7 August 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MS MICHELLE MALLIA**

**Date of hearing:** 7 August 2020

**Panel:** Justice Shane Marshall (Deputy Chairperson) and Mr Josh Bornstein.

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

Ms Michelle Mallia represented herself.

**Charges:** Greyhounds Australasia Rule (GAR) 86 (o)states:

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

*(o) has, in relation to a greyhound or greyhound racing, done a thing, or omitted to do a thing, which, in the opinion of the Stewards or the Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.*

(GAR) 86 (d)states:

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

*(d) being an owner, trainer, attendant or person having official duties in relation to greyhound racing, makes a false or misleading statement in relation to an investigation, examination, test or inquiry, or makes or causes to be made a falsification in a document in connection with greyhound racing or the registration of a greyhound.*

**Particulars of charges:**

**Charge 1**

1. You are, and were at all relevant times, a public trainer/breeder licensed by Greyhound Racing Victoria (Public trainer /Breeder number 1903) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were at all relevant times one of the persons responsible for the training, education or preparation to race Greyhounds housed at your GRV registered kennelling premises, namely, 60 Rees Road, Avalon (licensed premises).
3. You did, in relation to greyhound racing, engage in conduct, which in the opinion of the Stewards, was improper in that you sent a message to three (3) participants, two (2) via text and one (1) by Facebook Messenger in which you stated:

*“hey champ, do you have a grd 4 dog to enter at warrnambool over 450m that might be injured. Need one to make up the field”.*

**Charge 2**

1. You are, and were at all relevant times, a public trainer/breeder licensed by Greyhound Racing Victoria (Public trainer /Breeder number 1903) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You being a GRV registered trainer, made a false or misleading statement during an inquiry conducted by GRV Investigative Stewards on 10 May 2019 in connection with greyhound racing, in that you stated:

*Mr Primrose: How many people did you send that through to?*

*Ms. Mallia-Magri: Ben*

*Mr. Primrose: Ben? Is that it?*

*Ms. Mallia-Magri: Yes*

**Plea:** Guilty

**DECISION**

1. Ms Michelle Mallia is a registered greyhound trainer. At all material times she was the trainer of the greyhounds Zoom Out and Die Laughing. She entered both greyhounds for Race 6 at Warrnambool over 450 metres on Thursday 14 February 2019.
2. Ms Mallia also entered Zoom Out for a 390 metre event on the same program but ultimately accepted the greyhound for the 450 metre event. The nominations for Zoom Out and Die Laughing were made on Monday 11 February 2019 at about 7.15pm
3. At some time on Tuesday 12 February 2019, Die Laughing received an injury. Ultimately, Ms Mallia scratched Die Laughing from Race 6 on Wednesday 13 February 2019.
4. Nominations for the race closed at 8.00am on Tuesday 12 February 2019. At 6.36am on that morning, Ms Mallia sent a text message to a racing participant which said: “Hey champ need to make up a field at Warrnambool Grade 4 over 450m can you help”. At 6.35am on that morning she sent a text to another racing participant which said: “Hey champ do u have a grd 4 dog to enter at Warrnambool over 450m that might be injured. Need one to make up the field”.
5. In addition, Mr Ben Divirgilio, a registered trainer, recalls receiving a facebook message, on the same morning, which was to the effect of Ms Mallia’s 6.35am text to another industry participant.
6. For a race to proceed there must be at least six nominations. The receiver of the first text message considered that the request was unusual. The receiver of the second text message thought that Ms Mallia was trying “to make up a race” for the dog and considered that she was asking him to enter a dog which he would then scratch. He told a Stewards’ inquiry that “she is wanting me to enter a dog that is injured and not going to race”.
7. Mr Divirgilio also thought that Ms Mallia was trying to make up the field. He thought the request was unusual, especially in referring to an injured dog.
8. Ms Mallia told investigative Stewards that she intended to insert “not” before the word “injured”. It is difficult to understand why that would be so. It is difficult to understand why there would need to have any reference to the health of a greyhound if a trainer was not trying to manipulate nominations.
9. Stewards of Greyhound Racing Victoria have charged Ms Mallia under Greyhounds Australasia Rule (“GAR”) 86(o), with doing a thing which in the opinion of the Stewards is dishonest, corrupt, fraudulent, improper or constitutes misconduct. Ms Mallia has pleaded guilty. Stewards consider that she conspired to affect the make-up of the race and that her actions constituted misconduct. We agree. Ms Mallia’s actions struck at the integrity of greyhound racing and involved a trainer attempting to manipulate the number of runners in a race.
10. In setting a penalty we take into account the importance of maintaining the integrity of the sport. We also take into account general and specific deterrence, as well as the guilty plea. We also take into account the opinion of the general practitioner that at the time of the offence Ms Mallia was “under significant psychological and physical threat” from her husband and the fact that she has no previous breaches of this nature. We further take into account recent penalties in matters concerning GAR86(o). In all the circumstances, we impose a penalty of 6 months suspension. The suspension shall commence immediately. We also impose a $1,500 fine.
11. Ms Mallia has also been charged by the Stewards under GAR86(d) with making a false statement to Stewards in relation to an investigation. During the course of the Stewards’ investigation on 10 May 2019, Ms Mallia was asked how many people she had sent text messages to about entries for Race 6. She replied “Ben”, meaning “Mr Divirgilio”. The Stewards then asked “Ben”? Is that it? The response was “Yes”. Ms Mallia failed to mention her text messages to two other industry participants.
12. Ms Mallia has pleaded guilty to the offence. We take into account her guilty plea and her doctor’s opinion about her mental state. However, after having been warned at the start of the interview about the consequences of making a false statement, Ms Mallia nonetheless did so.
13. Making a false statement to the Stewards is a very serious matter. It undermines the integrity of the sport and lessens public confidence in it. In setting a penalty for this offence we take into account the considerations taken into account in setting a penalty under GAR86(o). We impose a period of suspension of 6 months to be served concurrently with the suspension on charge 1.

Mark Howard
Registrar, Victorian Racing Tribunal