10 February 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MICHAEL HARVIE**

**Date of hearing:** 11 January 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Dr Andrew Gould.

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

Mr Michael Harvie represented himself.

**Charge/s:** Greyhounds Australasia Rule (“GAR”) 86(p) states:

 A person (including an official) shall be guilty of an offence if the person-

 (p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.

 GAR 106(1)(a) states:

 (1) A registered person must ensure that greyhounds, which are in a person’s care or custody, are provided at all times with-

(a) proper and sufficient drink and protective apparel.

GAR 106(1)(b) states:

(1) A registered person must ensure that greyhounds, which are in a person’s care or custody, are provided at all times with-

(b) proper exercise.

GAR 106(1)(c) states:

(1) A registered person must ensure that greyhounds, which are in a person’s care or custody, are provided at all times with-

(c) kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in a clean and sanitary condition.

Local Racing Rule (“LR”) 42.1 states:

It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.

**Particulars of charge/s: Charge 1: GAR 86(p)**

1. You were at all relevant times an owner/breeder licensed by Greyhound Racing Victoria (“GRV”) (Number 240245) and a person bound by the Greyhound Australasia Rules (“GAR”) and the Local Racing Rules (“LR”).
2. You were at all relevant times the person responsible for the care and custody of the greyhounds housed at your kennelling address in Rosebud, Victoria.
3. On 15 September 2020, you were issued with a lawful order (Compliance Notice 001462) by GRV Investigative Stewards ordering you to attend to the following by 19 September 2020:

(a) supply non-spillable water bowls;

(b) clean kennels immediately; and

(c) supply raised and soft bedding.

1. GRV Investigative Stewards returned on 21 September 2020 to discover you failed to comply with the lawful order (Compliance Notice 001462) as directed by the Stewards.

**Charge 2: GAR 106(1)(a)**

1. You were at all relevant times an owner/breeder licensed by Greyhound Racing Victoria (“GRV”) (Number 240245) and a person bound by the Greyhound Australasia Rules (“GAR”) and the Local Racing Rules (“LR”).
2. You were at all relevant times the person responsible for the care and custody of the greyhounds housed at your kennelling address in Rosebud, Victoria.
3. On 15 September 2020 and 21 September 2020, you failed to ensure that eight (8) registered unnamed greyhound pups (Ear Brands VIRBP, VIRBQ, VIRBR, VIRBS, VIRBT, VIRBU, VIRBV and VIRBW) which were in your care and custody, were provided at all times with proper and sufficient drink and protective apparel, in that:

(a) no water containers were provided;

(b) the greyhound pups were exposed to the elements; and

(c) tarps were used as a make-shift roof.

**Charge 3: GAR 106(1)(b)**

1. You were at all relevant times an owner/breeder licensed by Greyhound Racing Victoria (“GRV”) (Number 240245) and a person bound by the Greyhound Australasia Rules (“GAR”) and the Local Racing Rules (“LR”).
2. You were at all relevant times the person responsible for the care and custody of the greyhounds housed at your kennelling address in Rosebud, Victoria.

1. On 15 September 2020 you failed to exercise reasonable care and attention as was necessary to the eight (8) greyhound pups (Ear Brands VIRBP, VIRBQ, VIRBR, VIRBS, VIRBT, VIRBU, VIRBV and VIRBW) that were in your care and custody, by failing to supply proper and sufficient exercise.
2. On Monday 21 September 2020, GRV Investigative Stewards attended at your residential address and opened an inquiry where you advised that each greyhound was only given a 15-20 min walk around the block as exercise every 2nd day, which is not the expected industry minimum standards for the amount of daily exercise (Table 1 of the Code of Practice).

**Charge 4: GAR 106(1)(c)**

1. You were at all relevant times an owner/breeder licensed by Greyhound Racing Victoria (“GRV”) (Number 240245) and a person bound by the Greyhound Australasia Rules
(“GAR”) and the Local Racing Rules (“LR”).
2. You were at all relevant times the person responsible for the care and custody of the greyhounds housed at your kennelling address in Rosebud, Victoria.
3. On 15 September 2020, GRV Investigative Stewards attended your property and identified greyhounds were residing in kennels constructed of a standard not approved by the Controlling body nor kept in clean and sanitary conditions in that:

(a) makeshift kennels that were inadequate in size, made of damaged wire, with tarps as roofing; and

(b) dirt floors, which were not kept clean and in a sanitary condition.

 **Charge 5: LR 42.1**

1. You were at all relevant times an owner/breeder licensed by Greyhound Racing Victoria (“GRV”) (Number 240245) and a person bound by the Greyhound Australasia Rules (“GAR”) and the Local Racing Rules (“LR”).
2. You were at all relevant times the person responsible for the care and custody of the greyhounds housed at your kennelling address in Rosebud, Victoria.
3. You kept greyhounds in conditions that were dangerous or detrimental to the health and safety of greyhounds, in that:

(a) On 15 September 2020, GRV Investigative Stewards identified that greyhounds kept at your premises were found in areas where there was no water, no bedding, dirt flooring, makeshift structures with wire protrusions which could cause injury to the greyhounds, and a tarp thrown over the top as a roof. This offered little if any protection from the elements to the greyhounds and was not compliant with the Code of Practice.

(b) These conditions reduce the quality of life of the greyhounds, promote illness infection and injuries and are detrimental to the health and safety of greyhounds.

**Plea/s:** Guilty to all charges

**DECISION**

Mr Michael Harvie, you have pleaded guilty to breaching the following rules:

* Charge 1: Greyhounds Australasia Rule (“GAR”) 86(p), failing to comply with a lawful order.
* Charge 2: GAR 106(1)(a), failure to provide proper care, including failing to provide water containers and proper shelter.
* Charge 3: GAR 106(1)(b), failure to provide proper exercise.
* Charge 4: GAR 106(1)(c), failure to provide proper kennels.
* Charge 5: Local Racing Rule (“LR”) 42.1, keeping greyhounds in conditions which were dangerous or detrimental to their health and safety.

On 15 September 2020, Investigative Stewards attended unannounced at your property to conduct a kennel inspection. There were eight puppies on your premises. Stewards observed two makeshift kennels made from wire, approximately four to five feet high, with tarps thrown over them to provide shelter. These two makeshift structures each housed three greyhounds, with no water or bedding provided. The shelters had cyclone wire walls and a roof with sharp edges and holes in the tarps. The greyhounds had no raised flooring or bedding and no water containers were provided. Greyhounds in these makeshift kennels were exposed to the elements and were able to get out easily and wander the rear yard. As a result of the inspection, Stewards issued a compliance notice ordering non-spillable water bowls to be installed, together with raised soft bedding to be installed in all kennels by the 19 September 2020 and code compliant kennels to be constructed by 1 October 2020.

On 21 September 2020, Stewards attended your premises in order to follow-up on the compliance notice. It was observed that the orders made on the 15 September 2020 had not been complied with. The greyhounds were still in unsafe kennels with no water or bedding. At this inspection, you advised the Stewards that you had arranged for the eight pups to be sent to a breaker on 27 September 2020.

A further compliance direction was issued ordering the water and bedding be supplied to all greyhounds and that kennels would be constructed for the retired greyhounds by 1 October 2020.

On 23 September 2020, you forwarded two emails to Stewards, with six photos of the kennels showing that you had placed raise bedding and water buckets. You also advised that the two retired greyhounds had been returned as pets to their owner. You confirmed that the eight pups had been sent to a Greyhound Racing Victoria (“GRV”) participant’s property on the 27 September 2020. FastTrack was updated on the 28 September 2020 to reflect that the pups were housed as you had stated.

In respect of each charge, you basically told the Stewards that you did not have enough time to comply with their order and that it was difficult with COVID-19 restrictions for you to travel far. Importantly, you were informed that you were to be made redundant from your regular job.

You are now an aged pensioner and have no other income, save for your pension. You live alone and have no greyhounds upon your property that you train or own. You no longer have any desire to continue in the greyhound racing industry. You first registered to train and breed greyhounds on 1 June 2012. You have no prior offences and have an excellent record.

We have taken into account your pleas of guilty, your personal circumstances and history within the greyhound racing industry. Principles of general deterrence and specific deterrence have application in arriving at an appropriate penalty.

Animal welfare is at the forefront in the greyhound racing industry. Each case, of course, must be determined on its own set of facts. We note that Dr Steven Karamatic, Chief Veterinarian at GRV, stated that there no major health issues with the eight pups in question.

In arriving at an appropriate penalty, we have applied the principle of totality. In all the circumstances, we impose the following penalties with respect to each charge.

On Charge 1, a charge under GAR 86(p), we impose a two month suspension and a $1,000 fine concurrent with the penalty imposed in Charge 3.

On Charge 2, a charge under GAR 106(1)(a), we impose a $1,000 fine. This penalty is cumulative on Charge 1, but concurrent with the penalty in Charge 3.

On Charge 3, a charge under GAR 106(1)(b), we impose a six month suspension and a $2,000 fine. This penalty is concurrent with Charges 1 and 2.

On Charge 4, a charge under GAR 106(1)(c), we impose a six month suspension, with three months suspended for a period of 24 months. The remaining three months suspension is cumulative on Charge 3.

On Charge 5, a charge under LR 42.1, we impose a seven month suspension, with four months suspended for a period of 24 months. The remaining three months suspension is cumulative on Charge 3.

Thus, the total penalty is a period of suspension of 19 months, with seven months suspended for a period of 24 months and a fine of $2,000. The total effective period of suspension is 12 months, to commence immediately.

Kathleen Scully
Acting Registrar, Victorian Racing Tribunal