

GREYHOUND WELFARE & INTEGRITY COMMISSION

DISCIPLINARY ACTION DECISION

Date of decision:	28 February 2019
Decision-makers:	A/Chief Steward, Gail Thorsby Director Legal Services, Matthew Tutt
Name of relevant person:	Mr. Dean Swain
Track:	Grafton
Date:	11 July 2018
Rule no.:	GAR 83(2)(a)
Charge(s):	(1) Mr Swain presented the greyhound 'Watch the Wasp' (Greyhound) for the purposes of competing in race 8 at the Grafton meeting on 11 July 2018 in circumstances where the Greyhound was not free of any prohibited substance.
Permanently banned prohibited substance(s):	Amphetamine, 4-hydroxyamphetamine, Methamphetamine
Disciplinary action taken:	18-month disqualification [with 24 weeks suspended due to period of interim suspension served]

REPORT:

Following receipt of a certificate of analysis from the Racing Analytical Services Laboratory ("RASL"), the Commission conducted an investigation into the results of a post-race urine sample taken from the greyhound, 'Watch the Wasp' ("**Greyhound**") at the Grafton meeting on 11 July 2018.

Further analysis of the sample was conducted by the Australian Racing Forensic Laboratory ("ARFL"), confirming the presence of amphetamine, 4-hydroxyamphetamine and methamphetamine.

After considering the evidence, the Commission charged Mr Swain with a breach of Greyhounds Australasia Rule ("**GAR**") 83(2)(a) given that the post-race urine sample taken from the Greyhound confirmed the presence of permanently banned prohibited substances amphetamine, 4-hydroxyamphetamine and methamphetamine.

On Thursday, 28 February 2019, this matter was heard before the Commission.

Mr Swain represented himself at the hearing.

Mr Swain pleaded not guilty to the charge.

DECISION:

Charge

1. Mr Swain is a registered greyhound trainer and the trainer of the Greyhound. The Greyhound was presented for race 8 at the Grafton meeting on 11 July 2018 (“**Event**”). Following the Event, as the Greyhound placed first, a urine sample was taken from the Greyhound.
2. The post-Event swab revealed the presence of amphetamine, 4-hydroxyamphetamine and methamphetamine.
3. The Commission charged Mr Swain under GAR 83(2)(a), which reads:
 - (2) The owner, trainer or person in charge of a greyhound-
 - (a) nominated to compete in an Event;
 - (b) presented for a satisfactory, weight or whelping trial or such other trial as provided for pursuant to these Rules; or
 - (c) presented for any test or examination for the purpose of a period of incapacitation or prohibition being varied or revokedshall present the greyhound free of any prohibited substance,
(“**Charge**”).
4. During the hearing, the Commission heard evidence from Commission Inspector, Ms Steph Paprzycki-Baker and the Scientific Manager of RASL, Mr Paul Zahra.
5. Mr Swain pleaded not guilty to the Charge and made submissions, including raising the possibility that the Greyhound was contaminated after it had raced by another participant or person present at the race track.
6. The Commission found the Charge proven and Mr Swain formally guilty of the offence on the following basis:
 - The nomination and subsequent presentation of the Greyhound for the purposes of competing in the Event by Mr Swain, the registered trainer of the Greyhound;
 - There was no evidence before the Commission to support the submissions by Mr. Swain of the contamination of the Greyhound after it had raced by another participant or person present at the race track;
 - The Certificates of Analysis of both RASL and the ARFL, confirming the presence of amphetamine, 4-hydroxyamphetamine and methamphetamine; and
 - Amphetamine, 4-hydroxyamphetamine and methamphetamine are permanently banned prohibited substances under GAR 79A(2) of the Rules.

Penalty

7. Mr Swain made submissions in relation to penalty, including the following:
 - His good character and reputation;
 - His significant involvement in the greyhound racing industry over many years;
 - His personal circumstances; and,
 - The significant financial impact he has and will continue to experience.
8. The Commission, after hearing Mr Swain's submissions in relation to penalty, determined that the appropriate penalty was a disqualification for a period of 18 months.
9. The Commission took into account the 24 weeks between 14 September 2018 and 28 February 2019 Mr Swain had already served during his period of suspension.
10. The remaining period of disqualification (12 months, 2 weeks) expires on 13 March 2020.
11. In taking this disciplinary action, the Commission considered all the evidence, including:
 - Mr Swain has been a registered public trainer for over 10 years;
 - Mr Swain has two (2) previous prohibited substance offences for meloxicam in 2014 and 2016, for which he received fines;
 - NSW greyhound racing penalty guidelines and precedents;
 - The objective seriousness of the offence;
 - Mr Swain's not guilty plea; and,
 - Mr Swain's submissions in relation to the charge and in mitigation of penalty, including as summarised above.
12. In addition, the Greyhound was disqualified from race 8 at the Grafton meeting on 11 July 2018 pursuant to GAR 83(4), which reads:

(4) A greyhound presented for an Event pursuant to sub-rules (1) or (2) shall be disqualified from the Event or any benefit derived from a trial or test.

.....End.....