IN THE RACING APPEALS TRIBUNAL

TERRY DUNCAN
Appellant

THE GREYHOUND WELFARE AND INTEGRITY COMMISSION
Respondent

REASONS FOR DECISION

TRIBUNAL: **The Honourable G J Bellew SC**

DATE OF HEARING: **5 February 2024**

DATE OF DECISION: **12 February 2024**

APPEARANCES: **Appellant in person**

Dr A Groves for the Respondent

ORDERS:

1 **The previous order of the Tribunal granting a stay of proceedings is vacated.**
2 **The appeal is upheld.**
3 **The determination made by the Respondent on 12 October 2023 to impose a suspension of 6 months is quashed.**
4 **In lieu thereof, a fine of $3,000.00 is imposed on the Appellant, such fine to be paid within sixty (60) days.**
5 **The appeal deposit is to be refunded.**

BACKGROUND

1. On 21 September 2023, the Greyhound Welfare and Integrity Commission (the Respondent) wrote to Terry Duncan (the Appellant) in the following terms:[1]

> *The Greyhound Welfare and Integrity Commission (GWIC) notifies you of a disciplinary charge in relation to you and that GWIC is considering imposing disciplinary action against you (Notice).*
> *…*
>
> *We consider there are reasonable grounds on which you should be charged with the following breach of Rule 141(1)(a) of the GWIC Greyhound Racing Rules ("Rules"):*
>
> ***Rule 141(1)(a), Rules***
> *(1) The owner, trainer or other person in charge of a greyhound:*
> *(a) nominated to compete in an event*
> *must present the greyhound free of any prohibited substance.*
> *(2) ….*
> *(3) The owner, trainer or person in charge of a greyhound presented contrary to subrule (1) of this rule shall be guilty of an offence.*

2. The correspondence set out the following particulars of the charge:

> 1. *That you, as a registered Public Trainer, while in charge of the greyhound Sunset Charlie, presented the greyhound for the purpose of competing in race 4 at the Casino meeting on 6 July 2023 (Event) in circumstances where the greyhound was not free of any prohibited substance.*
>
> 2. *The prohibited substance detected in the sample of urine taken from the greyhound following the event was Dexamethasone in excess of the screening limit of 200 pictograms per millilitre; and*
>
> 3. *Dexamethasone in excess of the screening limit of 200 pictograms per millilitre is a prohibited substance under Rule 146(6)(c) of the rules.*

3. The Respondent further advised the Appellant that it was proposing to impose a 12 month suspension, and invited the Respondent to attend a hearing on 5 October 2023.

4. The hearing in fact took place on 12 October 2023. After the charge under r 141 of the *Greyhound Racing Rules* (the Rules) had been read to him, the Appellant entered a plea of guilty, and asserted that he was unaware of how the prohibited substance had

[1] Appeal Book (AB) at 1 and following.

entered the greyhound's system.[2] After hearing submissions, the Appellant was advised that a determination had been made that a six month suspension was the appropriate penalty.[3]

5. By Notice dated 13 October 2023 (the Notice) the Appellant lodged an appeal, which was accompanied by an application for a stay of the determination. A stay was subsequently granted and remains in place.

6. The Notice stated that the appeal was brought against both the finding of guilt ,and the penalty imposed.[4] That is somewhat at odds with the fact that the Appellant pleaded guilty to the offence in the course of the hearing. The issue is further complicated by the fact that in his accompanying application for a stay of proceedings,[5] the Appellant stated that he was bringing his appeal based upon the *harshness of penalty and hardship this penalty will cause".* Taken in isolation, that suggests an appeal in respect of penalty only. None of these observations are, in any way, a criticism of the Appellant, who has been self-represented for the duration of the proceedings. However, for reasons of procedural fairness, it is important to make it clear that (as confirmed with the Appellant at the commencement of the hearing) the present appeal is as to penalty only.[6]

7. Prior to the hearing, and in accordance with orders previously made, I was provided with an Appeal Book (AB) containing all relevant evidence and submissions. I convey my thanks to the Respondent for the preparation and provision of that material.

THE FACTS

8. The facts of the Appellant's breach are not in dispute and are encapsulated in the particulars which are set out above. However, there are some additional matters which should be noted.

[2] AB 91.
[3] AB 93.
[4] AB 2.
[5] AB 5.
[6] See Transcript of proceedings at T3.19 – T3.24.

9. A kennel inspection which was undertaken at the Appellant's premises on 7 August 2023 revealed the presence of various commercially available products used in the care of animals. They included liniment, antibacterial wound treatment, flea and lice treatment, shampoo, chewable pellets administered to treat ticks, and cranberry supplement.[7] As I understand it, it is common ground that:

    (i) none of these products contain Dexamethasone; and

    (ii) there was no Dexamethasone found, in any form, on the Appellant's premises.

10. This necessarily gives rise to the question of how the substance came to be in the greyhound's system. The Appellant stated when interviewed that he had *"no idea"* and was *"dumbfounded*" as to how this came about.[8] In the course of the hearing of the appeal, the Appellant reiterated that he had not intentionally administered the substance, that he had not tried to cheat, and that he was *"shocked"* when officers of the Respondent arrived to inspect his premises.[9] In doing so, the Appellant raised the possibility that the substance was unknowingly administered to the greyhound through contaminated meat. He said that at the time he was feeding the greyhound pet mince,[10] and went on to explain that as a consequence of this breach, he now purchased his meat from a different supplier so he is *"guaranteed there's no contamination in [his] meat*". He also pointed out that sourcing his meat through his new supplier was a more expensive option.[11]

11. The Respondent's position on this general issue was put by Dr Groves in the following terms:[12]

> *We obviously are familiar with claims that meat was contaminated. I'm not necessarily saying that we believe that not to be true. …. We appreciate that it is certainly a possibility for regular users of animal meat. But unfortunately, the rules are the rules.*

[7] AB 56 – 70.
[8] A 6 at AB 89; A 13 at AB 91.
[9] T 4.7 – T 4.18.
[10] T 3.19 – T 3.24.
[11] T 3.26 – T 3.28.
[12] T 5.17 – T 5.24.

12. Dr Groves' reference to the rules was a reference to the fact that the offence to which the Appellant pleaded guilty is one of absolute liability. None of the matters raised by the Appellant as to the circumstances in which the substance may have come to be within the greyhound's system provide him with a defence to the charge. However, a fact or circumstance which provides a defence, and a fact or circumstance which may be relied upon in mitigation, are separate and distinct elements of the process.

13. Even though a particular fact or circumstance may not provide a defence, it may nevertheless be highly relevant as a subjective matter in mitigation of penalty. That is the case here in terms of the circumstances in which the substance found its way into the greyhound's system.

14. There is an obvious difference in culpability between a person who presents a greyhound for competition in circumstances where he or she has knowingly and deliberately administered a prohibited substance to, or is otherwise aware of the presence of such a substance in, a greyhound, and a person who presents a greyhound for competition in circumstances where he or she has no knowledge that a prohibited substance is within the greyhound's system, and no knowledge of how it came to be there. It is the Appellant's case that he falls into the latter category. The position taken by the Respondent on this issue at the hearing of the Appeal was, in effect, an acceptance of at least the possibility that the substance came to be within the greyhound through contaminated meat. The evidence does not permit me to make a positive finding in those terms. However, I am satisfied that the Appellant did not intentionally or knowingly administer the substance, and that when he presented the greyhound to compete in the event, he was unaware that the substance was in the greyhound's system.

SUBMISSIONS OF THE PARTIES

Submissions of the Appellant

15. I should say that during the hearing of the Appeal, the Appellant impressed me as being honest, and genuinely remorseful. He did not make any attempt to evade responsibility for the offence. He put his submissions calmly and reasonably, and in

terms which accepted responsibility for the offending, and simultaneously outlined the ramifications of the penalty which had been imposed.

16. In terms of the offending, the Appellant emphasised that he had not knowingly given the greyhound any product containing Dexamethasone,[13] and submitted that this was therefore a case of *"accidental contamination at a very, very low level".*[14] In this regard, he also emphasised that notwithstanding that it came at an additional cost, he had now taken remedial steps by changing his meat supplier in an effort to ensure that the offending was not repeated.[15]

17. In terms of his subjective circumstances, the Appellant submitted that the penalty imposed was excessive, and that it would result in considerable financial hardship to the point where, if it were to stand, and in circumstances where his partner earned limited income, it would be *"the end".*[16] I took that submission to mean that if the penalty were to stand, the consequence would be that the Appellant's career as a trainer would be brought to an end.

18. The Appellant further submitted that the penalty would adversely affect his capacity to meet the cost of feeding all of the greyhounds currently in his care.[17] He pointed out[18] that there are 17 such greyhounds, 11 of whom are "racing dogs". He emphasised that he, and not the respective owners of those greyhounds, met the cost of their upkeep, and that the cost of feeding them alone was $105.00 per day. He submitted[19] that the penalty which had been imposed would, in effect, amount to a financial penalty of approximately $24,000.00, which he submitted was unfair to both him and his family, as well as being contrary to the interests of the greyhounds in his care. I understood this amount to equate to the cost of caring for all of the greyhounds

[13] T 4.7.
[14] AB 10.
[15] T 3.25 – 3.28.
[16] T 4.2.
[17] AB 5.
[18] AB 8 – 12.
[19] AB 11.

in his care during the period of a 6 month suspension, in circumstances where the Appellant would be prevented from earning any income from training.

19. The Appellant also relied on character references provided by Mr Joe Cotroneo[20] and Ms Deborah Lowe. [21]

20. Mr Cotroneo, a Director of the Greyhound Breeders Owners and Trainers Association, has known the Appellant for 10 years. He described the Appellant as a person who *"presents himself and his greyhounds in a caring and professional manner"* and who is *"well respected by his peers".*

21. Ms Lowe has known the Appellant for "*many years*". She expressly agreed with the view expressed by Mr Cotroneo that the Appellant is well respected, describing him as a "*good man".* She said that he genuinely cares for his greyhounds, does not treat them as *"commodities"*, and is not motivated by the prospect of profiting from them. She described the penalty imposed as a harsh one, not only for the Appellant, but also for *"17 dogs who currently have a very good home".*

Submissions of the Respondent

22. The Respondent emphasised[22] that the offence contrary to r141(1)(a) is one of absolute liability, and submitted[23] that on the whole of the evidence available, the penalty imposed was appropriate. It was submitted in particular[24] that the penalty was consistent with the published Penalty Guidelines (the Guidelines) and that it reflected the proper discretionary allowance for the Appellant's subjective factors such as his plea of guilty and his co-operation with the enquiry.

23. Whilst reiterating that any penalty in a case such as this was partly protective in nature, the Respondent submitted that there was also a punitive element which, in this case,

[20] AB 26.
[21] AB 27 – 28.
[22] Submissions at [15]; AB 114.
[23] At [16]; AB 115.
[24] Submissions at [17]-[18]; AB 115.

was to be primarily reflected in the need for specific deterrence.[25] In this regard, the Respondent drew attention to the Appellant's prior breaches of the rules[26] and the relationship between those breaches and the Guidelines.[27] I have addressed the circumstances of those prior breaches, and their effect on the assessment of penalty, below.

24. Finally, I was referred to the previous determination of the Tribunal involving the Appellant, a previous determination of the Tribunal in a matter of *Williams*[28], and two other determinations of the Respondent in matters of *McGee*[29] and *Sims.*[30] I have considered all of those determinations below.

CONSIDERATION

The circumstances of the offending

25. The fundamental purposes of the Rules include:

    (i) the promotion, enhancement and protection of the welfare of greyhounds;
    (ii) the regulation of greyhound racing, so that public confidence in its integrity is upheld; and
    (iii) the provision of a level playing field and greater transparency in greyhound racing.

26. Dexamethasone is a corticosteroid in the nature of an anti-inflammatory agent.[31] It is permissible to administer it to a greyhound at a prescribed level. However, when a greyhound is presented for an event and the level of Dexamethasone is found to exceed that which is prescribed, r 141(1)(a) is breached.

[25] T 6.30; T 7.13.
[26] Submissions at [19]; AB 115.
[27] Submissions at [20]; AB 115.
[28] 15 July 2020 at AB 118 and following.
[29] 24 October 2019 at AB 131 and following.
[30] 19 February 2022 at AB 133 and following.
[31] See Guidelines, Category 3 Prohibited Substances.

27. The Respondent did not submit that in the present case, the welfare of the greyhound was compromised as a consequence of the substance being in its system, nor did the Respondent submit that there was any evidence which would establish that the presence of the substance enhanced the greyhound's performance in the event for which it was presented, and in which it apparently competed. That said, the need to uphold the integrity of greyhound racing remains of obvious importance.

28. For the reasons previously stated, I accept the Appellant's submission that he did not knowingly administer the substance to the greyhound, and that he did not present the greyhound in the knowledge that the substance was within its system.

29. On the whole of the evidence, I am satisfied that this is a case of an unwitting mistake on the part of the Appellant. It follows that his culpability falls towards the lower end of the scale.

The Appellant's subjective case

30. The Appellant has been a participant in the greyhound racing industry for a period of almost 16 years.[32] In June 2008 he was registered as an owner. He was licenced as an Owner Trainer in December 2012, and as a Public Trainer in July 2020. Whilst that is a lengthy history, it falls to be assessed having regard to the Appellant's previous offending.

31. Although the Appellant appears to have a number of breaches recorded on his history,[33] the Appeal proceeded on the basis that only two of those breaches assume any real significance. That significance stems from the fact that each of them involves offending which is similar in nature to the present matter.

32. The first of those breaches was in 2019, when the Appellant pleaded not guilty to an identical offence contrary to the then equivalent to r 141(1)(a), namely r 83(2)(a).[34] In

[32] AB 84.
[33] AB 85.
[34] AB 101 – 103.

that case, the substance was Caffeine and its metabolites Theophylline, Paraxanthine and Theorbromine. The Appellant was found guilty was suspended for a period of 16 weeks. In determining that penalty, the decision makers took into account:[35]

(i) the Appellant's period as a trainer;
(ii) his [then] unblemished history;
(iii) relevant guidelines and precedents;
(iv) the fact that he had pleaded not guilty; and
(v) the Appellant's animal husbandry practices.

33. The Appellant did not bring an appeal against that determination.

34. The second previous breach was on 3 May 2022 when the Appellant pleaded guilty to an identical offence (contrary to r 83(2)(a)) and was again suspended for a period of 16 weeks.[36] On that occasion the substance was Levamisole. The appellant pleaded guilty to that charge. On that occasion, the decision makers took into account:[37]

(i) the Appellant's period as a trainer;
(ii) the fact that this was his second similar breach;
(iii) his early plea of guilty;
(iv) relevant guidelines and precedents; and
(v) his "forthright" submissions.

35. That decision was the subject of an appeal to the Tribunal, and the penalty was reduced to a fine of $2,000.00. In the course of its determination, the Tribunal set out the facts,[38] from which it is evident that the offending stemmed from the Appellant's use (apparently for the first time) of a particular worming tablet which was commercially available, and which did not indicate the presence of any prohibited

[35] AB 102 at [7].
[36] AB 104 – 105.
[37] AB 105 at [8].
[38] At [9].

substance. The Tribunal found that the case was one of a "*genuine mistake"* on the part of the Appellant[39] and that the gravamen of the offending was that the Appellant had failed to turn his mind to what enquiries he should have made about the product.[40]

36. The circumstances of the present offending are analogous to those considered by the Tribunal in the previous case. Both are instances of the Appellant unwittingly presenting the greyhound with a prohibited substance in its system.

37. In reaching its conclusions as to an appropriate penalty on that occasion, the Tribunal took into account the steps taken by the Appellant to address his offending so as to limit the chance of it being repeated.[41] Again, an analogy can be drawn between the circumstances of the two cases. Whilst I am not able, for the reasons I have already stated, to make a positive finding that contaminated meat was the source of the substance in this case, it is to the Appellant's credit that, believing that this was the source, he has taken remedial steps to change his mode of supply of meat so as to limit the possibility of the commission of a further offence. He has also taken that step in circumstances where it has come at an additional financial cost.

38. In the course of its reasons the Tribunal, having referred to the fact that the Appellant had previously come under notice for similar offending, observed that *"the message to be given to [him] …. must be a more serious one by reason of the fact that he has a prior".*[42] Having made that observation, the Tribunal then found[43] that in light of a number of subjective circumstances *"the message was much reduced",* and proceeded to enumerate those subjective circumstances[44] which included four matters of significance.

[39] At [12].
[40] At [13].
[41] At [26].
[42] At [18].
[43] At [29].
[44] Commencing at [29].

39. The first concerned the health of the Appellant's son, and the effect that a suspension would have on him, something that the Tribunal described as a *"strong subjective factor"*.[45] That was, with respect, a matter properly taken into account. The Tribunal's approach was entirely in accordance with the approach taken by superior Courts to that issue.[46] Whilst the Tribunal is not a Court, it should necessarily accept, and act in accordance with, such guidance as is provided by the Courts in respect of matters of general principle.

40. The second concerned the Appellant's previous loss of employment.[47]

41. The third concerned a fire at the Appellant's premises which destroyed his kennels and training facility".[48]

42. The fourth concerned the effect on the Appellant of floods in his area.[49]

43. Given the absence of any specific reference to such matters in the determination which is the subject of this appeal, it would appear that the original decision makers were not aware of them. Their importance lies in what the Tribunal said about them:[50]

> *There cannot be a combination which is more heartbreaking than that. It compounds this Appellant's difficulties in life with the loss of job, need to support his son, and the like. It demonstrates a unique set of facts which call out for differentiation from other transgressors. In any protective order there must be a place for compassion.*

44. In my view, notwithstanding the effluxion of time, the factors identified by the Tribunal necessarily remain relevant considerations in the present case. Whilst the penalty to be imposed in this case must, for reasons of specific deterrence if nothing else, be greater than was imposed for the previous offending, to fail to take those subjective

[45] At [35].
[46] See *Totaan v R* [2022] NSWCCA 75.
[47] At [36].
[48] At [38].
[49] At [39].
[50] At [39].

matters into account would be to determine the Appeal in a manner inconsistent with the Tribunal's earlier conclusion. For reasons which are obvious, an approach which incorporates inconsistency is to be avoided.

45. The Appellant pleaded guilty at the first available opportunity. Having read the transcript of the proceedings before the decision makers, that plea was unequivocal[51] and it entitles the Appellant to a discount. It is also relevant to take into account that the Appellant appears to have co-operated in the investigation, not only in terms of his participation in the interview, but also in terms of the search of his properly which had previously been undertaken.

46. I have also taken into account the matters put by the Appellant as to the circumstances surrounding his ongoing care of a large number of greyhounds. I am satisfied that he approaches his responsibilities in this respect seriously and responsibly. There is independent evidence from Ms Howe, which I accept, and which makes it clear that the Appellant treats all of his dogs with great care. It also seems that he does so to his personal financial detriment.

47. Finally, whilst the very nature of any penalty which might be imposed is such that it must necessarily result in some degree of hardship, the hardship of any penalty imposed in the present case will impact upon the Appellant in more than one respect. To begin with, the Appellant derives the entirety of his personal income from training greyhounds. That necessarily means that a suspension of any length will have a significant effect, particularly in circumstances where his partner's income is limited. A lengthy suspension would also result in the Appellant either continuing to fund the cost of the upkeep of 17 greyhounds, or somehow making alternative arrangements for them to be cared for by someone else.

[51] Q and A 15 at AB 91.

Other determinations

48. The first determination to which I was referred was that of 15 July 2020 in a matter of *Williams.*[52] That case involved a breach of [then] r 83(2)(a), the substances being Lignocaine and 3-Hydroxylignocaine. The Chief Executive Officer of the Respondent imposed a suspension of 10 weeks. On appeal, that suspension was reduced to 7 weeks. In reaching that determination, the Tribunal acknowledged the necessity to give weight to [then] relevant guideline which had a starting point of a penalty of 12 weeks. The Tribunal reached its conclusion taking into account a number of subjective factors, evidence of least some of which had apparently not been before the original decision maker.[53]

49. The second decision was that of the Respondent's Chief Executive Officer in a matter of *McGee.*[54] That case also involved an offence contrary to r 83(2)(a), and the substance was Dexamethasone. A 12 week suspension was imposed. The offender pleaded not guilty. The Chief Executive Officer took into account a range of subjective factors including the offender's 23 year history as a trainer, the fact that she had offended on only one prior occasion, and her contributions to the industry. There is no indication in the reasons as to what provisions were in force in terms of any guideline. There was apparently no appeal against the Chief Executive Officer's determination.

50. Finally, I was referred to a decision of the Director of Compliance, and the Director of Race Day Operations, in the matter of *Sims*.[55] That case again involved an offence contrary to r 83(2)(a), and the substance was Dexamethasone. The offender pleaded guilty. A fine of $2,000.00 was imposed. The matters taken into account by the decision makers on that occasion included his 14 year history as a trainer, the fact that he had offended on only one occasion during that period, his personal and financial

[52] AB 118 – 130.
[53] Commencing at [66].
[54] AB 131 – 132.
[55] AB 133 – 135.

circumstances, and his extensive involvement in the industry over a long period of time. The reasons do not indicate the terms of any relevant guideline.

51. Unsurprisingly, an analysis of these previous decisions reveals that there were differing facts and circumstances in each case. The Tribunal is always assisted by the provision of such material. Numerical guidelines have some role to play in determining a penalty.[56] However, it is also necessary to bear in mind that no two cases are the same. It is also evident that when matters come before the Tribunal on appeal, the Tribunal may be made aware of circumstances of which the original decision makers were not aware.

52. Ultimately, a determination of what penalty is appropriate involves the exercise of a discretion, taking into account all relevant factors. What must be achieved is consistency in the application of principle, not numerical equivalence.[57]

The Guidelines

53. The stated purpose of the Guidelines is to provide advice to participants about the penalties that may be imposed for offences. Importantly, the Guidelines specifically acknowledge the necessity to take into account the specific circumstances of the individual.

54. Under the Guidelines, Dexamethasone is a Category 3 prohibited substance. Caffeine, which was the subject of the Appellant's first offence, is a Category 2 substance. Levamisole was the subject of the Appellant's most recent infringement. Taking that offending into account, the present matter has proceeded on the basis that this is the Appellant's second breach involving a Category 3 substance within a 5 year period. The Guidelines prescribe a starting point of a suspension of 12 months, to which a discount of 25% will be applied to reflect an early plea of guilty.

[56] See *Moodie v R* [2020] NSWCCA 160.
[57] See *Hili v R; Jones v R* [2010] HCA 45; (2010) 242 CLR 520 at [38]-[39].

55. It is necessary to emphasise that the Guidelines are just that – a guide. Whilst I have taken them into account, it remains the case that no guideline, regardless of its form, can be allowed to operate in a way which impermissibly confines the exercise of discretion by the Tribunal. As is the case with guideline judgments handed down by superior Courts, the Guidelines are to be treated as being in the nature of a "check" or a "sounding board". They must not operate as a fixed rule or presumption.[58] The fact that this is so, is made clear by the specific terms of the Guidelines themselves which state:

> *The penalty ranges suggested in this document are only a guide and are not in any way mandatory. Any aggravating or mitigating circumstances that may exist in each individual case will also be considered.*

CONCLUSION

56. Any penalty which is imposed must incorporate a number of components. To begin with, there is a protective element. There is also a punitive element, which incorporates considerations of general deterrence. In this case, personal deterrence is also a consideration given the Appellant's history of offending. Any penalty must, for the reasons previously stated by the Tribunal, convey a "message" to the Appellant about the unacceptability of this kind of offending. The assessment of penalty must also be consistent with, and promote, the objects of the Rules.

57. It is equally necessary to balance those factors against the Appellant's subjective case. In doing so, it is important to bear in mind that a subjective case, no matter how strong, can be allowed to result in the imposition of a penalty which fails to properly reflect the objective seriousness of the breach. Having regard to all of the circumstances, I am satisfied that the penalty I intend to impose does not offend that principle, and that it satisfies all other relevant considerations.

58. In my view, the matter is appropriately dealt with by the imposition of a fine of $3,000.00. In coming to that view, I am particularly mindful of the Tribunal's approach

[58] *R v Whyte* (2002) 55 NSWLR 232 at [113].

to the Appellant's subjective case in the previous matter. The matters taken into account on that occasion remain of significance, and are properly taken into account.

59. In my view, the imposition of that substantial fine, in a sum greater than that imposed for the previous offending, gives appropriate weight to all relevant factors. In particular it:

(i) takes into account the level of the Appellant's culpability;
(ii) is consistent with, and promotes, the objects of the Rules;
(iii) incorporates an increase in the penalty imposed for the Appellant's most recent offending;
(iv) conveys the message that repeated offending will not be tolerated, and will necessarily result in increased penalties;
(v) conveys a significant personal deterrent, particularly given the Appellant's financial circumstances;
(vi) takes into account the Appellant's strong subjective case; and
(vii) reflects an approach to, and evaluation of, that subjective case which is consistent with that which was adopted by the Tribunal in last matter involving the Appellant.

ORDERS

60. I make the following orders:

1 The previous order of the Tribunal granting a stay of proceedings is vacated.
2 The appeal is upheld.
3 The determination made by the Respondent on 12 October 2023 to impose a suspension of 6 months is quashed.
4 In lieu thereof, a fine of $3,000.00 is imposed on the Appellant, such fine to be paid within sixty (60) days.
5 The appeal deposit is to be refunded.

THE HONOURABLE G J BELLEW SC

12 February 2024