18 October 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**JUSTIN HETHERTON**

**Date of hearing:** 11 October 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.

Mr Anthony Pearce and Mr Gary Harrison attended 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

**PENALTY**

1. On 3 September 2021, the Tribunal found Mr Hetherton guilty of nine charges relating to his conduct as a registered greyhound owner and trainer. These reasons for decision must be read in conjunction with the reasons given on 3 September 2021.
2. The most serious of the charges is Charge 7. It is a charge under Greyhounds Australasia Rule (“GAR”) 86(f)(i), concerning the use of insulting and offensive language to Stewards. The language used by Mr Hetherton was intimidatory and included a threat of the use of firearms. It was absolutely appalling behaviour, which had the potential to be psychologically damaging to the Stewards concerned. On this charge, we impose a period of two years disqualification.
3. Charge 8 is a similar charge to Charge 7. It is a charge under GAR 86(g), concerning threats made to Stewards, including threats of violence. On this charge, we impose a penalty of two years disqualification, with 12 months cumulative on the penalty under Charge 7 and 12 months to be served concurrently with the penalty under Charge 7.
4. Charge 9 concerns Mr Hetherton’s prevention of the Stewards from carrying out a lawful investigation. It involves a breach of GAR 86(h). It is also a very serious charge involving conduct which strikes at the heart of the ability of Greyhound Racing Victoria (“GRV”) to regulate the industry. On that charge, we impose a penalty of two years disqualification, with 12 months cumulative on the penalty under Charge 7 and 12 months to be served concurrently with the penalty under Charge 7.
5. On Charge 6, which concerns the making of a false statement to Stewards concerning the whereabouts of a greyhound, we impose a penalty of 12 months disqualification, with six months cumulative on the penalty under Charge 7 and 6 months to be served concurrently with the penalty under Charge 7. Failure to inform the regulator about the whereabouts of greyhounds impacts upon the proper regulation of the industry.
6. Charge 5 concerns a breach of GAR 86(o), which prohibits dishonest conduct. Mr Hetherton lied to the Stewards as to the location of two greyhounds. Lying to the Stewards is a serious offence. The work of the Stewards is difficult enough without them being misled by participants. On this charge, we impose a penalty of 12 months disqualification, with six months cumulative on the penalty under Charge 7 and six months to be served concurrently with the penalty on Charge 7.
7. Charges 1 and 3 concern breaches of Local Racing Rule (“LR”) 42.6(i)(i), which requires all owners to make reasonable efforts to find suitable, long term homes for retired greyhounds. Mr Hetherton failed to do so in respect of two greyhounds. Both charges are serious, because compliance with that provision assists the industry in ensuring the welfare of greyhounds when they leave the industry. On each charge, we impose a period of six months disqualification, with two months to be served cumulatively on the penalty under Charge 7 and four months to be served concurrently with the penalty under Charge 7.
8. Charges 2 and 4 concern GAR 105(4)(i), which requires greyhounds to be kept at the registered address of the trainer. Two relevant greyhounds were not at Mr Hetherton’s address when Stewards attended to conduct an audit. It is important for Stewards to know where greyhounds are located to help secure their welfare. On each of these two charges, we impose a penalty of three months disqualification, with one month cumulative on the penalty under Charge 7 and two months concurrently with the penalty under Charge 7.
9. The total period of disqualification imposed is a period of five years and six months, to commence immediately. The concurrent portions of it reflect the totality principle. In setting these penalties, we have taken into account general deterrence, denunciation of the offending conduct, the maintenance of the authority of the Stewards to regulate the industry and animal welfare considerations. We have also taken into account recent penalties in like matters and a victim impact statement of an affected Steward. We further note Mr Hetherton’s transgression in respect of GAR 86(h) and 86(d) in a case which was before the Tribunal on 21 October 2020 and in respect of which he incurred a six month disqualification. Thereafter, he did not seek to have his licence reinstated. We note that Mr Hetherton also failed to attend this penalty hearing.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal