

# TASMANIAN RACING APPEAL BOARD

## Appeal No 1 of 2023-24

<b>Panel:</b>	<b>Ms Amber Cohen (Chair)</b>	<b>Appellant:</b>	<b>Ms Carol Nash</b>
<b>Adviser:</b>	<b>Mr Robert Higgins</b>		
<b>Appearances:</b>	<b>Ms Tracy Canham (on behalf of the Stewards) Mr Lynden Nichols (on behalf of the Appellant)</b>	<b>Rules:</b>	<b>GAR 124(1) Failing to pursue</b>
<b>Heard at:</b>	<b>Conference Room Office of Racing Integrity Prospect Government Offices 171 Westbury Road Prospect TAS</b>	<b>Penalty:</b>	<b>SPOTTED BULL stood down for a period of 28 days at Hobart and until the completion of a satisfactory trial</b>
<b>Date:</b>	<b>28 September 2023</b>	<b>Result:</b>	<b>Upheld</b>

### REASONS FOR DECISION

1. On 28 September 2023, the Board heard this appeal.
2. The appellant, Ms Nash, was the trainer of the greyhound, SPOTTED BULL. This appeal concerns race 4 on the 13<sup>th</sup> July 2023 that was held by the Hobart Greyhound Racing Club. SPOTTED BULL ran from Box 1 and placed third in the race.
3. Stewards held an Inquiry on 13 July 2023, at which they reviewed the race footage. Mr Lynden Nichols appeared on behalf of the appellant and viewed the footage at the Inquiry. The Board is advised that the Inquiry failed to record. Ms Tracy Canham, Stipendiary Steward with the Office of Racing Integrity, provided a statutory declaration dated 6 September 2023 confirming the failure to record and the charge, particulars, finding and penalty.
4. At the Inquiry, Stewards charged SPOTTED BULL under Greyhounds Australasia Rules, rule 124(1), which provides:

Subject to rule 125, where, in the opinion of Stewards, a greyhound fails to pursue the lure during an Event, the Stewards must impose a period of suspension in respect of the greyhound pursuant to Rule 127, which is to be recorded by them as part of the identification record.

5. In Ms Canham's statutory declaration, she said

Stewards advised Mr Nichols that in their opinion, SPOTTED BULL failed to pursue the lure with due commitment when the greyhound visibly eased when racing into the first turn. Steward [sic] stood SPOTTED BULL down for 28

days and the completion of a satisfactory Stewards trial at the Hobart track only, pursuant to GAR 127(a).

6. The term *failing to pursue* is defined in the rules as

When a greyhound turns its head, visibly eases, or fails to pursue the lure with due commitment during the running of an Event.

7. The appellant has appealed against the conviction, and in her notice of appeal says the following:

Spotted Bull was off stride & balance approaching first turn and I believe he chased 100% the full race.

8. During the course of this hearing the appellant was represented by Mr Lynden Nichols.
9. Ms Tracy Canham appeared for Stewards. Ms Canham said that she had observed the race and had observed SPOTTED BULL to ease in the race and asked that it be vetted. She reviewed the footage again with another Steward. Stewards formed the view that the dog eased in its stride racing into the first turn. Ms Canham acknowledged that the dog ran forward from that point. She accepted that the dog did not turn its head but noted that a failure to pursue does not require a dog to turn its head.
10. At the hearing, Mr Nichols had noted that SPOTTED BULL was wearing blinkers and was under pressure from the number 7 dog on the outside. Ms Canham said the Board did not have a head on view of where Stewards believed the dog eased in its stride but it could be seen that the 7 dog was quite wide of it at that point or just prior to that point. She said the blinkers should not have affected the dogs front vision at all, should only impact what is seen from the side.
11. At the hearing of the appeal, Mr Nichols confirmed this but said further that there were gale force winds on the night of the race which may have impacted the greyhound. In response to this, Ms Canham agreed that it was windy but said that she had not checked the level of wind. Mr Nichols commented that the number 2 dog was checked and came back towards SPOTTED BULL. It then gets checked by the number 8 dog.
12. There was some discussion about Mr Nichols having been advised by Stewards that a warning would be issued rather than the charge pursued by Stewards. Mr Dominic Tyson, a Steward, who was an observer at the hearing, offered to give evidence about the issue of whether a warning had been issued. Both parties agreed for him to do so. Mr Tyson agreed it had occurred, but that Stewards subsequently formed the view that there was a failure to pursue and to maintain that charge. Stewards had also formed the view that there is no room in the rules to give a warning. There is either a failure to pursue or there is not.
13. Ms Canham said that where a rule provides for a matter to be in the opinion of Stewards, it is a subjective test. She said 4 or 5 different people could look at it and have different interpretations of it.
14. Mr Nichols noted that this dog had a good record. It had a charge of marring 38 starts ago and has had 13 starts since this race without further charge.

### **Determination of Appeal against Conviction**

15. The Board has considered the submissions of each of the parties to this appeal. The Board has also viewed very carefully the footage and has had the benefit of the assistance of the greyhound racing adviser, Mr Higgins, in relation to this matter. The Board did not have the benefit of the transcript of the Stewards' Inquiry.

16. The Board is not comfortably satisfied that the dog SPOTTED BULL failed to pursue the lure at any stage of the race. The race footage does not assist the Board to form the view that the dog eased when racing into the first turn or at all. For this reason, the Board finds that the charge against SPOTTED BULL for failing to pursue could not be sustained.
17. The appeal against conviction is upheld – and the orders of the Stewards are quashed per s 34(1)(a) Racing Regulations Act 2004. (As such there remains no need to further consider or determine or the related appeal against penalty).
18. As the decision of the Stewards has been quashed, the Board orders pursuant to ss 34(2)(e) of the Racing Regulations Act 2004, that the appellant's prescribed deposit be refunded in full.

**DATED: 30 OCTOBER 2023**