

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

Matter for determination	Decision dated 6 September 2022 of decision makers Kevin Adams, Senior Steward, Paul Van Gestal, Steward and Geoff Page, Steward
Internal review decision date	2 November 2022
Internal review decision by	Mr Alby Taylor Chief Commissioner Mr Chris Wheeler Commissioner
Internal review decision summary	Vary the decision of 6 September 2022 and instead issue a total suspension period of 4 weeks and 5 days against Ms Howard's registrations

REASONS FOR DECISION

1. These are the reasons for decision following an application by Ms Jorja-Louise Howard ("**Ms Howard**") for internal review under the *Greyhound Racing Act 2017* ("**Act**") of a Commission decision ("**Commission**" or "**GWIC**"). That decision was to find Ms Howard guilty of two breaches of Rule 141(1)(a) and to suspend her registration for 7 weeks for each charge, to be served concurrently.
2. This is a reviewable decision within the meaning of section 91(1) of the Act. As we were not 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 9 August 2022 Ms Howard was issued with a Notice of Charge and Proposed Disciplinary Action ("**Notice**") charging Ms Howard with two breaches of Rule 141(1)(a) of the Greyhound Racing Rules ("**Rules**") which reads:

Rule 141(1)(a), Rules

- (1) The owner, trainer or other person in charge of a greyhound:
 - a. nominated to compete in an Event;

...

must present the greyhound free of any prohibited substance.

5. The particulars of the charges were:

Charge One

1. That Ms Howard, as a registered Public Trainer, while in charge of the greyhound 'Able Master' ("**Greyhound**"), presented the Greyhound for the purpose of competing in race 9 at the Gosford meeting on 24 May 2022 ("**Event**") in circumstances where the Greyhound was not free of any prohibited substance;
2. The prohibited substance detected in the sample of urine taken from the Greyhound following the Event was ethynylestradiol; and
3. Ethynylestradiol is a prohibited substance under Rule 137 of the Rules.

Charge Two

1. That Ms Howard, as a registered Public Trainer, while in charge of the greyhound 'Able Master' ("**Greyhound**"), presented the Greyhound for the purpose of competing in race 6 at the Gosford meeting on 31 May 2022 ("**Event**") in circumstances where the Greyhound was not free of any prohibited substance;
 2. The prohibited substance detected in the sample of urine taken from the Greyhound following the Event was ethynylestradiol; and
 3. Ethynylestradiol is a prohibited substance under Rule 137 of the Rules.
6. Ms Howard attended a hearing on 6 September 2022 with the decision makers. At the hearing, Ms Howard entered a plea of not guilty to both Charges, and made submissions in relation to the Charges. One such submission related to the spelling of the prohibited substance.
7. In the particulars as issued in the 9 August 2022 Notice, the substance 'ethynylestradiol' was misspelt, instead being recorded as 'ethnynlestradiol'. Following submissions from Ms Howard in relation to this, the decision makers amended the particulars on 6 September 2022 to correct this spelling error.
8. After hearing Ms Howard's submissions, the decision makers found the charges proven and imposed a 7-week suspension per charge, to be served concurrently.
9. As a result of the disciplinary action imposed on Ms Howard and pursuant to Rule 141(4), the Greyhound was disqualified from race 9 at Gosford on 24 May 2022 and race 6 at Gosford on 31 May 2022.

Internal Review Application

10. On 16 September 2022 Ms Howard applied for an internal review of the decision and sought a stay of the decision pending the hearing of the internal review.
11. On 2 November 2022 the internal review hearing proceeded via audio-visual software.
12. As internal reviewers, we have had regard to all of the evidence considered by the Commission decision makers on 6 September 2022, together with the submissions of Ms Howard made as part of this internal review application.

Decision

13. Upon review of the evidence and submissions in this matter, we note the following:

- Two separate samples were taken from the greyhound 'Able Master' some seven days apart, with both samples returning positive for the same prohibited substance, ethynylestradiol;
- No other samples taken from any other greyhound on either 24 May 2022 or 31 May 2022 at Gosford returned a positive result for any substance, including ethynylestradiol;
- Ms Howard signed the sample receipt, accepting that she was content with the sampling procedures;
- Ms Howard was not aware of any contact made by another individual with the greyhound on either 24 or 31 May 2022 that may have caused inadvertent contamination;
- Ms Howard accepted during the hearing of 2 November 2022 that it was possible that insufficient animal husbandry practices at her kennel premises may have inadvertently contaminated the greyhound;
- Ms Howard also confirmed that she has reviewed and amended the animal husbandry practices that may have caused the inadvertent contamination;
- Ms Howard, prior to the internal review hearing of 2 November 2022 sought legal advice in relation to the charge and on 2 November 2022 as a result sought to change her plea to a plea of guilty;
- By consent Ms Howard was afforded the opportunity to change her plea;
- The Commission's Penalty Guidelines in relation to the detection of a Category 3 substance guides the Commission to impose a period of suspension unless the trainer has had an unblemished record for a period of 10 or more years;
- Ms Howard had held a Public Trainer registration for approximately 16 months at the time of the offence;
- Accordingly, a period of suspension was warranted;
- Noting the change in plea, we applied a discount of 25% from the 7-week suspension arrived at by the original decision makers; and
- Prior to the Commission granting a stay of the 6 September 2022 decision, Ms Howard served a suspension period of 12-days.

14. As internal reviewers, we must have regard to the matter as a whole, with reference to the evidence and the submissions of Ms Howard. As internal reviewers, we were comfortably satisfied on the evidence that the decision made on 6 September 2022 to find the two charges under Rule 141(1)(a) proven was the correct decision.

15. In accordance with section 91(7)(a) of the Act, we have determined to vary the original penalty imposed by the decision makers on 6 September 2022 and instead impose a suspension of 4 weeks and 5 days against Ms Howard's registrations. We note that this is on the basis of evidence and submissions put forward by Ms Howard that was not available to the original decision makers on 6 September 2022, as well as a change in plea made by Ms Howard during the internal review hearing on 2 November 2022.
16. We note Ms Howard has served a period of 12 days suspension already. Accordingly, a 3-week period remains to be served from 2 November 2022.
17. Ms Howard sought, and was granted, an exemption to continue her casual employment that relates to the greyhound racing industry. This exemption was granted in accordance with the authority of Local Rule 178C(2).

Mr Alby Taylor, Chief Commissioner

Mr Chris Wheeler, Commissioner

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