10 February 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**PETER KELLY**

**Date of hearing:** 13 January 2022

**Panel:** Judge Graeme Hicks (Deputy Chairperson) and Ms Judy Bourke.

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

Mr Peter Kelly represented himself.

**Charge:** 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.

**Particulars of charge:** 1. You are, and were at all relevant times, a public trainer/breeder licenced by Greyhound Racing Victoria (“GRV”) (licence number 3417) and a person bound by the Greyhounds Australasia Rules (“GAR”) and Local Racing Rules (“LR”).

2. On 25 June 2019, you appeared before the Racing Appeals and Disciplinary Board (“RADB”) where you received a penalty being a 10-month period of suspension to be served until 24 April 2020.

3. On 28 February 2020, during your period of suspension, you took custody of a greyhound, “Oh My Fernando”, from a registered participant, Tony Tufo (licence number 24789) and kennelled the greyhound at your premises in Longwarry North, Victoria, where it remained in your care and custody until 5 March 2020. In the opinion of the Stewards, this conduct is negligent and/or improper.

**Plea:** Guilty

**DECISION**

Mr Peter Kelly, you have pleaded guilty to breaching Greyhounds Australasia Rule (“GAR”) 86(o). At the time of this offence on 5 March 2020, you were serving a 10 month suspension for being in breach of GAR 83(2).

On 8 October 2018, the Racing Appeals and Disciplinary Board (“RADB”) suspended you for 12 months, with 10 months suspended, for administrating or causing to be administered a prohibited substance to the greyhound, “Mahi Indian”, prior to the Sale greyhound meeting held on 8 March 2018.

On 25 June 2019, the RADB activated the 10 months suspended suspension as a result of your failing to present your greyhound, “Liam Roxon”, free of a prohibited substance at the Warragul greyhound meeting held on 24 January 2019.

On 5 March 2020, Investigative Stewards attended at your registered address to conduct a kennel inspection. During the kennel inspection the greyhound, “Oh My Fernando”, was located at your premises. Being a suspended person, you should not have had this greyhound at your premises.

You told Stewards at the time of their inspection that a Mr Tony Tufo had dropped off Oh My Fernando at your property around 28 February 2020. Mr Tufo asked you whether you would look after his greyhound for a period of time, as it had a cough and he wanted to separate this greyhound from the rest of his greyhounds. You told Stewards that you understood the conditions of your suspension and understood that you should not have had a racing greyhound, such as Oh My Fernando, at your property.

You are currently 75 years of age and are not in good health. You also have a brother who is quite unwell. You live on your own. You have been a registered trainer since 1988. Your record from that date up to 2018 was good. However, since that date you have committed several offences.

We have taken into account your plea of guilty, your personal circumstances and your history within the greyhound industry. We have also taken into account that there has been significant delay in this matter coming before the Tribunal. Principles of general deterrence and specific deterrence have a part to play in arriving at an appropriate penalty.

In all the circumstances, you will be disqualified for a period of six months, but such penalty will be fully suspended for a period of 24 months. In addition, we impose a fine of $5,000.

Kathleen Scully
Acting Registrar, Victorian Racing Tribunal