3 June 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**DONALD JARVIS**

**Date of hearing:** 27 May 2022

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Amanda Dickens.

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

Mr Donald Jarvis represented himself.

**Charges:** Greyhounds Australasia Rule (“GAR”) 83(1A) states:

 (1A) A person who –

(a) administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;

 (b) aids, abets counsels or procures any person to administer a prohibited substance to a greyhound; or

(c) has prior knowledge of a prohibited substance being administered to a greyhound

 which is detected in any sample taken from such greyhound that has been presented for an Event or when subject to any other contingency provided for pursuant to these Rules, shall be guilty of an offence.

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.

GAR 84A(2) states:

 (2) Each record of treatment kept in accordance with this rule must be made by midnight on the day on which the treatment was given and, as a minimum requirement, include the following information:

a) Name of the greyhound;

b) Date and time of administration of the treatment;

c) Name of the treatment (brand name or active constituent);

d) Route of administration;

e) Amount given;

f) Name and signature of person or persons administering and/or authorising treatment.

For the purposes of sub-rule (2), “day” means the 24-hour period from 12:01am to 12 midnight on any calendar day.

**Particulars of charges: Charge 1: GAR 83(1A)**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound “Ms. Lucky Leaves”.
3. Ms. Lucky Leaves was presented for, and competed in, Race 9, HVL Cup Heats – 5/9, Tier 3 – Grade 6, conducted by the Healesville greyhound Racing Association at Healesville on 16 July 2021 (the Event).
4. You administered, or caused to be administered, to Ms. Lucky Leaves, a prohibited substance, being Theobromine, which was detected in a sample taken from Ms. Lucky Leaves in that:

(a) you administered a product containing Theobromine, namely “Akta-Vite” Chocolate Drink, to Ms. Lucky Leaves on or around 15 July 2021;

(b) A post-race sample of urine was taken from Ms. Lucky Leaves at the Event (the Sample);

(c) Theobromine was detected in the Sample.

**Charge 2: GAR 83(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 “Ms. Lucky Leaves”.
3. Ms. Lucky Leaves was nominated to compete in, Race 9, HVL Cup Heats – 5/9, Tier 3 – Grade 6, conducted by the Healesville Greyhound Racing Association at Healesville on 16 July 2021 (the Event).
4. On 16 July 2021, you presented Ms. Lucky Leaves at the Event not free of any prohibited substance, given that:

(a) A post-race sample of urine was taken from Ms. Lucky Leaves at the Event (the Sample);

(b) Theobromine was detected in the Sample.

**Charge 3: GAR 83(1A)**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound “Pat’s Me Mum”.
3. Pat’s Me Mum” was presented for, and competed in, Race 5, Revolution Print (200+ Rank), Grade 5, conducted by the Ballarat Greyhound Racing Club at Ballarat on 21 August 2021 (the Event).
4. You administered, or caused to be administered, to Pat’s Me Mum, a prohibited substance, being Theobromine, which was detected in a sample taken from Pat’s Me Mum in that:

(a) you administered a product containing Theobromine, namely “Akta-Vite’ Chocolate Drink, to Pat’s Me Mum on or around 20 August 2021;

(b) A pre-race sample of urine was taken from “Pat’s Me Mum” at the Event (the Sample);

(c) Theobromine was detected in the Sample.

**Charge 4: GAR 83(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 “Pat’s Me Mum”.
3. Pat’s Me Mum was nominated to compete in Race 5, Revolution Print (200+ Rank), Grade 5, conducted by the Ballarat Greyhound Racing Club at Ballarat on 21 August 2021 (the Event).
4. On 21 August 2021, you presented Pat’s Me Mum at the Event not free of any prohibited substance, given that:

(a) A pre-race sample of urine was taken from Pat’s Me Mum at the Event (the Sample);

(b) Theobromine was detected in the Sample.

**Charge 5: GAR 84A(2)**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria (“GRV”) and a person bound by the Greyhound Racing Victoria Rules of Racing.
2. On 24 August 2021, you presented treatment records for inspection, upon request from GRV Steward Lee Fahry, a person authorised by the Controlling Body, for greyhounds for which you were the responsible person at the relevant time.
3. You did fail to record the minimum requirements for treatments recorded by you, namely the treatments of “wormed” recorded on a sheet of paper, in that you:

(a) failed to record the time of administration of the treatment;

(b) failed to record the route of administration of the treatment;

(c) failed to record the amount of the treatment given;

(d) failed to record the signature of person or persons administering and/or authorising the treatment.

**Pleas:** Guilty to all charges

**DECISION**

1. Mr Donald Jarvis is a registered greyhound trainer and at all material times was the trainer of the greyhounds “Ms. Lucky Leaves” and “Pat’s Me Mum”. The first greyhound competed in Race 9 at Healesville on 16 July 2021. The second greyhound competed in Race 5 at Ballarat on 21 August 2021. Each greyhound was swabbed in relation their respective events, and each returned a positive swab to theobromine. Theobromine is a stimulant which is a metabolite of caffeine. It increases wakefulness and mental activity. It can be used to increase chasing desire in greyhounds. It is known to improve the performance of racing greyhounds.
2. Stewards of Greyhound Racing Victoria (“GRV”) have charged Mr Jarvis with two administration charges in respect of the abovementioned greyhounds on the abovementioned days. Those charges are under Greyhounds Australasia Rule (“GAR”) 83(1A).
3. Stewards of GRV have also charged Mr Jarvis with two presentation charges, one in respect of each of the abovementioned greyhounds. Both are under GAR 83(2). There is a fifth charge under GAR 84A(2) which deals with what trainers are obliged to enter in their treatment books.
4. Mr Jarvis has pleaded guilty to all four prohibited substance charges. He said he made “a human error” in feeding “Akta-Vite” to his greyhounds. Akta-Vite is a chocolate based vitamin drink. It is generally well known that chocolate contains caffeine.
5. In setting penalties for the prohibited substance charges, we take into account the guilty pleas, Mr Jarvis’ long period as a trainer and his relatively good record. We also take into account general deterrence and the importance of keeping a level playing field and a drug free industry. In addition, we take into account recent penalties in like matters. We also take into account a prior transgression under GAR 83 for atenolol in 2015, which was also an accidental transmission.
6. On the Charge 1 concerning Ms. Lucky Leaves on 16 July 2021, we impose a penalty of six months suspension with four months suspended for a period of 24 months. In setting that penalty, we emphasise that the transgression was inadvertent as was the prior transgression seven years ago. We also note that Mr Jarvis has adjusted his feeding regime and now understands that anything containing chocolate has caffeine in it.
7. On Charge 2 concerning Ms. Lucky Leaves, we impose a penalty of two months suspension, but make it concurrent with the penalty imposed on Charge 1.
8. On Charge 3 relevant to Pat’s Me Mum, we impose the same penalty as under Charge 1, but make it concurrent with the penalty imposed on that charge. We take in acount the closeness in time of the two events and the fact that the kennel inspection by GRV after the 16 July 2021 race post dated the race at Ballarat on 21 August 2021. We impose the same penalty on Charge 4 as we did on Charge 2, but make it concurrent with the penalty imposed on Charge 3, which, in turn, is concurrent with the penalty imposed on Charge 1.
9. Each respective greyhound is disqualified from each respective race on 16 July and 21 August 2021.
10. Charge 5 was contested originally, but a guilty plea was ultimately entered. It is under GAR 84A(2). It concerns an entry by Mr Jarvis with insufficient detail which was placed in his treatment book. No time of administration was entered. The method or route of administration was not recorded. The amount given was not recorded. The signature of the person giving the treatment was not recorded. The Tribunal imposes a fine of $300, which is at the lower end of the permissible range, and $150 is suspended for 24 months pending no further breach of GAR 84A(2).
11. The effective two months suspension shall commence immediately.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal