IN THE RACING APPEALS TRIBUNAL

DENNIS LOWE
Appellant

v

GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DETERMINATION

DATE OF HEARING **4 August 2026**

DATE OF DETERMINATION **24 August 2026**

APPEARANCES

Mr G Walters for the Appellant
Mr B Gillies for the Respondent

ORDERS

1. **The order made on 27 May 2026 pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* (NSW) is vacated.**
2. **The appeal in relation to charge 1 is allowed.**
3. **Charge 1 is dismissed.**
4. **The penalty imposed in respect of charge 1 is quashed.**
5. **The appeal in relation to charge 2 is allowed.**
6. **The penalty imposed in respect of charge 2 is quashed.**
7. **In lieu thereof, the Appellant is suspended for a period of 29 days commencing on 13 May 2026 and expiring on 10 June 2026.**
8. **The appeal deposit is to be refunded.**

INTRODUCTION

1. By a Notice of Appeal dated 18 May 2026, Dennis Lowe (the Appellant) has appealed against determinations of the Greyhound Welfare and Integrity Commission (the Respondent) to impose periods of disqualification and suspension for alleged breaches of LR 34B(3) and r 24(1) of the Greyhound Racing Rules (the Rules) respectively.

2. On 27 May 2026, I made an order pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* (NSW) that the Respondent's determinations be suspended until the finalisation of the present appeal.

THE FACTS

3. On 27 September 2023, the Appellant submitted a retirement notification[1] (the notification) to the Respondent in respect of the greyhound *Glen's Angel* (the greyhound). In the notification, the Appellant advised that the date of the greyhound's retirement was 1 January 2023. When asked to provide the address at which the greyhound would be kept, the Appellant answered:

   [xxx], Brewarrina NSW 2389.[2]

4. The form of notification asked the Appellant to specify the details of any person to whom the greyhound was to be retired, to which the Appellant responded as follows:[3]

   Name of Person or Organisation
   Olive Finley

   Address
   [xxx], Brewarrina NSW 2389.

   Daytime Phone Number
   [xxxxxx]

[1] TB 48 and following.
[2] TB 49.
[3] TB 50.

5. The Appellant nominated the date of transfer as January 2023, stating:[4]

> *Family trialed [sic] dog to ensure they were able to care for it.*

6. In answer to the question[5] *"Was the greyhound desexed before retiring and rehoming"?* the Appellant stated *"No"*. When asked to provide a desexing certificate, the Appellant stated:

> *Dog is being used as a working dog on farm rang GWIC Feb-Mar 2023 not desexed as requested by the new owner.*

<u>THE INTERVIEW OF THE APPELLANT ON 17 NOVEMBER 2025</u>

7. On 17 November 2025, the Appellant was interviewed by the Respondent's inspectors. During the course of the interview, the following exchanges took place regarding the retirement of the greyhound:

> *Q36 .... The reason I'm actually calling, specifically today, is to talk to you about the one greyhound – Glen's Angel. So, do you want to explain to me, your version of what happened with Glen's Angel and where Glen's Angel is now – to the best of your knowledge.*
> *A36 Yep. She was – I – I don't want to incriminate myself because now I'm a little bit smarter and you've educated me a bit more.*
>
> *Q37 Okay.*
> *A37 'Cause it was a long time ago.*
>
> *Q38 Right.*
> *A38 She – a friend of a friend - - -*
>
> *Q39 Yep.*
> *A39 - - - wanted a dog for his son, and I said, 'Well just take..' – 'cause what I used to do was, I tried to rehouse my own rather than put him in the GAP. I take them for two weeks. So, this was Glen's Angel's second visit. Did someone – someone else had a – had a property for two weeks and said, 'No. She doesn't fit.' And, I said, 'Well just bring her back.*
>
> *Q40 Okay.*
> *A40 And – and – and – so the second time she went out to a farm a fair distance away. To a [0:05:03 ... sounds like "Ha-loo-sah-qu-ayn-z"]. A bloke I met a couple*

[4] TB 50.
[5] TB 50.

of times. And, I said, 'Well if you bring her back, I can get her desexed for you.' And, he said – and he said, 'I love her. The kids love her. She's on a thousand acres. She's one of the best dogs we've got. We don't want her desexed.' So, I put in the paperwork saying that. And, I put his address down. But I've since tried to contact him. I believe, GWIC has since tried to contact him, and no one can find him. So, he's not like, a – an acquaintance of mine. I can tell you where he lives. And, that's what happened with her. I'm still trying to find him. You know, 'cause he was a renter. You know, like a thousand acres rented up. And, that's the sort of life he lives. He does a bit of fencing and a few other jobs, here and there. And, I'm still trying to find him.

Q41 Okay. And, when did this happen? The - - -
A41 I don't know.

Q42 The – the - - -
A42 You've got the statutory - - -

Q43 - - - greyhound was - - -
A43 - - - declaration. So, it would've been about six months before that.

Q44 Okay.
A44 'Cause that should be on file somewhere. That I filled out. 'Cause the actual form that I filled out saying that I transferred her to someone else – I – I sent one of those in.

...

Q63 Yes. Okay. And, with the gentleman that you rehomed Glen's Angel to, did you say he lives out in the bush? Or, did – massive - - -
A63 Yep.

Q64 - - - property in the city?
A64 I gave an address and a phone – phone number. And, I – she went to a thousand-acre property. So - - -

Q65 You're just not sure where – where abouts.
A65 I – well I know he doesn't live there anymore 'cause - - -

Q66 Okay.
A66 GWIC's tried to find him, and I've tried to find him, since.

Q67 Okay. All right. Well, look – from what I'm hearing today, you're saying – greyhound was not desexed when you rehomed the greyhound. That you - - -
A67 And, I put that on the form.

Q68 Yep.
A68 And, I since learnt, that that's obviously illegal. You can't do that anymore.

Q69 Yep.
A69 Yep.

Q70 And then, you've tried to chase this new owner up unsuccessfully.
A70 Yep.

Q71 By phoning. And, did you have any other ways that you - - -
A71 And, contact – and contacted everyone else that I know who may've known him. So – yeah.

Q72 Okay.
A72 Yep.

Q73 So, you come from a similar community at some point.
A73 Yep.

Q74 And, this person has nothing to do with greyhound racing?
A74 No. Never.

Q75 Okay. And, did you have any idea that they wanted to breed with this greyhound?
A75 I hope – they told me they weren't.

Q76 Okay. Why do you think they didn't want you to desex the greyhound?
A76 Truth. The truth is, they get fat and lazy, and they're not a good farm dog.

Q77 Okay. So, they wanted it for the farm.
A77 Yep.

THE DISCIPLINARY HEARING

8. On 28 April 2026, some 5 months after the interview, the Respondent issued a Notice to the Appellant[6] advising him of proposed disciplinary action. On 13 May 2026, a disciplinary hearing took place at which the Appellant was charged with two offences. The first was in the following terms:

Charge 1 [LR 34B(3)]
That the Appellant, as a registered Owner Trainer and Breeder Whelper with GWIC at all relevant times, did a thing which, in the opinion of the Controlling Body, constituted an offence in circumstances where:

1. *He was at all relevant times the custodian of the greyhound Glenn's Angel (Microchip 956000006667992) ("Greyhound").*
2. *On 27 September 2023, he advised the Controlling Body that the Greyhound had been retired on 1 January 2023 to a location in Brewarrina, NSW.*
3. *In an interview with the Controlling Body on 17 November 2025 he was unable to provide contact details of the new owner.*

[6] TB 36 – 38.

4. *He had accordingly failed to adequately account for the whereabouts of the Greyhound.*

9. LR 34B(3) provides:

> *An offence is committed if a person fails to adequately account for the whereabouts of a greyhound.*

10. The second charge was in the following terms:

Charge 2 [Rule 24(1)]
That the Appellant, as a registered Owner Trainer and Breeder Whelper with GWIC at all relevant times, did a thing which, in the opinion of the Controlling Body, constituted an offence in circumstances where:

1. *He was at all relevant times the custodian of the greyhound Glenn's Angel (Microchip 956000006667992) ("Greyhound").*
2. *On 27 September 2023, he advised the Controlling Body that the Greyhound had been retired on 1 January 2023 to a location in Brewarrina, NSW.*
3. *The Greyhound had not been surgically sterilised prior to this; and*
4. *Retiring the Greyhound without being surgically sterilised, in circumstances not approved by the Controlling Body, constituted a breach of Rule 24(1) of the Rules.*

11. Rule 24(1) provides:

> *Unless a greyhound is being accepted by an adoption agency approved by a Controlling Body that undertakes sterilisation, the owner or person responsible for the greyhound at the time of such retirement as a pet must ensure that the greyhound has been surgically sterilised by a veterinarian before allowing the greyhound to leave their care and custody, except where a veterinarian certifies after examining that greyhound, to the satisfaction of a Controlling Body, that being sterilised would be detrimental to its welfare.*

12. At the disciplinary hearing, the Appellant pleaded not guilty to charge 1, and guilty to charge 2.[7] He pointed out[8] that he had provided the Respondent with the name, address and phone number of the transferee in the notification, and described the transferee as a *"casual acquaintance whom he did not know well"*.[9] He said that

[7] TB 67.36 – 67.41. The Appellant maintained that position on the appeal – see Transcript 2.18.
[8] TB 68.1 – 68.9.
[9] TB 68.19 – 68.27.

he had not been contacted since the greyhound was transferred[10] but that he had heard that the transferee was "happy".[11] The Appellant also said that he had since tried to contact the transferee through Facebook but had not been successful in doing so.[12]

13. In the course of the disciplinary hearing, it was put to the Appellant[13] by Mr Boyce-Mortlock, the Acting Senior Steward, that the Appellant had *"**all of a sudden** ... given the contact details as well as the address" [i.e. of the transferee].* The suggestion that such information had been provided by the Appellant *"all of a sudden"* was objectively incorrect, to say nothing of being entirely unfair. The disciplinary hearing took place on 13 May 2026. The Appellant had provided the relevant information to the Respondent surrounding the transfer in September 2023. The true position, therefore, was that the Respondent had that information in its possession for a period of some two and a half years by the time of the disciplinary hearing. For reasons which remain unexplained, it apparently failed to act on it for a significant period of time.

14. At the conclusion of the disciplinary hearing, the Appellant was found guilty of charge 1. As previously noted, he had pleaded guilty to charge 2.

<u>THE PENALTIES IMPOSED</u>

15. By letter of 13 May 2026,[14] the Appellant was advised by the Respondent that:

    1. in respect of charge 1, a disqualification of 6 months was imposed;
    2. in respect of charge 2 a suspension of 6 weeks was imposed;
    3. the disqualification would commence on 13 May 2026 and expire at midnight on 12 November 2026;

[10] TB 71.29.
[11] TB 72.10.
[12] TB 73.30.
[13] TB 75.15.
[14] TB 41.

4. the suspension would commence on 13 November 2026 and expire at midnight on 24 December 2026.

16. In other words, the penalties were ordered to be served wholly cumulatively.

SUBMISSIONS OF THE PARTIES IN RESPECT OF CHARGE 1

Submissions of the Appellant

17. The written submissions of the Appellant in respect of charge 1 relied primarily on the unexplained delays in the Respondent's investigation of the matter. At the hearing of the appeal, Mr Walters emphasised that the issue of delay was relied upon in support of a submission that the offending against LR 34B(3) could not be made out, rather than simply in respect of penalty.

18. Put simply, Mr Walters submitted[15] that the Appellant had provided all relevant information in the notification and that such information was adequate, at the time, to account for the greyhound's whereabouts. Whilst Mr Walters accepted that the offence created by LR 34B(3) was one of absolute liability, he submitted that it was nevertheless incumbent on the Respondent to prove the elements of that offence. In that regard, he focussed on the word "*adequately*" as it appeared in the rule. He submitted that the issue of what was adequate was to be determined by applying an objective test, and that such test had been met by the information provided by the Appellant in the notification.

Submissions of the Respondent

19. It was submitted on behalf of the Respondent[16] that the crux of the Appellant's liability in respect of Charge 1 stemmed from his failure to undertake the enquiries which were necessary to ensure that he had adequate information to provide to the Respondent, so as to allow it to carry out its own enquiries to verify the transfer. It was submitted that in the course of the disciplinary hearing, the

[15] Transcript 3.10 and following.
[16] Transcript 7.39 and following.

Appellant had admitted that he had never attended the property of the transferee, and had adduced no evidence as to how he came to obtain the information he had provided. Those admissions, it was submitted, were sufficient to conclude that the information that he had provided was inadequate.

CONSIDERATION – CHARGE 1

21 I have already noted the terms of LR 34B(3). Charge 1 purports to allege a breach of that rule. Whilst no specific issue was taken at the hearing of the appeal with the form of that charge, it has to be said that its terms expose what could only be described as poor drafting, to the point where the charge as pleaded largely fails to properly articulate and particularise the Respondent's case.

22 Firstly, the opening words of the charge incorporate a substantive allegation that the Appellant "*did a thing which in the opinion of the controlling body constituted an offence*". Those words do not replicate the terms of LR 34B(3), and do not plead a breach of that rule. LR 34B(3) does not create an offence of *"doing a thing"* which the controlling body considers to be contrary to the Rules. Rather, it creates a distinct offence of failing to adequately account for the whereabouts of a greyhound. Given the conclusion I have ultimately reached, the question of whether those opening words have the capacity to result in the charge being regarded as a complete nullity is not something I have to decide, although in my view such a proposition is arguable.

23. Secondly, the first particular of the charge asserts that the Appellant was the custodian of the greyhound "*at all relevant times*". The "*relevant times*" are not specified, in circumstances where the particulars go on to make reference to _two_ separate and distinct dates, which are more than 2 years apart. On the evidence, the Appellant was *not* the custodian of the greyhound on the second of those nominated dates. It follows that the first particular is, at least in part, objectively incorrect.

24. Thirdly, *when* any offence contrary to LR 34B(3) is said to have been committed is impossible to determine from the terms of Charge 1 itself. That is so for two reasons. The first, in the form in which it has been pleaded, Charge 1 makes reference to two dates, namely 27 September 2023 (being the date on which the notification was submitted) and 17 November 2025 (being the date on which the Appellant was first interviewed). The second, is that the date on which the offence is said to have been committed is not specifically pleaded in the charge at all.

25. Fourthly, particular [3] asserts that the Appellant *"was unable to provide the contact details of the new owner"* at the interview on 17 November 2025. On a fair reading of the transcript of that interview, the assertion is wrong. The Appellant made a specific reference in the course of that interview to the information he had provided in the notification, which obviously included the details of the transferee.[17] In any event, given that the Respondent's case [18] is that the offending occurred on 27 September 2023, what the Appellant may or may not have done in November 2025 in terms of the provision of information is, from the point of view of proof of the charge, arguably entirely irrelevant. Why it was particularised at all is unclear.

26. All of these matters tend to obfuscate the case that the Respondent actually advances. The appeal was ultimately conducted on the basis that the Respondent alleges that the failure by the Appellant to adequately account for the whereabouts of the greyhound occurred on 27 September 2023, i.e., the date on which he submitted the notification.[19] In other words, the Respondent's case is that the information provided by the Appellant in the notification was not sufficient for that purpose, as a consequence of which the Appellant failed to adequately account for the greyhound's whereabouts.

[17] See Q and A 40 and following at TB 56 and following.
[18] See [26] below.
[19] Transcript 7.11; 8.12.

27. In that regard, the word *"adequately"* is to be given its ordinary English meaning,[20] namely:

> *"enough or satisfactory for a particular purpose".*

28. For the reasons that follow, I am not satisfied that Charge 1 is made out.

29. Firstly, at the time of submitting the notification on 27 September 2023, the information provided by the Appellant included the transferee's:

    1. name;
    2. current address; and
    3. mobile contact number.

30. Secondly, the Appellant asserted in the notification that he had advised the Respondent in February/March 2023 of the fact of the transfer, and of the fact that the transferee had requested that the greyhound not be desexed. No evidence was called by the Respondent to challenge that assertion. It is therefore open to conclude that the Respondent was on notice of the transfer as early as that time.

31. Thirdly, there is no suggestion that upon the submission of the notification on 27 September 2023, the Respondent sought any further information in relation to the whereabouts of the greyhound, over and above that which it had sought in the notification, the entirety of which the Appellant provided. The obvious inference to be drawn is that at the date of the alleged offence the Respondent considered that the information provided by the Appellant - namely the name, address and contact number of the transferee – was adequate for the purpose for which it had been sought, namely to account for the whereabouts of the greyhound. The case against the Appellant therefore runs entirely contrary to the Respondent's own

[20] See the definition in the Cambridge Dictionary.

conduct in accepting, without question, the adequacy of the information which had been provided.

32. Fourthly, there is nothing in the terms of LR 34B(3), or in the form of the notification itself, which supports the proposition that there was an ongoing obligation on the Appellant to adequately account for the whereabouts of the greyhound beyond the submission of the notification. Moreover, if that was the Respondent's case, the charge should have alleged that the offending occurred between certain dates.

33. Fifthly, it is important to bear in mind that LR 34B(3) does not, in the context of a case such as the present, impose an obligation to provide information which *will* account for the whereabouts of a greyhound. The obligation is to provide information which is *adequate* for that purpose. Adequacy is to be assessed by the application of an objective test, applying the definition set out above. In that regard, it is difficult to imagine what more the Appellant could have done. He provided the entirety of the information which was asked of him by the Respondent which, viewed objectively, was adequate to account for the greyhound's whereabouts had it been utilised by the Respondent in a timely fashion. The Respondent did not, until more than 2 years later, suggest that the information was inadequate. Even if that was the position at *that* time, the case against the Appellant has, as its focus, the position as it stood in September 2023.

34. Sixthly, and having regard to the matters set out above, the following chronology is particularly relevant:

DATE	**EVENT**
September 2023	Appellant provides notification of transfer to the Respondent
17 November 2025	Appellant first formally interviewed by officers of the Respondent

28 April 2026	Notification of proposed disciplinary action
13 May 2026	Disciplinary hearing
13 May 2026	Notification of imposition of penalty

35. A period of 2 years and 2 months elapsed between the time of the Appellant's submission of the notification, and the time at which he was first formally interviewed. How (if at all) within that period the Respondent used the information with which it had been provided by the Appellant in September 2023 is not the subject of any evidence. However, there is an available inference that the Respondent made no attempt to locate the whereabouts of the greyhound until sometime shortly prior to the Appellant's interview in November 2025.

36. What might be inadequate for a particular purpose at one point in time may well be adequate at another. As Mr Walters pointed out in the course of submissions, anything could have happened in the period in which the Respondent, armed with the information with which it had been provided by the Appellant, apparently did little or nothing with it. The transferee may have died. He may have moved premises. He may have changed his phone number. In any event, and for the reasons I have stated, even if the information provided by the Appellant was not, in or about November 2025, adequate to locate the whereabouts of the greyhound, that is not to the point. The case put against him is that the information was not adequate in September 2023. For the reasons I have given, I am not satisfied that that was so. If, as appears to be the case, the Respondent took 2 years and 2 months, or something approaching that period of time, to investigate the whereabouts of the greyhound using the information provided by the Appellant, and was unsuccessful in doing so, the responsibility for that failure lies with the Respondent.

37. Finally, it is also relevant to note that a further period of 6 months elapsed following the interview before the disciplinary hearing took place. As I have

already noted, there was a fundamental misunderstanding on the part of at least one of the officials conducting that hearing as to the time at which the Appellant provided the information that he did. That misunderstanding went to the root of the charge against the Appellant, and is reflected in the infelicitous terms in which it was drafted.

38. It follows that the appeal in respect of Charge 1 should be allowed. The charge should be dismissed, and the penalty quashed.

<u>CONSIDERATION OF PENALTY – CHARGE 2</u>

39. As previously noted, the Appellant pleaded guilty to charge 2 and the sole question that arises is that of penalty. Whilst I have taken the submissions of the parties into account in relation to that issue, there is one particular matter which in my view effectively determines the outcome of that aspect of the appeal.

40. On 27 May 2026, I made an order pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* suspending the operation of the penalties imposed on the Appellant until the determination of the present appeal. It is common ground that on 10 June 2026, whilst the stay was operative, the Appellant attempted to enter a greyhound for competition. He was well within his rights to seek to do so. The Respondent rejected it, apparently because it had failed to update its own records as to the fact of the stay, and incorrectly regarded the Appellant as a disqualified participant. That error which unfairly on the Appellant. By the time it was corrected, the Appellant had already suffered significant prejudice.

41. It follows that the Appellant was, in effect, disqualified for a period of 29 days (i.e. from 13 May 2026 to 10 June 2026). That occurred in circumstances where Charge 1 should be dismissed, and where the penalty imposed for charge 2 was a *suspension* of 6 weeks (i.e. 42 days). Those circumstances alone warrant the appeal in respect of charge 2 being upheld, and an order being made which will permit the Appellant to return immediately to the industry if he wishes to do so.

42. There are two further matters which, independently of those in [40] and [41] above, would have led me to conclude that the penalty in respect of charge 2 should be varied in any event.

43. The first is the obvious, significant and unexplained delay, about which any further comment would be superfluous.

44. The second, is the fact that the penalty imposed in respect of charge 2 was ordered to be cumulative upon that imposed in respect of charge 1. For the reasons explained in a number of previous determinations,[21] that approach was entirely inappropriate in the circumstances of this case. A substantial degree of, if not total, concurrency was warranted in the structure of the penalties.

ORDERS

45. I make the following orders:
    1. The order made on 27 May 2026 pursuant to cl 20 of the *Racing Appeals Tribunal Regulation 2024* (NSW) is vacated.
    2. The appeal in relation to charge 1 is allowed.
    3. Charge 1 is dismissed.
    4. The penalty imposed in respect of charge 1 is quashed.
    5. The appeal in relation to charge 2 is allowed.
    6. The penalty imposed in respect of charge 2 is quashed.
    7. In lieu thereof, the Appellant is suspended for a period of 29 days commencing on 13 May 2026 and expiring on 10 June 2026.
    8. The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW AM SC

24 August 2026

[21] See for example *Scerri v Greyhound Welfare and Integrity Commission* 26 June 2026 at [30] citing *Cahyadi v R* [2007] NSWCCA 1.