29 October 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR JASON FORMOSA**

**Date of hearing:** 16 October 2020

**Panel:** Judge John Bowman (Chairperson) andJudge Shane Marshall (Deputy Chairperson).

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

Mr Jason Formosa represented himself.

**Charge:** Greyhounds 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 and a person bound by the Greyhounds Australasia Rules.

2. You were, at all relevant times, the trainer of the greyhound “*Hurricane Rose*”.

3. “*Hurricane Rose*” was nominated to compete in, Race 11, 3BA/POWER FM, Grade 5T3, conducted by the Ballarat Greyhound Racing Club at Ballarat on 23 March 2020 (**the Event**).

4. On 23 March 2020, you presented “*Hurricane Rose*” at the Event not free of any prohibited substance, given that:

1. A pre-race sample of urine was taken from “*Hurricane Rose*” at the Event (**the Sample**);
2. Theobromine was detected in the Sample.

**Plea:** Guilty

**DECISION**

1. Jason Formosa is a registered greyhound trainer and the trainer of the greyhound “Hurricane Rose”. Hurricane Rose competed in Race 11 at Ballarat on 23 March 2020. A pre-race sample of urine taken from the greyhound showed the presence of Theobromine. Theobromine is a metabolite of caffeine.
2. Stewards of Greyhound Racing Victoria (“GRV”) have charged Mr Formosa under Greyhounds Australasia Rule (“GAR”) 83(2) with presenting a greyhound for an event while not being free of a prohibited substance. Mr Formosa has pleaded guilty.
3. Theobromine is a prohibited substance. It is a stimulant which affects the central nervous system. It is found in coffee and chocolate. It produces wakefulness and increased mental acuity. It is known to improve performance in a greyhound. In previous cases before the Racing and Appeals Disciplinary Board, trainers had been the subject of charges on account of greyhounds eating chocolate biscuits or drinking iced coffee milk drinks, amongst other cases. In 2016, GRV issued its feeding, medications and supplement guidelines, which alerted trainers about the potential risk of inadvertent positive swabs from the feeding of substances containing chocolate, tea or coffee.
4. Mr Formosa is at a loss to explain how the positive swab happened. He said that he does not feed his greyhounds products containing Theobromine. Mr Formosa has been a public trainer since 1993 and operates from the same property as his sons and a Mr Giddings. Mr Giddings kennelled and handled the greyhound at the Ballarat event. He is also unable to explain how the positive swab occurred. It does not matter for the purposes of the charge, because the sub-rule imposes an absolute liability on the trainer.
5. In setting a penalty in this matter, we take into account Mr Formosa’s guilty plea, his cooperation with the Stewards and his good record concerning prohibited substance matters, with only one prior infraction back in 2003 concerning Dexamethasone.
6. We also take into account general deterrence and the importance of keeping a level playing field by maintaining a drug free industry. We further take into account recent penalties in like matters.
7. In all the circumstances we impose a penalty of 3 months suspension, wholly suspended for 12 months on the condition that Mr Formosa does not offend against GAR 83(2) in the next 12 months.
8. In addition, Hurricane Rose is disqualified from Race 11 at Ballarat on 23 March 2020.

Mark Howard
Registrar, Victorian Racing Tribunal