

3 March 2023

DECISION

GREYHOUND RACING VICTORIA

and

DAMIEN SENN

- Date of hearing:** 24 February 2023
- Panel:** Justice Shane Marshall (Deputy Chairperson) and Judge Marilyn Harbison.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Damien Senn did not attend the hearing.
- Charges:** Greyhounds Australasia Rule ("GAR") 86(e) states:
A person (including an official) shall be guilty of an offence if the person -:
(e) being an owner, trainer, attendant or a person having official duties in relation to greyhound racing, refuses or fails to attend or to give evidence at an inquiry, or produce a document or other thing in relation to an investigation, examination, test or inquiry pursuant to these Rules when directed by the Controlling Body, Stewards or the committee of a club to do so.
- GAR 86(o) states:
A person (including an official) shall be guilty of an offence if the 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 Controlling Body, as the case may be, is negligent, dishonest, corrupt, fraudulent or improper, or constitutes misconduct.
- Particulars of charges:** **Charge 1: GAR 86(e)**
1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and

a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On 18 June 2021, you were sent via email, a Notice of Inquiry scheduled for 22 June 2021.
3. On 18 June 2021, a follow up voice mail and text message was sent to you requesting your attendance at the inquiry.
4. On 22 June 2021, you responded by email stating you would not be attending the scheduled inquiry.
5. You failed to attend the scheduled inquiry on 22 June 2021, as directed by a Steward.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (e) (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(e));
 - 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(e)); 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(e)).

Charge 2: GAR 86(e)

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On 30 November 2021, you were sent via email, a Notice of Inquiry scheduled for 14 December 2021.
3. On 13 December 2021 a follow up text message was sent to you requesting your attendance at the inquiry.
4. On 13 December 2021, you responded by text message stating you would not be attending the scheduled inquiry.
5. You failed to attend the scheduled inquiry on 14 December 2021, as directed by a Steward.
6. At the time of the relevant conduct described, it was an offence under Greyhounds Australasia Rule 86 (e) (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(e));
 - 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(e)); 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(e)).

Charge 3: GAR 86(o)

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You had control and responsibility over the greyhound "Turbo Thomas" (NGCMJ) from 1 June 2021. You transferred ownership of Turbo Thomas (NGCMJ) to a third party on 6 June 2021.

3. New owners have not been able to provide any evidence Turbo Thomas (NGCMJ) was ever in their care.
4. You failed to provide Turbo Thomas (NGCMJ) with a secure and long-term retirement home in that the greyhound is now missing.
5. 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 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 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 4: GAR 86(o)

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No. 318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules
2. You had control and responsibility over the greyhound "Canya Cruise" (NHDJX) from 7 May 2021. You transferred ownership of CANYA CRUISE (NHDJX) to a third party on 31 May 2021.
3. New owners have not been able to provide any evidence Canya Cruise (NHDJX) was ever in their care.

4. You failed to provide Canya Cruise (NHDJX) with a secure and long-term retirement home in that the greyhound is now missing.
5. 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 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 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 5: GAR 86(o)

1. You were, at all relevant times, an owner registered with Greyhound Racing Victoria (GRV) (Member No.318622) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You had control and responsibility over the greyhound "Deliver" (VFHQO) from 9 February 2021. You transferred ownership of DELIVER (VFHQO) to a third party on 20 April 2021.
3. New owners have not been able to provide any evidence Deliver (VFHQO) was ever in their care.
4. You failed to provide Deliver (VFHQO) with a secure and long-term retirement home in that the greyhound is now missing.

5. 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 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 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)).

Pleas: Not Guilty

PENALTY

1. In a hearing on 7 February 2023, Greyhound Racing Victoria (“GRV”) Stewards made out their case for guilty verdicts in respect of five charges under the Greyhounds Australasia Rules (“GARs”). Mr Senn was advised of the hearing with ample notice and declined to participate.
2. This decision should be read in conjunction with the 7 February 2023 decision (“the liability decision”). This decision concerns the penalties which should be imposed in respect of each charge dealt with in the liability decision.
3. One of the most significant charges is Charge 3, which concerns conduct in breach of GAR 86(o), namely being part of a scheme to send greyhounds to China without GRV being informed. Charge 4 is equally significant and involves the same course of conduct as under Charge 3.
4. Charge 5 involved conduct which formed part of the deception to which Charges 3 and 4 relate.

5. Charges 1 and 2 relate to separate incidents of the same conduct, namely, the refusal to attend Stewards' inquiries.
6. On sentencing, it is therefore appropriate to impose a sentence on Charge 3 as the head sentence and make any penalties under Charges 4 and 5 wholly concurrent with that sentence.
7. Charge 1 will be the subject of an additional penalty and Charge 2 will involve concurrency with that penalty.
8. The behaviour of Mr Senn in attempting to get around the requirements of GRV to supervise what happens to greyhounds after retirement and his defiance in refusing to be subject to an investigation of those matters are egregious and appalling breaches of the Rules of greyhound racing.
9. On Charge 3, Mr Senn is disqualified for a period of 12 months. He is subject to the same penalties on Charges 4 and 5, but they will be served concurrently with the penalty imposed on Charge 3.
10. On Charge 1, Mr Senn is disqualified for a period of six months. The same penalty applies to Charge 2 but that penalty will be served concurrently with the penalty imposed on Charge 1. The penalty imposed on Charge 1 is to be served cumulatively on the penalty imposed on Charge 3.
11. The total disqualification period of 18 months shall commence immediately. The penalty imposed reflects the seriousness of the conduct, the desire to maintain probity in greyhound racing, general deterrence, denunciation of the offending conduct and the lack of remorse.
12. We note that, after the liability decision, a copy of that decision was promptly sent to Mr Senn and he was informed of the hearing date for the penalty hearing. He informed the Assistant Registrar that he would not be participating in the penalty hearing.
13. We also note that the penalties imposed by the Tribunal were the same as those sought by GRV. Had higher penalties been sought, the Tribunal would have considered those higher penalties, having regard to the seriousness of the offending conduct.
14. At the penalty hearing, the GRV representative sought to tender a newspaper article dealing with the topic of the greyhounds referred to in the liability decision being ultimately sent to China. In that liability decision, we expressed the view that Mr Senn's conduct was part of that process. In the newspaper article he denied that, but he gave no

evidence before us on the topic. In sentencing, we have had no regard to the newspaper article.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal

9 February 2023

DECISION

GREYHOUND RACING VICTORIA

and

DAMIEN SENN

- Date of hearing:** 7 February 2023
- Panel:** Justice Shane Marshall (Deputy Chairperson) and Judge Marilyn Harbison.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Damien Senn did not attend the hearing.
- Charges:** Greyhounds Australasia Rule ("GAR") 86(e) states:
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 - 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)).

Pleas: Not Guilty

DECISION

1. At all material times, Mr Damien Senn was a registered owner of greyhounds and had been so since 28 July 2020. From 1 June 2021 to 6 June 2021 he was the registered owner of the greyhound, "Turbo Thomas". On 6 June 2021, Mr Senn transferred ownership of that dog to Mr Peter Mattas. From evidence obtained by the Stewards, we are comfortably satisfied that Mr Mattas at no relevant time had the care or control of Turbo Thomas.
2. Sometime after the transfer of registered ownership in the dog to Mr Mattas, the greyhound was advertised for sale on a Chinese website in a Chinese province.
3. By reason of Mr Senn's conduct of being involved in a scheme to transport this greyhound to China for sale without informing Greyhound Racing Victoria ("GRV"), he engaged in dishonest and improper conduct in breach of Rule 86(o) of the Greyhounds Australasia Rules ("GAR's"). Charge 3 of the charges before the Tribunal concerns that conduct. We are comfortably satisfied that Mr Senn is guilty of conduct in breach of GAR 86(o), subject to what we further say.

4. Mr Senn choose not to appear before the Tribunal. He has informed the Assistant Registrar of the Tribunal that he wants nothing more to do with the greyhound racing industry.
5. The fourth charge before the Tribunal relates to conduct similar to that in Charge 3. It relates to a greyhound called “Canya Cruise”. That greyhound was transferred into Mr Senn’s registered ownership on 7 May 2021. The greyhound was transferred on 31 May 2021 to Mr Stephen Ryan. Evidence obtained by the Stewards from Mr Ryan’s father reveals that Canya Cruise was never in the care or control of Mr Ryan. A little later on, there was an advertisement on a Chinese website about the greyhound being for sale in a province in China. We are comfortably satisfied that, on these facts, Mr Senn is guilty of another charge under GAR 86(o), being Charge 4. The conduct constituted misconduct and was dishonest.
6. Charge 5 concerns a greyhound called “Deliver”. That greyhound was in Mr Senn’s registered ownership from 9 February 2021 to 20 April 2021. On the basis of the evidence of Mr Ryan’s father as presented by Stewards, we are comfortably satisfied that the greyhound did not ever come into the care of control of Mr Ryan. That greyhound also found its way to China, where the greyhound was advertised for sale in a Chinese province on a Chinese website. We are also comfortably satisfied that Charge 5 is made out and that Mr Senn is guilty in total of three separate charges under GAR 86(o) concerning three greyhounds. In our view, the conduct subject to Charge 5 was also misconduct and was dishonest.
7. On 18 June 2021, Mr Senn was sent a Notice of Inquiry by GRV Stewards compelling him to attend an investigative hearing before them at 2pm on 22 June 2021. The next day Mr Senn told the Stewards that he would not comply with the Notice. That conduct is prescribed by GAR 86(e). We are comfortably satisfied that Mr Senn has breached GAR 86(e) by refusing to attend an inquiry when directed by Stewards to do so. That charge is contained in Charge 1. We find Mr Sen guilty on Charge 1.
8. On 30 November 2021, Mr Senn was again sent a Notice to attend a Steward’s investigative inquiry to be held on 14 December 2021. On 13 December 2021, he informed Stewards that he would not be attending the investigative hearing. We are comfortably satisfied that Charge 2 is made out and that Mr Senn thereby, once again, breached GAR 86(e).
9. We find Mr Senn guilty of all five charges before the Tribunal. We will now program a hearing to deal with the question of the penalty to be imposed on Mr Senn. The Assistant Registrar will provide Mr Senn with a copy of this decision and inform him of the date on which the penalty hearing will take place to give him an opportunity to make submissions

on penalty in light of these findings. This will allow him to put whatever matters he wishes to advance in mitigation of penalty. The penalty hearing will occur by telephone at 9.30am on Friday, 24 February 2023.

10. We wish to make clear in respect to Charges 3, 4 and 5 that the misconduct and dishonesty to which we refer is the conduct in deceiving GRV Stewards regarding the transfer of ownership to third parties when those alleged transfers did not occur. There is also the aspect of leaving GRV guessing as to the whereabouts of the greyhounds. Relevant to this issue are the obligations contained in clause 6.5.1 of the Code of Practice for the Keeping of Racing Greyhounds, which binds all greyhound racing participants.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal