

RACING APPEALS TRIBUNAL

RAT 20/16

DATE: THURSDAY, 2 MARCH 2017

TRIBUNAL: **DEPUTY PRESIDENT:** MR M KING

MS L MICHALANNEY, GRSA STEWARD,
GREYHOUND RACING SA LTD APPEARS FOR
STEWARDS

APPELLANT: MR K STOTT

IN THE MATTER of an Appeal by **KELVIN STOTT** against a decision of
Greyhound Racing SA Ltd Stewards

BREACH OF RULE:

The owner, trainer or person in charge of a greyhound – (a) nominated to compete in an event; shall present the greyhound free from any prohibited substance

Rule: GAR 83(2)

(3) The owner, trainer or person in charge of a greyhound presented contrary to sub-rule (2) shall be guilty of an offence

PENALTY: 3 months Disqualification

DETERMINATION

The Appellant, Kelvin Stott, is a licensed trainer. On 14 February 2016 the Appellant, as a Trainer, presented a greyhound, DOLCE NERO, to race in race 2 at a GRSA meeting held at Gawler.

A post-race urine sample was taken by Stewards and subsequently referred for testing by the Racing Analytical Services Limited laboratory in

Victoria. The sample tested showed a presence of ephedrine, pseudoephedrine, norephedrine and norpseudoephedrine. The reserve part of the sample was then tested, and that testing confirmed the presence of the above four substances.

The Stewards convened an Inquiry which was held on 28 October 2016. At the Inquiry the Stewards heard evidence from Mr Batty, the laboratory manager at RASL, from Mr Karamatic, a veterinary surgeon, and from the Appellant.

At the conclusion of the Inquiry the Stewards elected to charge the Appellant with a breach of GAR83(2), namely that as a trainer he had presented DOLCE NERO for an event when DOLCE NERO was not free of prohibited substances, those substances being ephedrine, pseudoephedrine, norephedrine and norpseudoephedrine. Those substances were prohibited substances as defined by GAR1.

The Appellant pleaded not guilty. The Stewards considered the evidence and satisfied themselves that the four substances were prohibited as they were stimulants, and that the substances had been ingested and excreted by DOLCE NERO.

The Appellant was not able to offer an explanation for the reading but denied administering prohibited substances to DOLCE NERO. The Stewards accepted this denial but found the Appellant guilty of presenting DOLCE NERO not free of prohibited substances. The Stewards did not find that the Appellant had administered any prohibited substances.

After finding the Appellant guilty, the Stewards proceeded to sentence the Appellant on the above basis, and the Appellant was sentenced to disqualification for a period of three months with a fine of \$750.

By a Notice of Appeal dated 30 October 2016, the Appellant appealed to this Tribunal against the severity of the sentence, but not against his conviction.

In his Notice of Appeal, the Appellant stated that he appealed against "the disqualification part, which does not allow me to carry out family duties or keep my own dogs."

In his written submission to the Tribunal, the Appellant suggested that the readings may have been explained either by cross-contamination from dirty kennels and dirty bathwater or from a powder ingested by the dogs. He seemed more inclined to the view that the ingestion of the powder, which has since been found to contain ephedrine, may have been the cause of the high reading. At the Appeal, the Appellant put forward his argument in a clear and cogent fashion.

At the Appeal, the Stewards' submission was that the evidence was not sufficient to enable a finding as to the cause of the ephedrine reading to be made with any confidence. The Stewards accepted, and made clear to the Appellant, that they did not suggest that the Appellant had intentionally administered prohibited substances but emphasised that the Appellant had a positive obligation to present the dog free of prohibited substances and on that basis asserted that that Rule had been contravened.

The prohibited substance in this case is a stimulant; it can be a performance-enhancing substance. The offence is therefore serious, and the Stewards were correct to treat it as serious. The reputation of the industry requires that strong action be taken. Given the seriousness of this offence, I am of the view that a period of disqualification is called for.

The Appellant has a lengthy unblemished record, (with respect to offences of this type), and that must influence the term of the disqualification. The Appellant submitted that in the time after the occurrence of this offence but prior to this Appeal he has suffered some financial detriment.

Balancing the seriousness of the offence against the long unblemished record of the Appellant and the financial detriment suffered, I am still satisfied that the penalty imposed by the Stewards - namely, disqualification for three months and a fine of \$750 - was both reasonable and fair in the circumstances. For this reason, I dismiss the Appeal against penalty and uphold the Stewards' decision.

I am satisfied that this Appeal was instituted on reasonable grounds, and I order a refund of the applicable portion of the bond.

The penalty is to commence at midnight on Thursday, 9 March 2017.