25 November 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR MATTHEW CLARK**

**Date of hearing:** 11 November 2020

**Panel:** Justice Shane Marshall (Deputy Chairperson).

**Appearances:** Mr Paul Searle appeared on behalf of the Stewards.

Mr Matthew Clark represented himself.

**Charge:** Greyhounds Australasia Rule (GAR) 71 states where a greyhound fails to perform to the satisfaction of the Stewards, or has been determined, by the officiating veterinary surgeon or other authorised person, to have cramped during the running of an Event, the Stewards may:

1. order that it complete a satisfactory trial before being eligible to compete further or be nominated for any Event; and/or
2. order that it be subject to the production of a veterinary certificate certifying that it is not suffering from an injury or condition before being eligible to compete further in or be nominated for any Event.

**Particulars of charge:** Showtime Boomer underwent a post-race veterinary examination and was re-examined following race 5, no apparent injury could be detected. Stewards spoke to Mr. Matthew Clarke, the trainer of Showtime Boomer regarding its performance approaching the home turn and entering the home straight. Stewards deemed the performance unsatisfactory, acting in accordance with GAR 71. Showtime Boomer must perform a Satisfactory Trial pursuant to GAR 72, before any future nomination will be accepted. Stewards noted the significant interference in the race causing the greyhound to lose sight of the lure.

**Plea:** Not Guilty

**DECISION**

1. Matthew Clark is a registered greyhound trainer and the trainer of the greyhound “Showtime Boomer”. Showtime Boomer competed in Race 1 at Sandown on 1 November 2020. Stewards charged the greyhound under Greyhounds Australasia Rule (“GAR”) 71 with failing to perform to the satisfaction of the Stewards. They found the greyhound guilty. The Stewards ordered that Showtime Boomer complete a satisfactory trial before being eligible to compete further or be nominated for any event.
2. Mr Clark has appealed from the decision of the Stewards. His appeal notice stated that his ground of appeal is that the penalty is excessive, because the lure was too far in front and a warning was adequate.
3. The grounds of appeal do not challenge the merits of the decision that the greyhound had failed to perform to the satisfaction of the Stewards. If the appeal had been one going to the merits of the decision, it would have been dismissed. The Stewards decision that the run was unsatisfactory was open to them. The Stewards report and the vision of the race show that Showtime Boomer eased visibly approaching the home turn and on entering the straight. No injury was detected in a post-race veterinary examination. However, in the hearing of the appeal, Mr Clark said that other greyhounds performed in the race in a less satisfactory manner than Showtime Boomer and that therefore, the greyhound’s run was not unsatisfactory.
4. Once there is a finding that a greyhound has failed to perform to the satisfaction of the Stewards, the penalty prescribed by GAR 71 is one of the completion of a satisfactory trial unless the greyhound suffered an injury. There is no other penalty mentioned in the Rule. Although the word “may” is used in GAR 71, it would be a very rare case where the Stewards exercised a discretion not to order a penalty of a satisfactory trial if a greyhound is found guilty of failing to run to the satisfaction of the Stewards. The better construction of the Rule is that, barring any injury as an excuse, an unsatisfactory performance will automatically lead to an order for the completion of a satisfactory trial. The Tribunal notes that the greyhound completed such a trial on 8 November 2020 at Sale, but has yet to do so at Sandown.
5. The appeal is dismissed.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal