15 October 2024

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**GARY FEBEY**

**Date of hearing:** Hearing conducted on the papers.

**Date of decision:** 15 October 2024

**Panel:** Judge Marilyn Harbison (Deputy Chairperson), Ms Danielle Hikri and Ms Maree Payne.

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

Mr Gary Febey represented himself.

**Charges:** Local Racing Rule (“LR”) 12.1 states:

 When a greyhound is to no longer be utilised for racing or breeding purposes, every effort must be made by the Owner of the greyhound to rehome that greyhound to an appropriate home.

 LR 13.1 states:

 If an Owner cannot find an appropriate home for their greyhound and is considering euthanising the greyhound, the Owner must provide the Controlling Body with notice, in the prescribed form at least seven days, but no more than 42 days, prior to the euthanasia.

 LR 14.3.1 states:

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

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 Controlling Body 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 14.2.3).

Greyhounds Australasia Rule (“GAR”) 156(f) states:

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

(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of a Controlling Body or the Stewards:

 (i) is corrupt, fraudulent, or dishonest;

(ii) constitutes misconduct or is negligent or improper.

GAR 164(a) states:

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

(a) 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

GAR 151 states:

(1) The person in charge of a greyhound must keep and retain written records detailing all treatments all vaccinations, antiparasitics and treatments administered to the greyhound:

(a) from the time the greyhound enters their care until the greyhound leaves their care; and

(b) for a minimum of two years.

(4) An offence is committed if any person in charge of a greyhound at the relevant time fails to comply with any of subrules (1) to (3) of this rule.

**Particulars: Charge 1: LR 12.1**

 1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240659) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. You failed to make every effort to rehome the greyhound UNNAMED (VJOOX) prior to the it’s euthanasia.

**Charge 2: LR 13.1**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240859) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. You failed to provide GRV the required notice, on the prescribed form and within the required timeframes, that you were considering the euthanasia of the greyhound UNNAMED (VJOOX).

**Charge 3: LR 14.3.1**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240659) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. You failed to notify GRV of the euthanasia of the greyhound UNNAMED (VJOOX) in the prescribed form and with the required veterinary certificates, within two (2) working days of that euthanasia.

**Charge 4: GAR 156(f)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240659) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. Your conduct surrounding the circumstances leading up to the euthanasia of the greyhound UNNAMED (VJOOX) constitutes misconduct and /or is improper.

**Charge 5: GAR 164(a)**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240659) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. During an inquiry held with you on 16 May 2023, you have made false or misleading statements concerning the circumstances leading to the euthanasia of the greyhound UNNAMED (VJOOX).

**Charge 6: GAR 151**

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 240659) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were, at all relevant times, the owner of the greyhound UNNAMED (VJOOX).

3. On 25 July 2022, the greyhound UNNAMED (VJOOX) was euthanised, on your instructions, at the West Footscray and St. Albans Veterinary Clinic.

4. You failed to retain written records detailing all treatments administered to the greyhound UNNAMED (VJOOX) for the required period of time.

**Pleas:** Not Guilty

**PENALTY**

1. We now move to penalty.
2. At the liability hearing on 12 September 2024, we found Mr Febey guilty of all six charges. Mr Febey was extremely aggressive during the hearing. He would continually talk over other participants, and spoke in extremely threatening language, particularly to the witness Dr Kim Cao. Therefore, we have determined that the penalty hearing should be by way of written submissions. We are now in possession of the penalty submissions from the Stewards. We have also received penalty submissions from Mr Febey.
3. We agree with the submission of the Stewards that the principal focus of sentencing should be that of general deterrence. It is morally reprehensible and completely unacceptable for greyhounds to be euthanised unnecessarily. Such an act destroys all public confidence in the greyhound racing industry. It is common knowledge that participants in the past have been caught deliberately euthanising their greyhounds once the dogs finished their active racing career. This practice must be stopped, or the future of greyhound racing itself is in jeopardy.
4. In this case, it is clear from the evidence that Mr Febey knew that euthanasia was unnecessary and persisted in it despite the concerns of the veterinarian and veterinary staff at the clinic to which the dog was taken.
5. Such action must be met with the strongest possible condemnation.
6. Further, we accept that Mr Febey failed completely to cooperate with the Stewards in their investigation of the circumstances of the euthanasia and attempted to mislead them as to these events.
7. We accept also that Mr Febey’s belligerent manner at the liability hearing, both towards the Tribunal and towards the witness called to give evidence before the Tribunal, is an aggravating factor, although we have discounted that somewhat given that it appears that he has a history of some mental health problems. However, in his intemperate written submissions as to penalty, we note that he maintains that the witness is lying and remains steadfastly indignant at being brought to account for the circumstances under which the dog was euthanised.
8. This brings into clear focus the principle of specific deterrence – that is, the prospect that Mr Febey may reoffend. We agree with the submissions of the Stewards that he showed no remorse at the time of the hearing. He was concerned only to justify the action that he had taken. We note with concern that he has a previous offence in relation to rehoming a greyhound. This offence took place on 11 May 2021, just three years ago. Clearly, he knew from that time that proper steps needed to be taken before rehoming a greyhound and he disregarded them. In his written submissions, he has once again shown no insight into his duty as a greyhound owner to responsibly rehome greyhounds in his care. We have grave concerns that he may reoffend in this manner in the future. Specific deterrence is therefore a major consideration in sentencing him.
9. We know very little about Mr Febey’s background or present circumstances. As we have already outlined, it has not been possible to conduct this sentencing hearing in his presence. Given this difficulty, and the lack of mitigatory material in his written submissions, the only matters in mitigation which we have ascertained in relation to Mr Febey are that he has been involved in greyhound racing for many years, that he is 70 years of age and that he has a good record in the industry, apart from the 2021 offence which we have outlined above.
10. Taking all these circumstances into account, we have arrived at the following penalties. We consider it necessary that we impose a substantial period of disqualification. We have treated Charge 4 as the head sentence, as in our view it is the most serious.
11. On Charge 1, which is a charge of failing to make every effort to rehome the greyhound, the sentence which we impose is a three month disqualification. This penalty is to be served cumulatively on the penalty imposed for Charge 4.
12. On Charge 2, which is a charge of failing to provide notice to GRV prior to euthanasia, the sentence which we impose is a three month disqualification. This penalty is to be served concurrently with the penalty imposed for Charge 3.
13. On Charge 3, which is the charge of failing to give notice of the euthanasia once it had occurred, the sentence which we impose is a three month disqualification. This penalty is to be served concurrently with the penalty imposed for Charge 4.
14. On Charge 4, which is a charge of having done something which is improper in the circumstances surrounding the euthanasia of the greyhound, the sentence which we impose is a six month disqualification.
15. On Charge 5, which is a charge of making a false and misleading statement during the inquiry, the penalty which we impose is a three month disqualification. This penalty is to be served cumulatively on the penalty imposed for Charges 1 and 4.
16. On Charge 6, which is a charge of not keeping treatment records, the penalty which we impose is as follows $500 fine.
17. Thus, the effective penalty is a 12 month disqualification, to commence from the date of this decision, and a $500 fine.

Kathleen Scully

Assistant Registrar, Victorian Racing Tribunal