

11 October 2023

DECISION

GREYHOUND RACING VICTORIA

and

PETER GAVIN

- Date of hearing:** 5 October 2023
- Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr June Smith.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Peter Gavin did not attend the hearing.
- Charges:** Greyhounds Australasia Rule (“GAR”) 156(w) states:
An offence is committed if a person (including an official):
(w) fails to comply with a policy or code of practice adopted by a Controlling Body.
- GAR 165(a) states:
An offence is committed if a person (including an official):
(a) commits or omits to do any act or engages in conduct which is in any way detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing.
- GAR 164(b) states:
An offence is committed if a person (including an official):
(b) refuses or fails to attend or to give evidence at an inquiry (or at any other disciplinary process, hearing or appeal proceeding) or produce a document or other thing in relation to an investigation, examination, test or inquiry (or other disciplinary process, hearing or appeal proceeding) pursuant to the Rules when directed by a Controlling Body, the Stewards, or another authorised person.

Particulars of charges: Charge 1: GAR 156(w)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On or about 30 May 2022 on a social media forum, namely Facebook, you posted about the conflict of interest by a member of the GRV Board and that it was in the interest of the Board member to resign from their position.
3. 'GRV Social Media Policy' is a policy adopted by the Controlling Body - GRV.

Charge 2: GAR 156(w)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 30 May 2022 you sent a text message to Ms Peita Duncan, Chair of GRV Board threatening that you had material which demonstrated a Conflict of Interest by Duncan and that you would advise the media if Duncan did not resign immediately.
3. 'GRV Social Media Policy' is a policy adopted by the Controlling Body - GRV.

Charge 3: GAR 165(a)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between the 1 and 31 August 2022, you spoke to Mr Scott James at the Ballarat Greyhound track and said to James:
 - (a) "You want to take this outside. We'll and sort it out man to man".
3. This conduct made James feel threatened for his safety.

4. Your conduct was detrimental to the to the interest welfare, image or promotion of greyhound racing.

Charge 4: GAR 165(a)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10 August 2022, you sent a SMS text message to Mr Shaun Boag Facilities Manager at Ballarat Greyhound Racing Club referring to Mr Scott James, a Ballarat GRC employee which stated:
3. In that SMS you wrote the following:

“I Better organise a man to man face to face with this prick out side of work we all here and customers have to organise around him after what he said and keeps saying. Weak. Tell him to contact me to organise this catch up please I have had with this cunt. Thsnks”(sic)

4. Your conduct and comments in sending the SMS was detrimental to the to the interest welfare, image or promotion of greyhound racing.

Charge 5: GAR 164(b)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10 November 2022, Investigative Stewards served a notice of inquiry on you at your registered email address for the purpose of opening an inquiry regarding your conduct concerning your social media use and your conduct towards officials at the Ballarat Greyhound Race Club.
3. On 10 November 2022, Investigative Stewards served a copy of the notice of inquiry on you via SMS at your registered mobile phone number for the purpose of opening an inquiry concerning your conduct.

4. You failed to respond and refused to attend to give evidence in the inquiry as required.
5. GAR 164 (b) is a Serious Offence.

Pleas: Not Guilty to all charges

PENALTY

1. This decision deals with the penalties to be imposed on Mr Gavin as a consequential upon the guilty findings referred to in the decision of the Tribunal concerning Mr Gavin dated 20 September 2023 (“the liability decision”). This decision is to be read in conjunction with the liability decision. The findings of fact made in the liability decision are taken to be findings of fact made for the purpose of this penalty decision.
2. The first and second charges are under Greyhounds Australasia Rule (“GAR”) 156(w) and concerns Mr Gavin’s failure to comply with a code of practice adopted by a Controlling body.
3. Mr Gavin’s use of social media and texting included making derogatory remarks about and directed to the Chair of the Greyhound Racing Victoria “(GRV”) Board. It was in extremely poor taste and breached GRV’s social media policy.
4. Both the first and second charges concern comments directed at the GRV Chair. They were intimidatory and threatening in nature. They each deserve severe penalties. However, as each charge arose out of the same sub-stratum of facts, the Tribunal will impose an active penalty in relation to Charge 1 and the penalty imposed on Charge 2 will be served concurrently with the penalty imposed on Charge 1. On each charge, we impose a penalty of nine months disqualification.
5. Charges 3 and 4 concern vile comments of a threatening nature made against industry participants. Each affected person has provided the Tribunal with a victim impact statement outlining the devastating effect of Mr Gavin’s conduct on them. In addition, another witness provided similar evidence in a statement in the liability decision. The threats, in one case, included suggestions that physical violence would ensue. The conduct is appalling in the extreme and is in breach of GAR 165(a), which deals with conduct detrimental to the interest of greyhound racing. Both offences occurred in August 2022. Accordingly, we will only impose an operative penalty on Charge 3 as the circumstances concerning Charge 4 arose out of the same sub-stratum of facts as concerned Charge 3. On Charge 3 we impose a penalty of 12 months disqualification. On Charge 4, we impose the same penalty but make it wholly concurrent with the penalty

imposed on Charge 3. The penalty imposed on Charge 3 is cumulative upon the penalty imposed on Charge 1.

6. Charge 5 concerns Mr Gavin's refusal to co-operate with a Stewards' inquiry. Licensed persons are obligated to co-operate with Stewards' inquiries in order to maintain the integrity of the industry. Failure to make oneself available to attend an inquiry by choice is a very serious offence, which undermines the efforts of Stewards to maintain confidence in the sport of greyhound racing and, in turn, maintain its social licence. For the breach of GAR 164(b), we impose a penalty of 18 months disqualification, to be served cumulatively with the penalties imposed on Charges 1 and 3.
7. The total period of disqualification to be imposed on Mr Gavin is a disqualification of three years and three months commencing today.
8. We note that Mr Gavin failed to attend the hearing that led to the liability decision, although given every opportunity to do so. Mr Gavin was supplied with a copy of the liability decision and given appropriate notice to participate in the penalty hearing. He also declined to do so. Mr Gavin has shown no remorse for his appalling behaviour and has given the Tribunal no reason to ameliorate the penalties that have been imposed.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal

20 September 2023

DECISION

GREYHOUND RACING VICTORIA

and

PETER GAVIN

- Date of hearing:** 20 September 2023
- Panel:** Justice Shane Marshall (Deputy Chairperson) and Dr June Smith.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Peter Gavin did not attend the hearing.
- Charges:** Greyhounds Australasia Rule (“GAR”) 156(w) states:
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investigation, examination, test or inquiry (or other disciplinary
process, hearing or appeal proceeding) pursuant to the Rules
when directed by a Controlling Body, the Stewards, or another
authorised person.

Particulars of charges: Charge 1: GAR 156(w)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On or about 30 May 2022 on a social media forum, namely Facebook, you posted about the conflict of interest by a member of the GRV Board and that it was in the interest of the Board member to resign from their position.
3. 'GRV Social Media Policy' is a policy adopted by the Controlling Body - GRV.

Charge 2: GAR 156(w)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 30 May 2022 you sent a text message to Ms Peita Duncan, Chair of GRV Board threatening that you had material which demonstrated a Conflict of Interest by Duncan and that you would advise the media if Duncan did not resign immediately.
3. 'GRV Social Media Policy' is a policy adopted by the Controlling Body - GRV.

Charge 3: GAR 165(a)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. Between the 1 and 31 August 2022, you spoke to Mr Scott James at the Ballarat Greyhound track and said to James:
 - (a) "You want to take this outside. We'll and sort it out man to man".
3. This conduct made James feel threatened for his safety.

4. Your conduct was detrimental to the to the interest welfare, image or promotion of greyhound racing.

Charge 4: GAR 165(a)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10 August 2022, you sent a SMS text message to Mr Shaun Boag Facilities Manager at Ballarat Greyhound Racing Club referring to Mr Scott James, a Ballarat GRC employee which stated:
3. In that SMS you wrote the following:

“I Better organise a man to man face to face with this prick out side of work we all here and customers have to organise around him after what he said and keeps saying. Weak. Tell him to contact me to organise this catch up please I have had with this cunt. Thsnks”(sic)

4. Your conduct and comments in sending the SMS was detrimental to the to the interest welfare, image or promotion of greyhound racing.

Charge 5: GAR 164(b)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 152538) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 10 November 2022, Investigative Stewards served a notice of inquiry on you at your registered email address for the purpose of opening an inquiry regarding your conduct concerning your social media use and your conduct towards officials at the Ballarat Greyhound Race Club.
3. On 10 November 2022, Investigative Stewards served a copy of the notice of inquiry on you via SMS at your registered mobile phone number for the purpose of opening an inquiry concerning your conduct.

4. You failed to respond and refused to attend to give evidence in the inquiry as required.
5. GAR 164 (b) is a Serious Offence.

Pleas: Not Guilty to all charges

DECISION

1. At all material times, Mr Peter Gavin was registered with Greyhound Racing Victoria (“GRV”) as a public trainer and breeder. His registration ceased to be active on 10 August 2023. However, the events the subject of the charges in this matter occurred whilst his registration was active.
2. GRV Stewards have charged Mr Gavin with five offences under the Rules of greyhound racing.
3. Charges 1 and 2 are under Greyhounds Australasia Rule (“GAR”) 156(w). That sub-rule, so far as is relevant, prohibits conduct which fails to comply with a policy of GRV as the controlling body in the state of Victoria under the Rules of greyhound racing.
4. GRV has adopted a policy entitled “Social Media Guidelines” (“the policy”). That policy, amongst other things, proscribes inappropriate social media activity, including:
 - The publishing of a comment which is detrimental to the greyhound racing industry and any person involved in it;
 - Directing abuse at individuals or making inappropriate comments about individuals involved in the industry; and
 - Making a post that could be considered to be threatening.
5. Charge 1 concerns a post made on Facebook by Mr Gavin which alleged that a member of the GRV board had a conflict of interest and should resign. That post was in breach of the policy in that it involved publishing a comment that was detrimental to a person involved in the industry. We are comfortably satisfied that Charge 1 is proven.
6. Charge 2 concerns a text message sent to the Chair of the GRV Board and threatened that if she did not resign immediately, due to an alleged conflict of interest, Mr Gavin would alert the media. Under the policy, social media is defined to include “messaging apps”. The definition is inclusive and not exclusive. Text messages on mobile telephones are akin

to messaging applications like “WhatsApp”. We are comfortably satisfied that the text message the subject of Charge 2 is covered by the policy and is in breach of it. It is a comment that is detrimental to a person involved in the industry. It is also inappropriate and could be reasonably viewed as threatening in nature. We are comfortably satisfied that Charge 2 is made out.

7. Charges 3 and 4 are laid under GAR 165(a). That sub-rule proscribes, amongst other things, conduct that is detrimental or prejudicial to the interest, welfare, image or promotion of greyhound racing.
8. Charge 3 concerns a comment by Mr Gavin, heard by the Facilities Manager at Ballarat, Mr Shaun Boag, during the month of August 2022 to the effect that a physical confrontation should occur between a Mr Scott James, an industry participant, and Mr Gavin to “sort it out man to man”. Mr James said that he felt threatened for his safety because of that communication. That conduct was appalling and was detrimental to the interest, welfare, image and promotion of greyhound racing. We are comfortably satisfied that Charge 3 is made out.
9. Charge 4 concerns a text message sent to Mr Boag by Mr Gavin on 10 August 2022. That message referred to Mr James in an offensive and threatening way. It was conduct prejudicial to the interest, image and promotion of greyhound racing. We are comfortably satisfied that Charge 4 is made out.
10. On 10 November 2022, GRV Investigative Stewards served a Notice on Mr Gavin to attend an inquiry into his conduct concerning social media use and his conduct towards officials at Ballarat. Mr Gavin failed to attend the inquiry having declined to participate. We are comfortably satisfied that this constituted a breach of GAR 164(b) which compels attendance by licensed persons at inquiries when summoned by Stewards to give evidence. Accordingly, Charge 5 is also made out.
11. All five charges have been established to our comfortable satisfaction. We note that Mr Gavin was given every opportunity to participate in the hearing but refused to do so. Instead of proceeding directly to hear submissions on penalty, we consider that this decision should be first sent to Mr Gavin for his perusal and to afford him the opportunity to participate in the penalty hearing should he desire to do so. Accordingly, we will adjourn the matter to a telephone hearing at 11.00am on 5 October 2023 for a penalty hearing.
12. Finally, we note that in several emails sent to Registry staff by Mr Gavin, he claimed that this Tribunal had no power to deal with the charges laid against him because at the relevant times he was not a registered greyhound industry participant. The period of time

covered by the charges run from May to November 2022. The registration records tendered by GRV Stewards showed that Mr Gavin's last period of registration as a public trainer ran from 10 August 2020 to 10 August 2023.

13. GRV Stewards provided documentary evidence from the GRV Racing Services and Registrations Supervisor, Ms Josie Gibilisco, that showed a payment of \$121.50 was made by Mr Gavin using his credit card on 4 August 2020 to renew his registration with effect from 10 August 2020 to 10 August 2023. We are satisfied that the Tribunal was empowered to hear and determine the charges laid by GRV Stewards and, indeed, it had a duty to do so under Section 50C(c) of the *Racing Act 1958*.
14. Although earlier claiming that he was not registered at all relevant times, in an email sent by Mr Gavin to the Registrar on 19 September 2023, he appears to concede that his licence expired in 2023 which is after the time relevant to the charges.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal