17 November 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR JUSTIN HETHERTON**

**Date of hearing:** 21 October 2020

**Panel:** Judge John Bowman (Chairperson) and Ms Heidi Keighran.

**Appearances:** Mr Damian Hannan appeared on behalf of the Stewards.

Mr Justin Hetherton represented himself.

**Charge:** Greyhounds Australasia Rule (GAR) 86(h) states:

A person (including an official) shall be guilty of an offence if the person prevents, attempts to prevent, interferes or attempts to interfere with the carrying out of any identification, examination, test, autopsy, analysis, inquiry or investigation pursuant to these Rules.

GAR 86(d) states:

A person (including an official) shall be guilty of an offence if the person being an owner, trainer attendant or person having official duties in relation to greyhound racing, makes a false or misleading statement in relation to an investigation, examination, test or inquiry, or makes or causes to be made a falsification in a document in connection with greyhound racing or the registration of a greyhound.

GAR 79A(7) states:

If any substance or preparation that could give rise to an offence under this rule (Permanently Banned Prohibited Substance) if administered to a greyhound at any time, is found at any time, at any premises used in relation to the training or racing of greyhounds, then any registered person who owns, trains or races or is in the charge of greyhounds at those premises is deemed to have the substance or preparation in their possession and such person shall be guilty of an offence and liable to penalty.

GAR 84(2) states:

A registered person who has in their possession at any place used in relation to the training or racing of a greyhound, any quantity of a prohibited substance commits an offence unless that substance has been registered or labelled, or prescribed, dispensed or obtained in compliance with the relevant State or Commonwealth legislation.

**Particulars of charge: Charge 1**

1. You are and were at all relevant times a breeder and public trainer licenced by Greyhound Racing Victoria (GRV) (licence number 317209) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR).
2. On Friday 20 September 2019, Investigative Stewards attended your registered kennel address of 22 Station Street, Murchison Victoria for the purposes of carrying out a kennel inspection.
3. During the kennel inspection, you prevented Investigative Stewards lawful access to part of your kennel area in that you repeatedly refused entry to a shed which housed greyhound food and medications pursuant to these Rules.

**Charge 2**

1. You are and were at all relevant times a breeder and public trainer licenced by Greyhound Racing Victoria (GRV) (licence number 317209) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR).
2. On Friday 20 September 2019, Investigative Stewards attended your registered kennel address of 22 Station Street, Murchison Victoria for the purposes of carrying out a kennel inspection.
3. You being a registered trainer, having official duties in relation to greyhound racing, made a false and misleading statement during an investigation in connection with greyhound racing in that you:
4. during the kennel inspection signed a statement acknowledging that the refusal in allowing access to the shed was due to the possession of narcotics and associated paraphernalia.
5. during an inquiry held on the Friday 20 September 2019, you admitted to lying to Investigative Stewards when asked as to the narcotics and associate paraphernalia in the shed, you said:

*Investigator: so at not point was there a pipe or narcotics in there?*

*Hetherton: No*

1. That when you were asked why you made the false and misleading statements to Investigators you stated:

*Hetherton: Well when you come here and I didn’t expect you to go in there first for one, and I don’t want to lose my licence so I was scared that that’s the first thing would have happen.*

 **Charge 3**

1. You were, at all relevant times, a trainer registered with Greyhound racing Victoria (**GRV**) (member no: 317209) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On Tuesday 21st of January 2020, a kennel inspection was conducted at your registered greyhound kennel address at 22 Station St, Murchison Victoria (**“premises”**);
3. During the course of the kennel inspection Investigative Stewards located a 10ml vial of “Testoprop” contained approximately 1-2ml of the substance which was stored in the food preparation shed.
4. “Testoprop” contains the anabolic steroid Testosterone Propionate and is a Permanently Banned Prohibited Substance. As the registered trainer and person in charge of these premises, the substance is deemed to be in your possession.

**Charge 4**

1. You were, at all relevant times, a trainer registered with Greyhound racing Victoria (**GRV**) (member no: 317209) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On Tuesday 21st of January 2020, a kennel inspection was conducted at your registered greyhound kennel address at 22 Station St, Murchison Victoria (**“premises”**);
3. During the course of the kennel inspection Investigative Stewards located two x 20ml vials of the substance “Promote” which was stored in the food preparation shed;
4. “Promote” contains Phenol and is a sclerosing agent for intramuscular injection. It is a Prohibited Substance.
5. “Promote” has not been approved or registered by the Australia Pesticides and Veterinary Medicines Authority (APVMA).
6. As a registered person the substance “Promote” was in your possession at a place used in relation to the training or racing of greyhounds.

**Plea:** Guilty

**DECISION**

Mr Justin Hetherton, you have pleaded “guilty” to four charges. These charges occurred on two days some four months apart.

As a result of what occurred on 20 September 2019, you were charged with a breach of Greyhounds Australasia Rule (“GAR”) 86(h) which could be summarised as preventing and interfering with a Steward’s inspection. You are also charged with a breach of GAR 86(d), making false or misleading statements to Investigative Stewards.

We shall now deal with these offences. They occurred over a very short period of time, perhaps in the vicinity of twenty to thirty minutes. You refused the Stewards entry into a shed which contained dog food and medications. You did this several times, including signing a statement confirming refusal. Your excuse was that the shed contained some narcotics and drug paraphernalia for your personal use. This was false, as you are not a drug user. Ultimately you agreed to let Stewards into the shed if you could go in first unaccompanied and ultimately this was agreed to by the Stewards. However, it quickly eventuated that there was no criminally illegal substances or paraphernalia in the shed and you had placed two syringes in your pocket. These were not for human use.

You were at no time abusive or aggressive towards the Stewards. It appears that you panicked somewhat. You quickly admitted your full guilt in relation to those two breaches of the Rules.

The other two offences, which, for convenience, we shall describe as charges three and four, although they are totally separate, arise from an unannounced kennel visit by Stewards on 21 January 2020.

A medication box was located in a food preparation shed. It contained what appeared to be an old container of Testoprop, a permanently banned substance which contains a steroid. Accordingly, you were charged with a breach of GAR 79A(7). Stewards also found vials of Promote, which contains the prohibited substance Phenol, used in relation to intramuscular injections.

Again, you cooperated fully with Stewards. Your explanation for the Testoprop was that it was an old container which came as part of gear and bits and pieces purchased from a retired trainer. You had purchased the Promote online. It is used for the repair of muscle injuries and you were unaware of its contents.

Your personal situation is that you are 28 years of age. You have a partner and three young children. You reside in Murchison. You are not in employment, having had health problems. Your partner works part time. You have been a trainer since 2017 and this seems to have been more of an interest to assist you with those health problems. You currently have two racing dogs and two bitches. There is a history of association with the greyhound industry in your family.

We note that after the initial and brief refusal to let the Stewards into your shed and the giving of false information, you cooperated fully with the Stewards and were at all times polite and respectful. You have no prior offences of any significance and are remorseful for what has occurred.

General deterrence is a large factor. The Stewards must be able to carry out their duties, including kennel inspections, without hindrance. They must be given truthful answers to their questions. Further, the possession of permanently banned and prohibited substances give the public the impression of unfair advantages being obtained and the lack of a level playing field. These are very important matters.

Weighing everything up, we have arrived at the following penalties:

Charge 1, being the interference with the Stewards inspection, you are disqualified for a period of 3 months.

On charge 2, for the giving a false and misleading evidence to the Stewards, you are disqualified for the period of 3 months. That period of disqualification is to be served concurrently with the 3 month period in charge 1. We consider that both charges effectively arise out of the same course of conduct.

On charge 3, the possession of Testoprop, you are disqualified for a period of 6 months, 3 months of which to be concurrent with the penalty imposed in charge 1.

On charge 4, the possession of Promote, you are fined the sum of $1,500. $1,000 of that is suspended for a period of 12 months. In other words, $500 is payable, but $1,000 will be hanging over you for the next 12 months and will become payable if you are found guilty of a similar offence.

Mark Howard
Registrar, Victorian Racing Tribunal