28 January 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**CHRIS SCANLAN**

**Date of hearing:** 20 December 2021

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall (Deputy Chairperson) and Dr Andrew Gould.

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

Mr Paul Horvath represented Mr Chris Scanlan.

Mr Chris Scanlan attended the hearing.

**Charges:** Local Racing Rule (“LR”) 42.18(b) states:

 Subject to 42.19 but without derogating from LR 42.13 to LR 42.15, it is a Serious Offence for a person to:

(b) attempt to possess, or have possession of, or bring onto, any grounds, premises or within the boundaries of any property where greyhounds are trained, kept or raced, any animal, animal carcass or any part of an animal for the purpose of being, or which might reasonably be capable of being, or likely to be, used as bait, quarry or lure to entice or excite or encourage a greyhound to pursue it.

LR 42.23(a) states:

It is a Serious Offence to be:

(a) in any way directly or indirectly involved in committing, or knowingly concerned with, such conduct as set out in LR 42.18

**Particulars of charges: Charge 1: LR 42.18(b)**

1. That you are and were at all relevant times an owner licenced by Greyhound Racing Victoria (“GRV”) (licence number 225425) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (LR).
2. That on 25 October 2019, Investigative Stewards located two (2) live possums in possum traps at a GRV registered kennelling premises in Devon Meadows, Victoria (“the premises”).
3. That you did bring onto the premises, where greyhounds are trained and kept, two (2) possums for the purposes of being, or which might reasonably be capable of being, or likely to be, used as bait, quarry or lure to entice or excite or encourage a greyhound to pursue it.

 **Charge 2: LR 42.23(a)**

1. That you are and were at all relevant times an owner licenced by Greyhound Racing Victoria (“GRV”) (licence number 225425) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).
2. Between 1 August 2017 and 25 October 2019, you were directly involved in such conduct as set out in LR 42.18 in that you:
* caught and delivered to a GRV registered premises in Devon Meadows, Victoria, where greyhounds are trained and kept, two (2) possums for the purposes of being, or which might reasonably be capable of being, or likely to be, used as bait, quarry or lure to entice or excite or encourage a greyhound to pursue it; and
* participated in and observed registered participant Mr Rinaldo Divirigilio (1708) perform live baiting of greyhounds, including “Merinda Hannah” (TDAJZ) at the premises in Devon Meadows, Victoria.

**Plea:** Guilty to all charges

**DECISION**

1. Mr Chris Scanlan is a registered greyhound owner whose registration was suspended on 25 October 2019 pending the hearing and determination of charges laid against him in connection with live baiting. Mr Scanlan has pleaded guilty to the charges. Ordinarily, a life disqualification would be imposed. However, Mr Scanlan contends, and the Stewards agree, that special circumstances exist which have the effect that the Tribunal is not bound to impose a life disqualification, but one that is appropriate in all the circumstances.
2. The more serious charge levelled against Mr Scanlan is Charge 2. It is a charge under Local Racing Rule (“LR”) 42.23, which prohibits being knowingly concerned with live baiting.
3. When interview by the Stewards Mr Scanlan admitted to catching about eight live possums over a 12 month period. What started off as a well intentioned desire to assist a neighbour in Mansfield remove unwanted possums led to assisting Mr Scanlan’s friend, Mr Rinaldo Divirgilio, to engage in the pernicious activity of live baiting.
4. Due to cognitive difficulties and a developmental disability, Mr Scanlan did not fully understand the seriousness of his conduct. He has had cerebral palsy since birth. It has restricted his social development. He has consequently suffered from learning difficulties. This has impacted on his ability to make sound decisions. His supply of possums to Mr Divirgilio was the manifestation of his desire to please the trainer and feel accepted. He received no personal financial gain.
5. Once it appeared to Mr Scanlan that what he had done was wrong, he was extremely remorseful. Despite his physical and mental disabilities, Mr Scanlan was employed at a hardware store for 20 years, but after the laying of these charges, he was terminated on alleged redundancy grounds. He has been ostracised in his local community of Mansfield and has received threats from other racing participants. Prior to his suspension, he frequented greyhound race meetings as his major social outlet.
6. The Tribunal has been supplied with several references attesting to Mr Scanlan’s genuine remorse for his actions and his love of greyhounds, as well as his previous voluntary community work in Mansfield. A lifetime ban would have been especially crushing on him.
7. Being in agreement with the submissions of the parties that special circumstances exist and given Mr Scanlan’s medical condition and related personal circumstances, the Tribunal must consider the appropriate penalty for what is an extremely serious offence. Taking into account general deterrence, recent penalties in similar matters, the guilty plea and the personal circumstances of Mr Scanlan, as well as the good name of the industry, we impose a penalty of five years disqualification on Charge 2, to take effect from 25 October 2019, when the suspension commenced.
8. On Charge 1, a charge under LR 42.18(b), which prohibits the possession of animals for the purpose of live baiting, Mr Scanlan has also pleaded guilty.
9. This charge concerns the delivery of two live possums to Mr Divirgilio by Mr Scanlan on 25 October 2019. It is, in effect, a sub-set of the activity referred to in Charge 2. On this charge, we impose a period of disqualification of three years, commencing 25 October 2019, but wholly concurrent with the penalty imposed on Charge 2.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal