29 August 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**CHLOE KERR**

**Date of hearing:** 24 August 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Anthony Pearce appeared on behalf of the Stewards.

Mr David Kerr represented Ms Chloe Kerr.

**Charge:** Greyhounds Australasia Rule (“GAR”) 83(2) states:

(2) The owner, trainer or person in charge of a greyhound-

(a) nominated to compete in an Event;

(b) presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or

(c) presented for any test or examination for the purpose of a period of incapacitation or prohibition being varied or revoked

shall present the greyhound free of any prohibited substance.

**Particulars of charge:** 1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.

2. You were, at all relevant times, the trainer of the greyhound “Just Saying”.

3. Just Saying was nominated to compete in Race 5, TOP RUN IMAGES (2-4 WINS), Tier 3 - Restricted Win, conducted by the Warragul Greyhound Racing Club at Warragul on 10 February 2022 (the Event).

4. On 10 February 2022, you presented “Just Saying” at the Event not free of any prohibited substance, given that:

(a) A post-race sample of urine was taken from “Just Saying” at the Event (the Sample);

(b) Arsenic was detected at a mass concentration of greater than 800 nanograms per millilitre in the Sample.

**Plea:** Guilty

**DECISION**

1. Ms Chloe Kerr is a registered greyhound trainer. On 10 February 2022 she presented “Just Saying” to race in Race 5 at Warragul. After winning the event, the greyhound was swabbed. The swab analysis showed the presence of arsenic at a level in excess of 1600 nanograms per millilitre (“ng/ml”). A reading over 800 ng/ml makes arsenic a prohibited substance under the Greyhounds Australasia Rules (“GARs”).
2. Stewards of Greyhound Racing Victoria (“GRV”) have charged Ms Kerr with presenting a greyhound for an event while not free of a prohibited substance, in breach of GAR 83(2). Ms Kerr pleaded guilty to the offence. The cause of the positive swab is more likely than not the chewing by the greyhound of wooden posts containing arsenic. Ms Kerr’s father (also a trainer) was informed by the previous trainer who used the kennels that posts made of copper chrome arsenic (“CCA”) treated timber, which had led to an arsenic charge against that trainer, had been removed after that trainer had a positive swab to arsenic. Apparently, this was not the case.
3. In setting a penalty, we take into account the guilty plea, the circumstances of the offending, previous penalties in like matters and the importance of maintaining a level playing field by having a drug free industry.
4. In all the circumstances, we impose a penalty of six months suspension with five months suspended for a period of 12 months pending no further breach of GAR 83(2) in that time. The one month effective suspension shall commence immediately.
5. In addition, Just Saying is disqualified from Race 5 at Warragul on 10 February 2022.
6. Finally, we note, the Kerrs’ greyhound kennels have been the subject of much work to rectify the problem which is apparent from this matter. It is noted that in cases of this type a $500 fine ordinarily is imposed, in addition to a suspension. However, given the amount of money spent in rectifying the problem which caused the positive swab and Ms Kerr’s youthfulness, we decline to add any financial penalty.

Kathleen Scully  
Assistant Registrar, Victorian Racing Tribunal