5 November 2020

**RULING**

**GREYHOUND RACING VICTORIA**

**and**

**MR IAN ANDERSON**

**Date of hearing:** 22 October 2020

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

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

Mr Tony Vass appeared on behalf of Mr Ian Anderson.

**Charges and particulars:**

**Charge No. 1 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 May 2019, you falsely declared on an electronic document (FastTrack), that you had retired the registered greyhound *‘Pacific Reef’* (Microchip no: 9560000003261173), as a pet to a third party;
3. THAT on 24 July 2019, the registered greyhound *‘Pacific Reef’* (Microchip no: 9560000003261173), was located deceased on your property.

**Charge No. 2 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 May 2019, you falsely declared on an electronic document (FastTrack), that you had retired the registered greyhound *‘Pacific Dreamer’* (Microchip no: 9560000003261173), as a pet to a third party;
3. THAT on 24 July 2019, the registered greyhound *‘Pacific Dreamer’* (Microchip no: 9560000003261651), was located deceased on your property.

**Charge No. 3 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 May 2019, you falsely declared on an electronic document (FastTrack), that you had retired the registered greyhound *‘Dark Stealth’* (Microchip no: 956000004322508), as a pet to a third party;
3. THAT on 24 July 2019, the registered greyhound *‘Dark Stealth’* (Microchip no: 956000004322508), was located deceased on your property.

**Charge No. 4 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 May 2019, you falsely declared on an electronic document (FastTrack), that you had retired the registered greyhound *‘Stealthy Flight’* (Microchip no: 956000004858594), as a pet to a third party;
3. THAT on 24 July 2019, the registered greyhound *‘Stealthy Flight’* (Microchip no: 956000004858594), was located deceased on your property.

**Charge No. 5 of 12**

**Local Racing Rules 42.2** which reads as follows:

**LR 42.2:**

*A person shall not in the keeping of any greyhound cause or permit that greyhound to suffer in any manner on any premises owned or occupied by that person or permit any nuisance or other condition that is likely to be dangerous to the health or safety of that greyhound or which is otherwise offensive.*

**Particulars of the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on a date between 24 May 2019 and 24 July 2019, you caused the greyhound *‘**Pacific Reef’* (Microchip no: 9560000003261173), to suffer in a manner on your premises resulting in the death of the greyhound ‘*Pacific Reef’* (Microchip no: 9560000003261173);
3. THAT the cause of death was due to blunt force trauma to the skull.

**Charge No. 6 of 12**

**Local Racing Rules 42.2** which reads as follows:

**LR 42.2:**

*A person shall not in the keeping of any greyhound cause or permit that greyhound to suffer in any manner on any premises owned or occupied by that person or permit any nuisance or other condition that is likely to be dangerous to the health or safety of that greyhound or which is otherwise offensive.*

**Particulars of the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on a date between 24 May 2019 and 24 July 2019, you caused the greyhound *‘Pacific Dreamer’* (Microchip no: 9560000003261173), to suffer in a manner on your premises resulting in the death of the greyhound ‘*Pacific Dreamer’* (Microchip no: 9560000003261173);
3. THAT the cause of death was due to blunt force trauma to the skull.

**Charge No. 7 of 12**

**Local Racing Rules 42.2** which reads as follows:

**LR 42.2:**

*A person shall not in the keeping of any greyhound cause or permit that greyhound to suffer in any manner on any premises owned or occupied by that person or permit any nuisance or other condition that is likely to be dangerous to the health or safety of that greyhound or which is otherwise offensive.*

**Particulars of the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on a date between 24 May 2019 and 24 July 2019, you caused the greyhound *‘Dark Stealth’* (Microchip no: 956000004322508)to suffer in a manner on your premises resulting in the death of the greyhound ‘*Dark Stealth’* (Microchip no: 956000004322508);
3. THAT the cause of death was due to blunt force trauma to the skull.

**Charge No. 8 of 12**

**Local Racing Rules 42.2** which reads as follows:

**LR 42.2:**

*A person shall not in the keeping of any greyhound cause or permit that greyhound to suffer in any manner on any premises owned or occupied by that person or permit any nuisance or other condition that is likely to be dangerous to the health or safety of that greyhound or which is otherwise offensive.*

**Particulars of the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on a date between 24 May 2019 and 24 July 2019, you caused the greyhound *‘‘Stealthy Flight’* (Microchip no: 956000004858594) to suffer in a manner on your premises resulting in the death of the greyhound *‘Stealthy Flight’* (Microchip no: 956000004858594);
3. THAT the cause of death was due to blunt force trauma to the skull.

**Charge No. 9 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 July 2019 during an Inquiry with GRV Investigative Stewards, you made false and/or misleading statements in relation to an investigation regarding the burial of registered greyhounds on your property in that you stated:

*Chairman: Now, have you buried any dogs on this property?*

 *Mr Anderson: No, we haven't.*

*Chairman: There's nothing over in the bushland?*

*Mr Anderson: No.*

**Charge No. 10 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 July 2019 during an Inquiry with GRV Investigative Stewards, you made false and/or misleading statements in relation to an investigation regarding the rehoming of four registered racing greyhounds, (*‘Pacific Reef’* (Microchip no: 9560000003261173), *Pacific Dreamer’* (Microchip no: 9560000003261651), *‘Dark Stealth’* (Microchip no: 956000004322508), and *‘Stealthy Flight’* (Microchip no: 956000004858594), **(‘the greyhounds’)** in that you stated:

*Chairman: Now, you rehomed 4 dogs in May to your brother? Was that correct?*

*Mr Anderson: Yes, yes.*

*Chairman: Okay. Where is he living? In Queensland?*

*Mr Anderson: Yeah, in Queensland.*

**Charge No. 11 of 12**

**Greyhounds Australasia Rule 86 (d)** which reads as follows:

**GAR 86:** 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 the Charge being:**

1. THAT you are and were at all relevant times a public trainer and breeder licenced by Greyhound Racing Victoria (GRV) (member number 317051) and a person bound by the Greyhounds Australasia Rules (GAR) and Local Racing Rules (LRR);
2. THAT on 24 July 2019 during an Inquiry with GRV Investigative Stewards, you made false and/or misleading statements in relation to an investigation regarding the manner in which four registered racing greyhounds (*‘Pacific Reef’* (Microchip no: 9560000003261173), *Pacific Dreamer’* (Microchip no: 9560000003261651), *‘Dark Stealth’* (Microchip no: 956000004322508), and *‘Stealthy Flight’* (Microchip no: 956000004858594), **(‘the greyhounds’)** were found deceased in that you stated:

 *Chairman:* Yeah, so how did they end up in the pit?

 Mr Anderson: Well, you work it out.

 Chairman: All right, so how did they die? Were they shot, were they hit? What happened?

 Mr Anderson: They were shot.

 Chairman: They were shot?

 Mr Anderson: Yep.

 Chairman: Who shot them?

 Mr Anderson: I did.

 5. THAT expert autopsy reports indicate blunt force trauma was the cause of death.

**Charge No. 12 of 12**

**Greyhounds Australasia Rule 86 (o)** which reads as follows:

**R86 Offences**

*A person 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 the Charge being:**

1. THAT you were at all relevant times a public trainer licensed by Greyhound Racing Victoria (Number 317051) and a person bound by the Greyhound Australasia Rules and the Local Racing Rules.
2. THAT you were at all relevant times the trainer and one of the persons responsible for the care and custody of registered greyhounds at your GRV registered kennelling premises.
3. THAT you have, in relation to four registered racing greyhounds, (*‘Pacific Reef’* (Microchip no: 9560000003261173), *Pacific Dreamer’* (Microchip no: 9560000003261651), *‘Dark Stealth’* (Microchip no: 956000004322508), and *‘Stealthy Flight’* (Microchip no: 956000004858594), **(‘the greyhounds’)** and greyhound racing, acted in a manner, which in the opinion of the Stewards, is improper and/or constitutes misconduct in that you:

(i) subjected ‘the greyhounds’ to severe pain and suffering resulting in their deaths;

(ii) the cause of death for ‘the greyhounds’ was blunt force trauma to the skull;

(iii) that you provided false and misleading information to GRV Investigative Stewards during an Inquiry.

**Plea:** Not Guilty to all charges

**RULING**

In this matter, a dispute has arisen at a Directions Hearing on 22 October 2020 as to the proposed representation for Mr. Ian Anderson, a licensed person. Mr. Anderson has been charged by Greyhound Racing Victoria (“GRV”) Stewards with a number of offences, some potentially involving animal welfare.

Mr Anderson seeks to be represented by Mr Tony Vass, both at any preliminary hearings and particularly at the ultimate hearing of the matter. The Stewards oppose such representation.

On 22 October Mr Marwan El-Asmar appeared on behalf of the GRV Stewards. Mr Vass advanced arguments as to his right to appear for Mr Anderson.

The arguments of Mr El-Asmar could be summarised as follows.

There is no absolute right to representation. The Tribunal has a discretion as to who can and should appear before it. The offences in this case are serious, including allegations concerning four dead greyhounds. The potential penalties for Mr Anderson are very serious.

Mr Vass is not legally qualified. Section 50Q (1)(l) of the Racing Act 1958 (“the Act”) requires the Tribunal to conduct each hearing expeditiously. That will not be assisted if, in this particular case, an unqualified person such as Mr Vass appears for Mr Anderson.

Next, Mr Vass has a very poor record in relation to disciplinary matters. Whilst not presently disqualified, he has been disqualified on a number of previous occasions, sometimes for lengthy periods. Further, he runs a Facebook page concerning the industry in which he is highly critical of GRV and its staff. He uses it in order to pursue his own personal issues with GRV.

It would not be in the best interests of Mr Anderson to have Mr Vass appearing for him. Leave should not be given for him so to do.

The arguments of Mr Vass could be summarised as follows.

Section 50Q (3) of the Act states that a party to a hearing before the Tribunal is entitled to be represented by an Australian lawyer or any other person. Thus, Mr Anderson is entitled to be represented by Mr Vass. There is no requirement in relation to leave.

In any event, Mr Vass has acted as an advocate for charged persons in hearings before the Greyhound RAD Board and at VCAT.

It is a matter of choice for the person charged. Mr Anderson knows what he is doing, as does Mr Vass.

Further, the case may not be lengthy. It will be submitted that the dogs the subject of the charges were not greyhounds within the meaning of the Rules. They were pets. They were not on Mr Anderson’s property. The Tribunal has no jurisdiction to hear and determine the charges. If it is a matter for anyone, it is a matter for the RSPCA.

I turn now to my Ruling.

Firstly, I am not of the opinion that Section 50Q (3) removes any discretion the Tribunal has in relation to representation, particularly by reason of the words “any other person”.

Section 50Q (1)(m) gives to the Tribunal the power to regulate its own procedure. Section 50 ZE (1) (b) provides that the Tribunal may make any decision or order that it considers is required in the interests of justice. Section 50ZJ states that the privilege against self-incrimination does not apply, another indication of its wide powers and differences with a court of record. Section 50ZK gives to the Tribunal contempt powers, including in sub-section (1) (b), the right to exercise such powers in the event of being regularly interrupted.

I refer to these provisions in order to illustrate the sweeping statutory powers which the Tribunal does possess in relation to the conducting of hearings. Such powers are entirely inconsistent with the proposition that a person charged can have any person appear for him or her and that the Tribunal cannot, in appropriate circumstances, be heard on the questions of leave to appear or the revocation of such leave and decide accordingly. Such questions have been raised, and quite properly raised, in the present case.

Thus, the next question is whether Mr Vass should be given leave to appear for Mr Anderson. If he were presently a suspended or disqualified person, I would have serious doubts as to whether leave should be so given. However, that is not the case. He has a particularly poor record, but is not currently suspended or disqualified. It was not suggested that currently there is any other form of adverse restriction upon his activities.

In those circumstances, I am prepared to give him leave to appear for Mr Anderson. That does not mean that such leave cannot be revoked if the circumstances warrant it.

Mark Howard
Registrar, Victorian Racing Tribunal