10 July 2020

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**MR SEAN LITHGOW**

 **Date of hearing:** 6 July 2020

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

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

Mr Sean Lithgow represented himself at the hearing.

**Charge:** Greyhounds Australia Rule (GAR) 69 (A)(1)states where, in the opinion of the Stewards, unless Rule 69B otherwise applies, a greyhound fails to pursue the lure with due commitment during an Event, the Stewards shall impose a period of suspension in respect of the greyhound pursuant to sub-rule (2), and the specifics shall be recorded in the relevant Controlling Body Register, or where applicable, the Certificate of Registration or Weight Card of the greyhound.

**Particulars of charge:** Stewards spoke to Mr Sean Lithgow, the trainer of Gotham Duchess regarding the greyhounds racing manners in the home straight.  Acting under the provisions of GAR 69(A)(1) Gotham Duchess was charged with failing to pursue the lure with due commitment.  Mr Lithgow pleaded not guilty to the charge, Gotham Duchess was found guilty and suspended for 3 months at all tracks and must perform a Satisfactory Trial (all tracks), pursuant to GAR 69(A)(2)(b) before any future nomination will be accepted.

**Plea:** Not Guilty

**DECISION**

Mr Sean Lithgow, you have pleaded ‘not guilty’ to a breach by a dog trained by you of Rule 69(A)(1) – failing to pursue the lure with due commitment, or, as it is often described, failing to chase. That is defined in Rule 1, the definition including the dog turning its head.

The dog in question is Gotham Dutchess, which competed in Race 4 at Bendigo on 28 June 2020. The dog finished third. The alleged failing to pursue and turning of its head took place in the home straight and shortly before the finishing post.

There is no dispute but that the dog veered towards two dogs on its outside and turned its head towards the nearer one. The dispute that then arises is whether Gotham Duchess actually made head to head, or muzzle to muzzle, contact with the dog on its immediate outside. Mr Lithgow argues that it did make such contact and that the appropriate charge is not failing to chase, but marring. In the case of this particular dog, and given its record, that is not just an academic argument.

In support of his argument, Mr Lithgow drew my attention to a video of a race at Bendigo on 3 June 2020, where a dog (not Gotham Dutchess) which he asserted behaved similarly was charged with marring. In the interests of consistency, a similar charge should have been levelled against Gotham Dutchess.

Mr Searle, on behalf of the Stewards, has submitted that muzzle to muzzle contact by Gotham Dutchess could not be asserted with any confidence and that the appropriate charge is failing to pursue, a breach of Rule 69(A)(1).

I have viewed the videos several times and examined the still photographs of the concluding stage of the race on 28 June 2020. I have borne in mind the argument concerning the race on 3 June 2020 and the marring charge laid on that occasion. However, I can understand and accept the submission of Mr Searle that, regardless of what the Stewards may have done in relation to the 3 June race, the Stewards could not be satisfied that there was muzzle to muzzle contact by Gotham Dutchess in the race in question on 28 June. Therefore, the Stewards on that occasion did not lay a charge of marring, but one of failing to pursue. I agree with that approach. I repeat that there is no doubt but that Gotham Dutchess veered to the right and turned her head. However, there is considerable doubt as to whether muzzle to muzzle or head to head contact was made. That is particularly so when the still photographs are examined.

In short, I am comfortably satisfied that a charge of marring may well have been unsuccessful. I am also comfortably satisfied that the charge of failing to pursue has been made out. The Stewards selected the charge which they thought was appropriate in the circumstances and I can fully understand why they chose to charge under Rule 69(A)(1) – failing to pursue with due commitment.

In short, the appeal in relation to the charge laid has not been made out and is unsuccessful. I shall hear the parties as to the penalty and whether it is virtually automatic.

There was no argument but that the penalty is automatic.

Mark Howard
Registrar, Victorian Racing Tribunal