2 June 2021

**RULING**

**GREYHOUND RACING VICTORIA**

**and**

**MR IAN ANDERSON**

**Date of hearing:** 19 March 2021

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

**Appearances:** Mr Patrick Considine instructed by 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**

1. Introduction

I apologise for the delay in handing down this Ruling. A rush of cases, a couple lengthy, combined with a period of leave and a brief illness, has resulted in the handing down of this Ruling taking longer than had been anticipated.

This Ruling concerns an application sought by Mr Anderson and opposed by Greyhound Racing Victoria (“GRV”). Mr. Anderson had the assistance of Mr Tony Vass. GRV was legally represented. Both parties provided detailed written submissions. No oral evidence was taken.

2. Background

Without going into great detail, this matter centres upon the alleged finding of four decomposed bodies of greyhounds on the property of Mr Anderson on 24 July 2019. The greyhounds had been bludgeoned to death and the carcases buried in a pit. At the time, Mr Anderson was a licensed greyhound trainer. Almost immediately following this, the GRV registration of Mr Anderson was suspended and has remained suspended pending the determination of the matter by this Tribunal. Charges were laid. The matter has had a somewhat chequered progress since then, with considerable argument concerning what could be described as preliminary points. To state the obvious, the hearing on the substantive points has still not been conducted.

At its simplest, the current preliminary matter concerns whether the interim suspension of Mr Anderson is valid and, if it is, whether it should be stayed or lifted.

Various written and oral submissions have been put forward in relation to a number of issues in this matter, with considerable overlapping of such issues. In so far as it is possible, I shall attempt to confine the following summaries essentially to portions of the recent submissions directed to the specific matters now being considered.

3. The submissions on behalf of Mr Anderson

The submissions of Mr Vass on behalf of Mr Anderson could be summarised as follows.

GRV has effectively imposed a penalty of suspension for a period in excess of 20 months upon Mr Anderson. This is a power which should only be exercised by the Tribunal. Mr Anderson is pleading “Not Guilty”. There is strong evidence that the death of the dogs was almost a month after their retirement as racing greyhounds.

Proper jurisdiction is yet to be determined. Mr Anderson has not been heard on preliminary matters, such as the legitimacy of the provisional and amended charges.

Mr Anderson does not accept many of the assertions contained in the GRV brief. Many witnesses may need to be called and cross-examined. Expert witnesses may be required to give evidence. The matter will take a considerable time to list and hear. Mr Anderson is entitled to be considered innocent whilst awaiting the ultimate hearing. The arbitrary penalty of suspension should not be permitted to continue. It should be stayed pending the hearing. The Tribunal has the power to make interim orders and grant stays. It should do so in the present case. Not to do so would breach the rules of natural justice.

4. The submissions on behalf of GRV

The submissions on behalf of GRV could be summarised as follows.

Section 50K(2) of the *Racing Act* 1958 (herein after refers to as “the Act”) requires that an appeal of the kind now being pursued by Mr Anderson must be in the prescribed form. This has never been done. The time for doing it has expired. If an appeal pursuant to Section 50K is not filed, then the Tribunal has no jurisdiction to deal with it. If Mr Anderson is now seeking to file an appeal, it is sixteen months or more out of time.

That a provisional or interim suspension may be imposed by GRV is clear from Section 77(1) (ca) of the Act and GAR 92(5)(c). The circumstances of the present case fall within the scope of the Act and demonstrate strong grounds for the interim suspension that has been imposed.

As argued in earlier submissions, the alleged conduct of Mr Anderson was of a kind that jeopardises the very existence of greyhound racing. No application to lift the interim suspension could reasonably be brought on the merits of the case.

The serious charges involved have not been determined by GRV. The interim suspension is in place pending the determination by the Tribunal in order to protect the interests and integrity of the industry. The suspension in place is imposed pursuant to GAR 92(5).

The Tribunal has jurisdiction in relation to greyhounds retired from racing. Reference is made to Subsection 75 (a), 75 (abb), 77 (1) (ca) and 77 (1) (e) of the Act. Whether the dead greyhounds had in fact been retired is a factual matter to be determined at the ultimate hearing. The clear evidence, including multiple admissions by Mr Anderson, is that they were not retired.

The case is capable of being brought on for hearing far more expeditiously than Mr Vass, in his submissions on behalf of Mr Anderson, suggests.

There is a clear legal basis for the interim suspension; overwhelming evidence in support of it; and discretionary matters weighing heavily in favour of it. There is clear power to impose it pursuant to GAR 92(5)(c) and Local Rule 11.14. Reference is also made to Section 77 (1)(ca) of the Act, along with Subsection 75(a) and 75(abb). At the time of the alleged offending, Mr Anderson was clearly a greyhound racing participant.

Further, reference is made to the Ruling of this Tribunal in *GRV v Ben Divirgilio* (21 November 2019). As in that case, this matter involves very serious matters of animal welfare. As in *Divirgilio*, there is prima facie evidence of the matters alleged and evidence which has the potential to raise doubts as to the credibility of the person charged. The charge against Mr Anderson involves the execution of four greyhounds by bludgeoning them with a solid object. Allegedly, Mr Anderson then attempted to hide the bodies in a hole which he had dug. When the bodies were discovered, he made various admissions, including that he did not want to pay veterinary bills and could not afford to feed the dogs. Thus, there is a strong prima facie case of horrific animal welfare offences.

In addition, Mr Anderson has indicated that he has no intention of participating in the greyhound industry. He told Stewards as follows: “Do what you like because I don’t intend ever to go back to greyhounds”. In addition, the indication from Mr Vass has been that Mr Anderson will seek to further prolong the hearing of the charges. The charges can and should be heard expeditiously – see Section 50Q (1)(l) of the Act.

Finally, when interviewed, Mr Anderson stated that what he had done (bludgeoning them to death and burying them) was an acceptable way of euthanising greyhounds.

When all of the above is taken into account, the interim suspension should remain in place.

5. Ruling

Firstly, I am comfortably satisfied that a dispute of this nature falls within the jurisdiction of this Tribunal. Even if the deceased greyhounds were no longer registered as racing dogs, I am not of the opinion that the Tribunal is bereft of jurisdiction.

At the relevant time as alleged, Mr Anderson was a registered trainer. The four dogs were, or had been, racing greyhounds trained by him. As I understand the situation, it is now asserted on his behalf that, at the time of the alleged offending, the dogs had been retired and accepted by GRV as being so retired. Therefore, any decision or action made or taken by him in respect of the dogs falls outside the operation of the Rules and the decision-making power of the Stewards. Hence, this Tribunal lacks jurisdiction pursuant to the Act to deal with any matter so arising. No valid basis exists for the decision of the Stewards in relation to suspension and therefore for any hearing or intervention by this Tribunal.

I do not accept this line of argument. I agree with the submissions of the Stewards to the effect that the retirement of a greyhound from racing does not enable a licensed person to treat that dog as he or she thinks fit, including mistreating it or euthanising it.

I further agree that the proper treatment of racing greyhounds which have ended their racing careers falls within the scope of GRV’s functions and within the operation of Section 75(a) of the Act – “controlling the sport of greyhound racing”. Section 75(abb) sets out that a function of GRV is to monitor compliance with the Rules. GAR 3(1) states that the Rules apply to any greyhounds appearing in the records of a Controlling Body (GRV) in any capacity. The greyhounds that were allegedly bludgeoned to death appeared in the records at the relevant time.

In addition, I agree with the submission on behalf of the Stewards to the effect that GRV possesses the power to suspend or disqualify a greyhound racing industry participant – see Ss. 77(1)(ca) and (cb) of the Act. At the relevant time, Mr Anderson was such a participant and the alleged behaviour in which he engaged related to the industry.

Secondly, I am of the opinion that the alleged conduct, particularly when combined with the remarks made to Stewards by Mr Anderson, warranted and justified the imposition of a suspension pending a hearing on the merits. The alleged conduct is of a very serious nature and, at least originally, was scarcely disputed by him.

Thirdly, the remarks of Mr Anderson referred to above did not constitute a denial of the conduct alleged. On the contrary, he made admissions, including that he made no attempt to find a new home for the greyhounds before killing them; that he could not afford to feed them; that he believed that they were dangerous; and that he did not want to pay veterinary bills in relation to their welfare. He also stated that what he had allegedly done (bludgeoning the dogs to death) was an acceptable way to euthanise greyhounds.

Fourthly, Mr Anderson also indicated that he had no intention of participating further in the greyhound industry. When interviewed on 19 September 2019, he told Stewards that he did not care if he was disqualified “because I don’t intend ever to go back to greyhounds”. When told by Stewards that the suspension would not be removed at that point in time, he stated “I don’t care if you do or you don’t”. He also stated “You’ve nailed me..”.

Fifthly, Mr Anderson took very little or no action for a lengthy period after the suspension was imposed. It is a matter of some debate as to whether he has ever taken any appropriate action in relation to the imposition of the suspension. Section 50K(2) of the Act would require the lodging of an appeal by 19 August 2019. This did not occur, and whether it has actually occurred at any time seems doubtful.

Sixthly, Mr Vass, on behalf of Mr Anderson, has stated in his written submissions that the matter “would take considerable time to hear and list”. The Stewards originally challenged the right of Mr Vass to represent Mr Anderson, but he was given leave so to do in a Ruling handed down on 2 November 2020 (the hearing of the application was on 22 October). It is to be remembered that the carcases were found on 24 July 2019 and Mr Anderson was charged and suspended almost immediately thereafter. In other words, approximately 15 months elapsed between Mr Anderson being suspended and Mr Vass seeking and being given leave to appear. Further time has since elapsed. As I understand it, the Stewards are ready to proceed virtually immediately. It can hardly be said that Mr Anderson has displayed a keen determination to get the hearing on and finalise the matter.

Seventhly, this Ruling is consistent with what this Tribunal determined in *Divirgilio*, as referred to in the submissions on behalf of the Stewards. The matters for consideration referred to therein are applicable in the present case.

Finally, this is a case involving allegations of what the Stewards described as being horrific animal welfare offences. They have referred to the “overwhelming strength” of the evidence and to Mr Anderson’s admissions. Much of this has been discussed above. Speaking in general terms, animal welfare matters are sensitive and of great importance to the industry. The imposition of virtually immediate suspension pending a full hearing in a case such as this seems to me to be an available and appropriate step to take before a full hearing.

When all of the above matters are considered, I am far from comfortably satisfied that the suspension imposed on Mr Anderson should be lifted or stayed. The application of Mr Anderson in this regard is dismissed.

Mark Howard
Registrar, Victorian Racing Tribunal