

25 October 2023

## **DECISION**

**GREYHOUND RACING VICTORIA**

**and**

**CALVEN RUSSELL**

**and**

**SHELLY-ANN WARDE**

**Dates of penalty hearings:** 4 September 2023 and 11 September 2023

**Date of decision hand down:** 4 October 2023

**Panel:** Judge John Bowman (Chairperson) and Mr Greg Childs.

**Appearances:** Ms Amara Hughes instructed by Ms Yana Podolskaya appeared on behalf of the Stewards.  
Mr Lynton Hogan represented Mr Calven Russell and Ms Shelly-Ann Warde.

**Charges and particulars:** **Calven Russell – Charges 1 to 5**

**Charge No. 1 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(q) commits or omits to do any act or engages in conduct which is 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
  - a. "So, what do I do with the fucking dogs??"
  - b. How can u treat owners with such contempt that they can't even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I've said before DRUG CHEATS get treated better than me.
  - d. Complete joke."
5. Your behaviour in sending the email is prejudicial to the control and image of Greyhound Racing.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (q) (as then in force) to engage in the conduct described in particular 5.
7. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(q));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(q)); or
  - c. 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. 2 of 5**

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

*A person (including an official) shall be guilty of an offence if that 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
  - a. "So, what do I do with the fucking dogs??"
  - b. How can u treat owners with such contempt that they can't even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I've said before DRUG CHEATS get treated better than me.
  - d. Complete joke."
5. Your behaviour in sending the email is improper.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 5.

7. 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:
- affect the previous operation of the Old Rules (including Rule 86(o));
  - affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(o)); or
  - 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)).

**Charge No. 3 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 24<sup>th</sup> of August 2021, you were issued with a lawful direction by a Steward by way of Directions Notice which directed you, in part, to ensure by 31st August 2021:
  - Mow and clean all outside yards on your property.
  - Turn over soil in outside yards to remove odour emanating from area.
  - Install soft bedding in required kennel areas.
  - Clean the inside of indoor kennels. This includes the removal of excessive dirt, dust and cobwebs.
3. You were required to comply with this lawful direction by 31st of August 2021 but failed to attend to any of the items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.

5. 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:
- a. affect the previous operation of the Old Rules (including Rule 86(p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
  - c. 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(p)).

**Charge No. 4 of 5**

Greyhounds Australasia Rule **106 (1)(c)**, as in force at the relevant time, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 17<sup>th</sup> of September 2021, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds 2018’- the standard approved by GRV, in particular;
  - The outdoor yards where several greyhounds were being housed was overgrown with grass and weeds.
  - Drinking water for the greyhounds being kept on the property was of poor quality with several of the receptacles containing large amounts of algae.
  - A large number of kennels to be absent of suitable bedding.
  - Indoor kennels and outside yards to be in poor sanitary condition with faeces, urine, dirt, dust and cobwebs present.
3. You failed to provide kennels that were compliant with the Code of Practice for the Keeping of Racing Greyhounds 2018.

4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule **106 (1) (c)** (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule **106 (1) (c)**);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule **106 (1) (c)**);
  - or
  - c. 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 **106 (1) (c)**).

**Charge No. 5 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 17<sup>th</sup> of September 2021, you were issued with a lawful order by a Steward by way of Directions Notice which directed you, in part, to ensure by 24<sup>th</sup> September 2021:
  - All areas where greyhounds are kept to have fresh drinking water in clean non spillable containers.
  - Removal of all waste products (faeces) from where greyhounds are kept.
  - Raised beds and soft bedding for all greyhounds.
  - Mow all yard areas containing greyhounds as well as grass in close proximity of yards containing greyhounds.
  - Thorough cleaning of indoor kennels including the removal of cobwebs and dirty surfaces. Disinfect floors to remove odour emanating from the kennels.

3. You were required to comply with this lawful order by 24th of September 2021 but did fail to attend to all items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
  - c. 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(p)).

**Calven Russell – Charges 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time**, reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.

- b. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels had a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.
  - i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. GRV Vet, Mr Shadi ELBAALI stated:
- "I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds".*
5. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
6. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
- a. affect the previous operation of the Old Rules (including Rule 42.1);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 42.1); or
  - c. 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 42.1).



**Charge No. 2 of 4**

Greyhounds Australasia Rule 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’ for keeping of Racing Greyhounds:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - b. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels with a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.
  - i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.

- j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (as then in force) to engage in the conduct described in particular 4.
6. 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:
- a. affect the previous operation of the Old Rules (including Rule 106 (1) (c)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (c)); or
  - c. 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 106 (1) (c)).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

- 1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
- 2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.

3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
  - a. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - b. Water which was provided was dirty and full of algae.
4. You failed to provide greyhounds with proper and sufficient drink.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
  - c. 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 106 (1) (a)).

**Charge No. 4 of 4**

Greyhounds Australasia Rules 86 (p), **as in force at the relevant time**, reads as follows:

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15<sup>th</sup> of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18<sup>th</sup> March 2022, your kennels

located in Kyabram, Victoria, complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:

- a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
- a. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
  - b. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
  - c. Puppy yards 2 to 10 still did not have shading.
  - d. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
  - e. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
4. On 11<sup>th</sup> of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25<sup>th</sup> of April 2022, which was later extended to the 12<sup>th</sup> of May 2022, your kennels located in Kyabram, Victoria complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
- a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities
  - e. Section 4.5, Security
  - f. Section 6.7.6, Construction of housing pens and yards
  - g. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12<sup>th</sup> of May 2022, but you did fail to attend to several of the listed items, namely:

- a. Section 6.7.2, Minimum housing requirements.
  - b. Section 6.7.6, Construction of housing pens and yards
  - c. Section 6.7.7, Construction of indoor kennel facilities
  - d. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
- a. affect the previous operation of the Old Rules (including Rule 86 (p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 86 (p)); or 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 (p)).

**Shelly-Ann Warde – Charge 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time**, reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:

- l. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
- m. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
- n. Kennels had a strong odour of urine and ammonia.
- o. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
- p. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
- q. Greyhounds housed with insufficient bedding and housing.
- r. Insufficient fresh and clean water, housed in containers which were not non-spillable.
- s. Insufficient shading.
- t. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
- u. The outdoor yards had large holes likely to cause injury to the greyhounds.
- v. The outdoor yards were overgrown with grass and weeds.

4. GRV Vet, Mr Shadi ELBAALI stated:

*"I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds".*

- 5. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
- 6. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
- 7. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
  - a. affect the previous operation of the Old Rules (including Rule 42.1);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 42.1); or

- c. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rules 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’ for keeping of Racing Greyhounds:
  - l. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - m. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - n. Kennels with a strong odour of urine and ammonia.
  - o. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - p. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - q. Greyhounds housed with insufficient bedding and housing.
  - r. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - s. Insufficient shading.
  - t. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.

- u. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - v. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
  5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (as then in force) to engage in the conduct described in particular 4.
  6. 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:
    - a. affect the previous operation of the Old Rules (including Rule 106 (1) (c)),
    - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (c)); or
    - c. 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 106 (1) (c)).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:



- c. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - d. Water which was provided was dirty and full of algae.
4. You failed to provide greyhounds with proper and sufficient drink.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
  - c. 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 106 (1) (a)).

**Charge No. 4 of 4**

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

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15<sup>th</sup> of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18<sup>th</sup> March 2022, your kennels in Kyabram, Victoria, complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.

- b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
  - a. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
  - b. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
  - c. Puppy yards 2 to 10 still did not have shading.
  - d. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
  - e. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
4. On 11<sup>th</sup> of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25<sup>th</sup> of April 2022, which was later extended to the 12<sup>th</sup> of May 2022, your kennels located in Kyabram, Victoria, complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities
  - e. Section 4.5, Security
  - f. Section 6.7.6, Construction of housing pens and yards
  - g. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12<sup>th</sup> of May 2022, but you did fail to attend to several of the listed items, namely:
  - a. Section 6.7.2, Minimum housing requirements.
  - b. Section 6.7.6, Construction of housing pens and yards
  - c. Section 6.7.7, Construction of indoor kennel facilities
  - d. Section 4.5, Security

6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86 (p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 86 (p)); or
  - c. 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 (p)).

**Pleas:** Mr Calven Russell – Not Guilty to all charges  
Ms Shelly-Ann Warde – Not Guilty to all charges

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## DECISION

Mr Calven Russell has been found guilty of nine charges. We would refer to our decision, which was released on 22 May 2023 for the hearings conducted on 12 April, 13 April and 14 April 2023.

These charges could be divided into three categories on follows:

- (a) Two charges relate to Mr Russell’s conduct on or about 1 August 2021. This conduct centred on an abusive and vulgar email which he sent to the Chief Steward, Mr Paul Searle. This breached Greyhounds Australasia Rule (“GAR”) 86(q) as then in force. He also breached GAR 86(o). Both charges effectively relate to the same behaviour.
- (b) Three charges concern his disobeying of orders of the Stewards in relation to the state of repair, tidiness and lack of hygiene of his kennels. They also concern his failure to comply with lawful directions given on 24 August 2021, the state of his kennels and yards as at 17 September 2021 and his failure to comply with orders made on that date. GAR 86(p) and 106(1)(c) were breached.

Note: (a) and (b) combined constitute the Livingstone Brief – the charges laid by Mr Iain Livingstone, Stipendiary Steward.

- (c) Four charges involve Mr Russell's subsequently keeping greyhounds in conditions dangerous or detrimental to their health. These charges are based on breaches of Local Rule of Racing 42.1, GAR 106(1)(c), GAR 106(1)(a) and GAR 86(p). The relevant dates and events relate to a Stewards inspection on 15 March 2022 and compliance requirements made on that date and on 11 April 2022. We have found that essentially there was a failure by Mr Russell to comply with the requirements of the Stewards. We refer again to our decision of 22 May 2022. These four charges constitute the Considine Brief, having been laid by Mr Ben Considine, Stipendiary Steward.

Thus, the offences of which we have found Mr Russell guilty fall into two categories or types – his behaviour towards the Chief Steward and his failure to comply with orders concerning the state in which his greyhounds were kept and kennelled, this failure occurring in two sequences.

We have received written submissions from both the Stewards and from Mr Russell.

The written submissions of the Stewards contain references to various other cases and to Mr Russell's record. They also contain submissions as to penalty and references to the Penalty Guidelines. They could be summarised as follows:

In relation to Charges 1 and 2 concerning Mr Russell's conduct on or about 1 August 2021, being his behaviour towards the Chief Steward – a fine of \$2,000 on Charge 1, with a concurrent similar fine on Charge 2.

In relation to Charges 3 and 4, disqualification for 6 months on each, these being concurrent penalties.

In relation to Charge 5, 9 month disqualification cumulative upon the penalty in Charges 3 and 4.

Thus, the Stewards submitted total penalty for Charges 1 – 5 is disqualification for 15 months and a fine of \$2,000.

Concerning the later charges referred to in (c) above, a penalty of 18 months disqualification is sought on Charge 1. On Charge 2, disqualification for 6 months is sought; on Charge 3, 1 month disqualification is sought; and on Charge 4, 9 months disqualification. The penalties sought in relation to Charges 2, 3 and 4 would be concurrent with that in Charge 1, making a total penalty of 18 months disqualification for the Charges in the Considine Brief.

Thus, the overall penalty sought for Mr Russell is disqualification for 33 months and a fine of \$2,000.

It was also pointed out that the offending of Mr Russell occurred within 12 months of the decision in an earlier case involving him – see GRV v Russell (27 July 2021).

That decision also involved GAR 106(1)(c), GAR 86(p) and GAR 86(o). At least 3 months of the suspension penalties involved were in turn suspended for a period of 12 months pending no further breaches of the relevant Rules.

Various allegedly aggravating factors were referred to in the submissions on behalf of the Stewards. It has also been submitted that the most serious charge is the breach of LR 42.1 – keeping a greyhound in conditions which are dangerous or detrimental to the health and safety of the greyhound.

Helpful written submissions on behalf of Mr Russell have been received from Mr Lynton Hogan of counsel, even though he did not appear for either Mr Russell or Ms Warde during the hearing of the case. He spoke to those written submissions.

Mr Hogan's submissions in relation to Mr Russell could be summarised as follows:

- (1) No greyhound kept at the relevant address has been found to be adversely physically affected by Mr Russell's conduct in relation to the property or by his non-compliance with orders. The greyhounds were found to be in good condition and health.
- (2) The disqualification period for Mr Russell should be one of 9 months, together with a fine of \$750 - \$1,000 on Charges 1 and 2. There should also be a special condition permitting his attendance at greyhound tracks for specific identified purposes – for example, the calling of races and involvement in Plumpton meetings.
- (3) The GRV's Animal Welfare Penalty Guidelines are of little utility and their application can lead to error. The Tribunal's attention should be focused upon ordinary penalty factors.
- (4) Potential welfare risk is at least partially offset by evidence of good actual welfare, as in this case.
- (5) Charges 3, 4 and 5 of the Livingstone Brief constitute a single course of his conduct and should be treated accordingly.
- (6) There should not be double penalties for the same act or omission. This applies to Charges 1 and 2 of the Livingstone Brief and Charges 1 and 3 of the Considine Brief. Indeed, Charges

2 of the Livingstone Brief and 3 of the Considine Brief should essentially be struck out. Reference is made to S.51 of the *Interpretation of Legislation Act 1984*.

- (7) Mr Russell's sole income is derived from the greyhound racing industry. He is a single parent, caring for two children aged 9 and 11 years respectively and who live with him. Greyhound racing is the only occupation or employment which he knows and he has been engaged in it for decades.
- (8) He is devoted to greyhound racing, including the Plumpton branch of the sport. He gives his time as a volunteer, including work at the tracks and acting as a caller, particularly for the Plumpton races. Reference is made to (2) above.

Mr Hogan submitted that, when all of these matters are taken into account, the appropriate penalty is as set out in (2) above.

In relation to the penalty to be imposed on Mr Russell, our findings are as follows:

Dealing firstly with the Livingstone Brief, on Charge 1, he is fined the sum of \$1,000. The Chief Steward has enough to do and enough problems to try and solve without having to put up with vulgar and abusive correspondence such as that sent by Mr Russell.

Charge 2 is based upon the same behaviour as Charge 1. Without going into any argument by Mr Hogan based upon the *Interpretation of Legislation Act*, it seems to us that no additional active penalty should be imposed for Charge 2. Mr Russell is again fined the sum of \$1,000, but that penalty is concurrent with, and not additional to, the penalty in Charge 1.

Charge 3 concerns the failure to comply with the lawful order of a Steward and the failure to comply with the Directions Notice of 24 August 2021. Thus, it involves issues relating to the unsatisfactory state of Mr Kennel's kennels and relevant property. Matters of animal welfare are of vital concern to the future of the industry. We appreciate the argument of Mr Hogan that the greyhounds themselves were apparently in good health, but the fact remains that Mr Russell failed to comply with orders relating to their accommodation and well-being. On Charge 3, we impose a penalty of disqualification for three months.

Charge 4 in the Livingstone Brief concerns the state of the kennels, their contents and surrounds. Again, animal welfare is involved. We impose a period of disqualification of three months, concurrent with the penalty in Charge 3.

Charge 5 in the Livingstone Brief relates to the failure to comply with the Directions Notice of 17 September 2021. This second Directions Notice again concerns matters such as cleanliness of the kennels and yards, drinking water and the like. To fail to comply with a second Notice shows a complete disregard for the Stewards and their requests regarding this important issue.

On this Charge, Mr Russell is disqualified for six months, this being cumulative upon the penalty in Charge 3.

We turn now to the Considine Brief.

Charge 1 involves the condition of the kennels and their surrounds at the time of a visit by the Stewards, with a veterinary surgeon, on 15 March 2022. Many health-threatening and unsatisfactory features were noted. There seems to have been a blatant disregard by Mr Russell for what had occurred in the previous year. In our opinion, a period of disqualification of 12 months is warranted. This is cumulative upon the periods of disqualification referred to above.

Charges 2, 3 and 4 of the Considine Brief all relate to the Stewards' visit and inspection of 15 March 2022 and the unsatisfactory conditions that were found in and around the kennels. The Stewards are of the view that the penalties relating to these three Charges should be concurrent with the penalty in Charge 1. We agree. We find that the periods of disqualification for Charges 2, 3 and 4 are, respectively, disqualification for six months; disqualification for one month; and disqualification for six months. Each is concurrent with the penalty in Charge 1.

Thus, the primary penalties for all offences add up to disqualification for one year and nine months and a fine of \$1,000.

In arriving at those penalties, we have taken into account such factors as the gravity of the offending, Mr Russell's poor record, his domestic situation, and the problem he may well face in finding employment. We take note of the matters raised in mitigation by Mr Hogan.

We are not prepared to make the modifications or exceptions to any period of disqualification argued for by Mr Hogan. We are not of the view that Mr Russell should be able to take part in activities, including commentating, at either greyhound tracks or at Plumpton meetings. He is prohibited from attending such venues. We are also of the opinion that he is not to attend the establishments of other trainers. He is not permitted to be employed or to be otherwise assisting them. In his case, and given the circumstances of his offending, we make no exception to the usual terms and requirements of a disqualification.

There is also the matter of his potentially breaching the terms of six month suspended suspensions. These were suspended for a period of 12 months, they being imposed in the decision of 27 July 2021. Arguably some of the present determinations would result in breaches of the terms of some of those suspended suspensions and activate them. We shall hear from the parties further in relation to this aspect of the matter.

## **2. Ms Shelly-Ann Warde**

Ms Shelly-Ann Warde is also a licensed person and lived with Mr Russell as his partner at the relevant time. That relationship has since ceased.

Ms Warde has been found guilty of four charges, to which she pleaded Not Guilty. It seems to be common ground that Ms Warde's active involvement with the greyhounds, their kennelling and their racing was in fact extremely limited. However, she was and is a licensed person, her name appearing on at least some of the relevant records.

We have found Ms Warde guilty of breaches of the same four charges as those levelled against Mr Russell by Mr Considine and set out above. In other words, they arose from the Stewards inspection of 15 March 2022 and the failure to provide proper accommodation and care for the greyhounds.

The Stewards sought suspension for a total period of some fifteen months, with a considerable part of that in turn suspended.

We agree that a period of suspension is warranted. If a person is registered as a trainer, that carries with it responsibilities. A blind eye cannot be simply turned to relevant behaviour or circumstances.

On Charge 1, Mr Warde is suspended for 12 months. Of that period of suspension, six months is in turn suspended for a period of six months and will be activated if she commits a relevant offence during that period.

On each of Charges 2, 3 and 4 she is suspended for a period of one month concurrent with the penalty on Charge 1.

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Mark Howard  
Registrar, Victorian Racing Tribunal



25 October 2023

## RULING

### GREYHOUND RACING VICTORIA

and

### CALVEN RUSSELL

- Date of hearing:** 4 October 2023
- Panel:** Judge John Bowman (Chairperson) and Mr Greg Childs.
- Appearances:** Ms Amara Hughes, instructed by Ms Yana Podolskaya, appeared on behalf of the Stewards.  
Mr Lynton Hogan represented Mr Calven Russell.
- Charges and particulars:** **Brief 1: Charge No. 1 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(q) commits or omits to do any act or engages in conduct which is 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.

4. The language used in the email was:
  - a. “So, what do I do with the fucking dogs??
  - b. How can u treat owners with such contempt that they can’t even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I’ve said before DRUG CHEATS get treated better than me.
  - d. Complete joke.”
5. Your behaviour in sending the email is prejudicial to the control and image of Greyhound Racing.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (q) (as then in force) to engage in the conduct described in particular 5.
7. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(q));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(q)); or
  - c. 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. 2 of 5**

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

*A person (including an official) shall be guilty of an offence if that 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
  - a. “So, what do I do with the fucking dogs??
  - b. How can u treat owners with such contempt that they can’t even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I’ve said before DRUG CHEATS get treated better than me.
  - d. Complete joke.”
5. Your behaviour in sending the email is improper.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 5.
7. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(o));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(o)); or
  - c. 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)).

**Charge No. 3 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 24<sup>th</sup> of August 2021, you were issued with a lawful direction by a Steward by way of Directions Notice which directed you, in part, to ensure by 31st August 2021:
  - Mow and clean all outside yards on your property.
  - Turn over soil in outside yards to remove odour emanating from area.
  - Install soft bedding in required kennel areas.
  - Clean the inside of indoor kennels. This includes the removal of excessive dirt, dust and cobwebs.
3. You were required to comply with this lawful direction by 31st of August 2021 but failed to attend to any of the items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
  - c. 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(p)).

**Charge No. 4 of 5**

Greyhounds Australasia Rule **106 (1)(c)**, as in force at the relevant time, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*  
*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 17<sup>th</sup> of September 2021, you failed to provide kennels that were compliant with the 'Code of Practice for the Keeping of Racing Greyhounds 2018'- the standard approved by GRV, in particular;
  - The outdoor yards where several greyhounds were being housed was overgrown with grass and weeds.
  - Drinking water for the greyhounds being kept on the property was of poor quality with several of the receptacles containing large amounts of algae.
  - A large number of kennels to be absent of suitable bedding.
  - Indoor kennels and outside yards to be in poor sanitary condition with faeces, urine, dirt, dust and cobwebs present.
3. You failed to provide kennels that were compliant with the Code of Practice for the Keeping of Racing Greyhounds 2018.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule **106 (1) (c)** (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule **106 (1) (c)**);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule **106 (1) (c)**);or
  - c. 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 **106 (1) (c)**).

**Charge No. 5 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 17<sup>th</sup> of September 2021, you were issued with a lawful order by a Steward by way of Directions Notice which directed you, in part, to ensure by 24<sup>th</sup> September 2021:
  - All areas where greyhounds are kept to have fresh drinking water in clean non spillable containers.
  - Removal of all waste products (faeces) from where greyhounds are kept.
  - Raised beds and soft bedding for all greyhounds.
  - Mow all yard areas containing greyhounds as well as grass in close proximity of yards containing greyhounds.
  - Thorough cleaning of indoor kennels including the removal of cobwebs and dirty surfaces. Disinfect floors to remove odour emanating from the kennels.
3. You were required to comply with this lawful order by 24<sup>th</sup> of September 2021 but did fail to attend to all items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
  - c. 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(p)).

**Brief 2: Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time**, reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - b. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels had a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.
  - i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. GRV Vet, Mr Shadi ELBAALI stated:

*"I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate*

*husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds”.*

5. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
6. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
  - a. affect the previous operation of the Old Rules (including Rule 42.1);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 42.1); or
  - c. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rule 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.



3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, Victoria, you failed to provide kennels that were compliant with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018' for keeping of Racing Greyhounds:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - b. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels with a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.
  - i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (c)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (c)); or
  - c. 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 106 (1) (c)).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises in Kyabram, Victoria.
3. On 15<sup>th</sup> of March 2022, at your kennel address in Kyabram, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
  - a. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - b. Water which was provided was dirty and full of algae.
4. You failed to provide greyhounds with proper and sufficient drink.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
  - c. 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 106 (1) (a)).

**Charge No. 4 of 4**

Greyhounds Australasia Rules 86 (p), **as in force at the relevant time**, reads as follows:

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15<sup>th</sup> of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18<sup>th</sup> March 2022, your kennels located in Kyabram, Victoria, complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
  - a. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
  - b. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
  - c. Puppy yards 2 to 10 still did not have shading.
  - d. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
  - e. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids

4. On 11<sup>th</sup> of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25<sup>th</sup> of April 2022, which was later extended to the 12<sup>th</sup> of May 2022, your kennels located in Kyabram, Victoria complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities
  - e. Section 4.5, Security
  - f. Section 6.7.6, Construction of housing pens and yards
  - g. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12<sup>th</sup> of May 2022, but you did fail to attend to several of the listed items, namely:
  - a. Section 6.7.2, Minimum housing requirements.
  - b. Section 6.7.6, Construction of housing pens and yards
  - c. Section 6.7.7, Construction of indoor kennel facilities
  - d. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86 (p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 86 (p)); oraffect 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 (p)).

**Pleas:** Not Guilty to all charges

## **RULING**

A further issue has arisen in this somewhat complicated matter.

It concerns whether the finding of guilt on the part of Mr Russell represent breaches of earlier suspended suspensions, thereby activating the penalties imposed in an earlier hearing.

That earlier imposition of suspended suspension occurred on 27 July 2023 – see *GRV v Russell* (27 July 2023).

Whether the offending for which Mr Russell has now been found guilty results in a breach or breaches of the penalties imposed on 27 July 2023 seems to be a question of law. Accordingly, pursuant to S 50X of the *Racing Act 1958*, in the circumstances of this case it can only be decided by me. However, I acknowledge the very helpful input of Mr Childs into the conduct of this case.

The circumstances of this issue could be summarised as follows. In the decision of 27 July 2023 Mr Russell was found guilty of six charges. Three of these, being charges 2, 3 and 4 were for breaches of the same Rules as some of those involved in the present case. In each instance in the earlier case, Mr Russell had been suspended for 1 month, that penalty in turn being “wholly suspended for 12 months pending no further breach of the relevant Rules”.

There is no argument but that within the relevant twelve month period in the earlier proceeding Mr Russell breached the Rules relevant to Charges 2, 3 and 4. I find that these breaches activated the operation of the suspended suspension, each being for one month.

The present dispute centres upon whether Mr Russell’s conduct and conviction in the present case activated the suspended suspension contained in Charge 1, 5 and 6 of the earlier case. These relate to offences of a different type from those in the present case.

In relation to this particular issue, I am of the opinion that the argument advanced by Mr Hogan on behalf of Mr Russell is to be preferred. It is not contested that the finding of guilt in the present case activated the suspended suspensions of one month relevant to Charges 2, 3 and 4. It is not contested that the relevant offences occurred within the specified 12 month period. Accordingly, there is added to the period of disqualification imposed on Mr Russell a period of suspension for three months.

I am not persuaded that the periods of suspension contained in Charges 1, 5 and 6 should be so treated. These were for totally different matters from those concerning which Mr Russell has been found guilty in the present case. It, for example, in the present case such charges had been heard separately it seems to me to be highly unlikely that breaches of the earlier suspended suspensions could be found to have occurred. The fact that, in the present case, all charges were heard together does not alter the situation. The object of the earlier decision was that, if Mr Russell again breached the particular Rules with which he had been charged, and charged successfully, the suspended suspension would be activated. The order made in

the present case related to future breaches of “the Relevant Rules” – that is, the particular Rules the subject of the Orders. Charges 2, 3 and 4 were such Rules. Charges 1, 5 and 6 concern provisions not subsequently breached.

In summary, the penalty imposed for the three breaches is a period of suspension for three months, being one month for each such breach. The activated three month suspension is to commence after the period of disqualification imposed.

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Mark Howard  
Registrar, Victorian Racing Tribunal

22 May 2023

## DECISION

**GREYHOUND RACING VICTORIA**

and

**CALVEN RUSSELL**

and

**SHELLEY-ANNE WARDE**

- Dates of hearings:** 12 April 2023, 13 April 2023 and 14 April 2023
- Panel:** Judge John Bowman (Chairperson) and Mr Greg Childs.
- Appearances:** Ms Amara Hughes instructed by Ms Yana Podolskaya appeared on behalf of the Stewards.  
Mr Calven Russell and Ms Shelly-Anne Warde represented themselves.  
Mr Paul Searle appeared as a witness.  
Mr Ben Considine appeared as a witness.  
Mr Christopher Gawne appeared as a witness.  
Dr Chad Baali appeared as a witness.
- Charges and particulars:** **Calven Russell – Charges 1 to 5**

### Charge No. 1 of 5

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

*A person (including an official) shall be guilty of an offence if that person –*

*(q) commits or omits to do any act or engages in conduct which is 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
  - a. "So, what do I do with the fucking dogs??"
  - b. How can u treat owners with such contempt that they can't even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I've said before DRUG CHEATS get treated better than me.
  - d. Complete joke."
5. Your behaviour in sending the email is prejudicial to the control and image of Greyhound Racing.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (q) (as then in force) to engage in the conduct described in particular 5.
7. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(q));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(q)); or
  - c. 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. 2 of 5**

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

*A person (including an official) shall be guilty of an offence if that 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. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 27<sup>th</sup> of July 2021 you were suspended by the Victorian Racing Tribunal for a period of three (3) months which prohibited you from transferring the ownership or training responsibilities of any greyhounds in your name.
3. On the 1<sup>st</sup> of August 2021 you sent an email to the Chief Steward of Greyhound Racing Victoria, Mr Paul SEARLE that contained swearing and aggressive language in response to not being allowed to transfer a greyhound from your name to another trainer.
4. The language used in the email was:
  - a. “So, what do I do with the fucking dogs??
  - b. How can u treat owners with such contempt that they can’t even race their dogs despite having nothing to do with any bullshit that has gone on??
  - c. What a disgusting deplorable load of shit. As I’ve said before DRUG CHEATS get treated better than me.
  - d. Complete joke.”
5. Your behaviour in sending the email is improper.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (o) (as then in force) to engage in the conduct described in particular 5.
7. 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:

- a. affect the previous operation of the Old Rules (including Rule 86(o));
- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(o)); or
- c. 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)).

**Charge No. 3 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 24<sup>th</sup> of August 2021, you were issued with a lawful direction by a Steward by way of Directions Notice which directed you, in part, to ensure by 31st August 2021:
  - Mow and clean all outside yards on your property.
  - Turn over soil in outside yards to remove odour emanating from area.
  - Install soft bedding in required kennel areas.
  - Clean the inside of indoor kennels. This includes the removal of excessive dirt, dust and cobwebs.
3. You were required to comply with this lawful direction by 31st of August 2021 but failed to attend to any of the items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.
5. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(p));

- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
- c. 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(p)).

**Charge No. 4 of 5**

Greyhounds Australasia Rule **106 (1)(c)**, as in force at the relevant time, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On the 17<sup>th</sup> of September 2021, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds 2018’- the standard approved by GRV, in particular;
  - The outdoor yards where several greyhounds were being housed was overgrown with grass and weeds.
  - Drinking water for the greyhounds being kept on the property was of poor quality with several of the receptacles containing large amounts of algae.
  - A large number of kennels to be absent of suitable bedding.
  - Indoor kennels and outside yards to be in poor sanitary condition with faeces, urine, dirt, dust and cobwebs present.
3. You failed to provide kennels that were compliant with the Code of Practice for the Keeping of Racing Greyhounds 2018.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule **106 (1) (c)** (as then in force) to engage in the conduct described in particular 3.
5. 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:

- a. affect the previous operation of the Old Rules (including Rule **106 (1) (c)**);
- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule **106 (1) (c)**);  
or
- c. 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 **106 (1) (c)**).

**Charge No. 5 of 5**

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

*A person (including an official) shall be guilty of an offence if that person –*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 30661) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 17<sup>th</sup> of September 2021, you were issued with a lawful order by a Steward by way of Directions Notice which directed you, in part, to ensure by 24<sup>th</sup> September 2021:
  - All areas where greyhounds are kept to have fresh drinking water in clean non spillable containers.
  - Removal of all waste products (faeces) from where greyhounds are kept.
  - Raised beds and soft bedding for all greyhounds.
  - Mow all yard areas containing greyhounds as well as grass in close proximity of yards containing greyhounds.
  - Thorough cleaning of indoor kennels including the removal of cobwebs and dirty surfaces. Disinfect floors to remove odour emanating from the kennels.
3. You were required to comply with this lawful order by 24<sup>th</sup> of September 2021 but did fail to attend to all items listed.
4. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 3.

5. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86(p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 86(p)); or
  - c. 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(p)).

**Calven Russell – Charges 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time**, reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.
3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - b. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels had a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.

- e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.
  - i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. GRV Vet, Mr Shadi ELBAALI stated:
- “I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds”.*
5. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
6. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:
- a. affect the previous operation of the Old Rules (including Rule 42.1);
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 42.1); or
  - c. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rule 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.
3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, Victoria 3620, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’ for keeping of Racing Greyhounds:
  - a. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - b. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - c. Kennels with a strong odour of urine and ammonia.
  - d. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - e. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - f. Greyhounds housed with insufficient bedding and housing.
  - g. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - h. Insufficient shading.

- i. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - j. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - k. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (c)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (c)); or
  - c. 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 106 (1) (c)).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.



3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
  - a. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - b. Water which was provided was dirty and full of algae.
4. You failed to provide greyhounds with proper and sufficient drink.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
  - c. 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 106 (1) (a)).

**Charge No. 4 of 4**

Greyhounds Australasia Rules 86 (p), **as in force at the relevant time**, reads as follows:

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 30661) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. On 15<sup>th</sup> of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18<sup>th</sup> March 2022, your kennels

located at 1002 Graham Rd, Kyabram complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:

- a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities.
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
- a. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
  - b. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
  - c. Puppy yards 2 to 10 still did not have shading.
  - d. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
  - e. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
4. On 11<sup>th</sup> of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25<sup>th</sup> of April 2022, which was later extended to the 12<sup>th</sup> of May 2022, your kennels located at 1002 Graham Rd, Kyabram complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
- a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities
  - e. Section 4.5, Security
  - f. Section 6.7.6, Construction of housing pens and yards
  - g. Section 3.2.2, Establishments with 51 or more greyhounds
5. You were required to comply with these Lawful Orders by 12<sup>th</sup> of May 2022, but you did fail to attend to several of the listed items, namely:

- a. Section 6.7.2, Minimum housing requirements.
  - b. Section 6.7.6, Construction of housing pens and yards
  - c. Section 6.7.7, Construction of indoor kennel facilities
  - d. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
- a. affect the previous operation of the Old Rules (including Rule 86 (p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 86 (p)); or 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 (p)).

**Shelley-Anne Warde – Charge 1 to 4**

**Charge No. 1 of 4**

Local Rule of Racing 42.1, **as in force at the relevant time**, reads as follows:

*It is a Serious Offence if a person keeps a greyhound in conditions which are dangerous or detrimental to the health and safety of a greyhound.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.

3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, Victoria, you failed to provide kennels that were safe for greyhounds, in particular the kennels were:
- l. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - m. Kennels and pens with un-even cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - n. Kennels had a strong odour of urine and ammonia.
  - o. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - p. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - q. Greyhounds housed with insufficient bedding and housing.
  - r. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - s. Insufficient shading.
  - t. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - u. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - v. The outdoor yards were overgrown with grass and weeds.

4. GRV Vet, Mr Shadi ELBAALI stated:

*"I believe there is significant risk to the physical and mental health and welfare of the greyhounds in this facility. The lack of adequate husbandry practices at this facility are clearly unacceptable and detrimental to their health and safety. The kennels and yards in which these greyhounds are kept had a lack of appropriate hygiene and adequate husbandry practices, as well as a lack of maintenance, which is clearly unacceptable and is detrimental to the health, wellbeing, safety, and welfare of the greyhounds".*

5. You kept the Greyhounds in conditions which were dangerous and detrimental to the health and safety of the Greyhounds.
6. At the time of the relevant conduct described, it was an offence under Local Rule of Racing 42.1 (as then in force) to engage in the conduct described in particular 5.
7. By reason of Greyhounds Australasia Rules Division 1.2 (as currently in force), the rescinding or variation of the Old Rules and commencement of the New Rules does not:

- a. affect the previous operation of the Old Rules (including Rule 42.1);
- b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of Rule 42.1); or
- c. 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 42.1).

**Charge No. 2 of 4**

Greyhounds Australasia Rules 106 (1) (c), **as in force at the relevant time**, reads as follows:

*106 (1) – A registered person must ensure that greyhounds, which are in the person’s care or custody, are provided at all times with-*

*(c) – kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.
2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.
3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, Victoria 3620, you failed to provide kennels that were compliant with the ‘Code of Practice for the Keeping of Racing Greyhounds April 2018’ for keeping of Racing Greyhounds:
  - l. Dark and poorly lit racing kennels, with limited access to natural daylight and poor ventilation.
  - m. Kennels and pens with uneven cement flooring, which did not permit adequate drainage of fluids and was not impervious to liquids.
  - n. Kennels with a strong odour of urine and ammonia.
  - o. Pens without privacy screens at least 1 meter high between each greyhound's sleeping area.
  - p. Indoor kennels, whelping areas and outdoor yards in a poor sanitary condition, with faeces, urine, dirt, mould, dust, debris and cobwebs present.
  - q. Greyhounds housed with insufficient bedding and housing.

- r. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - s. Insufficient shading.
  - t. The pens and yards had fencing with exposed nails and wire which were likely to cause injury to the greyhounds.
  - u. The outdoor yards had large holes likely to cause injury to the greyhounds.
  - v. The outdoor yards were overgrown with grass and weeds.
4. You failed to provide kennels constructed and of a standard approved by the Controlling Body which are adequate in size and which are kept in clean and sanitary conditions.
  5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (c) (as then in force) to engage in the conduct described in particular 4.
  6. 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:
    - a. affect the previous operation of the Old Rules (including Rule 106 (1) (c)),
    - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (c)); or
    - c. 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 106 (1) (c)).

**Charge No. 3 of 4**

Greyhounds Australasia Rule 106 (1) (a), **as in force at the relevant time**, reads as follows:

*(1) A registered person must ensure that greyhounds, which are in the person's care or custody, are provided at all times with-*

*(a) proper and sufficient food, drink and protective apparel;*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.

2. You were at all relevant times a person responsible for the care and supervision of the greyhounds housed at your GRV registered kennelling premises, namely, 1002 Graham Road, Kyabram, Victoria 3620.
3. On 15<sup>th</sup> of March 2022, at your kennel address, namely 1002 Graham Road, Kyabram, you failed to ensure that greyhounds, which were in your care or custody, were provided at all times with proper and sufficient drink. In that:
  - c. Insufficient fresh and clean water, housed in containers which were not non-spillable.
  - d. Water which was provided was dirty and full of algae.
4. You failed to provide greyhounds with proper and sufficient drink.
5. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 106 (1) (a) (as then in force) to engage in the conduct described in particular 4.
6. 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:
  - a. affect the previous operation of the Old Rules (including Rule 106 (1) (a)),
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 106 (1) (a)); or
  - c. 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 106 (1) (a)).

**Charge No. 4 of 4**

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

*A person (including an official) shall be guilty of an offence if that person -*

*(p) disobeys or fails to comply with the lawful order of a Steward or other person or body having official duties in relation to greyhound racing.*

**Particulars of the Charge being:**

1. You were, at all relevant times, a public trainer registered with Greyhound Racing Victoria (Member No. 306865) and a person bound by the Greyhound Australasia Rules and Local Rules of Racing.

2. On 15<sup>th</sup> of March 2022, you were issued with a Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 18<sup>th</sup> March 2022, your kennels located at 1002 Graham Rd, Kyabram complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment.
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities.
  
3. You failed to comply with the Lawful Order of the Stewards and did not provide photographs as requested. Items not complied with included:
  - a. The shed kennels and racing kennels flooring was uneven and cracked in several locations, causing liquids to pool, the flooring was not impervious to liquids.
  - b. Three (3) housing units within puppy yards 11 to 18 did not offer adequate protection to the greyhounds.
  - c. Puppy yards 2 to 10 still did not have shading.
  - d. Insufficient bedding and poor lighting within the racing kennel. The area is dark and poorly lit.
  - e. Cement flooring within both kennels were uneven, allowing for liquids to pool and does not permit adequate drainage of fluids
  
4. On 11<sup>th</sup> of April 2022, you were issued with a further Lawful Order by a Steward by way of Directions Notice which directed you, to ensure by 25<sup>th</sup> of April 2022, which was later extended to the 12<sup>th</sup> of May 2022, your kennels located at 1002 Graham Rd, Kyabram complied with the 'Code of Practice for the Keeping of Racing Greyhounds April 2018', in particular, all aspects of:
  - a. Section 6.1.2, Greyhounds must have access to a sufficient supply of fresh clean water at all times at the establishment
  - b. Section 6.7.1, The greyhound establishment must be clean and hygienic at all times.
  - c. Section 6.7.2, Minimum housing requirements.
  - d. Section 6.7.7, Construction of indoor kennel facilities
  - e. Section 4.5, Security
  - f. Section 6.7.6, Construction of housing pens and yards
  - g. Section 3.2.2, Establishments with 51 or more greyhounds



5. You were required to comply with these Lawful Orders by 12<sup>th</sup> of May 2022, but you did fail to attend to several of the listed items, namely:
  - a. Section 6.7.2, Minimum housing requirements.
  - b. Section 6.7.6, Construction of housing pens and yards
  - c. Section 6.7.7, Construction of indoor kennel facilities
  - d. Section 4.5, Security
6. You failed to comply with the Lawful Order of a Steward in relation to greyhound racing.
7. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (p) (as then in force) to engage in the conduct described in particular 5.
8. 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:
  - a. affect the previous operation of the Old Rules (including Rule 86 (p));
  - b. affect any obligation or liability imposed, created or incurred prior to the rescission or variation of the Old Rules (including by virtue of 86 (p)); or
  - c. 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 (p)).

**Pleas:**

Mr Calven Russell – Not Guilty to all charges

Ms Shelley-Anne Warde – Not Guilty to all charges

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**DECISION**

**1. INTRODUCTION**

Greyhound Racing Victoria (“GRV”) have brought two sets of charges against Mr Calven Russell and one set of charges against Ms Shelly-Ann Ward. Both are licensed trainers and were so licensed at the relevant times.

The earlier set of five charges against Mr Russell essentially arise from events and consequential behaviour in 2021. There are no charges against Ms Warde in regard to these matters.

There are four charges against both Mr Russell and Ms Warde arising out of or associated with Stewards’ inspections in early 2022. The charges against each are identical.

Matters of animal welfare are at the heart of each set of charges, although two of the 2021 charges against Mr Russell directly involve an email sent by him to Mr Paul Searle, the Chief Steward.

Both Mr Russell and Ms Warde have pleaded “not guilty” to all charges.

**2. OUR FINDINGS IN RELATION TO THE CHARGES AGAINST MR. RUSSELL ARISING OUT OF THE 2021 EVENTS.**

(a) Charges 1 and 2 concern GAR86(q) and (o) and an email sent by Mr Russell to the Chief Steward on 1 August 2021.

On 27 July 2021, Mr Russell had been suspended immediately for three months by this Tribunal. On 30 July 2021 Mr Russell emailed Mr Searle, seeking the transfer of a greyhound during his period of suspension. Mr Searle denied this request, referring to local rule 11.8.

This produced from Mr Russell an email to Mr Searle. It contained bad language and was abusive.

Whilst Mr Russell pleaded not guilty to charges of breaching GAR86(q) and GAR86(o), we are comfortably satisfied that he had engaged in conduct that was prejudicial to the control and interest of greyhound racing and had engaged in conduct that was improper. He put forward no substantial or logical argument to the contrary.

There may well be some overlapping of these charges. However, we are comfortably satisfied that the essential ingredients of each charge have been made out by the Stewards.

(b) Charge 3 concerns an alleged breach of GAR86(p), a failure to comply with the lawful order of a Steward. This involves a direction issued on behalf of the Stewards on 24 August 2021. It essentially related to matters of cleanliness and maintenance of the kennels and their surrounds.

We prefer and accept the evidence advanced on behalf of the Stewards. In this regard, we would refer to the evidence given by Steward Mr Iain Livingston and the photographs taken at the kennels on 24 August 2021. We would also refer to the record of the interview conducted with Mr Russell on that day. We accept that there was a number of unsatisfactory and unhygienic features and non-compliance issues that were identified.

Accordingly, on 25 August a directions notice outlining required improvements and work to be done was forwarded by Mr Livingstone to Mr Russell.

The Stewards attended again on 17 September 2021. We accept that essentially the unsatisfactory features of the kennels and the surrounding property still existed, and, as noted by Mr Livingstone, the facilities for the dogs were in fact “in far worse condition” than at the time of the earlier inspection. Photographs were put in evidence.

Another letter of direction was sent on this day.

A further inspection was carried out on 27 September. There were still issues that required attention and issues previously raised by the Stewards that had not been addressed.

The final visit of the Stewards in relation to the above matters was on 12 October 2021 – that is, about seven weeks after the initial inspection. At last there had been compliance with the directions.

We accept the above. Whilst excuses and attempted explanations were advanced by Mr Russell, the evidence advanced by the Stewards, including substantial photographic material, comfortably satisfies us that the charge has been proven.

(c) Charges 4 and 5 effectively deal with matters that have been discussed above and, whilst separate charges, do not need extensive further discussion.

Suffice to say that, on 17 September 2021, in breach of GAR106(1)(c), Mr Russell was found to have failed to provide kennels kept in a clean and sanitary condition. We are comfortably satisfied that charge 4 has been proven.

Notice of this was contained in the lawful direction given to Mr Russell on 17 September 2021. However, as at the inspection of 27 September 2021, there still had not been compliance with the direction. We are comfortably satisfied that charge 5 has been proven.

(d) We are comfortably satisfied that each of the five charges has been proven and that Mr Russell is guilty accordingly.

We shall hear the parties on the question of penalty at a date to be fixed.

### **3. OUR FINDINGS IN RELATION TO THE CHARGES AGAINST MR RUSSELL AND MS WARDE ARISING OUT OF THE 2022 EVENTS.**

(a) Whilst the four charges against both Mr Russell and Ms Warde arising out of the 2022 events are in essence based upon identical facts, and whilst they were training out of the same premises, nevertheless we shall deal separately with each set of charges. Both declined to give evidence as such, preferring to make statements, as is their right. Accordingly, they were not cross-examined.

(b) The charges against Mr Russell.

Charges 1, 2 and 3 are dated 14 September 2022.

Charge 1 is a breach of LR42.1 – keeping greyhounds in conditions dangerous or detrimental to their health and safety. This overlaps considerably with charge 2 – failing to always keep registered kennels in a clean and sanitary condition for greyhounds (GAR106(1)(c)).

Both Charges 1 and 2 arose out of kennel inspections commencing on 15 March 2022. A large number of unsatisfactory features of the premises was brought to the attention of Mr Russell.

These included poor lighting; an unsatisfactory floor; poor ventilation; poor and dirty bedding; excrement in the yards; and various other unsatisfactory features.

A lawful directions notice was issued in relation to these matters. We accept the evidence of the Stewards in relation to their observations and findings.

The Stewards attended again on 17 March 2022, this time accompanied by a veterinary surgeon, Dr Chad Baali, who gave evidence before the Tribunal. Some attempt had been made to clean up yards and kennels, but significant work was still required. None of the non-compliant yards and kennels had been altered. Dr Baali believed that there was significant risk to the physical and mental health and welfare of the greyhounds. He referred to the lack of appropriate hygiene, adequate husbandry practices, and maintenance. We accept his opinions.

We also accept the evidence of the principal investigating Steward, Mr Ben Considine, which findings have been summarised above.

In short, we are comfortably satisfied that charges 1 and 2 are proven.

Charge 3 is an alleged breach of GAR106(1)(a) – a failure to provide sufficient drinking water to greyhounds.

We appreciate the argument of Mr Russell to the effect that the irrigation channel water, which is used for a variety of purposes, is discoloured. However, having viewed the photographic material provided by the Stewards, read their material, and read the opinion of Dr Baali, we are comfortably satisfied that this charge has been proven.

We also appreciate that, as at the time of the second inspection on 17 March 2022, some attempt had been made to clean water containers, but there were still areas used by the dogs where no such work had been done. It is also to be remembered that it was on 17 March that Dr Baali inspected the kennels and referred to the lack of fresh and clean water available.

In summary, we find this charge proven.

Charge 4 is pursuant to GAR86(p), failure to comply with a lawful order of a Steward.

In particular, this involves an alleged failure to comply with lawful orders of the Stewards contained in lawful directions notices of 15 March 2022 and 11 April 2022.

The earlier notice followed the Stewards' visit of 15 March. The direction required Mr Russell to supply photographs in relation to water supply and cleanliness by the following day. It is alleged that this was not done.

The later notice was subsequent to a Stewards' visit on 6 April 2022. In this latter case, several extensions of time were granted, but an inspection on 17 May 2022 showed that there had been non-compliance in various regards.

We are comfortably satisfied that this charge has been proven.

In summary, we are comfortably satisfied that all four charges are proven.

We shall hear the parties on the question of penalty at a date to be fixed.

(c) The charges against Ms Warde.

The four charges against Ms Warde are identical to the four 2022 charges against Mr Russell. This decision should be read in conjunction with the decision involving those charges against him. Ms Warde pleaded not guilty to the charges.

At the relevant time, the pair were both registered trainers with the same kennels' address. In addition, they were in a partnership relationship, which, as we understand it, has more recently come to an end. However, the operation of the kennels remains the same.

We also accept that, at the relevant time in 2022, Ms Warde was working full time away from the kennels. She did have some input, however limited, into their operation, including the training and upkeep of the dogs.

Ms Warde elected not to give evidence, as is her right, and made a brief statement. This was more an explanation as to what had occurred, rather than a vigorous contesting of the facts.

We are comfortably satisfied that the charges against Ms Warde have been made out. She may have been absent from the kennels for a large part of each working day and played a comparatively minor part in their operation, but, as a licensed trainer, some responsibility must rest with her.

In short, we find Ms Warde guilty of each of the four charges. We would refer again to our decision in the case against Mr Russell in relation to these 2022 charges.

We shall hear the parties on the question of penalty on a date to be fixed.

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Mark Howard  
Registrar, Victorian Racing Tribunal