6 May 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR KENNETH KUBIK**

**Date of hearing:** 29 April 2020

**Panel:** Judge John Bowman (Chairperson) and Magistrate John Doherty (Deputy Chairperson)

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

Mr Kenneth Kubik represented himself

**Charge:** Greyhound Australasia Rule (GAR) 86(ah) states:

A person (including an official) shall be guilty of an offence if the person – being a registered person or person associated with greyhound racing, associates with a disqualified person for the purposes of greyhound racing.

**Particulars of charge:**

1. You are, and were at all relevant times, a public trainer/breeder, licensed by Greyhound Racing Victoria (GRV) and a person bound by the GAR and Local Racing Rules
2. You are, and were at the relevant time, the owner and trainer of a greyhound by the registered name of ‘‘JanRay Lucky One’ (VFPAB)
3. You, being a registered person with Greyhound Racing Victoria associated with a disqualified person for the purposes of greyhound racing in that:
4. You organised and facilitated leaving the registered greyhound “JanRay Lucky One” (VFPAB) in the care and custody of a disqualified participant, namely Ms. Janine Walker, on 11 September 2019 in order to obtain veterinary treatment.

**Plea:** Guilty

**DECISION**

Mr Kenneth Kubik, you have pleaded ‘guilty’ to a breach of GAR86. That, in essence, involves associating with a disqualified person.

The person in this instance was Ms Janine Walker, who was disqualified on 18 January 2018 for a period of 2 years and 5 months, that disqualification being handed down by VCAT. The disqualification related to animal welfare charges and the like.

On 23 September 2019, Stewards conducted a kennel inspection at your place in Epping. They found there some medication intended for the dog JanRay Lucky One. The prescription had on it the name ‘Walker’. You later confirmed that the ‘Walker’ referred to was Ms Janine Walker and that you knew that she was a disqualified person. You were completely frank and cooperative with the Stewards and have pleaded ‘guilty’ throughout.

As we understand them, the circumstances are that this dog had previously been trained by Ms Walker. It had health problems and you contacted her about them. Essentially, she instructed you to take the greyhound to her. She in turn would take it to a vet at Lancaster who had treated it before. You would then collect the dog again the following day. That is what happened. The handing over and collection did not take place on her property, but on the roadside. Apparently, the collection also involved the collection of the medication found at your kennels. We accept this.

You are a 69-year-old man. You are in ill-health and have also undergone orthopaedic surgery. You have moved from Epping to Seymour, where you have established some kennels, although you have not yet moved the six dogs which you have to there. We accept that the dogs and the exercising of them are a very important part of your life.

You have been a public trainer since 1997 and were an owner/trainer for some years before that. You have a number of prior convictions for comparatively minor offences. However, as stated, there have been no major breaches.

We agree with the Stewards that both general and specific deterrence are important considerations. Those involved in the industry as trainers should not associate with disqualified persons. They should be well aware of that, and indeed you were so aware, although not apparently appreciating the seriousness of your behaviour. Nevertheless, you knew that what you were doing was wrong. You now greatly regret it.

This is a serious matter. In our opinion, weighing up all of the above, the appropriate penalty is one of suspension. You are suspended for a period of 12 months, but 8 months of that period is in turn suspended for 12 months on the basis that there is no further breach of the Rule. In other words, there is an immediate suspension of 4 months, with the balance of 8 months suspended for a year, commencing from today.

Mark Howard
Registrar, Victorian Racing Tribunal