

29 August 2024

DECISION

GREYHOUND RACING VICTORIA

and

JORDAN FORMOSA

Date of hearing: 23 August 2024

Date of decision: 23 August 2024

Panel: Judge Marilyn Harbison (Deputy Chairperson) and Ms Amanda Dickens.

Appearances: Mr Amara Hughes instructed by Ms Yana Podolskaya appeared on behalf of the Stewards.
Mr Jordan Formosa represented himself.

Charges and particulars:

Charge No. 1 of 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:

(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 and a person bound by the Greyhounds Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound “*Windy Biscuit*”.
3. “*Windy Biscuit*” was nominated to compete in Race 10, RAW ABILITY @ STUD (300+RANK), Grade 6, conducted by the Shepparton Greyhound Racing Club at Shepparton on 29 June 2023 (**the Event**).
4. On 29 June 2023, you presented “*Windy Biscuit*” at the Event not free of any prohibited substance, given that:
 - (a) A pre-race sample of urine was taken from “*Windy Biscuit*” at the Event (**the Sample**);
 - (b) Cobalt was detected at a mass concentration of greater than 100 nanograms per millilitre in the Sample.

Charge No. 2 of 2

Greyhounds Australasia Rule 142(1) reads as follows:

Rule 142 Administration of a prohibited substance established in a sample taken from a greyhound in connection with an Event

- (1) An offence is committed if a *person*:
- (a) *administers, attempts to administer or causes to be administered a prohibited substance to a greyhound;*
 - (b) *aids, abets, counsels or procures the administration of or an attempt to administer a prohibited substance to a greyhound; or*
 - (c) *has prior knowledge of a prohibited substance being administered or attempted to be administered to a greyhound,*

which is established in any sample taken from a greyhound presented for an Event or when subject to any other contingency pursuant to the Rules.

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 Greyhound Australasia Rules.
2. You were, at all relevant times, the trainer of the greyhound *“Windy Biscuit”*.
3. *“Windy Biscuit”* was presented for, and competed in, Race 10, RAW ABILITY @ STUD (300+RANK), Grade 6, conducted by the Shepparton Greyhound Racing Club at Shepparton on 29 June 2023 (**the Event**).
4. You administered, or caused to be administered, to *“Windy Biscuit”*, a prohibited substance, being Cobalt, which was detected in a sample taken from *“Windy Biscuit”* in that:
 - (a) You administered a product containing Cobalt, namely ‘Omega-3 Oil’, to *“Windy Biscuit”* on or around 28 June 2023;
 - (b) A pre-race sample of urine was taken from *“Windy Biscuit”* at the Event (the Sample);
 - (c) Cobalt was detected at a mass concentration of greater than 100 nanograms per millilitre in the Sample.

Pleas: Guilty to Charge 1
Not Guilty to Charge 2.

DECISION

1. Mr Jordan Formosa has been charged with two offences. Each of them relates to Windy Biscuit. Mr Jordan Formosa presented that greyhound in a race at Shepparton on 29 June 2023. A pre-race sample of urine was taken from the dog and cobalt was detected in that sample at a concentration of greater than 100 nanograms per millilitre. The reading detected was 187ng/mL. The referred sample reported the same reading.
2. He has pleaded guilty to that charge.
3. The second charge against him is that he administered a prohibited substance to that greyhound. The basis of this charge is that the Stewards allege that the reason why excessive cobalt was detected in the dog was that Mr Formosa had administered cobalt by giving Windy Biscuit high doses of omega oil as part of its daily feeding schedule.
4. Mr Formosa has pleaded not guilty to that charge.

5. This case was heard together with the Stewards' case against Mr Jason Formosa, who is his father. The evidence is that both were involved in training and racing greyhounds. Mr Jason Formosa has been charged with four offences. Two of those offences are charges of presenting greyhounds with cobalt and the other two are charges of administering cobalt to the dogs through the administration of high doses of the same omega oil which is involved in the case of Mr Jordan Formosa.
6. Both Jordan and Jason admitted to having administered the omega oil to their respective greyhounds. However, they have each pleaded not guilty to the administration charges, as they each state that they had no way of knowing that the omega oil contained excessive amounts of cobalt.
7. The charge of administration does not require the Stewards to prove that Mr Jordan Formosa intentionally administered this substance to Windy Biscuit.
8. Mr Formosa accepted that he had personally administered the omega oil to Windy Biscuit. We are thus satisfied that all the elements of the offence are made out. We therefore find the charge of administration proven.
9. We turn to deal with the penalty submissions.
10. Mr Jordan Formosa has been registered as a trainer since 2017. Since finding out about the high cobalt levels in the omega oil, he has discontinued its use.
11. We also take into account in setting a penalty for the administration charge that he had no idea that the cobalt levels were so high in the oil which he administered. Whilst we accept the Stewards' submissions that Jordan should have made inquiries as to the reliability of the source of the omega oil, we regard this case as much less grave than other cases where substances were knowingly administered to greyhounds. This approach is reflected in the sentence which we have imposed on the administration offence.
12. Having regard to all the circumstances, the penalties which we impose are as follows.
13. On Charge 1, presenting the greyhound not free of a prohibited substance, Mr Formosa is suspended for 12 months, with 11 months of that sentence suspended for 24 months. The suspension will commence on 26 Aug 2024.
14. On Charge 2, administering a prohibited substance, Mr Jordan Formosa is suspended for 12 months, with 11 months of that sentence suspended for 24 months. The suspension will commence on 26 Aug 2024.

15. We order that the penalty on charge 2 be served concurrently with the penalty on Charge 1, as it arises out of the same subject matter. This makes an effective active term of suspension of one month.
 16. Windy Biscuit is disqualified from Race 10 at Shepparton on 29 June 2023 and the finishing order is amended accordingly.
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Mark Howard
Registrar, Victorian Racing Tribunal