

3 October 2024

DECISION

GREYHOUND RACING VICTORIA

and

JOHN BORELAND

Date of hearing: 16 September 2024

Date of decision: 16 September 2024

Panel: Judge Marilyn Harbison (Deputy Chairperson), Dr June Smith and Ms Amanda Dickens.

Appearances: Ms Yana Podolskaya appeared on behalf of the Stewards. Mr John Boreland represented himself.

Charges and particulars:

Charge No. 1 of 3 (Brief 1)

Greyhounds Australasia Rule **141(1)(a)** reads as follows:

Rule 141 Greyhound to be free of prohibited substances

(1) The owner, trainer or other person in charge of a greyhound:

(a) nominated to compete in an Event;

(b) presented for a satisfactory trial or such other trial as provided for by the Rules; or

(c) presented for any test or examination for the purpose of a stand-down period being varied or revoked,

must present the greyhound free of any prohibited substance.

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria (GRV) (Member No. 316584) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the trainer of the greyhound “RIO LILY” (VKSHB).
3. “RIO LILY” was nominated to and competed in, Race 4, Wild Grains Bakery Damsels Dash Grade 5, conducted by the Healesville Greyhound Racing Club at Healesville on 3 December 2023 (**the Event**).
4. On 3 December 2023, “RIO LILY” was presented at the Event not free of a permanently banned prohibited substance, given that:
 - (a) A post-race sample of urine was taken from “RIO LILY” at the Event (**the Sample**);
 - (b) Amphetamine, hydroxyamphetamine, methamphetamine and hydroxymethamphetamine were detected in the sample.
5. Amphetamine, hydroxyamphetamine, methamphetamine and hydroxymethamphetamine are permanently banned prohibited substances.

Charge No. 2 of 3

Greyhounds Australasia Rule **141(1)(a)** reads as follows:

Rule 141 Greyhound to be free of prohibited substances

- (1) The owner, trainer or other person in charge of a greyhound:*
- (a) nominated to compete in an Event;*
 - (b) presented for a satisfactory trial or such other trial as provided for by the Rules; or*
 - (c) presented for any test or examination for the purpose of a stand-down period being varied or revoked,*
- must present the greyhound free of any prohibited substance.*

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria (GRV) (Member No. 316584) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the trainer of the greyhound “*THICK AS THIEVES*” (VKSGY).
3. “*THICK AS THIEVES*” was nominated to and competed in, Race 5, Sportsbet Bet with Mates Grade, conducted by the Ballarat Greyhound Racing Club at Ballarat on 13 December 2023 (**the Event**).
4. On 13 December 2023, “*THICK AS THIEVES*” was presented at the Event not free of a permanently banned prohibited substance, given that:
 - (a) A pre-race sample of urine was taken from “*THICK AS THIEVES*” at the Event (**the Sample**);
 - (b) Amphetamine, hydroxyamphetamine and hydroxymethamphetamine were detected in the sample.
5. Amphetamine, hydroxyamphetamine and hydroxymethamphetamine are permanently banned prohibited substances.

Charge No. 3 of 3

Greyhounds Australasia Rule **139(3)(a)** reads as follows:

139 Permanently banned prohibited substances, and certain offences in relation to them

- (3) *When a sample taken from a greyhound being trained by a trainer or in the care of a registered person has been established to contain a permanently banned prohibited substance:*
 - (a) *the trainer and any other person who was in charge of the relevant greyhound at the relevant time shall be guilty of an offence;*
 - (b) *the greyhound shall be disqualified from any Event or any benefit derived from a trial or test for which it was nominated at the time the sample was taken;*
 - (c) *in addition to subrule (3)(b) of this rule, the greyhound may be disqualified from any Event in which it has competed subsequent to the taking of such sample where, the permanently*

banned prohibited substance was likely to have had any direct and/or indirect effect on the greyhound at the time of the Event.

Particulars of Charge

1. You are, and were at all relevant times, a trainer licensed by Greyhound Racing Victoria (GRV) (Member No. 316584) and a person bound by the Greyhound Australasia Rules and Local Racing Rules.
2. You were, at all relevant times, the trainer of the greyhound "ASTON AXINITE" (VKSDS).
3. An out of competition test sample was taken from "ASTON AXINITE" at your registered kennel address of 216 Cochranes Road, Seaspray on 19 January 2024.
4. Amphetamine, 4-hydroxyamphetamine, methamphetamine and 4-hydroxymethamphetamine was detected in the sample.
5. Amphetamine, 4-Hydroxyamphetamine, Methamphetamine and 4-Hydroxymethamphetamine is a permanently banned prohibited substance.

Charge No. 1 of 1 (Brief 2)

Greyhounds Australasia Rule 141(1) reads as follows:

Rule 141 Greyhound to be free of prohibited substances

(1) The owner, trainer or other person in charge of a greyhound:

(d) nominated to compete in an Event;

(e) presented for a satisfactory trial or such other trial as provided for by the Rules; or

(f) presented for any test or examination for the purpose of a stand-down period being varied or revoked,

must present the greyhound free of any prohibited substance.

Particulars of Charge

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 “*Rio Whizzer*”.
3. “*Rio Whizzer*” was nominated to compete in Race 1, the Fenech Curtains and Blinds Maiden, conducted by the Traralgon Greyhound Racing Club at Traralgon on 17 May 2024 (**the Event**).
4. On 17 May 2024, your appointed representative Terri-Maree MORRIS presented “*Rio Whizzer*” at the Event not free of any prohibited substance, given that:
 - (a) A post-race sample of urine was taken from “*Rio Whizzer*” at the Event (**the Sample**);
 - (b) Amphetamine, Hydroxyamphetamine, Methamphetamine and Hydroxymethamphetamine were detected in the sample.
5. Amphetamine, Hydroxyamphetamine, Methamphetamine and Hydroxymethamphetamine are Permanently Banned Prohibited Substances.

Charge No. 1 of 1 (Brief 3)

Greyhounds Australasia Rule 141(1) reads as follows:

Rule 141 Greyhound to be free of prohibited substances

(1) The owner, trainer or other person in charge of a greyhound:

(g) nominated to compete in an Event;

(h) presented for a satisfactory trial or such other trial as provided for by the Rules; or

(i) presented for any test or examination for the purpose of a stand-down period being varied or revoked,

must present the greyhound free of any prohibited substance.

Particulars of Charge

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 *“Unacceptable Pen”*.
3. *“Unacceptable Pen”* was nominated to compete in Race 2, the SPORTSBET GREEN TICKS (250+ RANK), conducted by the Traralgon Greyhound Racing Club at Traralgon on 17 June 2024 (**the Event**).
4. On 17 June 2024, you presented *“Unacceptable Pen”* at the Event not free of any prohibited substance, given that:
 - (a) A post-race sample of urine was taken from *“Unacceptable Pen”* at the Event (**the Sample**);
 - (b) Amphetamine, Methamphetamine and 4-Hydroxymethamphetamine were detected in the sample.
5. Amphetamine, Methamphetamine and 4-Hydroxymethamphetamine are Permanently Banned Prohibited Substances.

Pleas: Guilty to all charges.

DECISION

1. Mr John Boreland faces four presentation charges and one charge arising out of an out of competition sample in relation to the detection of amphetamine and its metabolites in five of his dogs between December of 2023 and June of 2024. Mr Boreland was at all relevant times the trainer of each of these dogs.
2. Three briefs have been filed. There are three charges on the first brief, one charge on the second brief and a further one charge on the third brief. The last two briefs were filed within a week of this hearing. This occurred because it has been agreed between the parties that all matter should be dealt with together, as a result of tragic circumstances in which Mr Boreland finds himself. We will deal with the specifics of this later in these reasons.
3. We will deal with the charges on the original brief first. The first two charges on this brief are presentation charges and the third is a charge of having a permanently banned prohibited substance in a greyhound under his care.

4. The first charge relates to Rio Lily. This greyhound competed in a race at Healesville on 3 December 2023. A post-race sample of urine was taken from the dog and was found to contain amphetamine and its metabolites hydroxyamphetamine, methamphetamine and hydroxymethamphetamine.
5. The second charge relates to Thick as Thieves. This dog raced at Ballarat on 13 December 2023. A pre-race sample showed that this dog also had amphetamine and two of its metabolites, hydroxyamphetamine and hydroxymethamphetamine, in its system.
6. When the Stewards inspected Mr Boreland's kennels on 19 January 2024, they found nothing that would explain the presence of these chemicals in either dog.
7. When he was interviewed by the Stewards on 26 February 2024, he was unable to provide any reason for these substances being present in either dog.
8. At the time of the Stewards' visit on 19 January 2024 an out of race sample was taken of Aston Axinite, another dog trained by Mr Boreland. This sample revealed that dog to have the substances amphetamine, 4-Hydroxyamphetamine, methamphetamine and 4-Hydroxymethamphetamine in its system.
9. Mr Boreland was advised of this result on 14 June 2024.
10. When he was interviewed about the first two greyhounds on 1 March 2024, Mr Boland suggested to the Stewards that he had a former employee who may have been using drugs around the kennels and around his greyhounds. He had only recently learned of this and thought that this must have been the reason for the presence of drugs in the dogs. He also noted that he had been prescribed a chemical by the name of duromine, which he had used whilst handling his dogs. It does not appear that the duromine has contributed to the contamination.
11. The second brief contains one charge.
12. This relates to Rio Whizzer. This greyhound raced at Traralgon on 17 May 2024. A post-race sample of urine was taken from this greyhound. The substances amphetamine, hydroxyamphetamine, methamphetamine and hydroxy methamphetamine were found to be present in the sample.
13. The third brief also contains one charge. It relates to Unacceptable Pen. This greyhound raced at Traralgon on 17 June 2024. A post-race sample of urine revealed the presence of amphetamine, methamphetamine and 4-hydroxy methamphetamine.

14. Each of the substances found to be present in the dogs identified above are permanently banned prohibited substances. The presence of those substances in the dogs is therefore a very serious matter.
15. There are no veterinary products which contain these substances. There are also no human registered products that contain methamphetamine. These products are the active ingredient in a variety of illegal and addictive drugs. They are used to elevate mood and as a stimulant in reducing fatigue and enhancing human athletic performance. They have the same effect if administered to a greyhound.
16. Mr Boreland has been an owner since 2009 and a trainer since 2016. His parents were also heavily involved in greyhound racing and he has been living with greyhounds since he was born. His parents have a 100-acre property in Sea Spray and it is there that Mr Boreland and his wife have their kennels. Over the past few years Mr Boreland has spent well in excess of \$400,000 in improving this property for the benefit of the greyhounds under his care. He describes himself and his wife as being people who have greyhounds in their blood.
17. The significant trauma which Mr Boreland faces is this. During the time that he and his wife were being investigated for these offences, their four-month-old baby died. At the time of the baby's death the couple had moved out of Mr Boreland's parents' property and rented another property nearby, conscious of the prospect that either or both of them may face a period of disqualification if found guilty of these offences. This would prevent them from being physically present at the kennels.
18. Sadly, the baby died at the rented property. It was impossible for them to continue to live at that property as it reminded them of that traumatic event. They have therefore been forced to rent another property, but are still paying the rent on the original rental.
19. Their world has therefore been upended. Mr Boreland's parents are both ill and his mother is particularly ill, having perhaps only months to live. He had expected to be able to live with his parents at their property and look after them in the final period of their lives, as well as caring for the greyhounds on the property. He is now unable to do so and has had to make arrangements for his sister to relocate from Sydney temporarily to take over this task.
20. Both he and his wife receive intensive counselling in relation to these very sad personal circumstances.
21. Mr Boreland has a good reputation within the industry and is embarrassed and appalled by finding himself in this situation. We note that there is no direct evidence as to the

means through which the amphetamines came to be present in Mr Boreland's dogs. It is particularly perplexing that the last two offences occurred in the months of May and June, well after the time when the employee described by Mr Boreland as being a drug user was sacked. The notification to him about these further results was shattering.

22. Mr Boland frankly admits that he has no explanation for the continued presence of amphetamines in his dogs after the departure of the drug taking employee, although he suspects that the drugs may have persisted in bedding or clothing to which that employee had access.
23. Mr Boland has no other employment other than greyhound racing. He will be financially ruined as a result of being disqualified today. He left school at 13 years and knows no other employment than the greyhound industry.
24. We accept the Stewards' submissions that in sentencing today we must pay great attention to the principle of general deterrence. The substance detected was a permanently prohibited substance and a substance that has no therapeutic affect at all on either greyhounds or humans. The sole purpose of the drug is to illegally enhance performance. We have also taken into account that there are five separate occasions on which this drug was detected over a period of approximately 6 months, despite Mr Boreland having been notified in January of this year that the first two samples had returned positive to it.
25. Apart from sacking the suspect employee, we were not made aware of any other precautions Mr Boland had taken to avoid further offending, apart from drug testing his employees. In saying this, we recognise that scientific investigation is expensive. Mr Boreland told us (and we do not doubt) that he was not in a position to afford the expense of any more detailed investigation into the source of the contamination.
26. The Stewards submitted to us that we should also take into account specific deterrence in our sentencing task so as to reflect the fact that there was a series of interconnected offences over this six-month period. We do not place significant emphasis on specific deterrence. We are persuaded that it is unlikely that Mr Boreland will reoffend. We view this offending as being part of a pattern of positive swabs all appearing to arise out of the same facts or circumstances. In all other respects the condition of Mr Boreland's kennels and his dogs appears to be very high. He takes evident pride in his skill in every aspect of greyhound husbandry and his reputation in the industry.
27. Taking into account all the circumstances, the penalties we impose are as follows.

28. On the presentation charge in respect of Rio Lily we impose a period of disqualification of 12 months.
29. On the presentation charge in respect of Thick as Thieves we impose a period of disqualification of 12 months.
30. On the presentation charge in respect of Aston Aximite we impose a period of disqualification of 12 months.
31. All these charges relate to the first brief. We regard them as being part of the same series of events and so order that each of these sentences is be served concurrently.
32. We now turn to the second and third briefs. The two charges relating to Rio Whizzer and Unacceptable Pen are in a slightly different category. We have been given no satisfactory explanation as to how these separate contaminations occurred, given that Mr Boreland had been on notice since January 2024 that positive swabs had been received in relation to amphetamines. We have therefore decided to order some cumulation in respect of these sentences.
33. On the presentation charge in respect of Rio Whizzer we impose a period of disqualification of 12 months. We order that six months of this sentence be served cumulatively on the sentences imposed for the charges on the first brief.
34. On the presentation charge in respect of Unacceptable Pen we impose a period of disqualification of 12 months. We order that six months of the sentence be served cumulatively on both the sentence in the first brief and the sentence in respect of Rio Whizzer.
35. This makes a total effective period of disqualification of two years.
36. We order that the periods of disqualification imposed commence on 9 July 2024, which is the date from which Mr Boreland has been suspended in connection with these offences.
37. The Stewards urged us to impose a significant fine in addition to a period of disqualification so as to address the seriousness of these offences and the number of offences. We have decided not to do so. In our view, the total effective period of disqualification of two years is a significant penalty and is appropriate in the circumstances.
38. We further order the following:

(a) Rio Lily is disqualified from Race 4 at Healesville on 3 December 2023 and the finishing order is amended accordingly.

(b) Thick As Thieves is disqualified from Race 5 at Ballarat on 13 December 2023 and the finishing order is amended accordingly.

(c) Rio Whizzer is disqualified from Race 1 at Traralgon on 17 May 2024 and the finishing order is amended accordingly.

(d) Unacceptable Pen is disqualified from Race 2 at Traralgon on 17 June 2024 and the finishing order is amended accordingly.

Mark Howard
Registrar, Victorian Racing Tribunal