7 October 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MS MELISSA FORTE**

**Date of hearing:** 6 October 2020

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Judge Marilyn Harbison.

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

No appearance by or on behalf of Ms Melissa Forte.

**Charge:** Greyhounds Australasia Rule (GAR) 83(1A) states:

A person who –

1. administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;
2. aids, abets counsels or procures any person to administer a prohibited substance to a greyhound; or
3. 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:

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

1. nominated to compete in an Event;
2. presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or
3. 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.

GAR 86(e) states:

being an owner, trainer, attendant or a person having official duties in relation to greyhound racing refuses or fails to attend or to give evidence or produce a document or other thing at an inquiry held pursuant to these Rules when directed by the Controlling Body, Stewards or the committee of a club to do so;

GAR 84A states:

1. The person in charge of a greyhound must keep and retain records detailing all vaccinations, antiparasitics and medical treatments administered to a greyhound from the time the greyhound enters their care until the greyhound leaves their care and for a minimum of two (2) years. Such record of treatment must be produced for inspection when requested by a Steward or a person authorised by the Controlling Body. Any person responsible for a greyhound at the relevant time who fails to comply with any provision of this rule shall be guilty of an offence.

**Particulars of charge: Charge 1**

1. You were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Racing Victoria Rules of Racing.
2. You were, at all relevant times, the trainer of the greyhound “*Here Runs Emilia*”.
3. “*Here Runs Emilia*” was presented for, and competed in, Race 2, No.1 CAR WASH - SALE, Maiden, conducted by the Sale Greyhound Racing Club at Sale on 19 September 2019 (**the Event**).
4. You caused to be administered to “*Here Runs Emilia*”, a prohibited substance, being Diclofenac, which was detected in a sample taken from “*Here Runs Emilia*”, in that:
5. You authorised Mr Lui Forte to administer Voltaren Gel to “*Here Runs Emilia*”;
6. Mr Forte administered a product containing Diclofenac, namely Voltaren Gel, to “*Here Runs Emilia*” on or about 17 September 2019;
7. A pre-race sample of urine was taken from “*Here Runs Emilia*” at the Event (**the Sample**); and
8. Diclofenac was detected in the Sample.

**Charge 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 “*Here Runs Emilia*”.
3. “*Here Runs Emilia*” was nominated to compete in, Race 2, No.1 CAR WASH - SALE, Maiden, conducted by the Sale Greyhound Racing Club at Sale on 19 September 2019 (**the Event**).
4. On 19 September 2020, you presented “*Here Runs Emilia*” at the Event not free of any prohibited substance, given that:
5. A pre-race sample of urine was taken from “*Here Runs Emilia*” at the Event (**the Sample**);
6. Diclofenac was detected in the Sample.

**Charge 3**

1. You were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Racing Victoria Rules of Racing.
2. You were, at all relevant times, the trainer of the greyhound “*Here Runs Emilia*”.
3. “Here Runs Emilia” was presented for, and competed in, Race 1, PUND & ASSOCIATES, Maiden, conducted by the Sale Greyhound Racing Club at Sale on 6 October 2019 (**the Event**).
4. You caused to be administered to “*Here Runs Emilia*”, a prohibited substance, being Diclofenac, which was detected in a sample taken from “*Here Runs Emilia*”, in that:
5. You authorised Mr Lui Forte to administer Voltaren Gel to “*Here Runs Emilia*”;
6. Mr Forte administered a product containing Diclofenac, namely Voltaren Gel, to “*Here Runs Emilia*” on or about 4 October 2019;
7. A post-race sample of urine was taken from “*Here Runs Emilia*” at the Event (**the Sample**); and
8. Diclofenac was detected in the Sample.

**Charge 4**

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 “*Here Runs Emilia*”.
3. “*Here Runs Emilia*” was nominated to compete in, Race 1, PUND & ASSOCIATES, Maiden, conducted by the Sale Greyhound Racing Club at Sale on 6 October 2019 (**the Event**).
4. On 6 October 2019, you presented “*Here Runs Emilia*” at the Event not free of any prohibited substance, given that:
5. A post-race sample of urine was taken from “*Here Runs Emilia*” at the Event (**the Sample**);
6. Diclofenac was detected in the Sample.

**Charge 5**

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. On 22 January 2020, and in relation to the circumstances relating to Sample numbers V641396 and V636046, GRV Stewards issued you with a Notice of Inquiry requiring you to attend an inquiry at 46-50 Chetwynd Street, West Melbourne on 4 February 2020 at 12:30pm (**the Inquiry**).
3. You failed to attend the Inquiry.

**Charge 6**

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. On 11 February 2020, and in relation to your non-attendance at the Steward’s inquiry scheduled on 4 February 2020 regarding sample numbers V641396 and V636046, GRV Stewards issued you with a Notice of Inquiry requiring you to attend an inquiry at 46-50 Chetwynd Street, West Melbourne on 11 March 2020 at 11:30am (**the Inquiry**).
3. You failed to attend the Inquiry.

**Charge 7**

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 person in charge of, and responsible for the greyhound “*Here Runs Emilia*”.
3. On 10 November 2019, Mr Carl Scott (GRV Steward) requested you to produce the treatment records for “*Here Runs Emilia*” within 24 hours of his request.
4. You failed to produce treatment records for inspection.

**Plea:** Not Guilty

**DECISION**

1. At all material times up to 29 January 2020, Ms Melissa Forte was a registered greyhound trainer and the trainer of ‘Here Runs Emilia’. The greyhound competed in race 2 at Sale on 19 September 2019 and in race 1 at Sale on 6 October 2019. On each occasion the greyhound returned a positive swab for diclofenac, which is sold under the brand name Voltaren Gel.
2. In or about September and October 2019, Ms Forte’s father, Mr Lui Forte, had been treating Here Runs Emilia with Voltaren Gel by rubbing a small amount of the cream into the groin of the greyhound every second day to relieve pain. In respect to each of the above race days, he administered Voltaren a couple of days before the event at the suggestion of Ms Forte.
3. At the time, Ms Forte was no longer residing at the family home in Moe but moved to Melbourne for work. She had little involvement in the actual training of Here Runs Emilia despite being her registered trainer. She fed the dog in the evenings on the occasions she returned to Moe. At each of the events at Sale on 19 September 2019 and 6 October 2019, the greyhound was transported to the track and handled and kennelled by her father, Mr Forte.
4. Diclofenac is a prohibited substance. It is a non-steroidal anti-inflammatory drug used to treat pain and inflammatory disease. It has the capacity to affect the condition or performance of a greyhound in a positive way by inducing an artificially pain free state. Greyhound Racing Victoria (“GRV”) issued a warning to trainers in August 2016 by publishing guidelines which raise the risk of potential positive swabs due to the exposure of greyhounds to over the counter medications.
5. Stewards attended Ms Forte’s kennel address in Moe on 29 October 2019 to discuss the 19 September 2019 positive swab. Ms Forte was not there but Stewards spoke to her by telephone. She told them that her father did the majority of feeding and training of the greyhound. They asked Mr Forte for relevant treatment records but they were not on the premises.
6. Stewards also contacted Ms Forte on 7 November 2019 regarding the swab on 6 October 2019. She said she was aware of the problem with the 19 September swab due to the phone call on 29 October 2019. She once again reiterated that her father did most of the training and food preparation. Stewards required her to email treatment records to them within 24 hours. Ms Forte failed to do so at all.
7. By letter dated 22 January 2020, by which time Ms Forte had ceased to be the registered trainer of the greyhound, and by email that day, Stewards summoned Ms Forte to an inquiry on 4 February 2020. Mr Forte told an inquiry into the positive swabs that his daughter deliberately ignored that request because she did not care if she lost her licence as she did not wish to train greyhounds anymore. Her licence expired on 29 January 2020. However, on 22 January 2020, she was still a licenced person subject to the rules of racing and was obliged to answer the request to attend the inquiry. Stewards issued a second letter on 11 February 2020 for inquiry on 11 March 2020 which Ms Forte also ignored. Mr Forte attended the inquiry. He admitted to the administration of Voltaren at the request of his daughter, not realising it was a prohibited substance. He immediately stopped using it after the kennel inspection on 29 October 2019.
8. Stewards of GRV have charged Ms Forte with seven offences. Two are administration charges for the two Sale events under Greyhound Australasia Rule (“GAR”) 83(1A) and two are presentation charges under GAR 83(2). There are two charges under GAR 86(e) for failing to attend the inquiries arranged for 4 February 2020 and 11 March 2020 and one charge under GAR 84A for failing to produce treatment records on request.
9. Ms Forte failed to attend the hearing. She has refused to co-operate with the Stewards. We are comfortably satisfied that each administration and presentation charge is made out. We intend to impose a penalty only on the first administration charge. At the time of the kennel inspection on 29 October 2019, the second event had already occurred without Mr Forte realising there was a problem with administering Voltaren on behalf of his daughter. There will be no extra penalty on the presentation charges as they arose out of the same substratum of facts as the administration charges.
10. In setting a penalty on the first administration charge, we take into account general deterrence and the importance of keeping a level playing field by maintaining a drug free industry. We also take into account penalties in like recent cases and Ms Forte’s lack of co-operation with Stewards and the Tribunal. In the circumstances, we impose a penalty of $2,000. We do so in particular having regard to her lack of remorse.
11. On the first charge under GAR 86(e), we impose a penalty of 18 months disqualification. Trainers who refuse to comply with the Stewards’ requests to attend an inquiry jeopardise the probity and good name of the industry and deserve significant penalties.
12. On the second charge under GAR 86(e), we also impose an 18 months disqualification but make it concurrent with the first GAR 86(e) charge.
13. The final charge concerns a breach of GAR 84A, whereby on 10 November 2019, a Steward asked Ms Forte to produce treatment records for the greyhound within 24 hours and she did not do so. On this charge we impose a fine of $750.
14. In addition, ‘Here Runs Emilia’ is disqualified from each race of the Sale races being race 2 on 19 September 2019 and race 1 on 6 October 2019.

Mark Howard
Registrar, Victorian Racing Tribunal