10 December 2019

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR GREGORY BERRY**

**Date of hearing:** 6 December 2019

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall (Deputy chairperson) and Ms Marilyn Harbison.

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

Mr Gregory Berry represented himself at the hearing.

**Charge:** Greyhounds Australasia Rule (GAR) 83 (1A) states:

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:

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 charges: Charge 1** On 18 March 2019 at the Healesville Greyhound Racing Club, Mr Berry administered, or caused to be administered, to ‘Space Alert’, a prohibited substance, being cobalt, which was detected in a sample taken from ‘Space Alert’ in that:

1. A post-race sample of urine was taken from ‘Space Alert’ at the event (the sample);
2. Cobalt was detected in the sample at a mass concentration of greater than 100 nanograms per millilitre; and
3. The mass concentration of cobalt detected in the sample could only be caused by the administration of cobalt.
4. You administered to ‘Space Alert’, a product containing Cobalt, in that between 15 March 2019 and 18 March 2019 you administered a Vitamin B12 Injection (3ml) to ‘Space Alert’.

**Charge 2** On 18 March 2019, you presented ‘Space Alert’ at the Event not free of any prohibited substance, given that:

1. A post-race sample of urine was taken from ‘Space Alert’ at the Event (**the Sample**); and
2. Cobalt was detected in the Sample at a mass concentration of greater than 100 nanograms per millilitre.

**Plea:** Guilty to both charges

**DECISION**

1. Mr Gregory Berry is a registered greyhound trainer and the trainer of greyhound ‘Space Alert’. Space Alert competed in race 3 at Healesville on 18 March 2019. A post-race sample of urine taken from the greyhound showed the presence of cobalt at a mass concentration of 130 nanograms per millilitre.
2. Stewards of Greyhound Racing Victoria (GRV) have charged Mr Berry under GAR83 (1A) with administering a prohibited substance to a greyhound that has been presented for an event. He has also been charged under GAR 83(2) for presenting a greyhound for an event while not being free of a prohibited substance. Mr Berry has pleaded guilty to the charges.
3. Under GAR83 (10), cobalt is a prohibited substance if found at or above a mass concentration of 100 ng/ml in a sample of urine taken from a greyhound.
4. GRV’s Chief Veterinarian, Dr Karamatic has given evidence that the finding of a urinary concentration of cobalt greater than 100 ng/ml confirms the administration and presence of a prohibited substance that is capable of affecting the performance of a greyhound in a positive way unless toxicity develops.
5. The introduction of GAR83(10) was preceded in August 2015 with much publicity from the Minister of Racing, Greyhounds Australasia and GRV. Over recent years several cobalt cases have come before the GRV Racing Appeals and Disciplinary Board. Yet despite training since November 2013, Mr Berry told a Stewards inquiry that he was not aware of the cobalt threshold. He also told Stewards that he injected ‘Space Alert’ with Vitamin B12 sometime in the 3 days before the race.
6. We find the charges proven. We accept that Mr Berry appears to have been mistaken about the timing of the B12 injection, rather than having engaged in a deliberate desire to breach the rules of racing. We take into account his guilty pleas and his co-operation with Stewards. We also take into account the importance of general deterrence and the keeping of a drug free industry. We further take into account recent penalties in like cases.
7. In all the circumstances on the administration charge we impose a 12 month suspension on Mr Berry but suspend 10 months of that period pending no further breach of GAR 83 in the next 12 months. ‘Space Alert’ is disqualified from race 3 at Healesville on 18 March 2018. The suspension shall commence immediately. On the presentation charge we impose no extra penalty.

Mark Howard  
Registrar, Victorian Racing Tribunal