6 December 2019

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR MICHAEL CLOHESY**

**Date of hearing:** 2 December 2019

**Panel:** Judge John Bowman (Chairperson), Justice Shane Marshall and Ms Maree Payne.

**Appearances:** Mr Andrew Cusumano appeared on behalf of the Stewards.

Mr Michael Clohesy represented himself.

**Charge:** Greyhounds Australasia Rule 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.

**Particulars of charge:** On 14 April 2019 at Sale, you presented ‘Wadelock Mindy’ at the Event not free of any prohibited substance, given that:

1. A post-race sample of urine was taken from ‘Wadelock Mindy’ at the Event (**the Sample**); and
2. Arsenic was detected at a mass concentration of greater than 800 nanograms per millilitre in the Sample.

**Plea:** Guilty

**DECISION**

1. Mr Michael Clohesy is a registered greyhound trainer and is the trainer of the greyhound ‘Wadelock Mindy’. Wadelock Mindy competed in race 8 at Sale on 14 April 2019. A post-race urine sample taken from the greyhound showed the presence of arsenic at 920 nanograms per millilitre which is in excess of the threshold under Greyhounds Australasia Rule (GAR) 83(11) of 800 ng/ml.
2. Stewards of Greyhound Racing Victoria (GRV) have charged Mr Clohesy with breaching GAR83(2) by presenting a greyhound for an event whilst not being free of a prohibited substance.
3. According to GRV’s Chief Veterinarian Dr Karamatic, arsenic is a naturally occurring trace element that is normally present in greyhounds at low levels as a result of normal dietary intake. In Dr Karamatic’s opinion, the chances of a greyhound exceeding the 800 ng/ml threshold is less than 1 in 11,000 without the administration of arsenic.
4. A urinary threshold of 800 ng/ml was introduced into the GAR’s for arsenic by the addition of GAR83(11) on 1 July 2016. Arsenic is a prohibited substance as defined in GAR 1 because it is capable of affecting the performance of a greyhound by its actions on the central or peripheral nervous system.
5. Mr Clohesy initially believed the greyhound may have consumed the contents of Ratsak placed around the kennels during a mice plague and thereby ingested arsenic. However, in an amendment to his statement Dr Karamatic states that Ratsak does not contain arsenic. Mr Clohesy suggested that licking of treated pine may have caused the positive swab but conceded that his dogs were not chewers. In any event, the offence is one of absolute liability and it is not up to the Stewards to prove the cause of the positive swab.
6. In setting a penalty we take into account general and specific deterrence and the importance of keeping a level playing field by maintaining a drug free industry. We also take into account recent penalties in like matters. We take into account Mr Clohesy’s guilty plea and his good character and record. We impose a penalty of 6 months suspension but suspend 4 months of that period pending no further breach of GAR83 in the next 12 months. In addition, we impose a fine of $500. ‘Wadelock Mindy’ is disqualified from race 8 at Sale on 14 April 2019.

Mark Howard  
Registrar, Victorian Racing Tribunal