17 September 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**JUSTIN HETHERTON**

**Date of hearing:** 3 September 2021

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Ms Sharn Coombes, instructed by Mr Marwan El-Asmar, appeared on behalf of the Stewards.

Mr Justin Hetherton did not attend the hearing.

**Charges:** Local Racing Rule (“LR”) 42.6(i)(i) states:

(i) An owner must:

(i) Keep detailed records of their compliance with LR 42.6.

Greyhounds Australasia Rule (“GAR”) 105(4)(i) states:

A registered person shall within 3 working days of a greyhound coming pursuant to or leaving the person’s care or custody, give notice to the Controlling Body of that occurrence.

GAR 86(o) states:

A person (including an official) shall be guilty of an offence if the person -:

(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which in the opinion of the Stewards or Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.

LR 42.10(a) states:

It is a serious offence:

(a) To provide misleading or false information to a Steward or authorised officer in connection to LR 42.6 and LR 42.7.

GAR 86(f)(i) states:

A person (including an official) shall be guilty of an offence if the person -:

(f) engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting or offensive language, conduct or behaviour in any manner or form towards, or in relation to-

(i) a Steward.

GAR 86(g) states:

A person (including an official) shall be guilty of an offence if the person -:

(g) wilfully assaults, obstructs, impedes, abuses, interferes, threatens or insults the Controlling Body, any member of the Controlling Body, a club, any member of the committee of a club, any Steward or any other official of the Controlling Body or a club in or at any place including in or in the vicinity of the place where an inquiry is to take place, is taking place or has taken place.

GAR 86(h) states:

A person (including an official) shall be guilty of an offence if the person -:

(h) prevents, attempts to prevent, interferes with or attempts to interfere with the carrying out of any identification, examination, test, autopsy, analysis, inquiry or investigation pursuant to these Rules.

**Particulars of charges: Charge 1: LR 42.6(i)(i)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. In 2019, you were the registered owner of the greyhound “Lanatis Dream” (NEIKU), which according to FastTrack Records was rehomed by you to a third party.
3. You failed to keep detailed records of this rehoming including to whom and the location of where the greyhound Lanatis Dream was rehomed.
4. You failed to provide any such records or evidence in support of the rehoming of Lanatis Dream (NEIKU) when requested to do so by GRV Stewards.

**Charge 2: GAR 105(4)(i)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21 January 2020, an audit was conducted of greyhounds that were under your care and custody at your kennel address in Murchison, Victoria.
3. Greyhound “Lanatis Dream” (NEIKU) was listed on your FastTrack Account but was not located at your property.
4. Lanatis Dream (NEIKU) had been rehomed from your property during 2019 and you had not notified GRV of this rehoming.

**Charge 3: LR 42.6(i)(i)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. In 2019, you were the registered owner of the greyhound “Eye Dunno” (NEBWM) which according to FastTrack Records was rehomed by you to a third party.
3. You failed to keep detailed records of this rehoming including to whom and the location of where the greyhound Eye Dunno (NEBWM) was rehomed.
4. You failed to provide any such records or evidence in support of the rehoming of Eye Dunno (NEBWM) when requested to do so by GRV Stewards.

**Charge 4: GAR 105(4)(i)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 21 January 2020, an audit was conducted of greyhounds that were under your care and custody at your kennel address in Murchison, Victoria.
3. Greyhound “Eye Dunno” (NEBWM) was listed on your FastTrack Account but was not located at your property.
4. Eye Dunno (NEBWM) had been rehomed from your property during 2019 and you had not notified GRV of this rehoming.

**Charge 5: GAR 86(o)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 6 April 2020, you notified GRV Rehoming Department via your FastTrack Account that the greyhounds “Lanatis Dream” (NEIKU) and “Eye Dunno” (NEBWM) had been rehomed to the Wangaratta RSPCA.
3. You provided this information knowing it was incorrect.

**Charge 6: LR 42.10(a)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 20 April 2020, Investigative Stewards held an Inquiry with you where you were asked where greyhound “Lanatis Dream” (NEIKU) had been rehomed.
3. During this Inquiry, you stated that Lanatis Dream (NEIKU) had been rehomed at the Wangaratta RSPCA. You provided this statement knowing that it was false and misleading.

**Charge 7: GAR 86(f)(i)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 9 January 2021, you engaged in the use of improper, insulting and offensive language and conduct towards a Steward including making the following comments:
* *“I don’t care what you’ve got. I don’t care about your camera. I’ll pull it off both of yous and I’ll tear your fucken heads off so get out of my property before I start shit”.*
* *“Do you want me to go in and get my gun safe - then I will”.*
* *“Get the fuck out of my fence before I start laying my fists into you both”.*
* *“I tell you something. You’re lucky you don’t live locally mate coz I would fucken love to have a one-on-one chat with you without that camera. I’m not threatening you, I’m just telling you”.*

**Charge 8: GAR 86(g)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 9 January 2021, you refused Investigative Stewards entry to your kennel address to inspect greyhounds on your property and at this time made threats towards them which included -:
* *“If you come in bad things are going to happen to you so I suggest you get outside my gate”.*
* *“Those cameras are only magnetic too mate and I know exactly how to rip them off you. I’m just saying that if you threaten me with your power of entry, I’ll threaten you with the power of my fucken fists. I don’t care if I go to fucken jail mate. I’ve been there before”.*

**Charge 9: GAR 86(h)**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (“GRV”) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 9 January 2021, you refused Investigative Stewards entry to your kennel address to conduct an investigation into the number and identity of greyhounds on your property.

**Plea:** Not Guilty to all charges

**DECISION**

1. Mr Justin Hetherton is a greyhound trainer and breeder whose registration status is currently that of a disqualified person. On 21 October 2020, he was disqualified for an effective period of six months for, inter alia, preventing and interfering with a Stewards’ investigation and with making false and misleading statements to the Stewards.
2. Mr Hetherton now faces more charges, some of which arise out of his conduct prior to his disqualification. Others arise in respect of a kennel inspection attempted by Stewards on 9 January 2021.
3. Mr Hetherton has advised the Tribunal that he does not wish to be involved in this matter. We take that indication as a plea of not guilty and have required the Stewards to prove their case to our comfortable satisfaction in respect of each charge.

**Charges 1 – 6: The Facts**

1. On 21 January 2020, Investigative Stewards conducted a kennel inspection at Mr Hetherton’s kennel address. The inspection revealed that two greyhounds registered as kept at that property in Murchison were missing. Their names were “Lanatis Dream” and “Eye Dunno”.
2. After that kennel inspection, Stewards asked Mr Hetherton where those two greyhounds were located. He told them that they both had been rehomed in mid 2019. Mr Hetherton told Stewards that he was unable to produce any records of their rehoming, as he kept no such records. He admitted that he did not let the regulatory body, Greyhound Racing Victoria (“GRV”), know about the rehoming of the two greyhounds.
3. On 6 April 2020, Mr Hetherton notified the GRV Rehoming Department via Facebook that the two greyhounds had been rehomed to the Wangaratta Royal Society for the Prevention of Cruelty to Animals (“RSPCA”).
4. In an investigative inquiry held by the Stewards on 20 April 2020, Mr Hetherton asserted that the two greyhounds were rehomed through the Wangaratta RSPCA. In further inquiries held on 29 June 2020 and 9 July 2020, he gave vague evidence about the location of the greyhounds.

**Charges 7 – 9: The Facts**

1. On 9 January 2021, Stewards attended at Mr Hetherton’s kennel address to attempt to establish the identity of greyhounds on the property, as he had recently been nominated as having taken possession of a retired greyhound. When the Stewards attempted to enter the premises under their lawful authority to do so pursuant to Section 77 of the *Racing Act 1958* (“the Act”), Mr Hetherton refused them entry.
2. Mr Hetherton told the Stewards:

*“I don’t care what you’ve got. I don’t care about your camera. I’ll pull it off both of yous and I’ll tear your fucken heads off so get out of my property before I start shit”.*

He then said:

*“Do you want me to go in and get my gun safe - then I will”.*

This was followed by:

*“Get the fuck out of my fence before I start laying my fists into you both”.*

He then said:

*“I tell you something. You’re lucky you don’t live locally mate coz I would fucken love to have a one-on-one chat with you without that camera. I’m not threatening you, I’m just telling you”.*

1. The above comments were made while the Stewards were outside the front gate of the property and attempting to enter the property to carry out their duties.
2. In addition to these comments, before the Stewards departed to avoid a violent confrontation, Mr Hetherton said:

*“Those cameras are only magnetic too mate and I know exactly how to rip them off you. I’m just saying that if you threaten me with your power of entry, I’ll threaten you with the power of my fucken fists. I don’t care if I go to fucken jail mate. I’ve been there before”.*

**Charge 1: LR 42.6(i)(i)**

1. Charge 1 is a charge under Local Racing Rule (“LR”) 42.6(i)(i), which requires owners to keep records of compliance with LR 42.6. LR 42.6 requires owners to make all reasonable efforts to find greyhounds a suitable long term home and sets out relevant requirements. Mr Hetherton is the registered owner of both greyhounds. Mr Hetherton admitted to Stewards that he kept no such records. We are comfortably satisfied that he breached LR 42.6(i)(i).

**Charge 2:** **GAR 105(4)(i)**

1. Charge 2 is a charge under Greyhounds Australasia Rule (“GAR”) 105(4)(i), which requires a registered person to give GRV notice, within three working days, of a greyhound coming into or leaving that person’s custody. Mr Hetherton admitted to Stewards that he gave no such notice concerning Lanatis Dream leaving his custody. We are comfortably satisfied that Mr Hetherton is guilty of charge 2.

**Charge 3: LR 42.6(i)(i)**

1. Charge 3 is laid under LR 42.6(i)(i) concerning the failure to keep records regarding the rehoming of Eye Dunno and the location of the greyhound. It is closely related to charge 1. We are comfortably satisfied that it is made out, as Mr Hetherton admitted to Stewards that there are no such records.

**Charge 4: GAR 105(4)(i)**

1. Charge 4 concerns a breach of GAR 105(4)(i). It is the equivalent of Charge 2, but concerns the greyhound Eye Dunno. We are comfortably satisfied, given the admission of Mr Hetherton that no such records exist, that this charge is also made out.

**Charge 5: GAR 86(o)**

1. Charge 5 is a charge under GAR 86(o) which prohibits conduct, in relation to greyhound racing, which is negligent, dishonest, corrupt, fraudulent, improper or constitutes misconduct. The charge relates to Mr Hetherton informing the GRV Rehoming Department on 6 April 2020 that the two greyhounds had been rehomed to the Wangaratta RSPCA when that was a lie. That behaviour constitutes dishonest conduct. We are comfortably satisfied that this charge is made out.

**Charge 6: LR 42.10(a)**

1. Charge 6 is under LR 42.10(a) and concerns Mr Hetherton’s false statement on 20 April 2020 that Lanatis Dream had been rehomed to Wangaratta RSPCA. That statement was dishonest and the making of it breached LR 42.10(a). We are comfortably satisfied that Mr Hetherton is guilty of Charge 6.

**Charge 7: GAR 86(f)(i)**

1. Charge 7 is laid under GAR 86(f)(i) which prohibits improper, insulting and offensive language directed towards a Steward. The charge relates to the language used by Mr Hetherton on 9 January 2021 which was directed at Stewards. That language is set out in paragraph 9 above. We also heard it and saw it delivered in the audio and vision recorded by Stewards. We are comfortably satisfied that this charge is made out. The language used was improper, insulting and offensive and was directed at Stewards.

**Charge 8: GAR 86(g)**

1. Charge 8 is laid under GAR 86(g), which prohibits threats to GRV officials. The threats that are the subject of the charge were the ones recorded at paragraph 11 above and the comment made as heard on the recording of Mr Hetherton’s rant that *“if you come in bad things are going to happen to you so I suggest you get outside my gate”*. We are comfortably satisfied that this charge is made out. The comments relied on constitute threatening behaviour towards a GRV official.

**Charge 9: GAR 86(h)**

1. Charge 9 is laid under GAR 86(h), which prohibits preventing Stewards from carrying out an inquiry or investigation. On 9 January 2021, Mr Hetherton refused Stewards entry to his premises. They were intending to check on the presence of greyhounds housed there and wished to hold an investigation into that matter to determine the identity and number of greyhounds present. Mr Hetherton refused access to the Stewards and prevented them from carrying out a lawful investigation. We are comfortably satisfied that Mr Hetherton is guilty on this charge.

**Further Conduct of the Matter**

1. The matter will be adjourned to a penalty hearing on 11 October 2021 at 9.30am at which time penalty submissions will be heard. Although not participating in the liability stage of this matter, Mr Hetherton is to be given the opportunity of making submissions on penalty should he so desire.

**Jurisdiction**

1. We note that all charges except, Charges 2 and 4, are charges relating to serious offences. For what constitutes a serious offence, see LR 47. GAR 105(4)(i) is not there included. The charges in Charges 2 and 4 are not serious charges. However, they relate to Charges 1, 3, 5 and 6. We accepted the recommendation of the Chief Steward under Section 50C(d)(iv) of the Act and accepted the referral of those charges. We heard and determined them at the same time as the charges which relate to the abovementioned serious offences.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal