9 April 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MS DONNA DEAN**

**Date of hearing:** 9 April 2020

**Panel:** Judge John Bowman (Chairperson), Ms June Smith and Ms Judy Bourke.

**Appearances:** Mr Marwan El-Asmar appeared on behalf of the Stewards.

Mr Lynton Hogan appeared on behalf of Ms Dean.

**Charge:** Greyhound Australasia Rule (GAR) 83(2) states:

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

1. nominated to compete in an Event;
2. presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or
3. 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 (GRV) and a person bound by the GAR.
2. You were, at all relevant times, the trainer of the greyhound *“Polo Pete”.*
3. *“Polo Pete”* was nominated to compete in Event 10, SPOLLYS (1-4 WINS) HT2, Restricted Win Heat, conducted by the Cranbourne Greyhound Racing Club at Cranbourne on 10 April 2019 (**the Event**).
4. On 10 April 2019, you presented *“Polo Pete”* at the Event not free of any prohibited substance, given that:

(a)A pre-race sample of urine was taken from *“Polo Pete”* at the Event (the Sample);

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

**Plea:** Not Guilty

**DECISION**

Ms Donna Dean, on 30 March 2020 we found you guilty of a breach of GAR83(2). This related to a pre-race urine sample taken from Polo Pete, a dog trained by you, proving positive to a prohibited substance, namely arsenic.

Essentially, the charge had been contested on the basis of whether or not the urine sample was contaminated, an argument which we rejected. We accept that this was effectively the only real area of contest, but nevertheless the plea was ‘Not Guilty’.

Mr El-Asmar on behalf of the Stewards has submitted that, bearing in mind the plea of ‘Not Guilty’, the appropriate penalty is one of 9 months suspension with 5 of those months in turn suspended, and a fine of $750. Mr Hogan, on your behalf, has argued that the penalty should be 6 months suspension in turn wholly suspended and no fine. Amongst other things he referred to your personal situation, to which we will come, the excellent references on your behalf and your long involvement in the industry without having been convicted of any serious or like offences.

Turning to these matters, we accept that you have been involved in the greyhound industry for in excess of 35 years, both in this state and in New South Wales. You do indeed have an excellent record with nothing but a few very minor offences against your name.

You are a single mother, two of your children being of school age. Greyhound training, breeding and the like are effectively your sole source of income. Currently there are 43 greyhounds on your property. These include 9 racing dogs, 22 juveniles, some pups, some bitches and some retired dogs. Thus, you are training on a large scale and we bear that in mind when considering your impressive record. As shall be discussed, we also take into account the very unusual circumstances in which we all find ourselves and the uncertainties currently prevailing.

Greyhound trainers and others in the industry should be aware of problems relating to the prohibited substance, arsenic, and how it can find its way into a dog’s system. There have been notices sent out to those in the industry. There has been much publicity. Since 2018, penalties have increased. All participants should be aware of the risks that are associated with such things as fence posts and the like. General deterrence is a very important consideration.

It is also important that those charged with an offence such as this and the industry generally realise that a plea of ‘Guilty’ will frequently mean that the ultimate penalty is reduced when compared with those who have pleaded ‘Not Guilty’.

In the present case, the plea of ‘Not Guilty’ was based on one argument concerning contamination. It was still a plea of ‘Not Guilty’, but was so restricted.

We also take into account the totally unusual circumstances in which we find ourselves, with a real threat to our health and to the ongoing conduct of the industry.

We are of the view that a period of suspension is required. However, we again emphasise the unusual circumstances generally prevailing, your particular circumstances, the size of your involvement and your excellent record.

Our finding is that you be suspended for a period of 6 months, but that 4 months of that period be wholly suspended pending no further breach of GAR83 in the next 12 months. You are also fined $500.

Polo Pete is disqualified from Race 10 at Cranbourne on 10 April 2019 and the finishing order amended accordingly. A Stay pursuant to GAR95(5) was granted until 5pm on Friday, 17 April 2020.

Mark Howard
Registrar, Victorian Racing Tribunal