

**DECISION ON AN INTERNAL REVIEW APPLICATION UNDER
SECTION 91 OF THE *GREYHOUND RACING ACT 2017***

Matter for determination	Decision dated 23 June 2020 by Mr Matthew Tutt, Director Integrity & Legal Services, under section 59 of the <i>Greyhound Racing Act 2017</i> to disqualify the greyhound 'Bazza Brann' from the Grafton Versatility Series, being Race 5 held at Grafton on 9 December 2019 and Race 6 held at Grafton on 16 December 2019
Internal review decision date	30 November 2020
Internal review decision by	Mr Alan Brown AM, Chief Commissioner Mr Peter Collins, Commissioner
Internal review decision summary	Confirm the original decision to disqualify Bazza Brann from the Series, being its participation in Race 5 at Grafton on 9 December 2019 and Race 6 at Grafton on 16 December 2019

REASONS FOR DECISION

1. These are the reasons following an application by Mr Tony Kenneth Atkins ('Mr Atkins') for internal review under the *Greyhound Racing Act 2017* ('Act') of a decision of the Director Integrity & Legal Services of the Greyhound Welfare & Integrity Commission ('Commission') to disqualify the greyhound Bazza Brann from the Grafton Versatility Series ('Series'), being Race 5 held at Grafton on 9 December 2019 and Race 6 held at Grafton on 16 December 2019.
2. This is a reviewable decision within the meaning of section 91(1) of the Act. As persons who were not substantially involved in making the reviewable decision, we have been directed by the Commission to deal with this application.
3. Under section 91(7) of the Act, an internal reviewer is empowered to:
 - Confirm the reviewable decision the subject of the application, or
 - Vary the reviewable decision, or
 - Revoke the reviewable decision.

Background

4. On 3 December 2019 Mr Atkins submitted an online nomination for the greyhound Bazza Brann ('Greyhound') to compete in the Grafton Versatility Series. The Series involved a final which was held over a distance of 480 metres.
5. The conditions of eligibility for the Series included the condition that any greyhound nominated for the Series must be eligible for all races in the Series at the time of nomination.
6. On 9 December 2019, the Greyhound competed in race 5 of the Grafton meeting, namely Heat 1 of the Series. The Greyhound finished first and progressed to the Final of the Series.

7. Following the win in Heat 1, the Greyhound competed in a trial over 449 metres at The Gardens, a racecourse near Newcastle.
8. On 16 December 2019, the Greyhound competed in the Final of the Series at Grafton. The Greyhound placed third in the Final.
9. On 15 May 2020, the Commission commenced disciplinary action against Mr Atkins under section 58(1)(a) of the Act for a contravention of the Rules, specifically Local Rule 21(2)(d)(ii).
10. Section 58(1) of the Act provides:
 - (1) *The Commission may take disciplinary action under this Division against or in respect of a relevant person if the Commission is of the opinion that the person—*
 - (a) *has contravened a provision of this Act, the regulations, the code of practice or the greyhound racing rules, or*
 - (b) *is not a fit and proper person to be registered (having regard in particular to the need to protect the public interest as it relates to the greyhound racing industry).*
11. Local Rule 21(2)(d)(ii) of the Rules is as follows:
 - (2) *A nomination form by which a greyhound is nominated for any event at a meeting to be conducted by a club:*
 - ...
 - (d) *if the nomination is submitted to the Controlling Body by e-mail, telephone or in writing, the owner or trainer, by making the nomination:*
 - ...
 - (ii) *has certified that he or she is registered with GRNSW or with an approved Registration Authority, that he or she is the owner and/or trainer of the greyhound nominated, that neither the owner, trainer nor the greyhound are at the time of the nomination subject to the disqualification or other disability or prohibition which would make the greyhound ineligible for the TAB or Non-TAB meeting for which it is nominated ...*
 12. Mr Atkins denied the charge. He elected to have the disciplinary proceedings conducted in writing.
 13. Mr Atkins provided comprehensive written submissions. These were considered by Mr Matthew Tutt, the Commission's Director Legal Services ('decision-maker').
 14. The decision-maker determined the disciplinary action on 23 June 2020. The decision-maker found the charge proven and took the following disciplinary action against Mr Atkins:

To disqualify the greyhound Bazza Brann from the Grafton Versatility Series held on 9 December 2019 and 16 December 2019.

This internal review application

15. On 6 July 2020, Mr Atkins lodged an application for internal review of the decision-maker's decision.

16. In undertaking this review, we have:

- Considered the information in the internal review application form you lodged on 6 July 2020, including the accompanying submissions
- Analysed the facts underlying the decision-maker's decision of 23 June 2020
- Reviewed the process utilised in reaching that decision
- Reviewed the appropriateness of all relevant matters.

Findings

17. We have considered the particulars of the charge as set out in the decision-maker's letter of 15 May 2020, namely that Bazza Brann was nominated for an event contrary to Local Rule 21(2)(d)(ii) in that the Greyhound was ineligible for the Series when it was nominated.
18. Local Rule 21(2)(ii)(d) requires an owner or trainer of a greyhound, in nominating a greyhound for a race, to certify that the nominator is the owner or trainer of the nominated greyhound and that neither the owner nor the trainer nor the greyhound are at the time of nomination subject to disqualification or other disability or prohibition which would make the greyhound ineligible for the TAB or non-TAB meeting for which it is nominated.
19. In our view, Bazza Brann was ineligible for the Series at the time of nomination on 3 December 2019 because the Greyhound remained subject to a disability or prohibition in that it had not complied with a Rule 71 notice issued on 22 August 2019 that required the Greyhound to trial satisfactorily over at least 450 metres.
20. Rule 71 enables stewards to issue an order that a greyhound must complete a satisfactory trial before being eligible to compete further or to be nominated for any race meeting.
21. On 22 August 2019, stewards had issued a Rule 71 notice requiring Bazza Brann to trial satisfactorily over at least 450 metres before the greyhound could be nominated for the Series.
22. Bazza Brann trialled satisfactorily over 407 metres on 4 November 2019 but it was not until 13 December 2019, after Bazza Brann had been nominated for the Series on 3 December 2019, that the Greyhound trialled satisfactorily over the required distance of at least 450 metres.
23. Accordingly, we conclude that Bazza Brann was ineligible for the Series.

Decision

24. In accordance with section 91(7)(a) of the Act, we confirm the original decision, namely:

To disqualify the greyhound Bazza Brann from the Series, being both Race 5 at Grafton on 9 December 2019 and Race 6 at Grafton on 16 December 2019.

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