

3 July 2024

DECISION

GREYHOUND RACING VICTORIA

and

JOHN TAYLOR

Date of hearing: 1 May 2024

Date of decision: 6 June 2024

Date of penalty: 7 June 2024

Panel: Judge Marilyn Harbison (Deputy Chairperson), Ms Melissa Mahady and Mr Robert Abrahams.

Appearances: Mr Gregory Buchhorn, instructed by Mr Anthony Pearce appeared on behalf of the Stewards.
Mr John Taylor did not attend the hearing.
Dr Steven Karamatic appeared as a witness.
Mr Dylan Bartolo appeared as a witness.

Charges and particulars: **Charge No. 1 of 11**

Greyhound Australasian Rules **156 (z)**, reads as follows:

156 *An offence is committed if a person (including an official):
(z) while present at a meeting, uses, or has in the person's possession, any device or other thing, which, in the opinion of the Stewards, is capable of affecting the behaviour or performance of a greyhound in an Event.*

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. At all relevant times, you were the owner of, trainer of, and had the care of, greyhound 'IMPRESARIO' (NJBXX).

3. On the 29 June 2023, you attended a race meeting at the Warrnambool Greyhound Race Club where IMPRESARIO was scheduled to race in race four (4).
4. Prior to kennelling of IMPRESARIO at Warrnambool on 29 June 2023, you have affixed an anti-bark shock collar to the greyhound, which in the opinion of the Stewards, is a device capable of affecting the behaviour or performance of the greyhound in an event.

Charge No. 2 of 11

Greyhound Australasian Rules **162 (e)**, reads as follows:

- 162** ***Other animal welfare offences***
An offence is committed if a person (including an official):
(e) has in their possession any gear, equipment, device, substance or any other thing capable of inflicting pain or suffering on a greyhound;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You were the owner of, trainer of, and had the care of, greyhound 'IMPRESARIO' (NJBXK).
3. On the 29 June 2023 you attended a race meeting at the Warrnambool Greyhound Race Club.
4. Whilst in the kennel bay at this race meeting you had in your possession an anti-bark shock collar, a device capable of inflicting pain or suffering on a greyhound.

Charge No. 3 of 11

Greyhound Australasian Rules 156 (f)(ii), reads as follows:

- 156** ***General offences***
An offence is committed if a person (including an official):
(f) has, in relation to a greyhound or greyhound racing, done something, or omitted to do something, which, in the opinion of the Controlling Body or Stewards:

(ii) constitutes misconduct or is negligent or improper;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You have done something in relation to greyhound or greyhound racing which, in the opinion of the Stewards, constitutes misconduct or is improper, in that;
 - a. On 29 June 2023, you attended a race meeting at the Warrnambool Greyhound Race Club where IMPRESARIO, a greyhound owned and trained by you, was engaged to compete in an event
 - b. Whilst in the kennel bay at this race meeting you have affixed an anti-bark shock collar to IMPRESARIO
 - c. Anti-bark shock collars are not permitted for use on greyhounds at a race meeting
 - d. An anti-bark shock collar is a device capable of inflicting pain or suffering on a greyhound and is capable of affecting the behaviour or performance of the greyhound in an event.

Charge No. 4 of 11

Greyhound Australasian Rules 162 (d), reads as follows:

156 *General offences*

An offence is committed if a person (including an official):

(p) does, attempts to do, or causes to be done any improper act for the purpose of affecting the performance or behaviour of a greyhound in an event.

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On 29 June 2023, you attended a race meeting at the Warrnambool Greyhound Race Club where IMPRESARIO, a greyhound owned and trained by you, was engaged to compete in an event.
3. You affixed an anti-bark shock collar to IMPRESARIO, a device that is capable of inflicting pain or suffering through electronic shocks, is not permitted for use on greyhounds for racing, and is capable of affecting the behaviour or performance of the greyhound in an event.
4. The affixing of an anti-bark shock collar to IMPRESARIO was for the purpose of affecting its performance or behaviour at its event at Warrnambool on 29 June 2023.

Charge No. 5 of 11

Greyhound Australasian Rules 165 (a), reads as follows:

165 *Conduct detrimental to the interests of greyhound racing*
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;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You have engaged in conduct that is detrimental or prejudicial to the interest, welfare, image, control or promotion of greyhound racing, in that;
 - a. On 29 June 2023, you attended a race meeting at the Warrnambool Greyhound Race Club where IMPRESARIO, a greyhound owned and trained by you, was engaged to compete in an event
 - b. Whilst in the kennel bay at this race meeting you have affixed an anti-bark shock collar to IMPRESARIO

- c. Anti-bark shock collars are not permitted for use on greyhounds at a race meeting
- d. An anti-bark shock collar is a device capable of inflicting pain or suffering on a greyhound and is capable of affecting the behaviour or performance of the greyhound in an event
- e. The above conduct was in view of other greyhound racing participants and officials and potentially in view of the general public.

Charge No. 6 of 11

Greyhound Australasian Rules 165 (a), reads as follows:

21 Proper care for and welfare of greyhounds

(2) A person must exercise the care and supervision necessary to prevent a greyhound under the person's care or custody from being subjected to unnecessary pain or suffering, or from anything which is likely to lead to unnecessary pain or suffering.

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. At all relevant times, you had the greyhounds, Un-named (VMBWW) and Un-named (VMBXA) in your care and custody.
3. A Stewards inspection of your registered premises on 3 July 2023 found that the abovementioned greyhounds, following examination by a veterinarian, were experiencing ventral (underside) neck wounds that had become infected.
4. You failed to exercise such reasonable care and supervision as was necessary to prevent the abovementioned greyhounds being subjected to unnecessary pain and suffering or from anything which is likely to lead to unnecessary pain or suffering.

Charge No. 7 of 11

Greyhound Australasian Rules 21 (1) (d), reads as follows:

21 Proper care for and welfare of greyhounds

(1) A person must ensure that any greyhound in the person's care or custody, is at all times provided with:

(d) veterinary attention when necessary;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. At all relevant times, you had the greyhounds Un-named (VMBWW) and Un-named (VMBXA) in your care and custody.
3. A Stewards inspection of your registered premises on 3 July 2023 found that the abovementioned greyhounds, following examination by a veterinarian, were experiencing ventral (underside) neck wounds that had become infected.
4. You failed to ensure that the abovementioned greyhounds, which were in your care and custody, were provided with veterinary attention when necessary.

Charge No. 8 of 11

Greyhound Australasian Rules 21 (1) (e), reads as follows:

21 Proper care for and welfare of greyhounds

(2) A person must ensure that any greyhound in the person's care or custody, is at all times provided with:

(e) appropriate treatment for the greyhound if the person is in charge of a sick or injured greyhound.

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. At all relevant times, you had the greyhounds Un-named (VMBWW) and Un-named (VMBXA) in your care and custody.

3. A Stewards inspection of your registered premises on 3 July 2023 found that the abovementioned greyhounds, following examination by a veterinarian, were experiencing ventral (underside) neck wounds that had become infected.
4. You failed to ensure that the abovementioned greyhounds, which were in your care and custody, were provided with appropriate treatment.

Charge No. 9 of 11

Greyhound Australasian Rules 164 (a), reads as follows:

- 164** ***Offences in relation to investigations and inquiries.***
An offence is committed if a person (including an official):
(a) makes a false or misleading statement in relation to or during an investigation, inspection, examination, test or inquiry (or at any other disciplinary process, hearing or appeal proceeding) or makes or causes to be made a falsification in a document in connection with greyhound racing or the registration of a greyhound;

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (**GRV**) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. On 3 July 2023 you were questioned by GRV Stewards regarding neck wounds to the greyhounds Un-named (VMBWW) and Un-named (VMBXA).
3. You stated to Stewards that you had sought veterinary attention for the injuries sustained to these greyhounds.
4. This statement was false or misleading in that it was subsequently established that you had not sought veterinary attention for these greyhounds for these neck wounds at the relevant times.

Charge No. 10 of 11

Greyhound Australasian Rules 165 (c) (iv), reads as follows:

- 165** ***Conduct detrimental to the interests of greyhound racing.***
An offence is committed in a person (including an official):

*(c) engages in contemptuous, unseemly, improper, insulting, or offensive conduct or behaviour in any manner or form towards, or in relation to:
(iv) a Steward or any other official of a Controlling Body or a Club;*

Particulars of the Charge being:

1. You were, at all relevant times, a trainer registered with Greyhound Racing Victoria (GRV) (Member No. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.
2. You have engaged in contemptuous, unseemly, improper, insulting, or offensive conduct or behaviour towards Investigative Stewards, in that;
 - a. On 3 July 2023 Investigative Stewards conducted a kennel inspection at your registered kennel address
 - b. Your conduct during this inspection included;
 - i. Inappropriate language
 - ii. Un-cooperative with Stewards
 - iii. Argumentative with Stewards
 - iv. Failed to follow lawful order of Stewards
 - v. Provided false or misleading information to Stewards

Charge No. 11 of 11

Greyhound Australasian Rules 156 (h), reads as follows:

156 *General offences.*

***An offence is committed if a person (including an official):
(h) disobeys or fails to comply with a lawful order of a Controlling Body, the Stewards, or another person authorised by a Controlling Body with 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. 5211) and a person bound by the Greyhounds Australasia Rules and Local Racing Rules.

2. On 3 July 2023 Investigative Stewards conducted a kennel inspection at your registered kennel address where you were issued with a lawful order to assist with the inspection, which including the handling of the greyhounds in your care or custody.
3. You refused to comply with the lawful order by walking away from the Stewards and remaining inside your place of residence.

Pleas: Charges 4, 5, 8 and 10 were withdrawn.
Mr Taylor pleaded Not Guilty to the remaining charges.

DECISION

1. At the outset, we make the following observations.
2. There is a considerable overlapping of the facts in relation to some one of the Charges. It is not our place to instruct the Stewards as to how the charges should be framed. However, we expressed our view to counsel representing the Stewards that we were concerned about whether the framing of charges in this way could lead to duplicity. Without conceding the point, the Stewards withdrew charges 4, 5, 8 and 10.
3. We would urge that in the future common sense be used in framing appropriate Charges, rather than pressing every possible form of Charge and thus running the risk of charges being duplicitous. This is particularly important as the majority of defendants in greyhound cases are unrepresented. The offending conduct needs to be presented as clearly and concisely as possible.
4. Mr John Taylor has been a greyhound owner and trainer since 1987.
5. The charges before us relate to his use of an anti-bark shock collar on one of his greyhounds, the presence of injuries to two greyhound puppies in his care, and his behaviour towards the Stewards during the course of their investigation into these matters.
6. On 29 June 2023, Mr Taylor's greyhound Impresario was entered in a race at Warrnambool. Immediately preceding the race, Mr Taylor kennelled the dog in the race kennels. As he did so, he placed an anti-bark shock collar (which we will refer to as the shock collar) on the dog. He did this in the full view of two stewards who were walking towards him. One of the Stewards challenged Mr Taylor as to what it was that he had put on the dog. The Steward had noticed a green light flashing from the dog's neck.

7. When questioned about this, Mr Taylor admitted having placed a shock collar on his greyhound after the dog had been placed in the kennels. After an investigation relating to this issue on race day the dog was scratched from the race in which it was entered.
8. Charges 1 to 5 deal with the use of the shock collar.
9. Charge 1 alleges that the shock collar was a device capable of affecting the behaviour or performance of the greyhound in an event.
10. Charge 2 alleges that the shock collar was a device capable of inflicting pain or suffering on a greyhound.
11. Charge 3 alleges that Mr Taylor has committed misconduct or was negligent in that he fixed the shock collar to the greyhound when such devices are not permitted for use on greyhounds. A shock collar is a device capable of inflicting pain or suffering on a greyhound and also capable of affecting the behaviour or performance of the greyhound in an event.
12. Charge 4 alleges that Mr Taylor did or attempted to do an improper act for the purpose of affecting the performance or behaviour of a greyhound in an event by attaching the shock collar to the dog at the time of the event at Warrnambool on the 29th of June 2023.
13. Charge 5 alleges that Mr Taylor engaged in conduct detrimental to the interests of greyhound racing by using the shock collar at the race meeting in view of other greyhound racing participants and officials and potentially in view of the general public.
14. Mr Taylor told the Stewards that he did not realise that the shock collar was inappropriate. He said that he thought that it was necessary because of the dog's behaviour in barking and being generally uncooperative. He bought the shock collar at a pet shop. He had not realised that potentially it would inflict pain on the dog.
15. The Stewards conducted an unannounced inspection of Mr Taylor's kennels on 3 July 2023. At that time, they noticed two other unnamed young greyhounds. They were approximately 6 months old. We will refer to them as the "unnamed puppies". They each had had large open welts on the inside of their necks.
16. Charge 6 alleges that Mr Taylor did not exercise the care and supervision necessary to prevent a greyhound under his care or custody from being subjected to unnecessary pain or suffering or from anything which is likely to lead to unnecessary pain and suffering. This relates to the presence of the injuries to the unnamed puppies' necks.

17. Charge 7 alleges that Mr Taylor did not provide the unnamed puppies with veterinary attention when necessary. This relates to his failure to seek veterinary attention for the wounds to the unnamed puppies necks.
18. Charge 8 alleges that Mr Taylor did not ensure that a greyhound in his custody was provided with appropriate treatment. This also relates to the two unnamed puppies which are the subject matter of charge 7. It is not specifically a charge that veterinary treatment was not obtained, but a lesser charge that Mr Taylor failed to ensure that they were provided with appropriate treatment.
19. As we have said, the Stewards inspected Mr Taylor's kennels on 3 July 2023. It is his behaviour towards the Stewards on that day which is the subject matter of charges 9, 10 and 11.
20. On the day of the inspection, the Stewards accused Mr Taylor of swearing belligerently at them and refusing to co-operate with the kennel inspection. The Stewards gave Mr Taylor several verbal directions in connection with the inspection. It is alleged that he had refused to comply with them.
21. Charge 9 relates to Mr Taylor's alleged statement to the Stewards that he had provided veterinary services to the unnamed puppies.
22. Charge 10 relates to his general attitude and demeanour towards the Stewards when they arrived and during the inspection on 3 July 2023.
23. Charge 11 is a charge that Mr Taylor has disobeyed or failed to comply with the lawful order of a controlling body. At the time of the kennel inspection, he was asked to assist with it. This included the handling of the unnamed puppies as part of the inspection. He refused to comply with the order by walking away from the Stewards and remaining inside his house.
24. In this case Mr Taylor did not appear at the hearing and thus did not give evidence. He did not enter a plea. We have proceeded on the basis of a not guilty plea to all the remaining charges.
25. Mr Taylor has been a greyhound trainer and owner since 1987. His thirty years of experience is relevant in assessing his actions both in using the collar and his care of the two unnamed pups.

We now turn to consider each of the charges in detail.

Charge 1

26. To succeed on this Charge, the Stewards need to establish that the shock collar was a device capable of affecting the behaviour or performance of the greyhound in an event. Clearly the event was the race in which the greyhound had been entered to compete. There was no direct evidence before us linking the use of the shock collar and the potential performance of the dog in the race. There was, for instance, no evidence as to how long the collar had been on the dog on race day, or before race day, or how conditioned the dog was to the use of the collar.
27. Initially we were doubtful that the elements of Charge 1 were made out. However, we were ultimately persuaded that there was sufficient evidence to establish that it was capable of affecting the greyhound's behaviour prior to the race, which in turn had the capacity to directly affect its performance.
28. Dr Karamatic gave evidence before us. He said that the shock collar was designed to stop barking and did so by conditioning a dog's behaviour, so that whenever the bark collar operated, or in some circumstances whenever the dog saw the collar or wore it without it operating, the dog would stop barking. This is because the shock collar, when in place, would deliver an uncomfortable electric charge to the dog's neck whenever barking occurred.
29. Impresario was a difficult dog. Mr Taylor described it as prone to barking and playing up. He described how it would tear up bedding and generally show signs of stress prior to a race. Indeed, it was because of those characteristics that Impresario had been designated by the Stewards as an early race dog. This means that, because it would suffer from so much stress prior to a race, it was a dog that would be entered only in races 1 to 6, so as to minimise the time spent by the dog in the race kennels. This is a standard procedure used by Stewards with dogs who suffer from these characteristics. It requires a veterinary assessment of such a dog on race day to confirm the designation.
30. Mr Taylor said that he had intended to use the shock collar on the dog as a pacifier on that day. He said that the dog had been barking and playing up at its previous race at another location, and he decided to use the collar at the race on 29 June 2023 to see if it worked. He had intended that the collar would give Impresario a shock so that the dog would not bark or play up whilst in the race kennels.
31. Dr Karamatic said that dogs who continually barked and showed signs of stress or anxiety prior to a race were likely to wear themselves out physically before the race started. The collar was designed to quell that stressful behaviour. A dog calmed by use of the collar would be expected to have more energy and concentration when it raced than a dog which had been in the race kennels barking and generally causing a disturbance.

32. In assessing this evidence, it is important to bear in mind that a dog may need to spend several hours in the race kennel before its race begins. This means that there is plenty of time for a susceptible dog to exhaust itself in the race kennel before participating in a race.
33. We accept this evidence. We are satisfied that all the elements of Charge 1 are made out.

Charge 2

34. To succeed on this charge, the Stewards must prove that Mr Taylor had the shock collar in his possession and that the collar was a thing capable of inflicting pain or suffering on a greyhound.
35. Once again, we were initially not convinced that the effect of the collar on the dog's neck was sufficient to be described as having inflicted pain or suffering on the greyhound. The evidence was of superficial lesions to Impresario's neck, consistent with the placement of the prods on the collar. Dr Karamatic described that physical evidence as being of hair loss and redness which could have occurred with the use of any collar. He described the physical injury as superficial.
36. The Stewards based the charge primarily on the capacity of the collar to inflict what Dr Karamatic referred to as "emotional pain and suffering". He said that one shock from the collar may be enough to cause this for some dogs and other dogs may require repeated exposures. He said that the clear purpose of the collar was to inflict an electric shock and that whether this shock caused actual pain as opposed to discomfort, the effects of administering such shock to a dog repeatedly would cause stress, anxiety and emotional pain to a significant degree. Mr Taylor admitted to the Stewards that he had observed that the collar could be intimidating to the dog even if it was not turned on.
37. We must bear in mind that it is the capacity of the collar to inflict pain or suffering on the greyhound which is the issue and it is not necessary for the Stewards to establish actual pain or suffering to a particular greyhound for this charge to be proven.
38. In the circumstances, we are satisfied that the shock collar was a thing capable of inflicting emotional pain or suffering on a greyhound. Thus, all of the elements of Charge 2 are made out.

Charge 3

39. To succeed on Charge 3, the Stewards must prove that Mr Taylor has done something which, in their opinion, constitutes misconduct or is negligent or improper. This is a very

broadly based charge. The Stewards submitted that Mr Taylor engaged in improper conduct by fixing the shock collar to the dog at the race meeting on the 29th of June.

40. To some extent, this Charge overlaps with Charges 1 and 2. The Stewards put it that the misconduct or improper conduct fundamental to this charge consisted of the use of the shock collar to give an unfair advantage to his dog over other greyhounds in the race. It was also submitted that its use was improper because the shock collar, although legally able to be sold in Victoria, is not permitted to be used except under onerous conditions. It is a strictly controlled device. Its use is governed by legislation which has approved a Victorian Code of Practice for the use of such devices. The Code requires supervision by a vet or animal trainer under a documented training plan. In a Notice to Industry dated 13 July 2020, and published on its website, the GRV warned participants that the collar must not be used unless those onerous conditions are made out. There is no evidence before us that Mr Taylor knew of or has complied with any of those conditions.
41. We are not persuaded that the conduct alleged constitutes misconduct. In part, we take the view because we find that the Notice regarding the use of shock collars difficult to understand to a lay participant. The first sentence of the Notice clearly prohibits the use of such collars, but the balance of the Notice sets out conditions under which they may be used.
42. However, we do agree that its use by Mr Taylor is either negligent or improper, given that there is no evidence that he made even cursory inquiries as to whether the shock collar should have been worn in the race kennel. In this respect, we note that it is common in the industry for anti-bark muzzles and other items to be banned from use in the race day kennels on race day. Some items, such as use of a Hidez compression suit for anxiety, are permitted, although application needs to be made to the Stewards to use any such device.
43. There was some lack of clarity in the evidence as to exactly how participants could ascertain which such devices were allowed and which were prohibited. However, as a seasoned participant in the industry, Mr Taylor must have known that he should make some enquiries before using the device. He had a compression suit fitted to Impresario. Therefore, he must have been aware of at least the general principle that calming devices needed to be authorised, at least when used in the race kennel.
44. Thus, we find all of the elements of charge 3 proven.

Charge 6

45. To succeed on Charge 6, the Stewards must prove that Mr Taylor failed to exercise the supervision necessary to prevent a greyhound under his care or custody from being

subjected to unnecessary pain or suffering. This charge relates to the two unnamed puppies and the injuries which they suffered.

46. Mr Taylor had these puppies in his custody for up to five weeks. It is clear from the evidence that significant injury was caused to the puppies because, at the time, he received them they had collars of a size which was suitable for a young puppy. It appears these collars were not inspected by Mr Taylor in the weeks that the puppies were under his care. This meant that the necks grew too large for the collars. This caused a large welt on the puppies necks.
47. We were provided with medical evidence from Dr Michael Bell, a vet who inspected the wounds and treated them following the Stewards discovery of the wounds to each puppy. He assessed the wounds as being in the range of 2 to 3 in severity, indicating mild to moderate pain, exacerbated by movement of the head. He described the wounds as infected, although granulating – that is, that a protective scab had formed over the wounds. The presence of granulation is a sign that the wounds were not recent. Dr Karamatic did not examine the puppies, but confirmed Dr Bell’s opinion from the photographs which were in evidence. His opinion was that the wounds had been present for a matter of weeks.
48. Mr Taylor said that he thought that these injuries were much less serious than the Stewards thought. However, the photographs we have seen show a significant ugly wound to each of the dogs, consistent with the description given in evidence of a large open welt to the soft underside of the neck.
49. Accordingly, we are comfortably satisfied that all of the elements of charge six have been proven.

Charge 7

50. To succeed on Charge 7, the Stewards must prove that Mr Taylor failed to obtain veterinary attention for the unnamed puppies when necessary. It is clear from the evidence that this was the case in relation to the injuries to the two puppies. Mr Taylor described to the Stewards how he had heard the puppies crying in pain when the neck area was knocked during play. We have described the injuries above. We consider it incontrovertible that the injuries required immediate veterinary attention.
51. We find charge 7 proven.

Charge 9

52. In order to succeed on Charge 9, the Stewards must prove that Mr Taylor made a false or misleading statement in relation to or during an investigation. We heard an audio recording of questioning by the Stewards of Mr Taylor on 3 July 2023 regarding the neck wounds to the two puppies. During that recording, it is clear that the Stewards asked what veterinary attention had been provided for the puppies. Mr Taylor's response is that they had been checked out by a veterinary surgeon. When challenged about this during the investigation, Mr Taylor said that what he meant was that he had vetted the dogs himself - that is, that he had looked at or treated the wounds himself. He admitted when challenged during the Stewards investigation that he had misled the Stewards by his remark.
53. As stated, Mr Taylor did not appear at this hearing and did not give evidence. In the circumstances, we accept that he told the Stewards that a vet had checked the unnamed puppies. This statement is clearly false and misleading and thus the elements of Charge 9 are made out.

Charge 11

54. In order to succeed on Charge 11, the Stewards must prove that Mr Taylor was issued with a lawful order at the time of the kennel inspection on 3 July 2023 and that he refused to comply with that order.
55. The evidence was that during the kennel inspection the Stewards requested Mr Taylor to bring out the puppies from their kennel for inspection. Mr Taylor refused by walking away from the Stewards and remaining inside his house until later coaxed out by them.
56. We have viewed body cam footage of this incident. We are satisfied from that footage that he was given multiple directions by the Stewards and that he ignored those requests and moved away. Although his behaviour may not have indicated a complete refusal to cooperate in the future with the Stewards, it is enough to constitute a refusal within the terms of this charge.

Thus, the elements of Charge 11 are made out.

57. In summary, we mark Charges 4, 5, 8, and 10 withdrawn. We find Charges 1, 2, 3, 6, 7, 9 and 10 proven.

PENALTY

1. We turn now to impose a penalty for each of these Charges.
2. We note at the outset that Mr Taylor has participated as an owner and trainer in the industry for many years and has never before been charged with any offence. This is a significant matter to be taken into account in his favour and we do so. We know nothing else about his personal circumstances.
3. We first deal with Charges 1, 2 and 3. As we pointed out earlier in this decision there is a considerable amount of overlapping between these Charges. However, they deal with discrete aspects of offending, even though it involves exactly the same set of facts. We accept that Charge One is particularly egregious, as it involves behaviour which is designed to directly affect the behaviour or performance of a dog in a race. The advantage which Mr Taylor may have had in the performance of his dog, had it raced on that day, is an aggravating factor to be taken into account in relation to both Charges 1 and 3.
4. Our sentencing task in relation to these three Charges is made difficult by the fact that we have determined that a fine in the order of \$2,000 is appropriate for each. Ordinarily we would have made the sentences concurrent, given that each of the Charges arises out of exactly the same fact situation. However, it has been brought to our attention that under the Sentencing Act 1991, fines cannot be made concurrent. We take the view that it is prudent to follow the principles set out in the Sentencing Act, even if we are not strictly bound to follow them.
5. We have determined to impose a fine of \$2,000 on Charge 1. In order to apply the principle of totality in order to achieve a proportionate total sentence in relation to Charges 1, 2 and 3, we have determined to make the following orders in relation to Charges 1 and 3.
6. As to Charge 2, we impose a fine of \$500, suspended for 12 months.
7. As to Charge 3, we impose a fine of \$500, suspended for 12 months.
8. We turn now to Charges 6 and 7. In our view, these are the most serious Charges facing Mr Taylor. The wounds to each puppy were significant and infected. They clearly caused pain and suffering. We agree with the Stewards that it is inexplicable as to why Mr Taylor did not notice the wounds sooner than he did and it is also inexplicable why he did not obtain veterinary attention as soon as he knew about them.
9. In sentencing for these charges in our view the most significant factor is that of general deterrence. We must signify to the industry that the welfare of animals is of paramount importance. If a person undertakes the care of a dog, that person has a responsibility to ensure that the dog is treated humanely. Mr Taylor fell well short of the accepted standard in the industry in relation to the care of these two puppies.

10. We have determined to impose a period of disqualification of two years in relation for Charge 6 and a period of disqualification of six months in relation to Charge 7. Given that both charges arise out of essentially the same subject matter we have determined to order that the period of disqualification in Charge 7 be served concurrently with the period of disqualification on Charge 6.
11. As to charges 9 and 11, we accept that the vice of these charges was that Mr Taylor showed no understanding of the need for the Stewards to be given full and frank information and to be shown co-operation.
12. As to Charge 9, we accept that Mr Taylor promptly acknowledged his error and remedied it.
13. As to Charge 11, although it is clear that by his actions Mr Taylor impeded the Stewards in their investigation, we are satisfied that this was a spur of the moment response and that Mr Taylor did ultimately accept that his behaviour was inappropriate.
14. On Charge 9, we impose a fine of \$500.
15. On Charge 11, we impose a period of disqualification of four months to be served cumulatively on the penalty for Charges 6 and 7.
16. In summary, the penalties are as follows.
17. On Charge 1, a fine of \$2,000.
18. On Charge 2, a fine of \$500 suspended for 12 months.
19. On Charge 3, a fine of \$500 suspended for 12 months.
20. On Charge 6, Mr Taylor is disqualified for two years commencing today.
21. On Charge 7, Mr Taylor disqualified for six months commencing today and to be served concurrently with the penalty on Charge 6.
22. On Charge 9, a fine of \$500.
23. On Charge 11, Mr Taylor is disqualified for four months, this to be served cumulatively on the penalties imposed in Charges 1, 2 and 3.
24. The effective sentence is therefore fines totalling \$2,500 payable immediately and disqualification for a total period of two and a half years, commencing today, 7 June 2024.

Mark Howard
Registrar, Victorian Racing Tribunal