7 July 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**LLOYD FITZGERALD**

**Date of hearing:** 29 June 2022

**Panel:** Magistrate John Doherty (Deputy Chairperson) and Ms Judy Bourke.

**Appearances:** Mr Anthony Pearce appeared on behalf of the Stewards.

Mr Lloyd Fitzgerald represented himself.

**Charges:** Greyhounds Australasia Rule (“GAR”) 83(1A) states:

 (1A) A person who –

(a) administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;

 (b) aids, abets counsels or procures any person to administer a prohibited substance to a greyhound; or

(c) has prior knowledge of a prohibited substance being administered to a greyhound

 which is detected in any sample taken from such greyhound that has been presented for an Event or when subject to any other contingency provided for pursuant to these Rules, shall be guilty of an offence.

GAR 83(2) states:

(2) The owner, trainer or person in charge of a greyhound-

 (a) nominated to compete in an Event;

 (b) presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or

 (c) presented for any test or examination for the purpose of a period of incapacitation or prohibition being varied or revoked

 shall present the greyhound free of any prohibited substance.

**Particulars of charges: Charge 1: GAR 83(1A)**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound “One Tonne”.
3. One Tonne was presented for, and competed in, Race 7, CAMPBELL’S COMMENTS, Grade 6, conducted by the Bendigo greyhound Racing Association at Bendigo on 2 June 2021 (the Event).
4. You administered, or caused to be administered, to One Tonne, a prohibited substance, being Cobalt, which was detected in a sample taken from One Tonne in that:

(a) You are responsible for the feeding of, and administration of supplements to, One Tonne;

(b) One (1) product containing cobalt, namely “Virbac Feramo-D”, was identified at your kennels on 9 July 2021;

(c) A pre-race sample of urine was taken from One Tonne at the Event (the Sample);

(d) Cobalt was detected at a mass concentration of greater than 100 nanograms per millilitre in the Sample; and

(e) The mass concentration of cobalt detected in the sample could only be caused by the administration of cobalt.

 **Charge 2: GAR 83(2)**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.
2. You were at all relevant times the trainer of the greyhound “One Tonne”.
3. One Tonne was nominated to compete in, Race 7, CAMPBELL’S COMMENTS, Grade 6, conducted by the Bendigo greyhound Racing Association at Bendigo on 2 June 2021 (the Event).
4. On 2 June 2021, you presented One Tonne at the Event not free of any prohibited substance, given that:

(a) A pre-race sample of urine was taken from One Tonne at the Event (the Sample);

(b) Cobalt was detected at a mass concentration of greater than 100 nanograms per millilitre in the Sample.

**Pleas:** Guilty

**DECISION**

Mr Lloyd Fitzgerald has pleaded guilty to effectively an “administration” and “presentation offence in breach of Greyhounds Australasia Rule (“GAR”) 83. The greyhound, “One Tonne”, finished in third position in the race in question and a pre-race urine sample revealed the presence of cobalt at a level of 120 nanograms per millilitre (“ng/ml”) (referee sample) in breach of the threshold set at 100 ng/ml.

The most likely source of the cobalt is a product named “Virbac Feramo-D” which was found during a kennel inspection on 9 July 2021. By his own admission, Mr Fitzgerald had used the product but is now more mindful of using it in accordance with the recommended dosage as per the manufacturer’s instructions.

Mr Fitzgerald is 77 years of age and has been associated with greyhound racing virtually all his life. He was first registered as a public trainer/breeder in 1985. His activity history is excellent with 26 otherwise clear swab samples. On the day in question, Mr Scott McKenzie, a registered participant, kennelled and handled One Tonne, however, Mr Fitzgerald accepts his responsibilities for the present Rule breaches and has pleaded guilty.

Greyhound Racing Victoria (“GRV”) Stewards have stressed the need for consistency in decision making, the need for a level playing field for participants and the principles of specific and general deterrence. Reference has also been made to recent similar cases heard before this Tribunal.

In the event, on each charge, we impose a 12 month suspension, with 10 months of that 12 month period wholly suspended for 12 months. The penalty on Charge 2 is concurrent with the penalty imposed on Charge 1. The period of suspension is to commence from midnight on 30 June 2022.

Stewards had requested that the suspended term duration be fixed at 24 months. Considering Mr Fitzgerald’s age particularly, his record and longevity in the industry, we declined to fix a 24 month period and have settled on 12 months.

Finally, the greyhound, One Tonne, is disqualified from the subject race and any prizemoney is to be forfeited to GRV.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal