28 July 2025

**DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**GERRY ORR**

**Date of hearing:** 17 June 2025

**Date of decision:** 18 July 2025

**Panel:** Magistrate Peter Reardon (Deputy Chairperson), Dr June Smith and Ms Judy Bourke.

**Appearances:** Ms Amara Hughes instructed Ms Yana Podolskaya appeared on behalf of the Stewards.

Mr Gerry Orr represented himself.

 Mr Angus Downing appeared as a witness.

 Mr Joe Fujimaki appeared as a witness.

**Charges and particulars:**

**Charge No. 1 of 5**

Greyhounds Australasia Rule 84A(4)(a), as in force at the relevant time, reads as follows:

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

4 (a) It shall be an offence for any person to acquire, attempt to acquire, administer or allow to be administered to any greyhound, any Permanently Banned Prohibited Substance referred to in Rule 79A.

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 165700) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. Between 14 January 2019 and 12 March 2019 you were interacting with a person named Jim via WhatsApp from your mobile phone. “Jim” managed a website anabolicjim.com

1. On 14 and 15 January 2019 you enquired about ordering Winstrol (stanozolol) in tablet form to be sent to Australia and you were quoted the price of $130USD. You further asked if they would enhance greyhounds racing performance, speed and stamina.

1. On 15 January 2019 you placed an order for 100 Winstrol tablets at the price of $182AUD including delivery.

1. You further messaged that you wanted the substance to enhance greyhound performance and wanted to ensure the substance would not be detectable in urine testing.

1. You provided your delivery details and asked what dosage you provide a 33 kg dog and further instructions.

1. On 15 January 2019 you paid for the Winstrol and asked how long until they would arrive and your reconfirmed your address. You also stated if they worked you would place many more orders. You further asked for how could you avoid detection in urine including if any masking agents were available.

1. After paying for the items, between 16 January 2019 and 12 March 2019 you made numerous attempts to track your order and confirm the delivery date. Eventually you believed the Winstrol was not going to arrive and demanded your money back.

1. You have acquired, attempt to acquire, administer or allow to be administered to any greyhound, any Permanently Banned Prohibited Substance referred to in Rule 79A.

1. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 84A (4) (a) (as then in force) to engage in the conduct described in particulars 3, 4 and 5.

1. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:

1. affect the previous operation of the Old Rules (including Rule 84A (4) (a));
2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 84A (4) (a)); or
3. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 84A (4) (a)).

**Charge No. 2 of 5**

Greyhounds Australasia Rule 86 (o), as in force at the relevant time, reads as follows:

An offence is committed if a 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. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 165700) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. Between 14 January 2019 and 12 March 2019 you were interacting with a person named Jim via WhatsApp from your mobile phone. “Jim” managed a website anabolicjim.com

1. On 14 and 15 January 2019 you enquired about ordering Winstrol (stanozolol) in tablet form to be sent to Australia and you were quoted the price of $130USD. You further asked if they would enhance greyhounds racing performance, speed and stamina.

1. On 15 January 2019 you placed an order for 100 Winstrol tablets at the price of $182AUD including delivery.

1. You further messaged that you wanted the substance to enhance greyhound performance and wanted to ensure the substance would not be detectable in urine testing.

1. You provided your delivery details and asked what dosage you provide a 33 kg dog and further instructions.

1. On 15 January 2019 you paid for the Winstrol and asked how long until they would arrive and your reconfirmed your address. You also stated if they worked you would place many more orders. You further asked for how could you avoid detection in urine including if any masking agents were available.

1. After paying for the items, between 16 January 2019 and 12 March 2019 you made numerous attempts to track your order and confirm the delivery date. Eventually you believed the Winstrol was not going to arrive and demanded your money back.

1. In attempting to acquire a Permanently Banned Prohibited Substance in relation to a greyhound or greyhound racing, you have 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.

1. By reason of Greyhounds Australasia Rule 2(as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:

1. affect the previous operation of the Old Rules (including Rule 86(o));
2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(o)); or
3. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(o)).

1. GAR 86(o) is a serious offence

**Charge No. 3 of 5**

Greyhounds Australasia Rule 86 (q), as in force at the relevant time, reads as follows:

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

(q)  commits or omits to do any act or engages in conduct which is in any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing-

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 165700) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. Between 14 January 2019 and 12 March 2019 you were interacting with a person named Jim via WhatsApp from your mobile phone. “Jim” managed a website anabolicjim.com

1. On 14 and 15 January 2019 you enquired about ordering Winstrol (stanozolol) in tablet form to be sent to Australia and you were quoted the price of $130USD. You further asked if they would enhance greyhounds racing performance, speed and stamina.

1. On 15 January 2019 you placed an order for 100 Winstrol tablets at the price of $182AUD including delivery.

1. You further messaged that you wanted the substance to enhance greyhound performance and wanted to ensure the substance would not be detectable in urine testing.

1. You provided your delivery details and asked what dosage you provide a 33 kg dog and further instructions.

1. On 15 January 2019 you paid for the Winstrol and asked how long until they would arrive and your reconfirmed your address. You also stated if they worked you would place many more orders. You further asked for how could you avoid detection in urine including if any masking agents were available.

1. After paying for the items, between 16 January 2019 and 12 March 2019 you made numerous attempts to track your order and confirm the delivery date. Eventually you believed the Winstrol was not going to arrive and demanded your money back.

1. In attempting to acquire a Permanently Banned Prohibited Substance commits or omits to do any act or engages in conduct which is in any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing.

1. By reason of Greyhounds Australasia Rule 2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:

1. affect the previous operation of the Old Rules (including Rule 86(q));
2. affect any obligation or liability imposed, created or incurred prior to the recission or variation of the Old Rules (including by virtue of Rule 86(q)); or
3. affect any penalty incurred, or liable to be incurred, in respect of any offence committed pursuant to the Old Rules (including a breach of Rule 86(q)).

**Charge No. 4 of 5**

Greyhounds Australasia Rule 144(1)(d) reads as follows:

An offence is committed if a person:

(d) acquires, attempts to acquire or possesses any permanently banned prohibited substance.

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 165700) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. Between 23 December 2022 and 5 January 2023, you were involved in WhatsApp chat with a Dr and other staff at the Raya Regenerative and Preventative Clinic in The Philippines.

1. You discussed the purchase of Somatropin GenLei Jintropin 4IU and Epoetin Alfa (Epokine)which in accordance with the GARs are Permanently Banned Prohibited Substances.

1. On 5 January 2023 you agreed to purchase *Somatropin GenLei Jintropin 4IU, quantity – 60 and Epoetin Alfa (Epokine) 10000 I.U  1 ml  Solution for IV/SC Injection quantity -  9* for the price of $4,437.57 AUD. On 6 January 2023 you sent proof of payment of the amount for those substances to the clinic.

1. On 24 February 2023 your greyhound ‘Animal Kingdom’ won race 10 at Healesville in Victoria*.* On 25 February 2023 you sent a link of the footage of this win to staff at the Raya Clinic, there is no other explanation provided. It is believed this win was supported by the use of the purchased substances in the greyhound.

1. Between 23 December 2022 and 5 January 2023, you acquired, attempted to acquire and/or had possession of a permanently banned prohibited substance, namely Somatropin and Epoetin Alfa (Epokine).

 **Charge No. 5 of 5**

Greyhounds Australasia Rule 156(f) reads as follows:

An offence is committed if a person:

(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*:

(ii) constitutes misconduct or is negligent or improper.

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 165700) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

1. Between 10 May 2023 and 12 May 2023, you were involved in WhatsApp chat’s with staff at the Raya Regenerative and Preventative Clinic in The Philippines.

1. You discussed the purchase of Epoetin Alfa (Epokine)which in accordance with the GARs are Permanently Banned Prohibited Substances.

1. On 12 May 2023 you agreed to purchase *Epoetin Alfa (Epokine) 10000 I.U  1 ml  Solution for IV/SC Injection quantity -  12* for the price of $2147 AUD.

1. On 22 May 2023 you make payment for the abovementioned purchase to the clinic and stated you will be in the Philippines from 23 May 2023 until 16 June 2023. You were told the substance will be ready to collect on 15 June 2023 from the clinic.

1. You ask for a letter from the Doctor at the clinic so you can fly to Australia with the product.

1. Between 10 May 2023 and 15 June 2023, you acquired, attempted to acquire and/or had possession of a permanently banned prohibited substance, namely Epoetin Alfa (Epokine). Between 23 December 2022 and 5 January 2023, you acquired, attempted to acquire and/or had possession of a permanently banned prohibited substance, namely Somatropin and Epoetin Alfa (Epokine). In attempting to acquire a Permanently Banned Prohibited Substance in relation to a greyhound or greyhound racing, you have 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, or improper, or constitutes misconduct.

 **Pleas:** Not Guilty

**DECISION**

**Preliminary Hearing – RE: Admissibility of Evidence**

1. Greyhound Racing Victoria (“GRV”) has charged Mr Gerry Orr with 5 breaches of the Greyhounds Australasia Rules (“GAR”). All the Charges relate to Mr Orr purchasing or attempting to purchase prohibited drugs for the purpose of enhancing his greyhound racing performances. Charge 2 is an alternative to Charge 1.
2. All the Charges involve material found on Mr Orr’s mobile (iPhone 14). Mr Orr objects to the admissibility of the material in the Charges laid against him. GRV submits that the phone messages are admissible, but concedes that, if the messages are not admissible, the 5 Charges could not proceed and the charges should be dismissed.
3. Mr Gerry Orr is self-represented and admits that he has little knowledge of how hearings are to be conducted and virtually no knowledge of the law. The Tribunal has assisted Mr Orr with his case presentation as best it can according to the Rules of Natural Justice and has acted fairly and according to the merits of this preliminary hearing:- See Paul Roberts v Zenaan Harkness and Magistrates Court of Victoria [2018] VSCA 215 and Rhys Doughty-Cowell v Vasilies Kyriazis and County Court of Victoria [2018] VSCA 236.
4. The Stewards in this case opened an inquiry with Mr Orr on 31 July 2024 to investigate potential breaches of unrelated rehoming Charges. Direction Notices were served on Mr Orr on 21 August 2023 and 31 July 2024.
5. The notices were worded as follows:

“You are directed to produce and hand over the mobile telephone or phones that belong to you and the pin number of the phone or phones immediately to GRV Investigative Stewards; upon production Investigative Stewards will facilitate the imaging of your telephone(s) for the sole purpose of this inquiry”.

1. In July 2024 Mr Orr handed over an iPhone and confirmed that the phone number was his. Mr Orr’s partner also handed over her phone, but it was returned shortly afterwards and has no relevance to this hearing.
2. Imaging or extraction was attempted at Mr Orr’s address in Newborough by Mr Joe Fujimaki an Intelligent Analyst with GRV’s Integrity and Welfare Department. Mr Fujimaki used Cellebrite software in an attempt to extract the information from Mr Orr’s phone.
3. However, the decision was made to take the iPhone back to GRV headquarters in West Melbourne in order to complete the extraction. This was because of time constraints and the volume of material on the phone.
4. The extraction procedure took over 4 hours and Mr Fujimaki found that there had been significant erasures, deletions and gaps in the messages ultimately obtained. He was looking for material relating to the rehoming of greyhounds.
5. Mr Angus Downing, Senior Analyst of GRV, then examined the phone and ultimately obtained a significant amount of material including over 70,000 media files, and over 10,000 chat messages after ultimately using the Cellebrite software. Mr Downing is the Intelligence Manager of the GRV Integrity Unit.
6. Mr Downing is a qualified lawyer, trained investigator and a trained analyst in the Cellebrite software programming. His evidence is that Cellebrite is the most sophisticated software currently used by the FBI, CIA and United Nations. Mr Downing is qualified and familiar with the Cellebrite software program from 2020 and has since attended two refresher courses in the United States.
7. Mr Downing initially was endeavouring to obtain information concerning the rehoming of greyhounds. He found that much of the material had been erased and dates had been deleted from the phone. It was not possible to obtain consistent patterns of communications because of the numerous deletions, gaps and erasures on the phone.
8. Mr Downing examined material earlier than 2024 and located material dated from 14 January 2019 to 12 March 2019, plus further material from the end of 2022 until May 2023. This contained the information which is the substance of the current charges. At that time, he was initially not seeking material other than that related to the rehoming of greyhounds.

However, by chance he came across the relevant material.

1. Upon discovery of the material, he concluded that it was potentially very incriminating evidence regarding the possible commission of serious further offending and he decided to forward same to the Investigating Stewards for their consideration.
2. The Tribunal accepts that the material obtained was carefully selective and was not invasive. Confidential matters and other irrelevant material were ignored.
3. Once the relevant material was downloaded it was securely stored at GRV headquarters and the phone was returned to Mr Orr by early August 2024.
4. The above summary is the basis for the charges laid against Mr Orr. Mr Orr objects to the admissibility of the materials on the basis that the sole purpose of the Directions Notice concerned an Inquiry for rehoming greyhounds. This material is clearly outside the ambit of the Investigation and should be treated as confidential and Not Admissible in this hearing.
5. Mr Orr states that he was told clearly that nothing else would be looked at on the phone. The material subsequently obtained was confidential. Further, the information regarding the Maya Clinic Philippines (which relates to charges 4 and 5) was confidential and not relevant and “leaking into my doctor patient confidentiality”.
6. The Tribunal accepts that the attendance of the Stewards on 31 July 2024 was solely in relation to greyhound rehoming and Mr Orr was told that by the Stewards. The Directions Notice itself does not specifically refer to any breach, but simply refers to a firection to hand over any mobile phones with a pin number under GAR 16 if the “Controlling Body or Officer believes that an offence has been, may have been, or is being committed”. However, for present purposes the Tribunal accepts that the rehoming of greyhounds was the sole purpose of the Directions Notice only.
7. The analysts, Mr Fuijmaki and Mr Downing, gave evidence which is consistent with the above summary. Mr Orr also gave evidence, although he had to be assisted by the Tribunal and told to limit his evidence so that it was consistent with his submissions and not about issues irrelevant to the preliminary hearing.
8. Whilst not using his precise wording, it would appear that Mr Orr is stating that search and information obtained exceeded the authority to search and seize under the Directions Notice. This is something akin to Police Officers exceeding their powers authorised under a search warrant and obtaining property outside its scope. Such material would be illegally or improperly obtained. That it is unfair and such material should be excluded.
9. GRV submits that the evidence is admissible under the Chance Discovery Principle also known as the Chance Discovery Rule. Alternatively, if that submission fails and if the material is illegally or improperly obtained, the Tribunal should have regard to Section 138 of the *Evidence Act 2008* (Vic). GRV submits that the evidence should be admitted because its admission outweighs the undesirability of not so doing. It is in the public interest to admit the incriminating evidence.
10. GRV submits that the Chance Discovery Principle applies in circumstances where a search warrant is being executed and materials beyond what is contained in the warrant are seized. There appears to be no argument that the Directions Notice is akin to a search warrant for the purposes of this hearing.
11. GRV submits that the material seized or obtained was found by chance on the phone. Therefore the messages found during the course of the Cellebrite extract should be treated as found under the Chance Discovery principles.
12. Alternatively, it is submitted that under Section 138 *Evidence Act 2008* (Vic), if the Tribunal is not satisfied that the Chance Discovery Principle does apply, factors under Section 138(3) of *the Act* do so apply. That is a non-exhaustive list including matters such as the probative value of the evidence, the importance of the evidence, the nature of the relevant offence and the gravity of the impropriety. Such evidence should be admissible.
13. GRV submits that the evidence was not intentionally or maliciously obtained and disputes that it was improperly or unlawfully obtained. The Stewards had a lawful basis to seize the phone. They suspected that a serious offence had been committed. The voluminous material obtained required some sifting and Mr Downing followed common procedures to do the extraction process. It was not illegal or improper.
14. The information discloses serious offences being committed concerning obtaining performance enhancing drugs in large quantities and there is a significant community interest in participants being prosecuted for this type of offending as such offences strike at the heart of the industry.
15. The information obtained in late 2022 and May 2023, in two message exchanges, demonstrates evidence of Mr Orr purchasing significant performance enhancing drugs from the Raya Clinic, Philippines, for large sums of money in the order of $10,000 for prohibited substances to be used for his greyhounds.
16. Mr Orr further raised the issue of Doctor-Patient privilege, which relates to Charges 4 and 5.
17. Mr Orr gave evidence and submitted that the drugs were obtained by him for personal treatment, not for greyhounds, and that such information was covered by doctor-patient privilege and should be excluded. Some allowance was made to Mr Orr about his evidence, as he was self-represented. The Tribunal endeavoured to contain Mr Orr to the issue for determination, given that he was unrepresented and unfamiliar with pre-hearing issues.
18. GRV relies on the admitted evidence of Dr Karamatic, who opined that such substances are much cheaper in Australia if legally purchased and would cost as little as $31.60 under the PBS. Further, 7 months of Somatropin was prescribed and then abruptly ceased. 2.5 years of EPO was prescribed in under 8 months. The research obtained discovered no reference to the treatment of iron deficiency anaemia with Epoetin or similar medicines. Dr Karamatic did research and discovered that adult use of growth hormone is uncommon and requires lifelong use by humans, not months as claimed by Mr Orr.
19. The Tribunal has come to the conclusion for the purpose of this pre-trial hearing that the evidence discloses online transactional purchases by Mr Orr, rather than any doctor/patient treatment, and would not attract any doctor/patient privilege. There is little correlation at this stage of the hearing to support such a treatment regime for Mr Orr, who has raised the objection. The Tribunal rejects that submission for this pre-trial hearing. This submission relates to Charges 4 and 5 and Mr Orr’s other submissions on Charges 4 and 5 will be considered along with the other submissions on Charges 1 to 3.
20. The Tribunal is to have regard to Section 50Q(1) of the *Racing Act* *1958*. The Tribunal must conduct hearings fairly and according to the substantial merits of the matter and is bound by the Rules of Natural Justice. It is not bound by the Rules of Evidence or any practices or procedures applicable to Courts of Record except to the extent that it adopts those Rules, practices or procedures. The Tribunal can inform itself on any matter as it seems fit and conduct hearings expeditiously with as little formality and technicality as is reasonably practicable.
21. The Tribunal having regard to the evidence and submissions made on behalf of both parties has come to a conclusion that the Tribunal should first determine whether the information discovered in the phone is found under the Chance Discovery Principle.
22. If the Stewards satisfy the Tribunal that the evidence discovered by GRV analysts is covered by the Chance Discovery Principle, then the evidence is admissible. If the Tribunal rules that the Chance Discovery Principle does not apply, the Tribunal would consider whether the evidence attempted to be led is illegally or improperly obtained and if so consider if it is  still admissible after taking into account all  matters contained in section 138(3) of the *Evidence Act* 2008.
23. As previously stated, the Directions Notice is somewhat akin to a Search Warrant granted by a Magistrate and executed by the Stewards.
24. The cases of Siddique v Martin [2016] VSCA 564 and McElroy & Wallace v The Queen [2018] VSCA 126 considered what is known as the Chance Discovery Principle. The principle as discussed in both cases, applies in circumstances where Police Officers have executed a Warrant and property beyond what is contained in the Warrant is seized by them. The Police are permitted to enter private premises in order to seize property named in the Warrant or property connected to the offence and in certain circumstances seize property not named in the Warrant.
25. The common law extended these powers to search and seize property unlisted in the Warrant that may be considered as evidence of serious offences. In McElroy v The Queen [2018] VSCA 126 was discussed. What has been called the “Chance Discovery Principle” was stated as follows:

“The common law extends the reach of the warrant to include a power of seizure of evidence found during the search authorised by the warrant, relating to serious offences not mentioned in it”.

1. The Tribunal accepts that the material located in the phone was not the object of the Stewards attendance on Mr Orr’s property. It is clear that the object of the search and seizure of the phone was to obtain evidence concerning the rehoming of greyhounds. Nevertheless, it was clear that pursuant to the Directions Notice the Stewards, were entitled to seize the phone and examine its content.
2. The GRV analyst, Mr Downing, whilst analysing the phone, located the incriminating material leading to the Charges being laid against Mr Orr. No other item was seized, save and except the phone and the material obtained on the phone.
3. On balance, the material is to be considered adventitiously obtained and is covered by the Chance Discovery Principle. The evidence in question is on its face potentially probative and significant, involving the attempt and purchasing of prohibitive substances in order to enhance the performance of Mr Orr’s greyhounds when racing.
4. The finding of such potentially incriminating evidence designed to enhance greyhounds when racing discloses possible serious offences. The Tribunal has found that the material contained in the phone potentially discloses the commission of serious offences and in this case comes under the Chance Discovery Principle. Thereby the evidence is admissible in this hearing. Therefore, the Tribunal, having made this finding, does not need to consider the matter of improperly or illegally obtained evidence.

Mark Howard

Registrar, Victorian Racing Tribunal