23.
8. Charges 17, 18 and 19 involved a breach of GAR 86(p), which prohibits a registered participant from failing to comply with a lawful order from a Steward. Charge 17 concerned a failure to comply with a notice concerning the provision of sufficient clean water to greyhounds, as well as raised bedding and shelves.
9. Charge 18 concerned a failure to comply with a lawful order concerning appropriate bedding and hygienic kennels. Charge 19 concerned a failure to comply with a lawful order regarding the provision of fresh water, clean kennels and appropriate bedding.
10. The failure to comply was in complete defiance of the regulator and showed a contempt for the enforcement of animal welfare standards.
11. On the charge under GAR 86(p) in charge 19, we impose a penalty of 2 years disqualification. We impose a penalty of 3 months disqualification on each of charges 17 and 18 to be served concurrently with the penalty under charge 19. The 2 years disqualification shall be served cumulatively with the 4 years disqualification under charge 23.
12. Charge 1 concerned a breach of Local Rule 42.1. It concerned a failure to ensure greyhounds had access to clean fresh water, suitable day and soft bedding and yards clean of a build up of faeces.
13. This charge is a most serious one. The breach occurred over at least a 7 month period and involved a large number of greyhounds. The conditions in which Ms Cheney’s greyhounds were kept were appalling. On this charge we impose a penalty of 2 years disqualification cumulative with the penalties under charges 19 and 23.
14. Charge 22 concerned a breach of Local Racing Rule 42.9(a) concerning the failure to notify GRV of the death of a greyhound. On this charge we impose a penalty of two months’ disqualification concurrent with the penalty on charge 1.
15. Charge 2 involved a breach of GAR 106(1)(a) concerning a failure to provide regular access for greyhounds to clean and fresh water. On this charge we impose a 1 month disqualification to be served concurrently with the penalty on charge 1.
16. Charge 3 concerned a breach of GAR 106(1)(c) concerning a failure to provide kennels constructed of a standard approved by GRV, adequate in size and kept in a sanitary condition. On this charge we impose a penalty of a 1 month disqualification, to be served concurrently with the penalty on charge 1.
17. Charge 20 concerned a breach of GAR 86(e), whereby Ms Cheney refused to give evidence at the request of investigative Stewards at an inquiry into the death and disposal of a greyhound on her property. Failure to comply with such a request is contemptuous of the investigative process of the industry regulator. It is a serious matter. On this charge we impose a penalty of 12 months disqualification cumulative with the penalties under charges 23, 19 and 1.
18. Charge 21 involved a breach of GAR 86(f)(i) by using improper, insulting and offensive language towards a Steward. Stewards have an important role to play in ensuring integrity in the sport and are entitled to conduct those duties without participants engaging in abusive behaviour towards them. On this charge, we impose a 1 month disqualification to be served concurrently with the penalty under charge 20, as it arose from the same course of conduct and occurred when Ms Cheney was under severe stress.
19. The total period of disqualification for the offences in charges 23, 19, 1 and 20 is 9 years. It is important that the Tribunal engage in an exercise of instinctive synthesis in relation to the totality principle and impose a penalty that is not crushing or disproportionate in all the circumstances. In our view, the appropriate total effective penalty is a period of 7 years commencing on 28 May 2020.
20. We note that, in determining a penalty in these matters, we only received assistance from Counsel representing the Stewards. The hearing of submissions on penalty was programmed at a directions hearing at which Ms Cheney participated and with her agreement. The hearing took place in Shepparton to suit her convenience. However, despite being contacted before the hearing day and on the morning of the hearing, Ms Cheney failed to attend the hearing.
21. In addition, we note that in an email, which was largely incoherent and not relevant to the issue of penalty, Ms Cheney suggested an 8-week adjournment. She was advised that, given the lateness of the request and the fact that the Tribunal had already incurred expenses in respect of renting a venue in Shepparton, she should attend the hearing and state her grounds for an adjournment. She failed to do so.
22. Finally, we were informed of a prior offence by Ms Cheney in 2010 in New South Wales regarding GAR 106(2). We did not take this matter into account given the length of time since that charge and the particular circumstances of that case. The offending in this matter in relation to animal cruelty was far more egregious.
23. For the avoidance of doubt, we note that the nine year penalty before reduction for the totality principle is comprised of the following:

4 years on charge 23

2 years on charge 19

2 years on charge 1 and

1 year on charge 20

All other penalties were concurrent with one of the above four effective penalties.

Mark Howard
Registrar, Victorian Racing Tribunal