15 December 2023

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**GARY SCIORTINO**

**Date of hearing:** 1 December 2023

**Panel:** Judge John Bowman (Chairperson) and Judge Marilyn Harbison.

**Appearances:** Ms Amara Hughes instructed by Mr Anthony Pearce appeared on behalf of the Stewards.

 Mr Gary Sciortino represented himself.

**Charges and particulars:** **Charge No. 1 of 4**

Greyhounds Australasia Rule 141(1) reads as follows:

**Rule 141 Greyhound to be free of prohibited substances**

*(1) The owner, trainer or other person in charge of a greyhound:*

1. *nominated to compete in an Event;*
2. *presented for a satisfactory trial or such other trial as provided for by the Rules; or*
3. *presented for any test or examination for the purpose of a stand-down period being varied or revoked,*

*must present the greyhound free of any prohibited substance.*

**Particulars of Charge**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.

1. You were, at all relevant times, the trainer of the greyhound *“Rogue Temptation”.*

1. *“Rogue Temptation”* was nominated to compete in Race 4, BLUE STREAM PICTURES, Grade 5 T3, conducted by the Warragul Greyhound Racing Club at Warragul on 24 November 2022 (**the Event**).

1. On 24 November 2022, you presented *“Rogue Temptation”* at the Event not free of any prohibited substance, given that:
	1. A pre-race sample of urine was taken from *“Rogue Temptation”* at the Event (**the Sample**);
	2. Meloxicam was detected in the Sample.

**Charge No. 2 of 4**

Greyhounds Australasia Rule 142(1) reads as follows:

**Rule 142 Administration of a prohibited substance established in a sample taken from a greyhound in connection with an Event**

1. An offence is committed if a *person*:

1. *administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;*
2. *aids, abets, counsels or procures the administration of or an attempt to administer a prohibited substance to a greyhound; or*
3. *has prior knowledge of a prohibited substance being administered or attempted to be administered to a greyhound,*

*which is established in any sample taken from a greyhound presented for an Event or when subject to any other contingency pursuant to the Rules.*

**Particulars of Charge**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound *“Rogue Temptation”.*
3. *“Rogue Temptation”* was presented for, and competed in, Race 4, BLUE STREAM PICTURES, Grade 5 T3, conducted by the Warragul Greyhound Racing Club at Warragul on 24 November 2022 (**the Event**).
4. You administered, or caused to be administered, to *“Rogue Temptation”,* a prohibited substance, being Meloxicam, which was detected in a sample taken from *“Rogue Temptation”* in that:
	1. You administered a product containing Meloxicam, namely ‘Loxicom’, to *“Rogue Temptation”* between 9 November 2022 and 13 November 2022;
	2. A pre-race sample of urine was taken from *“Rogue Temptation”* at the Event (the Sample);
	3. Meloxicam was detected in the Sample.

**Charge No. 3 of 4**

Greyhounds Australasia Rule 148(1) reads as follows:

**Rule 148 *Possession* of a *prohibited substance*, *exempted substance* or other substance and other rules in relation to certain substances**

1. *A person must not, without the express permission of the Stewards, possess any prohibited substance, exempted substance or other substance (including any other medication, medicine, injectable substance, supplement, herbal product or therapeutic good) that:*
2. *is not registered by the Australian Pesticides and Veterinary Medicines Authority (APVMA);*

**Particulars of Charge**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. On 21st December 2022, a kennel inspection was conducted at your registered greyhound kennel address at 111 Seaspray Road, Longford VIC (**the Premises**);
3. During the course of the kennel inspection, Stewards located the injectable substance “FUEL – Extreme Energy Source” (**the Substance**) which was stored in the refrigerator;
4. The Substance has not been approved or registered by the Australian Pesticides and Veterinary Medicines Authority (APVMA).
5. You did not have permission from the Stewards to possess the Substance.

**Charge No. 4 of 4**

Greyhounds Australasia Rule 164(a) reads as follows:

**Rule 164 Offences in relation to investigations and inquiries**

An offence is committed if a *person* (including an *official*):

1. *makes a false or misleading statement in relation to or during an investigation, inspection, examination, test or inquiry (or at any other disciplinary process, hearing or appeal proceeding) 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 Charge**

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhound Australasia Rules.
2. On 21st December 2022, Stewards opened an inquiry with you regarding the swabbing irregularity of the greyhound “Rogue Temptation”;
3. During the course of the inquiry, between 29 March 2023 and 17 April 2023, you provided falsified treatment record documents for “Rogue Temptation” to Stewards in that;
	1. treatment records stated that you administered ‘Ranvet worming tablets’ (**the Treatments**) to “Rogue Temptation” on the 19th of every month at 4.30pm;
	2. on 17 April 2023, you conceded to Stewards that the Treatments were not, and could not have been, administered to “Rogue Temptation” as recorded at 4.30pm on the following days, being:
4. 19th August 2022;
5. 19th September 2022; and
6. 19th December 2022.

**Pleas:** Guilty to Charges 1 and 2.

Not Guilty to Charges 3 and 4.

**DECISION**

Mr Gary Sciortino, you are facing four Charges. Two of these, being Charge 3 and 4, are being contested by you. You have pleaded ‘Not Guilty’ to each. However, in each instance your defence could be summarised as inadvertence rather than there being any guilty intent. There is really no contest concerning this, and, on behalf of the Stewards, Ms Hughes is not suggesting that there was any intention to perform illegal acts, commit or possess a prohibited substance, or deliberately falsify dates treatment with an intention to deceive or obtain some unfair advantage.

In relation to Charge 3, we accept that you bought a collection of substances from a trainer who was ceasing involvement, and one of the products, called “Fuel”, was not an approved substance. We accept that you never used this product and the container in your medicine chest remained unopened and until it was so opened at the time of the Steward’s inspection. Nevertheless, the ingredients of the Charge have been made out and we find the Charge proven. However, we also accept your explanation of the circumstances.

In relation to Charge 4, again we find the Charge made out and again we accept your explanation as to how this offence occurred. You treated the dog “Rogue Temptation” with worming tablets and your computer was set in such a way as to record this administration on the same dog each month. On three occasions, this date coincided with a day on which the dog was competing. In fact, the substance was administered on a different date, but the computer automatically recorded the usual, and incorrect, date. That has since been remedied. Again, we find the Charge proven, but we also accept your explanation, which is not the subject of any real challenge.

The bottom line is that we find that Charges 3 and 4 have been proven, and we shall turn to the question of penalty after we hear the submissions on Charges 1 and 2, to which you are pleading guilty.

**PENALTY**

Mr Sciortino, you have pleaded guilty to two charges, being breaches of GAR 141(1) and GAR 142. Both charges relate to a pre-race urine sample taken from “Rogue Temptation”, trained by you, and which competed in Race 4 at Warragul on 24 November 2022. The sample proved positive to the prohibited substance, Meloxicam.

In addition, we have found you guilty of a breach of GAR 148 and a breach of GAR 164. We would refer to our earlier decision given this day. You had pleaded not guilty to those charges.

In relation to all Charges, we note that you have an excellent record, with no prior offence of any significance alleged against you. You are now essentially a hobby trainer, with only one racing dog, but you have been engaged in the industry for a number of years, both in this state and in Queensland. As stated, you have an excellent record. You are engaged in part-time employment as a console operator, entering into this employment relatively recently and having previously been unable to engage in many areas of employment due to a serious injury. You are paying off a mortgage in relation to the house in which you live with your wife and one child.

We bear all of these matters in mind, including the nature of your offending. In relation to Charges 1 and 2, we accept that the meloxicam was administered following surgery to Rogue Temptation. The error which was made by you related to the timing of the administration of the meloxicam. The Stewards accept your explanation, but, of course, that does not eliminate guilt. You are pleading guilty to Charges 1 and 2.

In decisions of this nature, emphasis is frequently placed upon the importance of the image and the actuality of a level playing field and a drug free industry. We repeat those observations.

In addition, we would refer to and repeat our earlier remarks in relation to Charges 3 and 4.

Bearing all of the above in mind, along with the very helpful submissions of Ms Hughes on behalf of the Stewards. We have arrived at the following penalties:

Dealing firstly with the prohibited substance offences, on Charge 1, you are fined $1,500, all of which is wholly suspended for a period of 24 months. The fine will only become payable if you commit a further relevant breach during that period.

On Charge 2, you are suspended for 3 months. That period of suspension will only be activated if you commit a further relevant offence during a period of 24 months, and is wholly suspended for that period. You are also fined the sum of $1,500, $1,000 of which is also suspended for a 24 month period on the same basis. $500 is payable forthwith.

Charge 3 relates to carelessness in relation to a product being in your medicine cabinet, and as described earlier. On that Charge, you are fined the sum of $1,000, with $750 suspended for a 24 month period on the basis of no commission of a relevant offence during that period. $250 is payable forthwith.

On Charge 4, involving the incorrect record of dates of medications, you are again fined the sum of $1,000 with $750 suspended for 24 months on the basis of no relevant offence during that period. $250 is payable forthwith.

Thus, fines totally $1,000 payable forthwith. The balance of the penalties is in essence suspended for 24 months. Finally, Rogue Temptation is disqualified from Race 4 at Warragul on 24 November 2022 and the finishing order amended accordingly.

Mark Howard

Registrar, Victorian Racing Tribunal