

GREYHOUND WELFARE & INTEGRITY COMMISSION

DISCIPLINARY ACTION DECISION

Date of decision:	23 April 2021
Decision-makers:	Director Integrity & Legal Services, Matthew Tutt, Chief Inspector, David OShannessy and Senior Steward, Dean Degan
Name of relevant person:	Mr Jason Magri
Track:	N/A – non meeting
Date:	5 July 2020; 13 August 2020
Rule no.:	Rule 79A(4)(i), Rule 84(2) (x5), Rule 86(ae)(ii)
Charge(s):	(1) An out of competition sample taken from a greyhound trained by Mr Magri, 'Zipping Zeek' (" Greyhound "), on 5 July 2020 was found to contain permanently banned prohibited substances; (2)-(5) Mr Magri had in his possession at his registered kennels on 13 August 2020 prohibited substances, namely "Metronide", "Linco-spectrin", "Lincomix" and "Toe Repair"; (6) Mr Magri had in his possession at his registered kennels on 13 August 2020 a syringe, which following testing was found to contain a prohibited substance, namely dexamethasone; (7) Mr Magri had in his possession at his registered kennels on 13 August 2020 four (4) shock collars.
Permanently Banned Prohibited Substances:	Cocaine, benzoylecgonine and ecgonine methyl ester
Disciplinary action taken:	Charge 1: 9-month suspension (expires at 12:00am on 23 June 2021) Charges 2-6: \$375.00 fine Charge 7: \$750.00 fine

REPORT:

Charge 1

Following receipt of a certificate of analysis from Racing Analytical Services Limited ("**Laboratory**"), the Commission conducted an investigation into the results of an out of competition sample taken from the Greyhound on 5 July 2020.

Further analysis of the sample was conducted by the Australian Racing Forensic Laboratory, confirming the presence of cocaine, benzoylecgonine and ecgonine methyl ester.

After considering the evidence, the Commission charged Mr Magri with a breach of Rule 79A(4)(i) of the Commission's Greyhound Racing Rules ("**Rules**") given that the out of competition urine sample taken from the Greyhound confirmed the presence of the permanently banned prohibited substances cocaine, benzoylecgonine and ecgonine methyl ester.

Charges 2-7

During an inspection of the kennels registered to Mr Magri on 13 August 2020, Commission Inspectors located a number of substances and items. These were surrendered to the Inspectors. The substances were analysed by the Laboratory.

After considering the evidence the Commission charged Mr Magri with five breaches of Rule 84(2) and one breach of Rule 86(ae)(ii) of the Rules in relation to the items found.

Mr Magri was legally represented and admitted the charges at the earliest opportunity.

The disciplinary action was conducted in writing in accordance with the Mr Magri's election.

DECISION:

1. Mr Magri is a registered greyhound trainer and breeder and the trainer of the Greyhound.
2. On 5 July 2020, an out of competition urine sample was taken from the Greyhound. The out of competition swab detected the presence of cocaine, benzoylecgonine and ecgonine methyl ester (metabolites of cocaine).
3. Cocaine, benzoylecgonine and ecgonine methyl ester are permanently banned prohibited substances under Rule 79A(2)(v) and (vi) of the Rules.
4. On 13 August 2020, Commission Inspectors attended the registered kennel address of Mr Magri to conduct an inspection at Mr Magri's kennels. During the inspection, the Inspectors found the following items:
 - Two (2) boxes of Metronide;
 - One (1) box of Linco-spectrin;
 - One (1) box of Lincomix;
 - A small brown glass bottle with a red lid labelled "Toe Repair 4ml."
 - A 3ml syringe;
 - Four (4) shock collars.

5. Testing by the Laboratory of the syringe revealed the presence of dexamethasone.
6. Metronide, Linco-spectrin, Lincomix, and Dexamethasone are Schedule 4 Prescription Animal Remedies that can only be prescribed to an animal by a registered veterinary surgeon. Each were found without prescription labelling affixed to the substances. “Toe Repair” is not registered with the Australian Pesticides and Veterinary Medicines Authority. It is an offence to possess any of these substances under Rule 84(2) of the Rules.
7. The Commission charged Mr Magri under Rule 79A(4)(i) for the presence of permanently banned prohibited substances in the out of competition swab taken on 5 July 2020, under Rule 84(2) for the possession of the prohibited substances and under Rule 86(ae)(ii) for the possession of the shock collars, which read:

Rule 79A(4)(i)

...

- (4) When a sample taken from a greyhound being trained by a licensed trainer or in the care of a registered person has been found to contain a Permanently Banned Prohibited Substance specified in sub-rule (2),
 - (i) the trainer and any other person who was in charge of such greyhound at the relevant time shall be guilty of an offence.

Rule 84(2)

...

- (2) A registered person who has in their possession at any place used in relation to the training or racing of a greyhound, any quantity of a prohibited substance commits an offence unless that substance has been registered or labelled, or prescribed, dispensed or obtained, in compliance with the relevant State or Commonwealth legislation. The Stewards may take possession of any of these substances or preparations to test and or destroy.

Rule 86(ae)(ii)

A person (including an official) shall be guilty of an offence if the person-

...

- (ae) (ii) have in his possession any gear, equipment, device, substance or any other thing capable of inflicting undue suffering on a greyhound.

8. Mr Magri admitted the charges and elected to have the disciplinary proceeding conducted in writing.

PENALTIES:

9. The Commission found the charges proven and took the following disciplinary action against Mr Magri:

Charge 1 (Rule 79A(4)(i), 05/07/2020):	To suspend Mr Magri's registrations for a period of 9 months;
Charges 2-6 (Rule 84(2),13/08/2020):	To issue Mr Magri with a \$375 fine;
Charge 7 (Rule 86(ae)(ii), 13/08/2020):	To issue Mr Magri with a \$750 fine,

Further, 7 months served under an interim suspension was taken into account as time served, leaving the remaining the period of suspension to expire on 23 June 2021.

10. In taking this disciplinary action, the Commission considered all evidence and submissions, including:

- Mr Magri has been a registered trainer in the greyhound racing industry since 1993, approximately 28 years;
- Mr Magri's good disciplinary history, having no prior like matters on his record;
- Mr Magri's admission of the charges at the earliest opportunity;
- The nature of the substances detected in the out of competition swab on 5 July 2020 - cocaine, benzoylecgonine and ecgonine methyl ester are permanently banned prohibited substances. This was considered a factor that goes to welfare. A greyhound should never be exposed to such substances regardless of the circumstances;
- NSW greyhound racing precedents;
- The concentration levels of the substances detected were low;
- The submissions made by Mr Magri in mitigation of penalty, including his personal and financial circumstances. The personal circumstances in mitigation were significant factors but are not published for privacy reasons;
- The submissions made by Mr Magri in relation to who had contact with the Greyhound on the morning that the out of competition swab was conducted;
- In relation to the timing of the positive swab:
 - The permanently banned prohibited substances of cocaine and its metabolites were found in the Greyhound from an out of competition sample taken approximately 16 hours after a race meeting (being at Wentworth Park on 4 July 2020);
 - The Greyhound was swabbed at that race meeting at Wentworth Park on 4 July 2020, the results of which were negative to any permanently banned prohibited substances or prohibited substances; and

- The Greyhound was nominated to race on 11 July 2020 having qualified for the Vic Peters Final.

Charges 2 – 7

In relation to charges 2 to 7, the Commission considers that fines were appropriate for the following reasons:

- The substances found were not permanently banned; and
- There was no evidence the shock collars were used on any greyhound.

Decision not to disqualify the Greyhound

The Commission gave consideration to whether the greyhound should be disqualified from the Vic Peters Final.

R79A(4)(iii) reads:

- (4) When a sample taken from a greyhound being trained by a licensed trainer or in the care of a registered person has been found to contain a Permanently Banned Prohibited Substance as specified in sub-rule (2),
...
 - (iii) the greyhound **may be** disqualified from any Event in which it has competed subsequent to the taking of such sample where, in the opinion of the Stewards, the Permanently Banned Prohibited Substance was likely to have had any direct and/or indirect effect on the greyhound at the time of the Event.

Evidence was provided by Dr Karamatic that in previous research conducted to detect cocaine, benzoylecgonine and ecgonine methyl ester in the urine of greyhounds, ecgonine methyl ester was detected in the urine for up to 24 hours and benzoylecgonine was detected in the urine for up to 48 hours.¹

Having regard to the veterinary evidence, the Commission considered that this was an appropriate case where the greyhound is not disqualified as the substances detected were not likely to have had any direct or indirect effect on the greyhound when it competed in the Vic Peters Final 6 days after the swab was taken.

Circumstances of this Case

The Commission decision-makers consider that there are specific circumstances of this matter that distinguishes it from other matters concerning the detection of cocaine and its metabolites. These circumstances include:

- The substances cocaine and its metabolites were not detected in a race day sample taken from the Greyhound;
- When the Greyhound was swabbed on race day 16 hours earlier it returned a negative result;

¹ Veterinary Report of Dr Steven Karamatic dated 19 November 2020 at [16].

- The substances detected, whilst permanently banned prohibited substances under the rules were not, on the scientific evidence provided, likely to have had a direct or indirect effect on the Greyhound for the race it was nominated for 6 days later; and
- The scientific evidence provided that the concentration levels of the substances detected were low.

In all other cases the Commission has dealt with there have not been any out of competition swabs taken from greyhounds that have returned a positive result to cocaine and its metabolites.

In cases where cocaine and its metabolites are detected in a race day sample, precedent cases have shown that a period of disqualification will always be imposed. Whilst the penalty in this case is a departure from the usual penalty of a disqualification, the particular circumstances of this case referred to above warrant such departure.

In balancing all the factors in mitigation with the objective seriousness of the matter, including the types of substances detected and the welfare of the Greyhound, the Commission determined the appropriate penalty to be a 9 month suspension for the prohibited substance matter and monetary penalties for the other charges.

.....End.....