15 September 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**CLIFFORD SMITH**

**Date of hearing:** 13 September 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Heidi Keighran.

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

Mr Clifford Smith represented himself.

**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 charges:** **Charge 1**

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 “Crackerjack Zave”.
3. Crackerjack Zave was nominated to compete in Race 7, LOCKS CONSTRUCTIONS, Free For All, conducted by the Horsham Greyhound Racing Club at Horsham on 23 November 2021 (the Event).
4. On 23 November 2021, you presented Crackerjack Zave at the Event not free of any prohibited substance, given that:

(a) A pre-race sample of urine was taken from Crackerjack Zave at the Event (the Sample);

(b) Theobromine was detected in the Sample.

 **Charge 2**

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 “Missile Edition”.
3. Missile Edition was nominated to compete in Race 10, BROAD TREE CARE, Grade 5, conducted by the Warrnambool Greyhound Racing Club at Warrnambool on 6 January 2022 (the Event).
4. On 6 January 2022, you presented Missile Edition at the Event not free of any prohibited substance, given that:

(a) A race day sample of urine was taken from Missile Edition at your registered kennel address (the Sample), prior to competing at the Event;

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

**Pleas:** Guilty

**DECISION**

1. Mr Clifford Smith is a licensed greyhound trainer of long standing. He was the trainer at all material times of the greyhounds “Crackerjack Zave” and “Missile Edition”.
2. Crackerjack Zave competed in Race 7 at Horsham on 23 November 2021. A pre-race swab showed the presence of theobromine in the greyhound’s urine. Theobromine is a prohibited substance under the Greyhounds Australasia Rules (“GARs”). It is a metabolite of caffeine. Caffeine is a stimulant which produces wakefulness. It has been used in greyhounds to encourage chasing during the education phase. It is known to improve performance. Since August 2016, Greyhound Racing Victoria (“GRV”) has cautioned trainers about the effect of feeding greyhounds substances containing chocolate and coffee, leading to positive swabs to theobromine. Mr Smith was not aware of those publications and had not heard of theobromine before this positive swab.
3. The source of the positive swab was the feeding of a chocolate topped iced donut to the greyhound. Mr Smith used to give his greyhounds donuts as a treat on a nightly basis, with racing greyhounds usually receiving cinnamon donuts and non-racing greyhounds chocolate donuts. It appears that this greyhound was given a chocolate donut by mistake. Mr Smith no longer feeds his racing greyhounds donuts and has not done so since being advised of this positive swab.
4. On 6 January 2022, Missile Edition competed in Race 10 at Warrnambool. A pre-race sample of urine taken at Mr Smith’s kennels showed the presence of arsenic at 1600 mg/ml, double the amount permitted by GAR 83(11). Arsenic is a prohibited substance under the GARs. It is a naturally occurring trace element which is normally present in greyhounds at very low levels as a result of normal dietary intake and environmental exposure.
5. Testing on other greyhounds at Mr Smith’s kennels showed arsenic levels at normal expected levels. The source of the positive swab for Missile Edition was the chewing by that greyhound of Copper Chrome Arsenate (“CCA”) treated timber, which contains arsenic. Missile Edition was a chronic chewer who chewed posts in her kennels and the emptying out areas. Even before the positive swab, Mr Smith had arranged to relocate her to another trainer because of her chewing habits. Mr Smith was aware of the potential problems caused by arsenic and had read some of the warnings issued by Stewards since 2016. He has covered the areas which were chewed by Missile Edition and has not had problems with chewing by any of his current greyhounds.
6. As a result of the positive swabs, GRV Stewards have laid two presentation charges against Mr Smith under GAR 83(2). He has pleaded guilty to both charges. He is a trainer of long standing with a good record, apart from one positive swab over five years ago concerning morphine and codeine arising from feeding greyhounds bread containing poppy seeds and while unaware of the danger. The offending in each case currently before the Tribunal was inadvertent and Mr Smith has taken steps to lessen the likelihood of similar issues arising in the future.
7. In setting a penalty in each matter, we take into account the above considerations, as well as the importance of general deterrence and the desirability of keeping a level playing field by have a drug free industry.
8. In all the circumstances we impose the following penalties:

(a) On Charge 1, we impose a penalty of six months suspension with three months suspended for a period of 24 months.

(b) On Charge 2, we impose a penalty of six months suspension with three months suspended for a period of 24 months. This penalty is to be concurrent with that in (a) above.

1. We impose no fines given Mr Smith’s financial situation. We would have given some serious consideration to the penalties being made cumulative given that different substances, times and greyhounds were involved. However, we have decided not to do so. The effective three month suspension shall commence immediately.
2. In addition, each greyhound, Crackerjack Zave and Missile Edition, are disqualified from the respective events referred to earlier and the finishing orders amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal