

27 November 2024

DECISION

GREYHOUND RACING VICTORIA

and

DANIEL BICCHIERI

- Date of hearing:** 12 November 2024
- Date of decision:** 12 November 2024
- Date of reasons:** 27 November 2024
- Panel:** Judge John Bowman (Chairperson), Ms Danielle Hikri and Mr Greg Childs.
- Appearances:** Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Daniel Bicchieri represented himself.
- Charges:** Greyhounds Australasia Rule (“GAR”) 141(1) states:
(1) The owner, trainer or other person in charge of a greyhound:
(a) nominated to compete in an Event;
(b) presented for a satisfactory trial or such other trial as provided for by the Rules; or
(c) presented for any test or examination for the purpose of a stand-down period being varied or revoked,
must present the greyhound free of any prohibited substance.
- GAR 151(1) states:
(1) The person in charge of a greyhound must keep and retain written records detailing all vaccinations, antiparasitics and treatments administered to the greyhound:
(a) from the time the greyhound enters their care until the greyhound leaves their care; and
(b) for a minimum of two years.

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.

Particulars:

Charge 1: GAR 141(1)

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria and a person bound by the Greyhounds Australasia Rules.

2. You were, at all relevant times, the trainer of the greyhound "Cachi (VKUGE)".

3. Cachi was nominated to compete in Race 5, Avard Civil, Tier 3, conducted by the Bendigo Greyhound Racing Association at Bendigo on 22 Nov 2023 (the Event).

4. On 22 Nov 2023, your representative presented Cachi at the Event not free of any prohibited substance, given that:

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

(b) 'Cocaine', Benzoyllecgonine', and Ecgonine Methyl Ester' was detected.

Charge 2: GAR 151(1)

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 234432) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. You were at all relevant times a person responsible for the care and supervision of the greyhound Cachi (VKUGE) housed at your GRV registered kennelling premises in Fawkner (Premises).

3. On 3 January 2024, GRIU Investigative Stewards attended the premises and conducted an inspection on your registered premises and established that you had failed to keep and retain written records detailing treatments to greyhound in your care.

4. You failed to establish and maintain treatment records for greyhound entering your care.

Charge 3: GAR 156(w)

1. You were, at all relevant times, a public trainer and breeder registered with Greyhound Racing Victoria (GRV) (Member No.324432) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. The Code of Practice for the Keeping of Racing Greyhounds has been adopted by the controlling body since April 2019. The code of practice states:

4.1 Establishment and Health Management Plan (EHMP)

Every establishment must have an EHMP in place for general operational matters and greyhound management, welfare, socialisation, enrichment and education (as appropriate) that is reviewed annually. The EHMP may outline protocols that differ from the requirements outlined in this Code. Where protocols are not specified, the requirements outlined in this Code apply.

3. On 3 January 2024, you failed to ensure you complied with The Code of Practice for the Keeping of Racing Greyhounds in that you did not have a valid Establishment Health Management Plan (EHMP) for your establishment.

Pleas: Not Guilty

DECISION

Mr Daniel Bicchieri, you have formally pleaded not guilty to three charges. The charges are pursuant to Greyhounds Australasia Rule (“GAR”) 141(1) (presenting a greyhound not free of a prohibited substance), GAR 151(1) (failure to keep written treatment records), and GAR 156(w) (failing to have an Establishment and Health Management Plan (“EHMP”)).

Charge 1 arose as follows:

You were the licensed trainer of “Cachi”. It competed in Race 5 at Bendigo on 22 November 2023. A pre-race urine sample taken from the dog detected the presence of cocaine, benzoylecgonine, and ecgonine methyl ester. We shall refer to this as “cocaine”.

Charges 2 and 3 effectively arose from a Stewards’ visit to your kennels on 3 January 2024.

Whilst you formally pleaded not guilty originally, it became clear that you were admitting that you had committed the three offences. We appreciate that you represented yourself and were not fully cognisant of the process. We will treat the situation as being one where you are entitled to the benefit of guilty pleas.

In relation to the principal offence, being that pursuant to GAR 141(1), effectively you had no explanation for the pre-race swab testing positive to cocaine. You raised the possibility of the dog perhaps testing positive as a result of it being patted by strangers whilst walking in the street. However, the bottom line is that you could not account for the positive test. Whilst GAR 141(1) does not create a situation of strict liability, it approaches that. Certainly, it could be said to place the burden upon the relevant licensed person to provide an acceptable explanation for the positive result.

We find that the charge pursuant to GAR 141(1) has been proved to our comfortable satisfaction. There was no real challenge to the testing procedures or the accuracy of the outcome.

We also find that Charges 2 and 3 have been proved. There is little dispute but that you failed to keep and retain the required medical records or that you failed to have in place an EHMP.

In summary, we are comfortably satisfied that the three charges have been proved.

PENALTY

We turn now to the question of the appropriate penalties. As stated, Charge 1 is by far the most serious charge, involving, as it does cocaine.

We take into account your very good record in relation to prohibited substances. We also take into account what was effectively your plea of guilty. We also note penalties in like cases involving permanently banned prohibited substances.

We also have regard to your personal circumstances, including the financial penalties upon you. We note that you are in full time employment, and that you and your partner are endeavouring to purchase a house. Recently, you have not been training any greyhounds, your father assisting in this regard.

Turning to the penalty, offences involving cocaine are indeed serious. A breach of GAR 141(1) in this regard attracts a significant penalty. You have no real explanation for the positive test. A guess at the source being someone in the street patting the dog is just that, a guess, with no persuasive factual foundation. This Rule operates against the background of the potential damage done to the industry by the presence of prohibited substances, and particularly the more notorious ones. We bear in mind the penalties imposed in relevant cases.

In our opinion, the appropriate penalty in your case for such a breach of GAR 141(1) is disqualification for a period of nine months, to commence immediately.

In relation to Charge 2, the breach of GAR 151(1), we consider the appropriate penalty to be a fine of \$300. The keeping of written treatment records is an essential part of the battle to maintain a fair and drug free industry.

Much the same could be said of Charge 3, although it is more strongly related to animal welfare, another very important aspect of the operation of the industry. On this charge you are also fined \$300.

Thus, you are immediately disqualified for a period of nine months and fined a total of \$600.

In addition, Cachi is disqualified from Race 5 at Bendigo on 22 November 2023 and the finishing order is amended accordingly.

Kathleen Scully
Assistant Registrar, Victorian Racing Tribunal