TASMANIAN RACING APPEAL BOARD

Appeal No 1 of 2015/16

Panel:	**Mrs Kate Brown (Chair)** **Mr Graham Elliott** **Mr Rod Lester**	**Appellant:**	**Ms Alison Walker**
Appearances:	**Mr Paul Bullock on behalf of the appellant** **Mr Michael Hoyle on behalf of the stewards**	**Rules:**	**GAR 86A**
Heard at:	**Launceston**	**Penalty:**	**A 12 month disqualification**
Date:	**21 September 2015**	**Result:**	**Dismissed**

REASONS FOR DECISION

1. On 21 September 2015 the Tasmanian Racing Appeal Board (TRAB) heard an appeal filed by Alison Walker on 28 August 2015. The grounds of appeal were:

   "*Severity of 12 month disputing the Rule GAR 86 and only partly guilty*".

2. On 27 August the appellant had pleaded guilty to three breaches of the Greyhound Australasia Rules (GAR). In respect of a breach of GAR 86A, Ms Walker was disqualified for a period of 12 months. In respect of other charges she was fined, with most of the fined sum being suspended for a period of 24 months.

3. GAR 86A provides:

   "*A person shall only use or have in their possession at any place where greyhounds are, or are to be kept, trained or educated or prepared to race, or racing, a lure that is approved by the Controlling Body*."

4. In Tasmania the Controlling Body is Tasracing and Policy GPOL0065 sets out what is an approved lure.

5. This rule came into effect on 30 April 2015.

6. The TRAB heard from Mr Paul Bullock on behalf of the appellant and from the Chairman of Stewards. The following materials were also in evidence:

   (a) The transcript of the stewards' inquiry on 31 July 2015.

   (b) The transcript of the stewards' inquiry on 27 August 2015.

   (c) The bundle of photographs taken by the stewards who attended the property of the appellant on 24 July 2015.

(d) Six photographs from the above noted bundle which had been "blown up" by the appellant showing the detail of the lure in question.

(e) A transcript of proceedings in the Joint Committee on Greyhound Racing in Tasmania, being the evidence of the Director of Racing taken at Hobart on 11 August 2015.

(f) A copy of the Formguide for races in Hobart on 30 April 2015, Launceston on 4 May 2015 and Devonport on 5 May 2015.

7. The particulars of the charge were that on 24 July 2015 stewards observed a lure in a bull ring at the appellant's training premises which contained a horse tail and kangaroo skin amongst other things.

8. It was undisputed that those items were on the lure and that they had been there for some time. It was undisputed that those items were not approved by Tasracing for use on a lure pursuant to policy number GPOL0065. The length of time those items had been on the lure was disputed. The evidence from the appellant (and from her partner during the inquiry, who is a licensed owner-attendant) was that the lure had been prepared about Christmas time 2014. At the appeal hearing it was submitted by her advocate Mr Bullock, that it had been prepared and used in about November 2014. It was submitted by him that the ring clearly had not been used for many months as the condition of the metal was such that it had been weathered since its last use. It was submitted by stewards that the condition of the lure as shown in photographs, was such that it could not have been there all that long, and in fact was likely to have been placed in the ring after the rule change on 30 April.

9. It was not necessary to make any finding about when the ring was last used, as it was not alleged and was not a particular of the charge that the lure had been used. It was not necessary to make any finding about when the lure had been placed in the bull ring as it was sufficient for the purpose of accepting the original plea of guilty by the appellant, and determining guilt for the purposes of her appeal, that the lure was in breach when the stewards attended on 24 July 2015. Of course for the purposes of penalty those factors are relevant and to the extent that the Board are able to be satisfied of those it is determined that the lure had not yet been used with any dogs, but that it had been placed there more recently than Christmas 2014, and more likely than not, after the rule change of 30 April. In so determining, the Board had the benefit of the photographs which showed (as Mr Bullock noted) the weathered condition of the metal making up the bull ring, the muddy condition of the ground around it, but relative to that the lure (which included metal bells) which appeared entirely unaffected by the weather it would have been exposed to.

10. To the extent that Ms Walker disputed her guilt of the charge or any of its particulars, the Board was satisfied that she was guilty of the charge on the basis noted above.

11. In terms of penalty the Board heard and accepted the evidence that disqualification would have a significant effect on Ms Walker's ability to have contact with her extended family, many of whom are registered persons for the purpose of the *Racing Regulation Act 2004*. There was also evidence about the difficulty of re-homing the 30 or so dogs in Ms Walker's care, all of which save one, belong to herself or her partner, or both of them. Her evidence as to that was that she is trying to sell some of the dogs but had no other plan as to how to manage if her appeal was not successful. Somewhat surprisingly, the evidence as to the financial impact of disqualification was to the effect that she would be financially better off as a result of not having the responsibility of the 30 or so dogs she currently has in her care.

12. There were other factors particular to Ms Walker's situation which the Board took into account in assessing the appropriateness of the penalty imposed by stewards:

    (a) Ms Walker did not have a copy of the GAR and conceded that whilst she had a copy at one stage she had never read it;

    (b) Ms Walker was not aware of the existence of the Greyhound Animal Welfare Manual; and

    (c) Ms Walker was not aware of the rule change regarding lures.

13. Ms Walker sought to place responsibility for her ignorance of the latter two at the feet of either the Office of Racing Integrity or Tasracing. That is neither accepted nor acceptable. As a licensed person it is her responsibility to ensure she knows the rules pertaining to the industry in which she seeks to operate. It was submitted on her behalf that Tasracing or the Office of Racing Integrity ought mail to participants copies of all policies and rule changes.

14. Given her evidence that she relies on the advice of other people to inform her of the rules and that whilst she had for a time a copy of the GAR but never read it, it appears unlikely that course would have made any difference, even if it were a reasonable requirement. In any event, there was undisputed evidence that not only are such documents available on the website of the Office of Racing Integrity, hard copies of those are routinely provided at race meetings, and with respect to the rule change on 30th of April, it was the subject of a full page notice in the form guide on 29 April, 6 May and 27 May 2015.

15. Final issues relevant to Ms Walker's specific situation was that during the appeal she was asked to identify the other fabrics making up the lure and she was unable to identify those. That seemed to reflect her level of involvement with the dogs in the "bottom yard". It was uncontested that although Ms Walker was the trainer of those dogs her involvement in their care had been limited to checking them on Tuesdays and otherwise entirely delegating her responsibilities for their care to her partner who is a registered owner-attendant only. While that arrangement may be within the rules, it does not allow Ms Walker to escape the legal responsibility for the care of the dogs registered in her care.

16. Of course in imposing a penalty for breaches of any of the rules of racing it is necessary to consider general deterrence. It is clear that Tasracing has taken a position that it will not tolerate lure practices that are contrary to community expectations around the welfare of all animals. That is the context in which GAR 86A was implemented on 30 April. Community reaction to an investigation by the ABC Four Corners programme prompted that rule change, but welfare issues in the greyhound industry predate that programme. Unfortunately the industry as a whole has been slow to take on board that practices that may have been acceptable in the past are no longer acceptable. This makes general deterrence particularly important in the case of a breach of GAR 86A.

17. The evidence of the stewards was that although Ms Walker could properly have been charged (and likely found guilty) of a breach of GAR 86B, which carries a mandatory ten year disqualification, they took into account all of the mitigating material noted above and determined to charge her with GAR 86A, which allows greater discretion in penalty. The Board felt that it was not necessary to take a position on this assertion as it was considering an appeal specifically against the decision relating to the charge under GAR 86A. The Board did, however, note that the stewards, as a result of their investigation into Ms Walker and her premises, charged Ms Walker under GAR 86B for a separate breach of this rule, and having found her guilty, imposed a penalty in the form of a partly suspended fine rather than a ten year disqualification.

18. It was put on behalf of Ms Walker that the Tasmanian greyhound industry has been "brought into disrepute" by the introduction of Rule 86A (and Rule 86B presumably) and that the Tasmanian industry is being punished for the bad behaviour of industry participants on the mainland. Such a submission does not advance Ms Walker's cause and serves only to demonstrate the Tasmanian industry's lack of insight into the need to move forward and operate within national and international frameworks around integrity and animal welfare, given it is operating on a national and international stage.

19. Also relevant to the need to impose a penalty of general deterrence is that offending against GAR 86A is enormously difficult to detect. Bull rings are typically on private property and hidden from view, as this one was. That is borne out in the document tendered by the appellant – being a transcript of the Director of Racing's evidence given to the Joint Select Committee on Greyhound Racing in Tasmania on 11 August 2015 at pages 38 – 39.

20. This was a case of disregard of the regulated nature of the industry by someone who had a public trainer's licence and long experience in the industry both as a registered participant and through long family involvement. The appellant has, even at the appeal, failed to entirely acknowledge that as a licensed person she has a responsibility to ensure that she is compliant, but rather has sought to blame racing authorities for her ignorance of the rules. Likewise she has failed to demonstrate any insight into the importance of those rules in

implementing safeguards around animal welfare and integrity for the benefit and longevity of the industry as a whole.

21. In all the circumstances noted herein, the Board affirms the penalty imposed by the stewards.

22. In accordance with s.34(1A) of the *Racing Regulation Act 2004*, 50% of the appellant's prescribed deposit is to be forfeited to the Secretary of the Department. The appellant is also ordered to pay 50% of the cost incurred in the preparation of the transcript in accordance with s.34(4A).