

Racing Appeals & Disciplinary Board

Media Release

2 March 2017

Racing Appeals & Disciplinary Board

Date of Hearing: Thursday, 2 March 2017
Venue of Hearing: Victorian Commission for Gambling and Liquor Regulation
49 Elizabeth Street, Richmond, Victoria
Panel: Mr. Shane Marshall (Chairman), Mr. Terry O'Connor (Deputy
Chairman), and Mr. Phillip Pryor
Name of Person Charged: Mr. Evan Keene
Town: Long Gully
Track: Bendigo
Date: 15 July 2016
GAR No: 83 (1A) and 83 (2)(3)

Offences Charged: (1) Mr. Evan Keene administered or caused to be administered
a prohibited substance to the greyhound 'Dundas Boy' at the
Bendigo meeting held on 15 July 2016.

(2) Mr. Evan Keene failed to present the greyhound 'Dundas
Boy' free of any prohibited substance for an event at the Bendigo
meeting held on 15 July 2016.

REPORT:

Following advice from Racing Analytical Services Laboratory, the Stewards of Greyhound Racing Victoria conducted an investigation into the results of the pre-race urine sample taken from the greyhound 'Dundas Boy' at the Bendigo meeting held on 15 July 2016.

During the investigation, Stewards received evidence from registered trainer Mr. Evan Keene, Mr. Paul Zahra (Racing Analytical Services Laboratory) and Dr. Steven Karamatic (GRV Chief Veterinarian).

After considering the evidence, Stewards charged Mr. Keene with breaches of Greyhounds Australasia Rule 83 (1A) and 83 (2)(3) as detailed above, given that the pre-race urine sample taken from the greyhound indicated the presence of the prohibited substance arsenic at a mass concentration of greater than 800 nanograms per millilitre.

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Under Rule 47.1 of the Greyhound Racing Victoria Local Rules breaches of GAR83 (1A) and GAR83 (2)(3) constitute Serious Offences. As a result on Thursday, 2 March 2017 this matter was heard before the Racing Appeals and Disciplinary Board in the first instance under Greyhound Local Racing Rule 47.3 and Sections 83C(b) and 83M(1) of the Racing Act.

Mr. Evan Keene was represented by Mr. Rene Mathieson.

Mr. Justin Hooper Barrister represented the Stewards Panel.

Following application by Mr. Hooper the Board ordered that charge 1 be struck out.

Mr. Evan Keene pleaded guilty to charge 2.

DECISION:

1. Mr. Evan Keene is a registered greyhound trainer of greyhounds and is the trainer of the greyhound, "Dundas Boy". Dundas Boy competed in race 11 at Bendigo on 15 July 2016. A pre-race urine sample was taken from the greyhound. In the sample arsenic was detected in the sample at a mass concentration of greater than 1600 nanograms per millilitre.
2. Stewards of Greyhound Racing Victoria ("GRV") have charged Mr. Keene under Greyhound Australasia Rule ("GAR") 83 (1A) with administering a prohibited substance to a greyhound when a pre-race sample was taken from the greyhound and arsenic was detected at greater than 800 nanograms per millilitre. Mr. Keene has also been charged under GAR83 (2) and (3) with presenting a greyhound for an event while not being free of a prohibited substance. At the hearing, the stewards withdrew the administration charge and submitted that the presentation offence was one of "inadvertence".
3. According to GRV's Chief Veterinarian, Dr. Karamatic, arsenic is a naturally occurring trace element that is normally present in greyhounds at low levels as a result of normal dietary intake.
4. On 1 July 2016, a new urinary threshold for arsenic was introduced into the GAR by the addition of GAR83 (11). That paragraph provides:-

"Arsenic at or below a mass concentration of 800 nanograms per millilitre in a sample of urine taken from a greyhound will not breach the provisions of sub-rule (1A) or (2) of this rule".
5. According to Dr. Karamatic:-

- arsenic meets the definition of "prohibited substance" in GAR 1 (being a substance capable of affecting a greyhound by its action on the central or

The Racing Appeals & Disciplinary Board (RADB) is established under section 83B of the Racing Act (1958). The RADB is an independent Board established to hear and determine appeals in relation to decisions made under the rules to impose penalties on persons and to hear and determine charges made against persons for serious offences.

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peripheral nervous system...) It is also a substance listed in Schedules 1 to 9 of the Standard for the Uniform Scheduling of Drugs and Poisons (Commonwealth).

- arsenic doesn't fit comfortably with GRV's penalty guidelines document. At one level, it is a category 1 substance as there are over the counter general medications which contain arsenic. At another level, it is a category 3 prohibited substance, given that arsenic containing products at certain dosages may stimulate blood vessels production but at other large dosages may be used as a toxic depressant.
 - at a urinary concentration of greater than 800 ng/ml arsenic is "capable of affecting the condition or performance of a greyhound".
6. The introduction of GAR83 (11) was preceded by much publicity, most of it generated on the websites of Greyhounds Australasia ("GA") and GRV.
 7. In mid December 2015, GA published a notice entitled "Arsenic threshold to be introduced into the Greyhound Australasian Rules". It published the test of the then proposed GAR83 (11). The notice advised trainers to be extremely cautious using products containing arsenic close to racing. On 8 January 2016, GRV published a similar notice on its website. That notice stated the trainers should avoid the administration of products containing arsenic without considering veterinary advice.
 8. The January 2016 edition of GRV's publication "GRV Informer" repeated the above advice. It also set out the terms of the proposed GAR83 (11). It warned about the use of arsenic containing food supplements, in particular "sea weed based nutritional supplements".
 9. GA provided further information on its website on 23 June 2016 about the arsenic urinary threshold. A further warning about the use of seaweed based nutritional supplements was contained in GRV's July 2016 publication of "Greyhound Monthly Victoria", in print form.
 10. A possible reason for Dundas Boy's exceeding of the urinary threshold is Mr. Keene's use of a supplement product called "Stockgain". Stockgain contains seaweed. Mr. Keene gave the greyhound a 15ml spoonful up to 4 times a week to keep the greyhound looking healthy. Prior to being advised of the positive swab he had used Stockgain for 10 years. The other possible and more likely reason, was the use of a seaweed meal found by GRV officers at a kennel inspection conducted by a GRV officer.

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11. Despite the publicity about the introduction of the arsenic threshold, Mr. Keene was unaware of the rule change and surrounding advice. He does not use the internet and had not read the printed publications containing the relevant advice. He is 76 years old and has been unwell in recent times. He has been involved in the industry for over 60 years and has no prior transgressions. He no longer uses seaweed containing food supplements on his greyhounds. He is of excellent character.

12. We take into account, as well as the facts listed below, that the threshold had only been introduced some 2 weeks prior to the race in question. The concept of recency can therefore be availed of by Mr. Keene to ameliorate his penalty.

13. In determining the appropriate penalty we also take into account the concepts of:-

- just punishment;
- specific and general deterrence;
- denunciation;
- the preservation of the integrity of drug free racing;
- the offender's prospects of rehabilitation; and
- animal welfare considerations

14. In addition to the above factors we take into account our decisions in the matter of Johnson (16 February 2017) being the first "arsenic threshold" case and one where there was a guilty plea and a reason advanced for the positive swab. As in Johnson we consider arsenic above the threshold to be a category 3 offence under GRV's penalty guidelines document.

15. In all the circumstances we consider the appropriate penalty to be a six months period of disqualification. However we wholly suspend that period of disqualification for six months pending no further breaches of GAR 83 in that time. In wholly suspending the period of disqualification we take into account Mr. Keene's excellent character and good record in particular. We also note that the stewards submitted, and we accepted, that in the special circumstances of this case it is not appropriate to impose a fine. In addition, we disqualify Dundas Boy from race 11 at Bendigo on 15 July 2015.

.....End.....