19 December 2019

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR JOHN WESTERLO**

**Date of hearing:** 13 December 2019

**Panel:** Judge John Bowman (Chairperson), Magistrate John Doherty and Ms Maree Payne.

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

Mr John Westerlo represented himself.

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

A person who-

1. administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;
2. aids, abets, counsels or procures any person to administer a prohibited substance to a greyhound; or
3. 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.

Non serious offence

GAR 84A(1) states:

1. The person in charge of a greyhound must keep and retain records detailing all vaccinations, antiparasitics and medical treatments administered to a greyhound from the time the greyhound enters their care and until the greyhound leaves their care and for a minimum of two (2) years. Such record of treatment must be produced for inspection when requested by a Steward or a person authorised by the Controlling Body. Any person responsible for a greyhound at the relevant time who fails to comply with any provision of this rule shall be guilty of an offence.

**Particulars of charges: Charge 1** On 23 January 2019 at the Meadows, you administered, or caused to be administered, to ‘Sunita Lass’, a prohibited substance, being 17-Methylmorphian-3-ol, which was detected in the sample taken from ‘Sunita Lass’ in that:

1. You administered a product containing Dextromethorphan (of which 17-Methymorphian-3-ol is a metabolite), namely ‘Robitussin Cough Suppressant’, to ‘Sunita Lass’ between 10 January 2019 and 23 January 2019;
2. A post-race sample of urine was taken from ‘Sunita Lass’ at the Event (the sample); and
3. 17-Methymorphinan-3-ol was detected in the sample.

**Charge 2** On 23 January 2019 at the Meadows, you presented ‘Sunita Lass’ at the Event not free of any prohibited substance, given that:

1. A post-race sample of urine was taken from ‘Sunita Lass’ at the event (the sample);
2. 17-Methymorphinan-3-ol was detected in the sample.

**Charge 3** You administered a product containing Dextromethorphan (of which 17-Methylmorphian-3-ol is a metabolite), namely ‘Robitussin Cough Suppressant’, to ‘Sunita Lass’ between 10 January 2019 and 23 January 2019 (the treatment).

The Treatment was not recorded in your treatment records when you produced them to GRV Stewards Mr Carl Scott upon his request during a kennel inspection on 15 March 2019.

**Plea:** Guilty

**DECISION**

Mr John Westerlo, you have pleaded guilty to three charges, two of which are serious. The serious charges concern a positive swab to a prohibited substance returned by a dog trained by you namely Sunita Lass. You have pleaded guilty to administering 17-Methylmorphian to the dog and to presenting it in race 3 at the Meadows on 23 January 2019. Sunita Lass in fact won the race. The prohibited substance was contained in cough medicine primarily designed for human consumption. The dog won the race, and we appreciate that disqualification and amendment of the finishing order must result. You have also pleaded guilty to a breach of GAR 84A(1) in relation to treatment records.

From the outset you have admitted that you gave the dog a dose of the medicine because of a type of cough that it had developed and you have been told by a family member that this was a medication that had been used on her whippets. The Stewards accept that you had no intension of trying to give your dog an unfair advantage or the like and accept your version of events.

However, strict or absolute liability applies. Unfortunately you gave the dog the cough medicine containing the prohibited substance.

You have been a trainer for in excess of 50 years and have not been in this type of trouble before. You have been a very successful full-time trainer although you are now more of a hobby trainer. We note that you are 74 years of age and in the midst of chemotherapy treatment. Specific deterrence is not a big factor. General deterrence must be born in mind. Trainers must do their best to be aware of the risks associated with the administration of substances.

The Stewards are seeking a fine by the way of penalty. There is, as I understand it, an arrangement available with the Stewards in relation to the payment of fines. In our opinion the appropriate fine in total for the administrative and presentation offences, and we repeat it is the total, is $1,000 of which $500 is suspended for a period of 12 months.

On charge 3, the offence of treatment records, you are fined $300. Sunita Lass is disqualified and the finishing order of the race in question is amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal