



## DECISION ON AN INTERNAL REVIEW APPLICATION UNDER SECTION 91 OF THE *GREYHOUND RACING ACT 2017*

Matter for determination	Decision of the Executive Leadership Team (“ <b>ELT</b> ”) dated 8 March 2022, to refuse an application for registration as a Starter and Judge by Mr Garth Roesse under section 49 (3) of the <i>Greyhound Racing Act 2017</i> .
Internal review decision date	19 April 2022
Internal review decision by	Mr Chris Wheeler <b>Acting Chief Commissioner</b> Mr Peter Collins <b>Commissioner</b>
Internal review decision summary	Confirm the decision of the ELT of 8 March 2022 to refuse Mr Roesse’s application for registration as a Judge and Starter.

### REASONS FOR DECISION

1. These are the reasons for decision following an application by Mr Garth Roesse (“**Mr Roesse**”) for internal review under the *Greyhound Racing Act 2017* (“**Act**”) of a decision of GWIC’s Executive Leadership Team (“**ELT**”) comprising of the Director of Race Day Operations and Integrity, Director of Compliance, Policy and Legal, and Chief Executive Officer. That decision was to refuse Mr Roesse’s application for registration as a Judge and Starter.
2. This is a reviewable decision within the meaning of section 91(1) of the Act. As we were not substantially involved in making the reviewable decision, we have dealt with this application.
3. Under section 91(7) of the Act, an internal reviewer is empowered to:
  - Confirm the reviewable decision the subject of the application; or
  - Vary the reviewable decision; or
  - Revoke the reviewable decision.

### BACKGROUND

4. Mr Roesse lodged an application with the Greyhound Welfare & Integrity Commission (“**Commission**”) for registration as a greyhound Owner, Attendant and Race Official (Kennel & Track Attendant; Judge; Starter) on 3 February 2022.

5. In considering the application, the Commission determined that the application ought to be determined by the ELT. The ELT as decision makers had regard to a number of factors, including Mr Roese's disciplinary history.
6. In April 2021 Mr Roese was charged by the Commission with ten breaches of Greyhound Racing Rule 104(6)(c). On 14 May 2021, Mr Roese's registrations were suspended for a period of 6-months with 4-months conditionally suspended.
7. On 21 May 2021 Mr Roese lodged an application for internal review of the penalty imposed in relation to the May 2021 disciplinary decision. The then Chief Commissioner Mr Alan Brown considered the application and issued a determination on 11 June 2021 that the suspension should only be applied to his Race Official Registration but that the period of suspension, being 6-months with 4-months conditionally suspended, should be upheld.
8. In September 2021 Mr Roese was charged by the Commission with breaching Greyhound Racing Rule 86(x) and Clause 10 of the *Greyhound Racing Regulation 2019*. On 2 December 2021 Mr Roese was disqualified for 4-months for Charge 1 and issued with a \$200 fine for Charge 2.
9. On 14 December 2021 Mr Roese lodged an application for internal review of the penalty imposed for Charge 1 of the December 2021 disciplinary decision. On 25 January 2022 Director Race Day Operations and Integrity, Mr Birch and Director Compliance, Policy and Legal, Mr Tutt, considered the internal review application and issued a determination to reduce the penalty to a 3-month disqualification.
10. Following the expiry of his period of disqualification on 5 March 2022, Mr Roese's application for registration as an Owner, Attendant and Race Official (Kennel & Track Attendant; Judge; Starter) was progressed by the Commission.
11. Mr Roese's application was considered by the ELT on 8 March 2022. The ELT determined to approve Mr Roese's registration as an Owner, an Attendant and as a Race Official (Kennel & Track Attendant) however refused Mr Roese's application as a Race Official (Starter and Judge) having consideration of the following factors:
  - Judges and Starters are classes of Race Official which require a high degree of integrity; and
  - The circumstances leading to Mr Roese's previous disciplinary action.
12. The ELT advised Mr Roese that he may re-apply for a Judge and Starter registration in 12-months from the 8 March 2022 decision.

#### **THE INTERNAL REVIEW APPLICATION**

13. On 3 February 2022, Mr Roese lodged an application for internal review of the decision to refuse his registration application for the role of Judge and Starter.
14. In his written submissions lodged as part of the application, Mr Roese emphasised that in the months following his disqualifications he has focused on fulfilling his responsibilities, both personally and as they relate to the greyhound racing industry.
15. Mr Roese also emphasised his deep remorse for the actions that led to the disciplinary actions brought against him. He stated that the disciplinary actions resulted in loss of his employment at Wentworth Park and had significant impact on his personal and financial circumstances.

16. Mr Roesse made submissions that he is extremely passionate about the greyhound racing industry, has learnt from his mistakes that resulted in the disciplinary actions being taken against him, and is keen to move on from these circumstances.
17. Mr Roesse submitted that the internal reviewers consider granting him registration as a Judge and/or Starter or alternatively, to reconsider the 12-month period he must wait to reapply, as he is eager to move forward in the industry.

## **HEARING IN RELATION TO APPLICATION**

18. On 12 April 2022 Mr Roesse attended a hearing in relation to his internal review application. The hearing was conducted via audio-visual software, in accordance with Mr Roesse's election.
19. At the hearing, Mr Roesse was invited to make submissions in relation to his application, which were made in addition to the written submissions filed with the internal review application. These submissions are outlined below.

## **SUBMISSIONS**

### ***Submissions in relation to guilt***

20. Mr Roesse made submissions at the hearing on in relation to the disciplinary action taken against him in May 2021.
21. Mr Roesse submitted to the internal reviewers that he 'took the fall' for another person who used his online betting profile in relation to the charges brought against him for breaching Rule 104(6)(c). Mr Roesse made submissions that he pleaded guilty to the charges brought against him in May 2021 as he was unable to provide any evidence supporting the submission that it was not him that utilised his online betting profile to make bets whilst working as an official.
22. The internal reviewers note that Mr Roesse pleaded guilty to the charges brought against in May 2021. Further, Mr Roesse did not make this submission at the time that disciplinary action was brought. Mr Roesse accepted the conduct as particularised in the charges brought in May 2021 and because of this, the disciplinary action has been recorded in his disciplinary history. Mr Roesse's disciplinary history can and should be taken into consideration by the Commission when considering his registration application.
23. The role of the internal reviewers is not to determine afresh the disciplinary action brought against Mr Roesse or consider his submissions or plea in relation to that action. Accordingly, the value of this submission made by Mr Roesse is zero.
24. The internal reviewers note the importance for participants to ensure that they engage in disciplinary action taken against them, including making any relevant submissions, at the time the matter is being decided by the Commission.

### ***Submissions in relation to the Commission withholding evidence***

25. Mr Roesse made a submission at the hearing into this internal review application in relation to the disciplinary action taken against him in December 2021.
26. Mr Roesse submitted to the internal reviewers that the Commission had withheld relevant evidence in the matter brought against him in December 2021. When questioned by the internal reviewers, Mr Roesse submitted that in the letter and brief of evidence he received as part of the December 2021 matter, a statement made by another participant was not

included. Mr Roesse submitted that he knew that participant had spoken to the Commission and was concerned the Commission was intentionally withholding evidence.

27. The internal reviewers were concerned by this submission and adjourned the hearing to make further enquiries into the circumstances surrounding the provision of evidence in the December 2021 matter.
28. The internal reviewers spoke with Mr Tutt, Director of Compliance, Policy and Legal. Mr Tutt advised that following the issue of the brief of evidence to Mr Roesse in September 2021, Mr Roesse contacted him and voiced his concerns about a transcript that was not contained in the brief of evidence.
29. On 13 October 2021 Mr Tutt emailed Mr Roesse a copy of the transcript of interview between the participant and the GWIC Inspector. No statement was ever provided nor sought by the Commission. Mr Tutt clarified to the internal reviewers that the transcript not being included in the original brief of evidence and was inadvertently omitted.
30. The internal reviewers confirmed with Mr Roesse that he received that transcript in October 2021, which he advised that he did. Mr Roesse also confirmed that he was provided the opportunity to respond to the brief of evidence as a whole, including the transcript provided on 13 October 2021, when responding to the charges brought by the Commission.
31. The transcript did not impact on the Commission's case against Mr Roesse nor reveal any additional details that were not already covered by the brief of evidence in the December 2021 matter.
32. As the internal reviewers we again note that it is not our role to re-litigate the disciplinary matters brought by the Commission or consider afresh any submissions in relation to those disciplinary matters. Accordingly, this submission is irrelevant to the internal review before us and the value of this submission is zero.

#### ***Submissions in relation to statement of Commission employee***

33. During the hearing with internal reviewers, Mr Roesse also made submissions that he had a conversation with Mr Birch, Director of Race Day Operations & Integrity.
34. Mr Roesse did not clarify the date that this conversation occurred.
35. Mr Roesse submitted that the conversation between himself and Mr Birch went along the lines of:  

Mr Birch:        *"What are you worried about with your, doing your disqualification?"*

Mr Roesse:       *"That I won't get any of my licences back."*

Mr Birch:        *"I can guarantee you'll all get your licences back."*
36. In the oral submissions made by Mr Roesse, he noted that he had not sought to further this submission but simply wished to note that the conversation took place. Accordingly, we will not address it in great detail. However, we note that even if Mr Birch did make such a pronouncement (of which we do not accept, as there is no corroborating evidence to support), as internal reviewers we are not bound by it. In addition, the ELT as the original decision makers (noting of course, that Mr Birch is a member), were similarly not bound.

#### **FINDINGS**

37. In considering this internal review, we have had regard to the material that was before the ELT as original decision makers. In addition, we have considered the disciplinary history

and prior internal reviews of Mr Roese, as well as engaging in a hearing with Mr Roese and considering his oral submissions.

38. We do not accept that the oral submissions put forward by Mr Roese at the internal review hearing substantially impact or provide any value to the internal review decision of his registration application. In summary:

- a) ***Submission as to guilt*** – Mr Roese pleaded guilty to the charges brought against him in the May 2021 disciplinary matter. That he now wishes to advise the Commission that he only did so on the basis that he had no evidence to support his view that another participant utilised his online betting profile does not benefit him. He would have been best placed to make that submission at the time the disciplinary matter was being decided. This submission has no value in relation to our decision.
- b) ***Submission as to the Commission withholding evidence*** – We do not accept that the Commission withheld evidence at any point. As outlined above, a transcript was not provided in Mr Roese’s initial brief of evidence in the December 2021 disciplinary matter. This error was later rectified when Mr Roese notified the Commission. Mr Roese had every opportunity to consider the transcript (and the brief of evidence) and make submissions in relation to it. We are not of the view that Mr Roese was disadvantaged in that regard, and do not view this submission as having any value in relation to our decision.
- c) ***Submission as to a statement of Commission employee*** – We note Mr Roese’s submission that he had a conversation with Mr Birch in which he came away with the impression that he would receive all of his licences once he finalised his disqualification. We make no assessment as to whether or not this conversation happened. We are not, as the internal reviewers, bound either by that conversation or by the decision of the ELT.

39. In considering all of the above, we determine to confirm the decision of the ELT on 8 March 2022.

## **SUMMARY**

40. In accordance with section 91(7) of the Act, having reviewed all of the material, we confirm the original decision of 8 March 2022. However, we have determined to vary the period of time Mr Roese must wait to re-apply for registration as a Judge and Starter. Mr Roese may reapply for registration as a Judge and Starter from 9-months of the original decision of the ELT, being on or after 8 December 2022.

**Acting Chief Commissioner Chris Wheeler**

**Commissioner Peter Collins**