22 December 2021

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**NICHOLAS KOSKY**

**Date of hearing:** 13 December 2021

**Panel:** Judge John Bowman (Chairperson).

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

 Mr Andrew Paraskevas represented Mr Kosky at the hearing.

**Charge:** Greyhounds Australasia Rule (“GAR”) 71(1)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.

**Particulars of charge:** Stewards spoke to Mr. Nicholas Kosky, the trainer of Dark Summer regarding the greyhound’s performance in this event.  Stewards deemed the performance unsatisfactory, acting in accordance with GAR 71, Dark Summer must perform a satisfactory trial pursuant to GAR 72, before any future nomination will be accepted.

**Plea:** Not Guilty

**DECISION**

This is an appeal against a decision of the Stewards made in relation to Race 3 over 311 metres at Cranbourne on 8 December 2021. It concerns the dog Dark Summer, trained by Mr Nicholas Kosky. Dark Summer finished second, narrowly beaten in a photo finish by Bomber Blitz. It was Dark Summer’s first start.

The Stewards enquired into the performance after the race. Ultimately, it was ordered pursuant to GAR71(1) that Dark Summer would have to complete a satisfactory trial before being eligible to compete in or be nominated for any event.

Mr Kosky, who was represented in the telephone link up by Mr Andrew Paraskevas, essentially argued, given that it was Dark Summer’s first start and that Bomber Blitz contributed to what occurred, a warning was the appropriate penalty, if any penalty at all was to be imposed.

I have viewed the video many times, before, during and after the hearing. It may be that Dark Summer eased marginally on the turn, but it certainly seemed to me that Bomber Blitz may have contributed to some bumping there. It may also be that Dark Summer eased a little in the last 30 metres, but again Bomber Blitz may have played some marginal role in this. The dogs were bumping or close to bumping almost on the line. The Stewards apparently did make some enquiry into the performance of Bomber Blitz, but opted to take no further action.

When all the various factors are weighed up, including that it was Dark Summers first start, the behaviour of Bomber Blitz and the comparatively limited nature of any contact involved, it seems to me that a warning would have been an appropriate penalty, if a penalty was required. The appeal is upheld. The decision of the Stewards is set aside.

I would repeat that a warning may well have been a more appropriate course of action for the Stewards to adopt.

Mark Howard
Registrar, Victorian Racing Tribunal