30 July 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR KENNETH MITCHELL**

**Date of hearing:** 24 July 2020

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Mr Des Gleeson.

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

Mr Kenneth Mitchell represented himself.

**Charges:** Greyhounds Australasia Rule (GAR) 101 (2)(a)states:

 (*2) An owner or trainer shall not permit an unlicensed person to-*

1. *train, at any place;*
2. *handle on any racecourse, a greyhound owned by or pursuant to the control of the owner or trainer.*

(GAR) 106 (1)(d) states:

1. *A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(d) veterinary attention when necessary.*

 (GAR) 106 (2) states:

1. *A registered person must exercise such reasonable care and supervision as may be necessary to prevent greyhounds pursuant to the person's care or custody from being subjected to unnecessary pain or suffering.*

**Particulars of charges:**

 **Charge 1**

* 1. You were at all relevant times, a public trainer, registered with GRV (Member No. 152975) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
	2. You were at all times the owner/trainer of greyhound ‘Amber’s Dolly’.
	3. On Thursday the 26th September 2019, Investigative Stewards conducted an official inquiry with you regarding ‘Amber’s Dolly’, being trained by Leigh MITCHELL an unlicensed person at his NORLANE property.
	4. During this inquiry, you made full admissions that you knew that Leigh MITCHELL was an unlicensed person and that you supported Leigh financially to train on your behalf, ‘Amber’s Dolly’ at his NORLANE property.

**Charge 2**

* 1. You were at all relevant times, a public owner/trainer, registered with GRV (Member No. 152975) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
	2. You were at all relevant times the person responsible for the care and supervision of the greyhound ‘Amber’s Dolly’.
	3. Leading up to and including Tuesday the 10th of September 2019, as a registered person, you did not provide ‘Amber’s Dolly’ at all times with the veterinary attention when necessary.
	4. The results of an autopsy report submitted on Wednesday 25th of September 2019, concluded that the death of ‘Amber’s Dolly’ was the result of the lack of veterinary care for injuries sustained by ‘Amber’s Dolly’.

**Charge 3**

1. You were at all relevant times, an owner and public trainer, registered with GRV (Member No. 152975) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were at all relevant times the person responsible for the care and supervision of the greyhound ‘Amber’s Dolly’.
3. Leading up to and including Tuesday the 10th of September 2019, you being a registered person did not exercise such reasonable care and supervision as may be necessary to prevent ‘Amber’s Dolly’ from being subjected to unnecessary pain or suffering.
4. The results of an autopsy report submitted on Wednesday 25th of September 2019, concludes that the injuries sustained by ‘Amber’s Dolly’ would have subjected ‘Amber’s Dolly’ to unnecessary pain or suffering.

**Plea:** Guilty

**DECISION**

1. Mr Kenneth Mitchell is a registered greyhound trainer and was the trainer of the greyhound Amber’s Dolly. Amber’s Dolly was euthanised at a veterinary clinic in the Geelong area on 10 September 2019. She was taken there by Mr Mitchell’s son, Leigh.
2. There is an autopsy report on the greyhound which shows that she died of heart failure as a result of lack of care for injuries which she had earlier suffered. She had various infected sores and wounds as well as urine scolding. She experienced septic shock. Expert veterinary opinions suggest that she would have experienced unnecessary pain and suffering for about 4 or 5 days leading up to her death. They also suggest that the need for veterinary assistance would have been obvious to any lay person.
3. Although the registered trainer of the dog, Ken Mitchell, allowed Leigh Mitchell (an unlicensed person) to train the greyhound for about the last 6 months of her life, Ken gave Leigh instructions on exercising the greyhound and paid for food for her. Ken knew that Leigh was unlicensed, having been disqualified for a serious offence in January 2018. The training occurred at Leigh’s premises, away from Ken’s registered kennel address.
4. Stewards of Greyhound Racing Victoria (‘GRV’) have charged Mr Ken Mitchell with 3 offences. The first is a charge under Greyhounds Australasia Rule (‘GAR’) 101(2)(a) that being an owner and trainer, Mr Ken Mitchell permitted an unlicensed person to train at another place a greyhound owned by him or pursuant to his control as an owner and trainer.
5. The second charge is under GAR 106(1)(d) and is that Mr Ken Mitchell failed to ensure that a greyhound that was in his care was provided at all times with veterinary attention when necessary.
6. The third charge is one under GAR 106(2) that Mr Ken Mitchell did not exercise reasonable care and supervision as may be necessary to prevent a greyhound pursuant to that persons care or custody from being subjected to any unnecessary pain and suffering.
7. Mr Ken Mitchell has pleaded guilty to the charges. In relation to the mitigation of penalty, he has referred to the difficulty he had accessing his son’s property for legal reasons.
8. We are comfortably satisfied that each charge is made out. On the evidence before us, Mr Ken Mitchell allowed his son to participate in the training of Amber’s Dolly, subject to his directions about exercise. To allow an unlicensed person to participate in training is a very serious offence, which undermines the integrity of the process of discipline in greyhound racing.
9. In setting a penalty on this charge we take into account Mr Mitchell’s guilty plea and remorse. We also take into account general deterrence and the importance of maintaining integrity in the sport. In all the circumstances we impose a penalty of a fine of $4,000.
10. On the charge under GAR 106(1)(d), we take into account general deterrence, animal welfare considerations and penalties in like recent matters. In all the circumstances we impose a fine of $2,500.
11. The charge under GAR 106(2) is an extremely serious charge. We take into account animal welfare considerations, general deterrence and penalties in like recent matters. In all the circumstances we impose a disqualification of 4 years to commence immediately. Mr Mitchell should have been monitoring the health of the greyhound and not trusted the judgment of an unlicensed person who was not the registered trainer of the greyhound.

Mark Howard
Registrar, Victorian Racing Tribunal