6 May 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR BRADLEY DEBONO**

**Date of hearing:** 23 April 2020

**Panel:** Judge John Bowman (Chairperson) and Judge Graeme Hicks (Deputy Chairperson)

**Appearances:** Mr Damien Hannan appeared on behalf of the Stewards

Mr Bradley De Bono represented himself

Mr Gavin Goble appeared as a witness

Ms Michelle Mallia appeared as a witness

**Charge:** Local Racing Rule 42.6 states:

**Rehoming and notice requirements**

1. An Owner must make all reasonable efforts to avoid euthanasia of their greyhound by finding it a suitable long term home.
2. An Owner must provide the Board with at least 14 days but no more than 42 days, prior written notice, in the approved form, of an intention to euthanase a fit and healthy greyhound. For the avoidance of doubt, a notice under this sub-rule can only be lodged after the requirements of LR42.6(c) have been met.

*Minimum requirements for rehoming*

1. Without limiting LR42.6(a), actions that an Owner must take to find a suitable long term home for their greyhound include:
2. a wind down period comprising at least 28 days during which the Owner must ensure that:
3. the greyhound has not engaged in any racing related activities, including but not limited to) trialling, breaking, education, training or racing; and

(B) genuine and daily efforts have been made to socialise the greyhound to non-training and non-racing settings and environments, and

1. after the end of the wind down period under LR42.6(c)(i), making at least one genuine attempt of each of the following:

(A) seek to re-home the greyhound with at least two appropriate third parties who are capable of ensuring the welfare and well-being of the greyhound, and

(B) seek the greyhound’s admission to the Greyhound Adoption Program, and

(C) seek to rehome the greyhound’s through at least one other animal adoption, re-homing or rescue agency.

(d) For the avoidance of doubt, an Owner must ensure that wind down activities in LR42.6(c)(i) must continue throughout the period of notice required in LR42.6(b).

*Medical exception from rehoming and notice requirements*

(e) LR 42.6(a) and LR42.6(b) do not apply if a registered veterinarian certifies, in the prescribed form, that the greyhound is suffering from an incurable condition or injury that causes significant pain or discomfort, or a marked reduction in quality of life.

*Legal exception from rehoming and notice requirements*

(f) LR42.6(a) and LR42.6(b) do not apply if the greyhound is required to be euthanased to comply with law.

*Behavioural exception from rehoming requirements*

(g) LR 42.6(c)(ii) does not apply if a registered veterinarian or other person approved by the Board certifies, in the prescribed form, that the greyhound is displaying significant behavioural characteristics that negatively impact on its suitability as a pet, including aggression towards humans or other animals.

*Extension of duration of notice*

(h) Application for an extension to the duration of a notice under LR42.6(b) may be made at any time prior to the expiration of the notice, in the approved form. The Board or an authorised officer of the Board may grant or refuse an application for an extension.

*Evidence of rehoming requirements*

(i) An Owner must:

1. keep detailed records of their compliance with LR42.6, and
2. provide records and evidence kept under this rule to a Steward or authorised officer of the Board on request.

*Serious offence to fail to comply with rehoming and notice requirements*

(j) Failure to comply with LR42.6 is a Serious Offence.

**Particulars of charge:**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. On 16 April 2019, the greyhound ‘Mesmerized’ (Ear Brand ‘VFSHZ’, Microchip 956000004914483) was euthanised.
3. Prior to the euthanasia you did fail to;
	1. provide a wind down period comprising at least 28 days and,
	2. seek to re-home the greyhound
	3. provide the Board with at least 14 days prior written knowledge, in the approved form, of an intention to euthanase a fit and healthy greyhound.

**Plea:** Guilty

**DECISION**

Mr Bradley Debono, you have pleaded ‘not guilty’ to a breach of Local Rule 42.6. The basis of the charge and the background facts are as follows.

You are the registered owner of the greyhound ‘Mesmerized’, but are also a licenced trainer. The trainer of this dog was Ms Michelle Mallia. The greyhound raced 11 times and won on a couple of occasions. However, it had a history of leg problems, not having raced for a period prior to 16 April 2019. On that occasion, you were not present. Ms Mallia was. In essence, the dog broke down with an apparent injury to the right front leg. Ms Mallia immediately conveyed the dog to Geelong Veterinary Hospital. The usual vet was unavailable. At that hospital, the dog was seem by Dr Stuart Brown. Dr Brown euthanised the dog and completed a greyhound euthanasia certificate, on which certificate he ticked Option 2, “owners request”.

Although Mr Hannan, appearing on behalf of the Stewards, made it clear that the euthanasia was your responsibility, the actual request was made by Ms Mallia. The Stewards case, as we understand it, was that this request was made with your knowledge and that strict or absolute liability applies.

In any event the dog was euthanised without the requirements of Local Rule 42.6 being satisfied. Those requirements constitute a provisional wind down period, a seeking to rehome the greyhound and the provision of the relevant certificate. There is no argument but that those steps were not carried out.

Turning to the evidence, and apart from the fact that option 2 was completed, we accept the effectively unchallenged opinion of Dr Gavin Goble, an experienced registered veterinarian and general manager of the Greyhound Welfare and Re-homing Department.

We accept that the dog’s racing future was uncertain. However, we also accept the injury was not serious in that the dog would have recovered sufficiently for entry into the Greyhound Adoption Program. We accept that the injury did not meet the requirements of medical exception from the rehoming and notice requirements.

The central issue seems to us to be whether or not you had knowledge of the fact the dog was going to be euthanised before that actually occurred. Without ruling definitively on the situation, we can imagine the complex argument that might arise as to the meaning of strict absolute liability if the dog was euthanised without the knowledge or consent of you, the owner.

We are satisfied, on balance, that you did have such knowledge. You were not present during these events. You told us of two telephone calls from Ms Mallia, one as to the injury and going to a vet and the second after the dog had been euthanised. Ms Mallia gave evidence of three calls – the preliminary one concerning the injury, the second to the effect that the dog would have to be euthanised, to which you agreed, and the third being a further tearful report to the effect that the euthanasia had been carried out. Very fairly, you effectively conceded that she may have been correct. You could not recall with any certainty. We appreciate that both of you were very upset and that these were emotional circumstances and tearful telephone conversations.

Given the above and bearing in mind Ms Mallia’s clear evidence and your uncertainty, we find on balance that there were three calls and that you were informed of the proposed euthanasia before it was carried out. That being so, and bearing in mind that it seems to us to be the central issue, the requirements of LR 42.6 were not at the time satisfied and we find the charge proven. We will now turn to the question of penalty.

**PENALTY**

This is a quite unusual case. Mr Hannan, very fairly said that the Stewards know of no similar case. There have been breaches of this rule, and he put before us some four decisions. However, the circumstances in each of them were markedly different from the circumstances in this case.

Mr De Bono, you have been a registered person since 2012, having owned a number of dogs. You have no prior convictions. We accept that you are an enthusiastic supporter of the industry and that you are now finding your feet as a trainer, although you are in full time employment away from greyhounds. We accept that this whole situation has been very distressing for you. We accept that you are a lover of greyhounds and would not want to injure or needlessly euthanise a dog.

You were not were not present when these events occurred, and you have found all that has happened very distressing.

We have to bear in mind general deterrence. Those involved in greyhound racing must be aware of the importance of things such as the GAP scheme and of the constant public focus on the industry and on the welfare of greyhounds. We do not consider specific deterrence to be a consideration of any magnitude in your case.

Bearing the above in mind and the unique circumstances of your case, we have arrived at a penalty of 6 months suspension, but that suspension is in turn suspended for a period of 6 months on the basis that you commit no breach of this rule during that period.

Mark Howard
Registrar, Victorian Racing Tribunal