IN THE RACING APPEALS TRIBUNAL

ROBERT JOHN HOARE
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

DATE OF HEARING **2 July 2026**

DATE OF DETERMINATION **27 July 2026**

APPEARANCES

The Appellant in person

Mr B Gillies for the Respondent

ORDERS

1. **The appeal in respect of charge 1 is dismissed.**
2. **The disqualification of 6 months imposed in respect of charge 1 is confirmed.**
3. **The appeal in respect of Charge 2 is dismissed.**
4. **The disqualification of 6 months imposed in respect of charge 2 is confirmed.**
5. **The disqualifications imposed by virtue of orders [2] and [4] are to be served concurrently commencing on 23 March 2026 and expiring on 22 September 2026.**
6. **The appeal as to liability in respect of charge 3 is dismissed.**
7. **The appeal as to penalty in respect of charge 3 is upheld.**
8. **The suspension of 3 months imposed at first instance is quashed and in lieu thereof a penalty of 1 month suspension is imposed.**
9. **The suspension imposed by order [8] is to commence on 23 March 2026 and expire on 22 April 2026.**
10. **The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 25 March 2026, Robert John Hoare (the Appellant) has appealed against a determination of the Greyhound Welfare and Integrity Commission (the Respondent) to impose periods of disqualification and suspension for breaches of the *Greyhound Racing Rules* (the Rules). The Notice of Appeal was accompanied by an application for a stay, which was opposed by the Respondent and which was refused for the reasons given in a determination made on 12 May 2026.

FACTUAL BACKGROUND

The Appellant's conditional registration

2. On 3 July 2023, the Respondent[1] wrote to the Appellant advising him that it had declined his applications for registration as a Breeder and Race Official, but had granted his application for registration as Public Trainer. The Appellant was further advised that the Respondent had determined to impose a condition on that registration in the following terms:

   > *You must not have more than eight (8) greyhounds under your trainership or under your care, control or supervision at any one time.*[2]

3. The Appellant accepted the imposition of that condition.

The events of 4 August 2025

4. On 4 August 2025, Ms Sandra Muscat and Ms Erin Robinson, both of whom are inspectors employed by the Respondent, attended the Appellant's premises to conduct a kennel inspection. After initially refusing, the Appellant eventually allowed Ms Muscat and Ms Robinson entry. Ms Robinson scanned a total of 21 greyhounds, 13 of which were identified as being under the Appellant's trainership or supervision.[3]

[1] TB 96 and following.
[2] TB 96.
[3] Statement of Ms Muscat at TB 99 – 100.

The events of 19 November 2025

5. On the morning of 19 November 2025, Ms Muscat and Ms Robinson again attended the Appellant's kennel premises. The reason for their attendance on this occasion was to carry out welfare checks due to reports that greyhounds in the Appellant's care were underweight. Upon arrival at the premises, Ms Muscat activated her body worn camera equipment and a conversation with the Appellant was recorded.[4]

6. The Appellant told Ms Muscat and Ms Robinson that he *"didn't have time for them at the moment"*[5]. After the Appellant was informed by Ms Muscat of the purpose of her visit, a lengthy exchange took place between them which should be set out in full:[6]

> *Q 17 Yeah, well, unfortunately - - -*
> *A17 [0:03:14].*
>
> *Q18 - - - we're here, we're going to have to - - -*
> *A18 No. Well – no. No. No.*
>
> *Q19 - - - conduct a full check.*
> *A19* ***You entered without permission. I'm going to ring the police 'cause youse entered without permission and you show me in black and white when - - -***
>
> *Q20 Robert.*
> *A20 - - - you're allowed to walk on – no, don't Robert me anymore. I've had enough of you trying to take over the game. Show me in black and white where you've got permission to walk - - -*
>
> *Q21 Robert, we've got - - -*
> *A21 - - - onto my property.*
>
> *Q22 We've had some welfare - - -*
> *A22 Show me in black and white.*
>
> *Q23 Can you let me speak?*
> *A23 No. You said to me the other - - -*

[4] Commencing at TB 65. The passages designated "Q" are statements made by Ms Muscat, and those designated "A" are statements made by the Respondent.
[5] At Q 16.
[6] At Q 19 and following.

Q24 We've had some welfare concerns.
A24 I don't care - - -

Q25 Okay. So, we're out here - - -
A25 - - - about who - - -

Q26 - - - to have a - - -
A26 I don't care.

Q27 We're here to have a look at the greyhounds and make sure that everything is okay.
A27 Well – well here they are. ***That's all you – far as you come in.***

Q28 Okay. So, we need to scan and – and - - -
A28 No, you've - - -

Q29 - - - check each greyhound.
A29 - - - done it all before. ***Go away****.*

Q30 If you are refusing - - -
A30 ***Get off the premises****.*

Q31 ***If you are refusing us - - -***
A31 ***Yes, I am.***

Q32 - - - inspect, I've got to officially warn you, there will be disciplinary action.
A32 Okay, then.

Q33 ***You are facing*** *- - -*
A33 ***Leave the property*** *- - -*

Q34 - - - disciplinary action.
A34 - - - please. You do not show - - -

Q35 Okay. I'm - - -
A35 - - - respect.

Q36 - - - going to warn you a second time. This is not the first - - -
A36 ***I don't care. Just go.***

Q37 - - - time you've refused entry. Okay.
A37 ***Just go. You're not allowed*** *- - -*

Q38 If you are refusing - - -
A38 - - - to come onto my property without - - -

Q39 - - - us to - - -
A39 - - - permission.

Q40 If you are refusing - - -
A40 [0:04:08].

Q41 - - - us to scan the dogs and check them, you will be facing disciplinary action, do you understand - - -
A41 Okay, then.

Q42 - - - that, Robert?
A42 Yep. No worries. I will – I will talk about it to whoever I've got to talk to.

Q43 ***Are you sure you want to go down this track where you're refusing entry?***
A43 ***Yes, 'cause you've got no right to enter my property.***

Q44 We've had a report of dogs being skinny, okay, and we need to - - -
A44 Listen.

Q45 - - - check out the - - -
A45 Listen.

Q46 The greyhounds.
A46 We spoke about this on Monday - - -

Q47 Okay.
A47 - - - and you [0:04:30].

Q48 And, my manager has told me we are to come up here - - -
A48 Who's your manager?

Q49 - - - and – Jordan Hughes.
A49 Well, I'll – tell Gordon to ring me right now.

Q50 No, he's not going to ring you.
A50 You ring Gordon and tell him to ring me or - - -

Q51 We are here to conduct a welfare check for the greyhounds. If you refuse entry, okay, there will be disciplinary action, because this is not - - -
A51 This isn't breach.

Q52 - - - the first time - - -
A52 I know the rules.

Q53 - - - that you have refused entry - - -
A53 Love - - -

Q54 - - - to GWIC inspectors.
A54 - - - ***you are not allowed to enter the property without permission.***

Q55 ***We don't need permission, we have powers of entry.***
A55 ***Yeah, but you're not a fucking policeman.***

Q56 We have - - -
A56 ***Get out.***

Q57 Don't swear at me.
A57 Get out.

Q58 We have powers of entry. Let's leave.
A58 ***Get out.***

Q59 Okay.
A59 ***Get out of the property.***

Q60 All right. Fine. You will be facing disciplinary action.
A60 ***Get out of the property****. [0:05:07].*

Q61 Just – just leaving the property now. We've actually been refused entry.
A61 [0:05:11] me a phone call.

Q62 Robert Hoare has now become aggressive - - -
A62 ***Go away.***

Q63 - - - swearing and threatening and we are leaving the property. Cease inspection at 11:00 – at 10:15am. I'll just leave the camera on just for our safety.
(Emphasis added in each case).

7. A case note prepared by Ms Muscat[7] is generally consistent with the terms of the exchange set out above, as is her statement of 22 December 2025[8] in which she described the Appellant as becoming *"extremely angry"* which made her have concerns for her safety.[9]

8. After leaving the premises, Ms Muscat received a call from the Appellant who informed her that he had been *"in contact with his lawyer"* who had advised him that she *"did not have authority to enter the property"*.[10] Although it is not material for present purposes, I should note that if such advice *was* given to the Appellant, it was palpably incorrect. Nothing in Ms Muscat's statement suggests that the Appellant made any attempt to apologise for his earlier conduct.

[7] TB 64.
[8] TB 75 and following.
[9] At [16] – [18].
[10] At [19] – [20].

9. Ms Robinson also made a statement[11] in which she said[12] that she had thought that the Appellant was going to try and follow her and Ms Muscat from the property, and that this had made her fear for her safety.

The interview of the Appellant on 29 December 2025

10. On 29 December 2025, the Appellant was interviewed by Mr Huisman, a Senior Investigator employed by the Respondent. A transcript of that interview forms part of the evidence before me.[13]

11. The Appellant told Mr Huisman[14] that he had *"a lot to say"* concerning the matters about which Mr Huisman was enquiring, although much of what followed[15] had no direct bearing at all upon the matters which are the subject of the present appeal. In terms of the events of 19 November, the Appellant asserted that Ms Muscat had *"turned up out of the blue [and] entered [his] property without any consent"*, as a consequence of which he was *"very annoyed with her"*.[16] Having earlier taken issue with the power of Ms Muscat to be present on the property, the Appellant appeared to accepted that she was permitted to be there,[17] but explained that he took issue with *"the way [she] spoke, the way [she] entered the property, never rung me you know"*.[18] The frequency with which the Appellant made reference to the absence of any phone call being made by Ms Muscat in advance of her attendance tends to indicate that this was his principal grievance.[19] In that respect, it is worth noting that there is obviously no obligation on an Inspector to provide advance notice to an industry participant of the exercise of their powers. Indeed, it is not difficult to envisage that in some cases, doing so could have the capacity to compromise an investigation.

[11] TB 72 and following.
[12] At [12].
[13] TB 80 and following.
[14] At Q and A 2.
[15] See for example Q and A 11 – 15.
[16] Q and A 20.
[17] Q and A 23.
[18] Q and A 24.
[19] See for example Q and A 23 – 25; Q and A 71.

12. Later in the interview, and contrary to what he had said earlier, the Appellant asserted that Ms Muscat lacked the power to *"just pull up and walk onto [his] property".*[20] He said *"wasn't going to take"* what he perceived to be the inappropriate way in which Ms Muscat had acted.[21] When the provisions of r 156 were drawn to his attention, the Appellant responded:[22]

> *That's fair enough. Yeah. So that's under their section. Well, under my section mate, you've got to give – if you want respect – I don't care who youse are, you want respect from me, you give me respect. And, there's – there'll be nothing – nothing to go about ….*

13. It will be apparent from the text of the conversation previously set out that the level of disrespect shown by the Appellant to Ms Muscat was palpable. Conversely, there was nothing whatsoever in anything Ms Muscat said or did which could be properly regarded as being disrespectful towards the Appellant.

THE CHARGES

14. On 10 March 2025, the Respondent wrote to the Appellant[23] advising that a view had been formed that there were reasonable grounds on which to charge him with breaches of the Rules. Two particular provisions of the Rules were cited in that context.

15. The first was r 156(i) which is in the following terms:

> **Rule 156(i)**
> *An offence is committed if a person (including an official)*
>
> *(i)* *prevents, attempts to prevent, interferes with or attempts to interfere with the carrying out of any identification, examination, test, necropsy, analysis, inquiry, investigation or inspection including a kennel inspection pursuant to the Rules.*

[20] Q and A 31; Q and A 40 – 60.
[21] Q and A 73.
[22] Q and A 85.
[23] TB 46 and following.

16. The second was r 156(g)(ii) which is in the following terms:

> **Rule 156(g)(ii)**
> *An offence is committed if a person (including an official):*
> *…*
> *(g) wilfully assaults, obstructs, impedes, abuses, interferes with, threatens or insults:*
> *…*
> *(ii) Any officer, employee or member of a Controlling Body.*

17. The Appellant was advised of proposed charges in the following terms:[24]

> **Charge 1 – Rule 156(i)**
> *That [the Appellant], at all relevant times a registered Public Trainer with the Greyhound Welfare and Integrity Commission, did something which in the opinion of the Controlling Body, constitutes an offence in circumstances where:*
> *1. On Wednesday 19 November 2025 GWIC Officers attended [his] registered kennel address at [xxx].*
> *2. During the inspection [he] refused to allow GWIC Officers to undertake a kennel inspection whilst they were exercising their powers under section 75(2)(a) of the Greyhound Racing Act 2017.*
> *3. By refusing to allow Officers of the Controlling Body to undertake a kennel inspection, [he] prevented the carrying out of any inspection.*

> **Charge 2 – Rule 156(g)(ii)**
> *That [the Appellant], at all relevant times a registered Public Trainer with the Greyhound Welfare and Integrity Commission, in the opinion of the Controlling Body, threatened and abused officers of the Controlling Body in circumstances where:*
> *1. On Wednesday 19 November 2025 GWIC Officers attended [his] registered kennel address at Lot 10 Salisbury Street, Blandford NSW 2338;*
> *2. During that inspection [he] became obstructive and advanced toward GWIC Officers Sandra Muscat and Erin Robinson, shouting;*
>
> > *"Get out, get out!"*
> > *"Yeah- but you're not a fucking police officer, get out";*

18. On 13 March 2026, the Respondent wrote to the Appellant again[25] advising him of a further proposed charge (charge 3) contrary to r 156(b), which is in the following terms:

[24] TB 46 and following.
[25] TB 50 – 51.

Rule 156(b)
An offence is committed if a person including an official:
...
(b) fails to comply with any conditions:
(i) of the person's registration or licence as an owner, trainer, attendant or any other category of registration or licence;
(ii) to which the registration of any greyhound owned by the person or under the person's care of custody is subject.

19. Charge 3 was in the following terms:

That [the Appellant], at all relevant times a registered Public Trainer with the Greyhound Welfare and Integrity Commission, did something, which in the opinion of the Controlling Body, constitutes an offence in circumstances where:

1. *On 6 July 2023, a condition was imposed upon [his] registrations, namely that [he] must not have more than eight greyhounds under [his] trainership or under [his] care, control or supervision at any one time.*

2. *On 4 August 2025, GWIC Inspectors attended [his] registered kennel address at [xxx] ("**Property**") and identified 21 greyhounds on the property;*
   1. Bogan Boy - NGBKX/956000004496386;
   2. Col Gwen May - NFDAK/956000005428060;
   3. Dancer Mulwee - NGETT/956000009593163;
   4. Di's An Angel - NLBSF/956000011364665;
   5. Mulwee Banjo - NGDJM/956000009573776;
   6. Mulwee Maudie - NKFZH/956000011662549;
   7. Mulwee Red - NDKRB/956000004308559;
   8. Oscar Charlie - NICVZ/956000006804151;
   9. Quick As May - NLBSK/956000007426760;
   10. Quick Edition - NLBSH/956000011364308;
   11. Quite Promising - NLBSI/956000011361957;
   12. Red Cheyse - NJDBV/956000012258082;
   13. Robbie's Power - NLBSE/956000011304196;
   14. Rock's Girl - NLCSE/956000011363834;
   15. Say No May - NLBSD/956000011361161;
   16. Sweet Zeal - VIBGS/956000006667463;
   17. Unnamed Greyhound - NNBFT/956000017120671;
   18. Unnamed Greyhound - NNDUR/956000019559604;
   19. Unnamed Greyhound - NNDUU/956000019596562;
   20. Very Best Buddy - NLBSJ/956000011360339;
   21. Zulu May - NLBSG/956000011305418.

3. *Of these greyhounds, the following 13 were listed as being in [his] ownership or trainership.*
   1. Col Gwen May - NFDAK/956000005428060;
   2. Di's An Angel - NLBSF/956000011364665;
   3. Mulwee Banjo - NGDJM/956000009573776;

4. Quick As May - NLBSK/956000007426760
5. Quick Edition - NLBSH/956000011364308;
6. Quite Promising - NLBSI/956000011361957;
7. Robbie's Power - NLBSE/956000011304196;
8. Rock's Girl - NLCSE/956000011363834;
9. Say No May - NLBSD/956000011361161;
10. Unnamed Greyhound - NNBFT/956000017120671 (now Flying Tango);
11. Unnamed Greyhound - NNDUR/956000019559604;
12. Very Best Buddy - NLBSJ/956000011360339;
13. Zulu May - NLBSG/956000011305418.

4. By allowing 13 greyhounds under [his] ownership or trainership onto the Property, [he was] in breach of the condition placed upon [his] registrations.

THE DISCIPLINARY HEARING AND THE PENALTIES IMPOSED

20. A disciplinary hearing was convened 23 March 2026, a transcript of which forms part of the evidence before me.[26] On that occasion, the Appellant pleaded guilty to all three charges[27] and the following penalties were imposed:

1. Charge 1 – a disqualification of 6 months.
2. Charge 2 – a disqualification of 6 months, to be served concurrently with that imposed in respect of charge 1.
3. Charge 3 – a suspension of 3 months, to be served cumulatively upon the period of disqualification imposed in respect of charges 1 and 2.

21. The disqualification was ordered to commence on 23 March 2026 and to expire on 22 September 2026. The suspension was ordered to commence on 23 September 2026 and to expire on 22 December 2026.

<u>THE APPELLANT'S POSITION ON THE APPEAL</u>

22. At the hearing of the appeal, the Appellant pleaded not guilty to charges 1 and 3, but pleaded guilty to charge 2.[28] The hearing proceeded on that basis.

[26] TB 103 and following.
[27] TB 108.4; 108.24; 108.32.
[28] Transcript 2.33.

23. Prior to the hearing, and at the time of the filing of the Notice of Appeal, the Appellant had indicated that he wished to enter pleas of not guilty to each charge.[29] In doing so, he advanced a number of submissions upon which he generally relied at the hearing (at least in respect of charges 1 and 3 in which the pleas of not guilty were maintained). Whilst I have outlined those submissions in the terms in which they were made, the Appellant appeared to be confused as to the factual basis of charges 1 and 2.

24. As to charge 1, the Appellant said[30] that:

    1. It was necessary for him to complete the training of the greyhounds.
    2. He did not refuse entry to the property, but in fact granted full access to the inspectors, and co-operated with their requests, once the immediate needs of the greyhounds were met.
    3. The inspection was conducted successfully.
    4. His actions were those of a responsible trainer protecting the welfare of his animals.
    5. Viewed properly, he had *delayed* access to his property, not refused it.[31]

25. As to charge 2, the Appellant said[32] that:

    1. He became distressed and defensive when told that a report had been made about his greyhounds.
    2. He subsequently apologised for his conduct.[33]

26. As to charge 3, the Appellant said[34] that:

    1. He had acted in good faith at all times.
    2. Any breach of a condition of his registration was due to the Respondent's administrative inefficiency, along with representations made to him by the

[29] See TB 6 – 8.
[30] TB 6.
[31] These submissions appear to relate to the factual basis of charge 3.
[32] TB 7.
[33] These submissions appear to relate to the factual basis of charges 1 and/or 2.
[34] TB 8.

Respondent's Senior Steward, Mr Birch, to the effect that the restriction placed on his licence would be lifted and he would be able to return to "full capacity".

3. Whilst the number of greyhounds registered with the Respondent necessarily exceeded the limitation placed on him, all of the registrations were processed by the Respondent without question, as recently as March of this year, all of which fortified his understanding that the condition had lapsed and he was not doing anything wrong.[35]

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

27. At the hearing of the Appeal, the Appellant's position in relation to the charges at was essentially the same as that outlined above.

Submissions of the Respondent

28. The written submissions of the Respondent advanced the following principal propositions:
    1. The refusal which was the gravamen of charge 1 was made out on the basis of the Appellant's statements to Ms Muscat.[36]
    2. The threats and abuse the subject of charge 2 were made out on the same basis.[37]
    3. Charge 3 was made out because the condition which had been imposed on the Appellant's registration:
        (a) had not been removed at the time of the events of 4 August 2025; and
        (b) was breached by the Appellant allowing 13 greyhounds to be registered under his ownership when the condition limited the number to 8.[38]

[35] These submissions are consistent with the factual basis of Charge 3.
[36] TB 10 at [8].
[37] TB 10 – 11 at [9] – [10].
[38] TB 12 at [17] – [22].

CONSIDERATION

29. As previously indicated, the Appellant's submissions appeared to reflect some misunderstanding of the factual basis of each of the three charges. However, that is of little moment. For the reasons that follow each of the charges is made out.

Charge 1

30. Charge 1 involves an allegation that the Appellant refused to allow the Respondent's officers to undertake a kennel inspection. The conclusion that this is precisely what the Appellant did is supported by a number of parts of the recorded conversation between the Appellant and Ms Muscat.

31. Firstly, when the Appellant was told by Ms Muscat that she was there to "*conduct a full check",* he immediately responded negatively and said he would call the police.[39]

32. Secondly, consistent with the refusal which is alleged, the Appellant repeatedly challenged the power of Ms Muscat to enter the boundary of the premises.[40]

33. Thirdly, the Appellant expressly prevented Ms Muscat from entering his property, and thus from undertaking the kennel inspection,[41] before variously telling her to *"go away",* "*get off the premises"* and *"leave the property"*.[42]

34. Fourthly, the Appellant specifically refused Ms Muscat entry to conduct the kennel inspection on two separate occasions,[43] simultaneously telling her that she had *"no right to enter [his] property*,[44] before telling her to "*get out"* on no less than five separate occasions in succession.[45]

[39] Q and A 17 – 19.
[40] Q and A 20 – 26.
[41] Q and A 27.
[42] Q and A 29, 30 and 33.
[43] Q and A 31 and 37.
[44] Q and A 43.
[45] Q and A 56 – 60.

Charge 2

35. The Appellant pleaded guilty to charge 2, the gravamen of which is that he threated and abused Ms Muscat and Ms Robinson by making the statements which have been particularised. There is direct evidence that the Appellant made those statements[46] which, on any interpretation, constituted threats and abuse. Although the Appellant pleaded guilty, it needs to be said that the evidence tends wholly against his assertion that he was acting in a manner which was "*defensive*". Neither Ms Muscat nor Ms Robinson ever gave the Appellant a reason to be defensive. The evidence clearly supports the conclusion that the Appellant was the aggressor.

36. It might also be noted that the particulars pleaded in charge 2 were, in light of the Appellant's overall conduct, limited to say the least. There were many other statements made by the Appellant which were, generally speaking, equally threatening and abusive.

Charge 3

37. The gravamen of charge 3 is that:
    1. A condition had been imposed on the Appellant's registration that he must not have more than 8 greyhounds under his traineeship, care, control or supervision at any one time.
    2. Such condition remained on the Appellant's registration in August 2025.
    3. On 4 August 2025, 21 greyhounds were identified as being on the Appellant's property.
    4. 13 of those 21 greyhounds were found to be under the Appellant's ownership or trainership.
    5. As a consequence, the Appellant was in breach of the condition which had been imposed.

[46] Q and A 55 – 61.

38. There is no issue as to any of the facts in [1] – [4] above. It follows that the conclusion in [5] is supported by the evidence. Whilst the matters raised by the Appellant certainly go to the question of penalty (and are addressed in that context below), r 156 (pursuant to which charge 3 was brought) creates an offence of absolute liability.[47] No defence of honest and reasonable mistake of fact is available to the Appellant.

THE ISSUE OF PENALTY

Submissions of the Appellant

39. The Appellant relied on a series of subjective factors at the disciplinary hearing before the Stewards, including his financial position,[48] and his devotion to the greyhound racing industry.[49] The Respondent did not suggest that any aspect of his history as an industry participant was an aggravating circumstance. I have taken all of these factors into account. I have also had regard to a report of Dr Layth Allmallah of 14 April 2026. For reasons of privacy I will not disclose its contents.,

40. Specifically in respect of charge 3, it was the Appellant's position that:
    1. Mr Birch, a senior Steward, had represented to him that the condition placed on his registration would be removed after a period.[50]
    2. As a consequence, and acting on that representation, the Appellant believed that he was free to register the 5 greyhounds, and had done so absent any issue being raised by the Respondent.[51]

Submissions of the Respondent

41. In respect of charges 1 and 2, the Respondent advanced the following principal submissions on penalty:

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[47] See *Chloe Bilal v Greyhound Welfare and Integrity Commission* (13 October 2025) at [52] – [59].
[48] TB 123,44 – 124.8; 126.8 – 126.27; 129.31 – 130.12 – 131.9; Transcript 3; 4; 5; 12.
[49] TB 129.21.
[50] TB 121.25 – 121.44; Transcript
[51] TB 122.1 – 123.13.

1. The conduct of the Appellant was objectively serious in each case because, amongst other things, it restricted (albeit to varying degrees) the capacity of the Respondent to carry out its statutory functions.[52]
2. Industry participants have an obligation to engage with officials in a respectful manner, and the Appellant had failed to do comply with that obligation.[53]
3. There was a need for any penalty to reflect principles of general and specific deterrence.[54]

42. The Respondent went on to submit[55] that it was open to me *"to increase the penalty"* imposed in respect of charge 1, given that the penalty imposed by the Stewards for that offence incorporated a discount of 25% to reflect the Appellant's plea of guilty, to which the Appellant was no longer entitled as a consequence of entering a plea of not guilty on the appeal. However, the Respondent then submitted,[56] in effect, that the original penalties were appropriate. As I have discussed below, there is a degree of tension between those two positions.

43. As to charge 3, the Respondent submitted that an obligation rested with participants to ensure that conditions imposed on their registration were not breached.[57] It was emphasised that there had never been a *"formal variation"* of the condition imposed on the Appellant.[58] As to the fact that no issue was raised about the additional 5 registrations, it was submitted that the Respondent was *"consistently working towards optimising"* its systems.[59] However, the Respondent conceded that this (along with the other matters raised by the Appellant in the event that I accepted them) were relevant to the issue of the penalty to be imposed in respect of charge 3.[60]

[52] At [28].
[53] At [29].
[54] At [31].
[55] At [36].
[56] At [37].
[57] At [20].
[58] Transcript 9.
[59] Transcript 10.
[60] Transcript 10.

CONSIDERATION

Charges 1 and 2

44. I should address at the outset the issue raised by the Respondent as to the effect, on the issue of penalty, of the Appellant's plea of not guilty to charge 1.

45. As previously noted the Appellant had originally pleaded guilty charge 1 before the Stewards, who properly allowed him a discount of 25% to reflect that plea. Before me on the hearing of the appeal, the Appellant pleaded not guilty to charge 1, but has been found guilty for the reasons I have outlined. Those circumstances leave the Appellant open to an increased penalty due to the fact that he is not entitled to the discount which was applied by the Stewards.

46. The Respondent's position on this issue somewhat confusing. The Respondent's initial submission was that it would be "*open*" to me to increase the penalty for charge 1. In making that submission, the Respondent stopped short of advancing the positive proposition that I should take that course. The Respondent then submitted, in effect, that the penalties imposed at first instance were appropriate. I construe that submission as encapsulating the proposition that I should *not* increase the penalty. Accordingly, on the one had the Respondent was raising the issue of an increased penalty (without actually submitting that I should take that course), and on the other appeared to be submitting the original penalties should remain. If the latter was the Respondent's ultimate position (as it appeared to be), I am unable to understand why the issue of a possible increase in the penalty was raised at all.

47. If, in circumstances such as this, the Respondent's position is that the penalty should be increased, a positive submission in those terms must be made. That is so for a variety of reasons, not the least of which is that procedural fairness requires a person in the Appellant's position to be put on notice of the fact that an increase in the penalty is sought.[61]

[61] See generally *Ings v Racing New South Wales* [2022] NSWSC 1127 at [85] – [89].

48. In the absence of such a submission being made in this case, and bearing in mind that the fact that the Appellant was self-represented at the hearing of the appeal, I do not propose to consider an increase in the penalty for charge 1, even though it would be open to me to do so.

49. In addressing the issue of penalty in respect of both charges 1 and 2, it is appropriate to begin by recognising that the Appellant's conduct engages two particular principles which have been the subject of previous comment by the Tribunal.

50. To begin with, the circumstances of the offending in charge 1 are analogous to a situation in which an industry participant refuses a direction given by an official who is properly authorised to give it. In *Racing NSW v Roberts*,[62] I endorsed the observations which had been made by Mr Beasley SC (as his Honour then was) in *Troy See v Racing NSW* which were in the following terms:[63]

> *"...licensed persons who refuse to cooperate with proper instructions and requests by the Stewards, or who hinder their investigations, can expect that absent what would have to be quite unusual or exceptional circumstances, it is almost inevitable that they will be disqualified. They can expect that it will almost be inevitable that they will be disqualified for a considerable period of time. Racing would be chaos if licensed persons refused to cooperate with proper requests and instructions of racing authorities. Penalties imposed for breaches of AR232(c)(i) and (ii) will be of a kind that protects the sport by acting as a proper deterrent to such conduct.*

51. It should not be difficult for industry participants to understand why that approach has been, and will continue to be, taken when determining penalties in matters of the present kind. Those who occupy official positions in the racing industry are given powers to assist them in carrying out their functions. Compliance with the exercise of those powers, and directions which are given pursuant to them, is an essential component of the ability of the relevant regulator to lawfully and

[62] 23 December 2025.
[63] 17 April 2023 at [14].

efficiently oversee and administer the operation of the industry as a whole., Any failure on the part of an industry participant to act in accordance with directions, or any conduct which frustrates or inhibits the exercise of an official's power, has the clear capacity to undermine the Respondent's ability to properly perform its statutory and regulatory functions. It is those matters which render offending of this kind objectively serious.

52. Consistent with what was said in *See* and other cases, industry participants (including, in this case, the Appellant) must clearly understand that whilst every case will always be determined according to its own facts and circumstances, offending of this general kind will, all other things being equal and absent exceptional circumstances, likely result in the imposition of a substantial period of disqualification.

53. Further, the offending in both charges 1 and 2 engages the following observations made in *Berry v Harness Racing New South Wales*:[64]

> *[48] Putting it simply, and whilst each case which comes before the Tribunal will, as a matter of fairness, always be assessed and determined according to its own facts and circumstances, it is necessary to send a clear message to industry participants that any conduct towards Stewards which is (amongst other things) abusive, offensive, threatening, obstructive, intimidatory, defamatory, racist or harassing, any conduct which constitutes an assault, and any conduct which constitutes a failure to comply with a reasonable direction by Stewards, is likely to meet with a substantial penalty.*
>
> *[49] That approach stems from the fundamental fact that the tasks and responsibilities of Stewards are difficult enough to begin with. Further, and at the risk of stating the obvious, their role is essential to the proper conduct and regulation of the harness racing industry. The discharge by Stewards of what are, by their inherent nature, onerous duties and responsibilities, should not be rendered even more difficult by behaviour of the kind exhibited by the Appellant in the present case. Moreover, Stewards are entitled to assume that they will be able to carry out their functions in circumstances where they are not subjected to personal abuse, and where their personal safety is not threatened or otherwise placed in jeopardy.*
>
> *[50] What must also be emphasised is that industry participants who find themselves affected by a decision of Stewards with which they disagree have*

[64] 4 June 2204 at [48], cited in *O'Shea v Racing New South Wales* 4 May 2026 at [61] and following

> *rights of appeal. It is not without significance that in the present case, when the Appellant was advised of such rights, he engaged in additional unacceptable behaviour which gave rise to a further charge. It goes without saying that what the Appellant did is not an appropriate response to a decision which is unfavourable to a participant, and with which that participant disagrees. The appropriate response, is for the participant to exercise the rights of appeal which are available.*

54. Again, the Appellant's conduct falls squarely into the categories discussed in *Berry*. It is particularly noteworthy that Ms Muscat and Ms Robinson made specific reference in their respective statements to fearing for their personal safety as a consequence of the Appellant behaving as he did.

55. There is a clear need for any penalty imposed in respect of charges 1 and 2 to reflect both general and specific deterrence, particularly in circumstances where the Appellant has consistently attempted to justify his conduct, and where he has expressed little or no remorse. For all of these reasons, the penalties imposed at first instance in respect of each of those charges should stand. Any lesser penalty would ignore the principles set out above.

56. Finally, and perhaps at the risk of stating the obvious, I should make it clear that the observations in *Roberts, See* and *Berry* set out above apply to <u>*all*</u> participants, in *all* divisions of the racing industry, in respect of conduct towards <u>*all*</u> officials, regardless of the level of seniority or role of such officials, and regardless of the capacity in which such officials may be acting at the relevant time.

Charge 3

57. Charge 3 is, as I have noted, an offence of absolute liability. However, the Appellant's position as he articulated it is obviously relevant. That position, put simply, is that in registering the 5 greyhounds in excess of the limit imposed by the condition, he was:

    (a) acting in good faith; and

    (b) oblivious to the fact that he was breaching the condition.

58. That position stems primarily from what the Appellant says were discussions he had with Mr Birch, and representations he says that Mr Birch made in the course of those discussions. Generally speaking, I accept the Appellant's position in respect of the circumstances surrounding charge 3 for the following reasons.

59. Firstly, the Appellant has consistently adopted that position, without deviation, from the outset.

60. Secondly, the Appellant has steadfastly stated that Mr Birch represented to him that it was open to him (i.e., the Appellant) to register additional greyhounds after the expiration of a period of time following the condition being imposed. Whilst there is some uncertainty in the evidence surrounding precisely what that period was, and although I am not able to conclude what Mr Birch precisely told the Appellant, I am satisfied that Mr Birch discussed the issue with the Appellant, as a consequence of which the Appellant understood that it was open to him to act as he did and register the greyhounds. He was obviously fortified in that view by the fact that when he did so, nothing was raised by the Respondent. In particular, it was never suggested that he was acting in breach of the condition.

61. Thirdly, the Appellant raised this matter in the previous disciplinary hearing, and raised it again in the documents which were filed for the purposes of the appeal. Notwithstanding that the Respondent was therefore on notice of it, no evidence was adduced from Mr Birch at the hearing about the discussions that the Appellant said took place, and about the representations that he maintains that Mr Birch made to him. The absence of any denial on the part of Mr Birch gives me further comfort in accepting the Appellant's account of what occurred.

62. Fourthly, against a background of the matters set out above, it is an objective fact that on no less than five separate occasions, the Respondent's own officers facilitated the registration of a greyhound in the name of the Appellant. As I have said, the fact that they did so, without demur, obviously (and understandably) fortified the Appellant's view that he was not acting contrary to the condition.

63. Fifthly, even if it is accepted that there is an obligation on industry participants to comply with the conditions of their registration, there is also, to put it bluntly, an obligation on the Respondent to have an efficient system of registration in the first place. The fact that it did not has frankly contributed significantly to the commission of the offence in charge 3.

64. Finally, there is, in my view, something of an incongruity in the position taken by the Respondent in relation to these issues. On the one hand, the Respondent urged that a suspension be imposed on the Appellant in respect of charge 3. The primary basis of that position was what was said, in effect, to be the objective seriousness of the offence, and the necessity to emphasise the need for industry participants to comply with their obligations. However, the Respondent took that position in circumstances where the evidence overwhelmingly supports the conclusion that the commission of the offence was facilitated by, and/or expressly acquiesced to, and/or encouraged by, its own officers. Whether, in another jurisdiction, those circumstances would give rise to an equitable estoppel on which the Appellant could rely is not something I have to decide.

65. Given all of these matters, the question arises whether this case presents one of the extremely rare instances in which a charge, although proven, should nevertheless be dismissed in the exercise of my discretion. After much consideration I have erred against taking that course, principally on the basis that I accept the proposition that registered participants must be diligent in complying with their obligations. It is for that reason that some penalty must be imposed.

66. However, that general proposition must be balanced against the unique circumstances of the present case. The Appellant, for good reason, genuinely believed that he was complying with his obligations. The Respondent failed, on successive occasions, to disabuse him of that belief. All of those circumstances warrant a reduction in the penalty imposed. Further, that penalty should be served wholly concurrently with the periods of disqualification.

67. The Appellant has been sufficiently successful on the appeal to justify the refund of the appeal deposit.

ORDERS

68. For the reasons given I make the following orders:

1. The appeal in respect of charge 1 is dismissed.
2. The disqualification of 6 months imposed in respect of charge 1 is confirmed.
3. The appeal in respect of charge 2 is dismissed.
4. The disqualification of 6 months imposed in respect of charge 2 is confirmed.
5. The disqualifications imposed by virtue of orders [2] and [4] are to be served concurrently, commencing on 23 March 2026 and expiring on 22 September 2026.
6. The appeal as to liability in respect of charge 3 is dismissed.
7. The appeal as to penalty in respect of charge 3 is upheld.
8. The suspension of 3 months imposed at first instance is quashed and in lieu thereof a penalty of 1 month suspension is imposed.
9. The suspension imposed by order [8] is to commence on 23 March 2026 and expire on 22 April 2026.
10. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW AM SC

27 July 2026