

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

Matter for determination	Decision dated 14 May 2021 by the Integrity Hearings Panel: A/Senior Legal Officer, Alice Stafford, Chief Inspector, David OShannessy and Senior Steward, Dean Degan under section 59 of the <i>Greyhound Racing Act 2017</i> to impose a suspension on Mr Jarvis' registration for a period of nine months, with seven months conditionally suspended, effective immediately
Internal review decision date	11 June 2021
Internal review decision by	Mr Alan Brown Chief Commissioner Mr Peter Collins Commissioner
Internal review decision summary	Confirm the decision of 14 May 2021 to suspend Mr Jarvis for a period of nine months, with seven months conditionally suspended.

REASONS FOR DECISION

1. These are the reasons for decision following an application by Mr Kade Jarvis ("**Mr Jarvis**") for internal review under the *Greyhound Racing Act 2017* ("**Act**") of a decision of the Integrity Hearings Panel: A/Senior Legal Officer, Alice Stafford, Chief Inspector, David OShannessy and Senior Steward, Dean Degan of the Greyhound Welfare & Integrity Commission ("**Commission**"). That decision was to suspend Mr Jarvis' registration for a period of nine months, with seven months conditionally suspended effective from 14 May 2021.
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. On 19 April 2021 Mr Jarvis was issued with a Notice of Proposed Disciplinary Action, charging Mr Jarvis with 14 charges under Rule 104(6)(c) of the Greyhound Racing Rules ("**Rules**"). Rule 104(6)(c) provides as follows:

(6) An official officiating in a capacity that may have an affect on the result of an Event shall not-

(c) directly or indirectly engage in any betting transaction on that event.

The charges particularised that on 14 separate race dates from 1 September 2020 to 23 February 2021 that Mr Jarvis engaged in betting transactions on races in which he officiated as a judge. Mr Jarvis very promptly pleaded guilty to all 10 charges. The disciplinary action was conducted in writing as elected by Mr Jarvis, with detailed written submissions provided by Mr Jarvis.

5. Having considered all the evidence and submissions, the Integrity Hearings Panel imposed a suspension on Mr Jarvis' registration for a period of nine months, with seven months conditionally suspended. In determining the matter, the Integrity Hearings Panel considered that exceptional circumstances could be found, to effectively only suspend a portion of Mr Jarvis' registration, the portion being the part that allows him to work as a Race Official. By doing this, the Integrity Hearings Panel determined that Mr Jarvis' other registration, that of a Public Trainer and Breeder, should not be suspended.
6. The net effect of the penalty determination by the Integrity Hearings Panel was that for a period of 2 months, Mr Jarvis would be suspended from engaging in activities as a race official, which includes a judge, and that he would have the remaining seven months suspension conditionally suspended for a period of 12 months.

This internal review application

7. To the above decision, Mr Jarvis lodged an internal review application on 17 May 2021. The internal review application has been conducted in writing in accordance with Mr Jarvis' request. The internal review sought by Mr Jarvis was on the severity of penalty only.
8. Mr Jarvis' main submission on the internal review application is that, in Mr Jarvis' view, the Integrity Hearings Panel did not take into account a period of approximately 7 weeks when Mr Jarvis had been stood down by his employer, the Greyhound Breeders Owners and Trainers Association ("**GBOTA**").
9. Mr Jarvis contended that the period he was stood down from his employer was not adequately taken into account in the penalty imposed by the Integrity Hearings Panel.
10. Mr Jarvis also submitted that, taking into account the period that he was stood down by his employer and the period he has served so far on suspension has resulted in a financial loss through loss of wages, in that he cannot perform rostered work as a judge. It is noted that after 15 April 2021 Mr Jarvis was permitted to undertake Race Official duties other than judging, starting or lure driver.
11. Mr Jarvis referred to other matters in his internal review application such as delay of some 7 weeks, which caused him anguish and anxiety. Mr Jarvis submitted that the combination of being stood down by his employer and the effective 2-month suspension imposed by the Integrity Hearings Panel was excessive.

Findings

12. Upon review of all the evidence and submissions, the Integrity Hearings Panel, in imposing penalty that it did, took into account the following factors:
- The objective seriousness of Mr Jarvis' conduct – betting on races in which Mr Jarvis performed in an official capacity is a serious breach of the Rules and poses a significant integrity issue for the greyhound racing industry;
 - The length of time Mr Jarvis' has held a registration in the greyhound racing industry, being since 2001, approximately 20 years;
 - Mr Jarvis' disciplinary history – he has no relevant prior matters on his record;
 - Mr Jarvis' admission of the charges at the earliest opportunity;
 - The time that Mr Jarvis' had been stood down by GBOTA from his race official duties, being since 23 March 2021;
 - That the requirement to be registered as a Race Official is a relatively new registration type in the NSW greyhound racing industry, having been introduced in September 2019, however the position of a judge and the responsibilities associated with being a judge are not new and the conduct of betting whilst undertaking this official role is clearly something that should have been known to any person acting as a judge;
 - That this is the first time that GWIC has pursued this type of conduct as a breach of the Rules; and
 - The submissions made by Mr Jarvis in mitigation of penalty, including his personal and financial circumstances, his good record, his remorse and that he ensure that this conduct will never happen again.
13. The Integrity Hearings Panel also found that there were exceptional circumstances to provide Mr Jarvis with the ability to maintain his Public Trainer and Breeder registrations, notwithstanding the imposition of a suspension. Mr Jarvis' effective suspension was for a period of 2 months from engaging in activities as a Race Official, including as a judge, with, as is referred to above, the remaining four months suspended for a period of 12 months.
14. Relevantly, on 7 May 2021 when the Integrity Hearings Panel proposed the penalties upon Mr Jarvis following his admission of the charges, it was stated that the disciplinary action proposed took into account *“the time that you have been stood down by GBOTA from your race official duties, being since 23 March 2021”*. This was again contained in the final decision as a relevant factor taken into account by the Integrity Hearings Panel in coming to the conclusion that the nine month suspension with seven months conditionally suspended was appropriate.
15. It is clear on the material that the period in which Mr Jarvis was stood down by his employer was a significant factor that the Integrity Hearings Panel had regard to when coming to the penalty imposed.
16. In addition to that, there were other mitigating factors that were considered by the Integrity Hearings Panel, including Mr Jarvis' remorse and good record.

Summary

17. We refer to in both this matter and the matter involving Mr Roese in which the Integrity Hearings Panel made the following statement:

“The Commission has imposed penalties having regard to the fact that these are the first matters dealt with by the Commission. The publication of these decisions should serve as a very clear warning to greyhound racing participants who undertake roles as officials in the industry that the Commission will take disciplinary action against anyone who contravenes the Rules. For this reason, the Commission considers that future penalties for any official found guilty of breaching the Rules that deal with betting whilst working as an official must be met with more significant penalties.”

18. Having considered Mr Jarvis’ applications and all the material available on this matter, we find that the Integrity Hearings Panel took into account all relevant factors, including the matters in Mr Jarvis’ mitigation, including the length of time he was stood down by his employer before the suspension was imposed by the Integrity Hearings Panel.
19. Balancing all the mitigating factors we consider that Mr Jarvis was dealt with appropriately and on one view, with some leniency. What cannot be overlooked when a balancing consideration is made is that engaging in betting on races as a race official, particularly a judge, is a matter of significant seriousness.
20. The Integrity Hearings Panel and we as Internal Reviewers have also dealt with and determined the matter of Mr Roese. Mr Jarvis, in his application for internal review, seeks that consistency be applied by Commission decision makers. In this matter, it was particularly relevant that Mr Jarvis had a number of betting transactions which were somewhat significant. For this reason, we find that the decision to impose a higher head suspension period of nine months was justified to reflect these factors.
21. Whilst the Integrity Hearings Panel found that there was no evidence of any impropriety in relation to the results that were judged by Mr Jarvis, his conduct has the potential to strike at the heart of integrity. Noting, as the Integrity Hearings Panel did, that because Mr Jarvis was amongst the first officials to be dealt with for this type of conduct by the Commission, penalties for this type of conduct in the future for any judge found guilty of contravening these rules will be met with more significant penalties.
22. In accordance with section 91(7)(a) of the Act, we confirm the original decision, namely:

That Mr Jarvis’ registrations be suspended for a period of nine months (with seven months conditionally suspended) and that exceptional circumstances under LR99B(4) existed to allow for an exemption to be granted to allow Mr Jarvis to continue to act as, and have the privileges attached to the registration of a Public Trainer and Breeder, and the effect of the suspension was applied only to his Race Official registration.

Chief Commissioner Alan Brown

Commissioner Peter Collins

