

9 November 2023

DECISION

GREYHOUND RACING VICTORIA

and

GAVIN BURKE

- Date of hearing:** 1 November 2023
- Panel:** Judge Kathryn Kings (Deputy Chairperson) and Judge Marilyn Harbison.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Gavin Burke represented himself.
Mr Don Haley appeared as a character witness.
- Charge:** Greyhounds Australasia Rule (“GAR”) 141(1) states:
(1) The owner, trainer or other person in charge of a greyhound:
(a) nominated to compete in an Event;
(b) presented for a satisfactory trial or such other trial as provided for by the Rules; or
(c) 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:**
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.
 2. You were, at all relevant times, the trainer of the greyhound “Savvy Bee Chaser”.
 3. Savvy Bee Chaser was nominated to compete in Race 10, FRENCH CURTAINS AND BLINDS, Mixed 6/7, conducted by the Traralgon Greyhound Racing Club at Traralgon on 20 January 2023 (the Event).

4. On 20 January 2023, you presented Savvy Bee Chaser at the Event not free of any prohibited substance, given that:

(a) A pre-race sample of urine was taken from Savvy Bee Chaser at the Event (the Sample);

(b) Arsenic was detected at a mass concentration of greater than 800 nanograms per millilitre in the Sample.

Plea: Guilty

DECISION

Mr Gavin Burke, you have pleaded guilty to a breach of Greyhounds Australasia Rule (“GAR”) 141(1), which proscribes the presentation of a greyhound for an event whilst not free of a prohibited substance.

On 20 January 2023, you presented the greyhound, “Savvy Bee Chaser”, to compete in Race 10 at the Traralgon Greyhound Racing Club. A pre-race sample of urine taken from the greyhound revealed the presence of arsenic above the allowable threshold.

Dr Steven Karamatic, Chief Veterinarian at Greyhound Racing Victoria (“GRV”), said that there were no products found during the kennel inspection as listed in the Swabbing Irregularity Report that would be labelled to contain arsenic. The Swab Irregularity Inspection Report and statement of Ms Catherine Scarlett, Senior Steward at GRV, noted that the greyhound is known to chew wood and had been relocated outside approximately one month prior to the collection of the sample. Photographs showed evidence of chewed timber in the outside kennels on the property and of fencing posts. Dr Karamatic said that the likely cause of the presence of the arsenic is almost certainly the licking or chewing of Copper Chrome Arsenic (“CCA”) treated timber.

In 2021, you were aware of the potential problems with treated posts and arsenic. At that time, you engaged a builder to build five kennels and stipulated in writing that the materials not to be used were:

“No treated timber that contained arsenic, copper chrome-chromium (CCA treaters), no glue or liquid nails, no sharp edges”.

Both you and the builder signed a document dated 6 June 2021 containing the above stipulations, price, and deposit.

When you received the results of the pre-race urine sample, you approached the builder who built the kennels. He provided a Statutory Declaration for this hearing, confirming that “in error he used treated timber to prolong the life of the kennels”. This was not in accordance with the instructions given to him by you.

As a result, you no longer kennel any greyhounds outside, other than pups that do not race. You have obtained a quote for new kennels and are awaiting a quote for the replacement with brick kennels.

You have been a licensed trainer for 28 years and have one other offence of a similar nature. However, no one was able to explain how the prohibited substance was ingested by the dog.

Cases of this nature are still frequent, despite the warnings given to the industry by the Stewards. Trainers must be alert to the risks of timber posts. The concept of a level playing field free of prohibited substances is important and should always be borne in mind.

We take into account all of the above considerations, including previous decisions of the Tribunal in cases such as this. We particularly note the cases of GRV v Ms Stacey Evans and GRV v Mr Trevor Whitford, which have the most relevance to your circumstances. However, there are circumstances in this case which we must consider.

You are an employee of the Traralgon Greyhound Racing Club and work there full time as the General Manager. Several references have been provided by your superiors. They all speak very highly of your integrity, dedication, hard work, and honesty.

Mr S Clarke, National Projects Manager within Greyhounds Australasia, said that you would be an asset to the Senior Management of any organisation, particularly within the greyhound racing industry. Other references were provided by people with whom you have worked.

Mr Don Haley gave evidence of your outstanding performance as Manager of the Club. He said it would be a personal tragedy if you were to lose your job. All witnesses were supportive, speaking of your strong leadership skills and ability to adapt to the challenging responsibility required of a General Manager at a greyhound club.

If you are suspended, you will not be allowed to enter greyhound racing premises. Your income will cease.

In the particular and very unusual circumstances of this case, we take the view that an actual suspension, with all that flows from it, would be too severe a penalty. We refer to your employment and family situation. You are assisting your parents financially in respect of their accommodation and health requirements. We also take into account your excellent record,

and the steps you have taken in relation to replacing the kennels, as well as the references provided. The impact of an active suspension upon you will be considerable.

We impose a penalty of six months suspension, but that penalty is in turn wholly suspended for a period of 12 months. If you commit another relevant offence during that period, the six months will be activated. We are confident you will not. You are also fined the sum of \$1,000.

Finally, Savvy Bee Chaser is disqualified from Race 10 at Traralgon on 20 January 2023 and the finishing order is amended accordingly.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal