

Racing Appeals & Disciplinary Board

Media Release

1 May 2017

Racing Appeals & Disciplinary Board

Date of Hearing: Monday, 1 May 2017
Venue of Hearing: Victorian Commission for Gambling and Liquor Regulation
49 Elizabeth Street, Richmond, Victoria
Panel: Mr. Shane Marshall (Chairman), Mr. David Gleeson and Mr. Phillip Davies
Name of Person Charged: Mr. Luke Azzopardi
Town: East Longwood
Track: Sandown
Date: 6 November 2016
GAR No: 83 (2)(3)

Offence Charged: Mr. Luke Azzopardi failed to present the greyhound 'Molly's Entity' free of any prohibited substance for an event at Sandown meeting held on 6 November 2016.

REPORT:

Following advice from Racing Analytical Services Laboratory, the Stewards of Greyhound Racing Victoria conducted an investigation into the results of a pre-race urine sample taken from the greyhound 'Molly's Entity' at Sandown meeting held on 6 November 2016.

During the investigation, Stewards received evidence from registered trainer Mr. Luke Azzopardi, Mr. David Batty (Racing Analytical Services Laboratory) and Dr. Steven Karamatic (GRV Chief Veterinarian).

After considering the evidence, Stewards charged Mr. Azzopardi with a breach of Greyhounds Australasia Rule 83(2)(3) in that he failed to present the greyhound 'Molly's Entity' free of any prohibited substance for an event at Sandown meeting held on 6 November 2016 given that the pre-race urine sample taken from the greyhound indicated the presence of the prohibited substance Dehydronorketamine.

Under Rule 47.1 of the Greyhound Racing Victoria Local Rules a breach of GAR83 (2)(3) constitutes a Serious Offence. As a result on Monday, 1 May 2017 this matter was heard

Racing Appeals & Disciplinary Board

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. Luke Azzopardi represented himself.

Ms. Jade Murphy GRV Senior Lawyer represented the Stewards Panel.

Mr. Luke Azzopardi pleaded guilty to the charge.

DECISION:

1. Mr. Luke Azzopardi is a registered trainer of greyhounds and was, at all material times, the trainer of the greyhound "Molly's Entity". Molly's Entity competed in race 3 at Sandown on 6 November 2016. A pre-race urine sample showed the presence of Dehydronorketamine, a metabolite of Ketamine. Ketamine is a category 4 prohibited substance under the penalty guidelines document issued by Greyhound Racing Victoria ("GRV"). According to Dr. Karamatic, the Chief Veterinarian of GRV, Ketamine is "capable of affecting the condition, performance or behaviour of a greyhound with any effects capable of being positive or negative depending on the dosage".
2. Stewards of GRV have charged Mr. Azzopardi under Greyhound Australasia Rule 83 (2) and (3) with presenting Molly's Entity for an event while not being free of a prohibited substance. It is an offence of absolute liability with there being no requirement on the stewards to prove knowing administration of a prohibited substance.
3. Mr. Azzopardi has pleaded guilty to the charge and submitted that the cause of the positive swab was the feeding to the greyhound of meat which was not fit for human consumption. We find the charge proven. Mr. Azzopardi has since changed his meat supplier and now complies with GRV guidelines that recommend that greyhounds be fed human consumption meat within 36 to 48 hours of racing.
4. The risk that feeding of meat which is not fit for human consumption may lead to a positive swab for Ketamine is set out and discussed in our fairly recent decisions in Briganti (7 December 2016) and Paraskevas (21 November 2016).
5. As the Board said in Briganti, a guilty finding in respect of category 4 prohibited substances usually carries with it some period of disqualification. At paragraph 5 in Briganti the Board observed that the recommended penalty under the GRV penalty guidelines document for a category 4 prohibited substance is two years' disqualification. Those guidelines inform our decision but do not bind the Board. As stressed in Briganti the practice of the Board has been to "substantially ameliorate the penalty when the Stewards concede the possibility of food chain issues being related to the positive finding".

Racing Appeals & Disciplinary Board

6. The Stewards have conceded that food chain issues are related to the positive swab in this case. We are mindful of comments made in previous like cases such as those above and Haigh (4 July 2016) that general deterrence can only be effective if higher penalties are imposed while allowing for significant periods to be suspended where appropriate.
7. The circumstances of this case are very similar to those which prevailed in Briganti, Paraskevas, Haigh and the earlier decision of Byron. Mr. Azzopardi has co-operated with the Stewards and has a good record over his long involvement in the industry which until last year was primarily in New South Wales.
8. We echo the view expressed in Briganti at paragraph 5 that:-

"... the message must be sent to industry participants that the trainer is accountable if a greyhound is presented to race not free of a prohibited substance. If care is not taken in feeding, then the industry commitment to a level playing field will be a hollow commitment".
9. As well as factors mentioned above we also take into account specific deterrence and denunciation. Specific deterrence is not a large consideration in the circumstances because we are satisfied that Mr. Azzopardi is now more aware of the appropriate feeding regime and his future actions will be consistent with GRV's feeding guidelines.
10. Taking into account the penalties given in Briganti, Paraskevas, Haigh and Bryron, we consider it appropriate to disqualify Mr. Azzopardi for nine months but to suspend seven months of that period provided there are no breaches of GAR 83 in the next 12 months. The disqualification shall commence on 10 May 2017. In addition, Molly's Entity is disqualified from race 3 at Sandown on 6 November 2016.
11. The above penalty is consistent with the cases mentioned in the previous paragraph. The mitigating factors including the good records and character of the trainers are also present here. There was nothing put by Mr. Azzopardi that justified a departure from the approach to penalty taken in those matters. However, we stress that in future cases including positive swabs in like circumstances after the publication of these reasons the Board may require greater persuasion to suspend any period of disqualification for as long as we have in this matter.

.....End.....