

**GREYHOUND WELFARE & INTEGRITY COMMISSION**  
**DISCIPLINARY ACTION DECISION**

<b>Date of decision:</b>	10 November 2022
<b>Decision-makers:</b>	Director Race Day Operations & Integrity, Wade Birch, Deputy Chief Steward, Troy Vassallo, Steward Sam Woolaston
<b>Name of relevant person:</b>	Mr Jason Mackay
<b>Track:</b>	N/A
<b>Date:</b>	22 June 2022, 6 August 2022
<b>Rule no.:</b>	Rule 139(3)(a) x 2, Rule 30(2), Rule 151 x 2, Rule 148(2) x 2
<b>Charge(s):</b>	<p><b>Charge 1 (Rule 139(3)(a))</b></p> <p>Mr Mackay was the registered trainer of the Greyhound 'Fantastic Raven' on 22 June 2022, when an out of competition swab was taken that returned positive for a permanently banned prohibited substance.</p> <p><b>Charge 2 (Rule 139(3)(a))</b></p> <p>Mr Mackay was the registered trainer of the Greyhound 'Zipping Maserati' on 22 June 2022, when an out of competition swab was taken that returned positive for a permanently banned prohibited substance.</p> <p><b>Charge 3 (Rule 30(2))</b></p> <p>Mr Mackay on 6 August 2022 admitted to GWIC Inspectors to using a barking muzzle on an unnamed greyhound on 5 August 2022.</p> <p><b>Charge 4 (Rule 151)</b></p> <p>Mr Mackay, on 6 August 2022, was found not to keep or retain treatment records in relation to the greyhound 'Fantastic Raven' which was in his care.</p> <p><b>Charge 5 (Rule 151)</b></p> <p>Mr Mackay, on 6 August 2022, was found not to keep or retain treatment records in relation to the greyhound 'Zipping Maserati' which was in his care.</p> <p><b>Charge 6 (Rule 148(2))</b></p> <p>On 6 August 2022 Mr Mackay had in his possession four prohibited substances that were unlabelled and unprescribed.</p>

### **Charge 7 (Rule 148(2))**

On 6 August 2022 Mr Mackay had in his possession three exempted substances that were unlabelled and unprescribed.

**Prohibited Substance(s):** Gonadorelin

**Disciplinary action taken:** (1) To disqualify Mr Mackay for 2 years;  
(2) To disqualify Mr Mackay for 2 years;  
(3) To issue a fine of \$750;  
(4) To issue a fine of \$375;  
(5) To issue a fine of \$375;  
(6) To issue a fine of \$200; and  
(7) To issue a fine of \$200;  
with the penalties imposed for charges 1 and 2 to be served concurrently.

### **INVESTIGATION**

1. Following receipt of two certificates of analysis from Racing Analytical Services Limited dated 4 August 2022, the Commission conducted an investigation into the results of two out of competition samples taken from the greyhounds, 'Fantastic Raven' ("**First Greyhound**") and 'Zipping Maserati' ("**Second Greyhound**") at the kennel premises of Mr Jason Mackay on 22 June 2022.
2. On 6 August 2022 the Commission attended Mr Mackay's kennel premises to conduct a kennel inspection in relation to the above results. During the kennel inspection, Commission Inspectors located and seized 10 barking muzzles. Mr Mackay admitted to a GWIC Inspector to using a barking muzzle the day prior on an unnamed greyhound.
3. Commission Inspectors also located and seized unlabelled and unprescribed prohibited and exempted substances from Mr Mackay.
4. Further analysis of the two samples were conducted by the New Zealand Racing Laboratory ("**Confirmatory Laboratory**"). The Confirmatory Laboratory confirmed the presence of gonadorelin in both samples. Gonadorelin is a permanently banned prohibited substance under Rule 139(1)(d) of the Greyhound Racing Rules.

### **DECISION:**

5. Mr Mackay is a registered public trainer and studmaster and was the trainer of the Greyhounds at all material times. On 22 June 2022, GWIC staff attended Mr Mackay's registered premises to conduct an out of competition sampling on the greyhounds 'Fantastic Raven' and 'Zipping Maserati'.
6. The out of competition swabs taken from 'Fantastic Raven' and 'Zipping Maserati' on 22 June 2022 revealed the presence of gonadorelin.
7. Gonadorelin is a permanently banned prohibited substance under Rule 139(1)(d) of the GWIC Greyhound Racing Rules ("**Rules**").

8. On 20 October 2022 Mr Mackay was issued with a notice of charge and proposed disciplinary action (“**Notice**”) in relation to the charges, setting out the proposed disciplinary action to be taken and the grounds in support of that proposed disciplinary action. The Notice also provided a brief of evidence for the charges.
9. In the Notice issued on 20 October 2022 the decision makers charged Mr Mackay with seven charges under Rule 139(3)(a), Rule 30(2), Rule 151 and Rule 148(2). The relevant Rules read:

**Rule 139(3)(a)**

(3) When a sample taken from a greyhound being trained by a trainer or in the care of a registered person has been established to contain a permanently banned prohibited substance:

- (a) the trainer and any other person who was in charge of the relevant greyhound at the relevant time shall be guilty of an offence;

**Rule 30(2)**

(2) An offence is committed if a person uses a Barking Muzzle at any time, on any greyhound, unless:

- (a) in circumstances approved by a Controlling Body; or
- (b) used by a veterinarian for the sole purpose of examination or treatment.

**Rule 151**

(1) The person in charge of a greyhound must keep and retain written records detailing all vaccinations, antiparasitics and treatments administered to the greyhound:

- (a) from the time the greyhound enters their care until the greyhound leaves their care; and
- (b) for a minimum of two years.

...

(4) An offence is committed if any person in charge of a greyhound at the relevant time fails to comply with any of subrules (1) to (3) of this rule.

**Rule 148(2)**

(2) A person must not provide, possess, acquire, attempt to acquire, administer, attempt to administer or allow to be administered to a greyhound any prohibited substance, exempted substance or any other substance (including any other medication, medicine, injectable substance, supplement, herbal product or therapeutic good) that is not labelled, prescribed, dispensed and obtained in accordance with relevant Commonwealth, state and territory legislation.

10. On 10 November 2022 Mr Mackay and his legal representative attended a hearing in relation to the matter. At the hearing, Mr Mackay entered a guilty plea to all of the charges. Mr Mackay’s legal representative then brought evidence from a number of witnesses and made submissions on Mr Mackay’s behalf.
11. The decision makers adjourned the hearing to consider the evidence and submissions and determined to hand down the penalty in writing.

12. Following consideration of the material and submissions, the decision makers found the charges proven and take the following disciplinary action against Mr Mackay:

**Charge 1 (Rule 141(1)(a)):** To disqualify Mr Mackay for a period of 2 years;

**Charge 2 (Rule 141(1)(a)):** To disqualify Mr Mackay for a period of 2 years;

**Charge 3 (Rule 30(2)):** To issue a fine of \$750;

**Charge 4 (Rule 151)):** To issue a fine of \$375;

**Charge 5 (Rule 151)):** To issue a fine of \$375;

**Charge 6 (Rule 148(2)):** To issue a fine of \$200;

**Charge 7 (Rule 148(2)):** To issue a fine of \$200;

with the penalties imposed for Charges 1 & 2 to be served concurrently.

13. In taking this disciplinary action, the decision makers considered all evidence, including:

- GWIC's Penalty Guidelines, which outlines the objective seriousness of the detection of a permanently banned prohibited substance of this type, and indicated a penalty of a 3-year disqualification for a Category 1A substance, of which gonadotropin falls into. GWIC notes the need to rely upon its own penalty guidelines when determining an appropriate penalty, because to do otherwise would not provide any level of certainty to industry participants as to what likely outcomes will flow from breaches of this, or other rules.<sup>1</sup>
- The length of time Mr Mackay has held a registration, being since 1987, a period of approximately thirty-five (35) years. Whilst this factor was noted, it was not considered a factor in mitigation, due to Mr Mackay's disciplinary history whilst licenced.
- Mr Mackay's disciplinary history – which includes:
  - two breaches of 86(o) and one breach of Rule 101(2)(b), finalised in October 2021;
  - one breach of Rule 83(2)(a) following the detection of firocoxib, finalised in April 2021; and
  - three breaches of Rule 83(2)(a) following the detection of 5b-androstane-3a, 17b-diol, finalised in January 2014 by the previous Controlling Body.

---

<sup>1</sup> Racing Appeals decision of Mr Allen Williams determined 15 July 2020, paragraph [28].

- Mr Mackay’s plea of guilty at the earliest opportunity, which afforded him a reduction of penalty of 25%. A 25% discount on penalty for each charge was applied, reducing the penalty for charges 1 and 2 from the proposed penalty of a 3-year disqualification (or 36 months) to a penalty of a 27-month disqualification;
- The submissions made on Mr Mackay’s behalf in relation to his inability to explain how the substance came to be detected in the greyhounds;
- The submissions made on Mr Mackay’s behalf, including the significant financial impact a period of disqualification will have on Mr Mackay, noting that he has worked solely as a public trainer for a period of approximately 25 years. The decision makers determined that a further 3-month deduction should be applied to Charges 1 & 2 due to this submission, resulting in a total disqualification period of 2 years (24 months) per charges 1 & 2.

14. Decision makers had regard to Rule 139(3)(b) which reads:

**Rule 139(3)**

...

(b) the greyhound shall be disqualified from any Event or from any benefit derived from a trial or test for which it was nominated at the time the sample was taken;

15. In accordance with this Rule, ‘Fantastic Raven’ was disqualified from race 6 at the Richmond meeting on 24 June 2022, and ‘Zipping Maserati’ was disqualified from race 8 at the Richmond meeting on 24 June 2022.

.....End.....