11 April 2022

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**VINCE TULLIO**

**Date of hearing:** 17 February 2022

**Panel:** Judge John Bowman (Chairperson) and Dr June Smith.

**Appearances:** Mr Damien Hannan, instructed by Mr Marwan El-Asmar, appeared on behalf of the Stewards.

Mr Damian Sheales appeared on behalf of Mr Tullio.

**Charges and particulars:**

**Charge No. 1 of 6**

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 Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.***

**Particulars of the Charge being:**

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 8 June 2021, during the course of an Investigation, you have in relation to greyhound racing, done a thing, which in the opinion of the Stewards was improper and/or constitutes misconduct, in that you:

 (a) wilfully obstructed and impeded stewards from conducting a kennel inspection; and

 (b) instructed a person to attend your kennelling address to move greyhounds out of your kennels and into your private residence.

**Charge No. 2 of 6**

Greyhounds Australasia Rule **86 (f)** states:

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

***(f) engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting, or offensive language, conduct or behaviour in any manner or form towards, or in relation to:***

***(i) a Steward***

**Particulars of the Charge being:**

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 8 June 2021, during the course of a kennel inspection, you engaged in improper, insulting and offensive language, in that you:

(a) Upon arriving at your property you drove erratically into the driveway;

(b) You aggressively exited the vehicle while shouting at Investigative Stewards “did you go into my house?”; and

(c) You pointed your finger into the face of Investigative Steward Kirk BRANTON and stated “You’re a fuck wit”.

**Charge No. 3 of 6**

Greyhounds Australasian Rule 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 Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.***

**Particulars of the Charge being**:

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 8 June 2021 during the course of an Investigation, you have in relation to greyhound racing, done a thing, which in the opinion of the Stewards was improper and/or constitutes misconduct, in that you:

(a) were found to be in possession of two (2) greyhounds namely, PRIME LIMIT (VHBIH) and STRADA (TGAIP) which had been reported to Victoria Police as stolen by their registered Owners/Trainers;

(b) these greyhounds were located inside your private residence; and

(c) during an inquiry held on 25 June 2021 with Investigative Stewards, you admitted to removing these greyhounds from their registered kennelling address without the permission or consent of the registered Owners/Trainers.

**Charge No. 4 of 6**

Greyhound Australasian Rules (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.***

**Particulars of the Charge being:**

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 8 June 2021, you disobeyed or failed to comply with the lawful order of a Steward, having official duties in relation to greyhound racing, in that:

(a) you were issued with a verbal lawful direction (lawful order) to hand over your mobile phone and provide the PIN number access code. You failed to provide the PIN number on this occasion.

(b) On 9 June 2021, you were issued with a further verbal lawful direction (lawful order) to provide the PIN number access code for the seized mobile phone. You failed to provide the PIN number on this occasion.

(c) Further requests were made on the 21st, 23rd and 25th June 2021 to provide the PIN number for the seized mobile phone and you refused each of those requests.

**Charge No. 5 of 6**

Greyhounds Australasian Rule 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 Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.***

**Particulars of the Charge being**:

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between 1 June 2021 and 10 June 2021, you have, in relation to greyhound racing, done a thing, which in the opinion of the Stewards is improper and/or constitutes misconduct, in that:

(a) you made demands for the payment of approximately $43,500 from the registered Owners/Trainers of the two (2) greyhounds PRIME LIMIT (VHBIH) and STRADA (TGAIP), following which you would return the (2) greyhounds to the registered Owners/Trainers;

(b) you sent improper text messages to the registered Owners/Trainers of the two (2) greyhounds, PRIME LIMIT (VHBIH) and STRADA (TGAIP), including the following:

 *“once the meadows stop your sponsorship I will be mentioning that on Facebook. And everyone will know that if they have stopped your sponsorship that means you are guilty. Then after that happens, if you still have not paid at least $15,000 and knocker $3500 I will be going to grv. This can all go away if you do the right thing and you can enjoy racing your dogs again”*

 *“I expect money to be ready Thursday… no games, no lies, no excuses!! Just make sure u have the money, I will be sending someone around to collect it and no one will find out about anything..”*

**Charge No. 6 of 6**

Local Racing Rule 42.9 (a) states:

**42.9 Where a greyhound has died (whether due to natural causes, accident, misadventure, euthanasia or otherwise):**

**(a) within 2 working days of the date of death (and prior to disposal of the body of the deceased greyhound), the Owner or person responsible for the greyhound must notify the Board in the prescribed form of the death of the greyhound and provide a veterinary certificate of euthanasia where available (including, without limitation, the written certificate or letter referred to in LR 42.8);**

**Particulars of the Charge being**:

1. You were, at all relevant times, a Trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 219629) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. You were, at all relevant times, the owner of the following registered greyhounds:

(i) unnamed greyhound (NGAXY);

(ii) unnamed greyhound (VFFIG);

(iii) unnamed greyhound (VGGLL);

(iv) Growing (VGGLG)

(v) unnamed greyhound (VHQGJ).

1. The above greyhounds were euthanised between 24 August 2018 and 21 June 2019.
2. You failed to notify the Board within 2 working days of the death of the greyhounds in the prescribed form and provide the veterinary certificate of euthanasia.

**Pleas:** Guilty to all charges

**DECISION**

Mr Vince Tullio, you have pleaded guilty to four charges. Two other charges (Charges 2 and 4) were withdrawn, and some five charges (Charges 6-10) were “rolled up” into one charge (Charge 6). The remaining four charges could be summarised as follows.

Charge 1 – a breach of GAR 86 (o) – misconduct or improper conduct. This concerns your behaviour when the Stewards visited your property at Taylors Lakes on 8 June 2021.

Charge 3 – also a breach of GAR 86 (o). This also involves your conduct on 8 June 2021 and particularly in relation to two allegedly stolen greyhounds ultimately located on the property and which were surrendered after the arrival of the police.

Charge 5 – again a breach of GAR 86 (o). This concerns the demanding of money from the rightful owners of those greyhounds and the refusal to return them unless money was paid.

Charge 6 is comprised of the “rolled up” charges and involves GAR 42.9 (a). The failure to provide the appropriate paperwork in relation to five euthanised greyhounds is the basis of the charge. This charge is viewed by the Stewards as being less serious than Charges 1, 3 and 5. We agree.

There is an important matter of background. On 7 December 2021, you were disqualified by this Tribunal for a period of two years, essentially for what could be described as betting offences in relation to a race in which you had dogs competing. Thus, matters of concurrency and cumulation have the potential to arise. That is particularly so as your counsel, Mr Damian Sheales, effectively conceded that a penalty of a period of disqualification in the present case was inevitable.

You have appealed the decision of 7 December 2021 to the Supreme Court of Victoria. When the appeal shall be heard is not known.

Another complication is that, in the present case, the Stewards immediately suspended your licence as of 8 June 2021 and it remained so suspended until the intervening disqualification on 7 December 2021 for the totally different offences. Thus, you have already served a period of approximately six months’ suspension for the present offences.

Your background is that you run a substantial and successful plumbing business. You have been involved with greyhounds for approximately thirteen years and have owned approximately 300 dogs. It is only over the past three years that your involvement has been that of a trainer.

We accept that, as stated by Mr Sheales, you were involved in an ownership dispute in 2018 when you alleged that four dogs had been wrongfully removed by other persons from your property. When you brought this to the attention of the Stewards, they did not want to become involved, stating that it was a civil matter. This may have had some influence on your thinking in the present case, but, as Mr Sheales said, it is not put forward as justifying your behaviour.

In short, we are of the view that a period of disqualification must be imposed in relation to the charges before us. We say now that we are of the view that the total effective period of such disqualification should be eight months and that this is over and above the period of approximately six months suspension already served by you. We have taken that period into account in arriving at our decision. We further say that the serving of this period of disqualification is to commence when the period of disqualification for the betting offences expires, whether it expires by reason of a successful appeal or by reason of the effluxion of time. We would also point out that we have taken into account the principles of totality.

We shall now turn to the mechanics of the imposition of that penalty and our reasoning in relation to it. Insofar as questions of law are concerned, pursuant to Section 50X of the Racing Act these have been determined by the Chairperson, but with invaluable assistance from Dr Smith.

The relevant part of GAR 97 reads as follows:

“If a person or a greyhound…(b) has been previously disqualified or suspended for any period and during that period is again disqualified or suspended, any period of disqualification or suspension other than the first or any further period of disqualification or suspension is, if the Controlling Body or the Stewards so directs, be cumulative”.

This is far wordier and superficially more complex than the equivalent Rules of Racing or of Harness Racing.

Australian Racing Rule 283 (4) reads as follows:

“Unless otherwise ordered by the person or body imposing the penalty, a disqualification or suspension imposed under subrules (1) to (3) is to be served cumulatively to any other suspension or disqualification”.

The relevant Rule in relation to harness racing is not identical, but is very similarly worded – see Rule 257.

Clearly, in the present case we have at least a discretion to direct that a further period of disqualification for these charges, be cumulative upon the disqualification imposed on 7 December 2021 in the earlier case. Taking into account the gravity of the offending in this case, we do so direct. If there is a presumption of concurrency pursuant to GAR 97, an argument which we do not necessarily accept, we are of the view that such presumption should not operate in this case. We are of the view that cumulation is appropriate and should operate.

We are not of the opinion that there should be any concurrence with the penalty imposed on 7 December 2021 in relation to the betting charges. They are totally separate.

In relation to the penalties for the individual charges, they are as follows.

Charge 1 – disqualification for two months.

Charge 3 – disqualification for three months.

Charge 5 – disqualification for three months.

These penalties are cumulative.

Thus, the total period of disqualification is eight months. This period of disqualification is in no way concurrent with, and is totally in addition to, any period of disqualification resulting from the decision of 7 December 2021.

On Charge 6, the five breaches of GAR 42.9 (a), you are fined a total of $1,000, being $200 for each breach.

Mark Howard
Registrar, Victorian Racing Tribunal