

# TASMANIAN RACING APPEAL BOARD

## Appeal No 14 of 2022-23

<b>Panel:</b>	<b>Ms Kate Cuthbertson (Chair)</b>	<b>Appellant:</b>	<b>Mr Wayne Howells</b>
<b>Adviser:</b>	<b>Mr Robert Higgins</b>		
<b>Appearances:</b>	<b>Mr Bruce Free (on behalf of the Stewards)</b>	<b>Rules:</b>	<b>GAR 124(1) Failing to pursue</b>
<b>Heard at:</b>	<b>Stewards Room Elwick Racecourse 6 Goodwood Road GLENORCHY TAS</b>	<b>Penalty:</b>	<b>SHANGHAI VIOLET stood down for a period of 28 days at Hobart and until the completion of a satisfactory trial</b>
<b>Date:</b>	<b>9 June 2023</b>	<b>Result:</b>	<b>Dismissed</b>

## REASONS FOR DECISION

### Background

1. The appellant, Wayne Howells, is the trainer of a greyhound, SHANGHAI VIOLET. This appeal concerns the racing conduct of SHANGHAI VIOLET during race 2 - G.O.T.B.A.T Division 3 Heat 1 - Grade 6 - 461m held at the Hobart Greyhound Racing Club on 4 May 2023.
2. Following that race, Stewards formed the opinion that the greyhound had failed to pursue the lure during the course of the event in breach of GAR 124 in that it had visibly eased free of interference approaching the first turn. The Gatekeeper had called for the greyhound to be examined by an officiating veterinarian immediately after the race, but that examination had not occurred. The appellant left the racecourse shortly after the subsequent race. Absent a veterinary assessment indicating any problem with the greyhound, Stewards imposed the mandatory period of suspension for a first offence of 28 days at the Hobart track and until the completion of a satisfactory trial pursuant to GAR 127(a).
3. The appellant has appealed against the greyhound's conviction of failing to pursue stating that there was a communication failure from stewards and a failure to follow due process. In his application for a stay of proceedings, the appellant outlined that no veterinary examination had been performed due to the lack of communication from the stewards on the night therefore not allowing a full picture of the circumstances of what may have happened during the race.
4. GAR 124(1) provides as follows:  
"Subject to rule 125, where, in the opinion of the 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. "Failing to pursue" is defined in GAR 9 as meaning:

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

The definition of "Event" in GAR 9 includes a race.

6. GAR 125 provides:

- (1) A greyhound which in the opinion of the Stewards fails to pursue the lure for the first time only must be examined by an officiating veterinarian and:
  - a. if the greyhound is found to be injured, a stand-down period will apply as recommended by the officiating veterinarian and the greyhound will not be permitted to compete in an Event until the completion of a satisfactory trial (with the specifics of the injury and trial to be recorded as part of its identification record).
  - b. If the greyhound is found not to be injured, then the provisions of rules 124 and 127 apply.
- (2) If following an examination pursuant to this rule, a greyhound is found to be suffering from an injury, a written record or report must be provided by the veterinarian who has examined the injury, to the Stewards.

7. The transcript of the proceedings on the night of the race is brief. It records that the Chairman of Stewards on the night, Mr Free, contacted the appellant by telephone. He was advised that the greyhound had failed to pursue and that he had been told by "Brendan" (the gatekeeper) that it had to go to the vet. The appellant told Mr Free that he was not told that the dog had to go to the vet, that his wife, Sharon, had caught the dog, and that she had not told him and would have if she had heard the call. The appellant told Mr Free that he was already home. Mr Free outlined that the greyhound had eased approaching the first turn. The appellant stated that he had not looked at the replay. He was asked if he wanted to look at the replay and ring him back. He declined that opportunity stating: "Well, no. If you're going to put it out, you put it out. You're going to do it anyway. So I'm not worried about it". Mr Free told the appellant that he could bring the dog back to the racecourse to be vetted and see if there was anything wrong with it. He declined that offer, indicating that he was at Dysart. He was told of the penalty and the right to appeal. The appellant then outlined his views that there was no decent oncourse vet, and that stewards were a disgrace. He then terminated the call.

### **Submissions**

8. The appellant submitted that he did not believe he had been given a fair opportunity for the greyhound to be vetted. The race took place at 8.00pm. The appellant did not have any other dogs racing that night. His mother-in-law had a dog in the next race and he stayed to watch that before leaving the racecourse with SHANGHAI VIOLET. He stated that he was called by Mr Free at 9.22pm at which point he had already arrived home. He stated that he had remained at the racecourse during the following race but that no one had approached him about the greyhound during that time. He acknowledged during the course of the appeal that the gatekeeper yells out over the gate which dogs are to be vetted at the end of the race, but that he did not consider this to be acceptable and was not consistent with the process at other racecourses. It was clear that he was familiar with that practice, as was his wife Sharon, who caught the greyhound at the end of Race 2. He stated that the dog was checked by Anthony Bullock, another trainer, a few days later. A sore outside hip muscle was identified and the dog was kept in the yard and did not work for 4 to 5 days. The appellant had not noticed any problem with the greyhound prior to it being checked by Mr Bullock. He said that he regularly takes all his dogs to be checked by Mr Bullock. He

accepted that he took no action to have the dog checked by a veterinarian after the race and after leaving the racecourse. He expressed the view that most vets are not good at vetting dogs.

9. In respect of the greyhound's racing manners, he said he did not watch the race on the night. Having viewed the race footage he thought the greyhound baulked when another dog came beside her, causing her to misstep, but nothing major.
10. Stewards pointed out that the greyhound eased in the first turn before starting to race again. As to the post-race process, it is the practice at the Hobart Greyhound Racing Club for the gatekeeper to call out which dogs are to be vetted over the gate at the end of the race. This occurs before the all clear is given. In addition, another of the stewards on the night, Mr Steele, advised Mr Free that he had spoken with the appellant and advised him that the greyhound needed vetting.
11. Subsequent to the hearing of the appeal, a statement from Mr Steele was provided by Stewards. Mr Steele was the Starting Steward for the meeting on 4 May 2023. He explained that following Race 2, Chairman of Stewards requested a veterinary examination for SHANGHAI VIOLET and a swab sample from the winner of the event and that these requests were conveyed by radio. Mr Steele walked from the starting boxes to the catching pen to follow the greyhound that was to be swabbed. He walked past the appellant on the way to the catching pen and said words to the effect of "can you please take your greyhound to vet". He did not stop. Once the winner had been swabbed and the sample taken and locked in the kennels, Mr Steele went straight back to the starting boxes as a Stewards' trial was about to proceed. When that trial had finished, the next event commenced and Mr Steele was involved in checking the greyhounds following the event to make sure they were all correct. After that race, he spoke with Mr Gleeson to see if the appellant had presented the greyhound to the on-course veterinarian but was told that he had not. He was then made aware that the appellant had left the course with the greyhound. He advised the Chairman of the situation.
12. Mr Steele's statement was made available to the appellant. He was provided an opportunity to make submissions and offered a further hearing to challenge the evidence. The appellant advised that he was "fine with the stat dec (sic) of Mr Steel (sic) but would like to highlight that he never approached [him] to confirm I heard his request which unfortunately I did not". In a subsequent email, he confirmed that he was okay with the statement, but noted that Mr Steele was "under a lot of pressure and did not know if I heard him". He did not require the hearing of the appeal to be reconvened.

## **Decision**

13. The appellant did not seriously challenge Stewards' opinion that SHANGHAI VIOLET had visibly eased free of interference as it approached the first turn. He conceded during the appeal that the greyhound had probably just baulked a little bit when another greyhound came beside her, and missed a step, but stated it was nothing major. The principal basis of his appeal is that because the greyhound was not vetted, it was not known whether it had an injury that explained its racing manners and that would result in the imposition of a stand down period pursuant to GAR 125(1)(a). The appellant does not dispute that Stewards called for SHANGHAI VIOLET to be vetted at the end of the race, but he says neither he nor his wife heard the call. Further, while he agrees that Stewards offered him an opportunity to bring the greyhound back to the track to be vetted, he chose not to do so as it was late, he had arrived home. The Board notes that it would likely take 2 hours to return to the racecourse, have the dog vetted and drive home again.
14. The Board has viewed the footage of the race. It is clear that SHANGHAI VIOLET noticeably slows as she approaches the first turn before picking up her pace again. The Board agrees with Stewards that the greyhound visibly eased.

15. GAR requires that a greyhound *must* be examined by an officiating veterinarian where Stewards have formed the opinion that it has failed to pursue the lure for the first time. No such examination is required on subsequent occasions. If an injury is detected, it results in the greyhound being stood-down for the period determined by the officiating veterinarian and a requirement that the dog complete a satisfactory trial.
16. There are clear animal welfare considerations at large in such circumstances. The length of any stand-down period is presumably determined by reference to the nature of the greyhound's injury and the veterinarian's opinion as to the time required for it to resolve. Importantly, it is only an examination by an officiating veterinarian that triggers the operation of GAR 125. The detection of injury by another person or veterinarian is not sufficient. The assessment conducted by Mr Bullock a few days later is of no relevance to this appeal.
17. In this case, Stewards took steps to have the dog vetted by both having the gatekeeper call out at the end of the race and by Mr Steele advising the appellant as he walked past. The process of calling out at the end of the race is well-established and known to both the appellant and his wife. It is incumbent on participants to be alert to such calls at the end of the race. Stewards cannot be expected to drop their other commitments to track down participants to ensure their compliance with requests for greyhounds in their care to be vetted.
18. In the circumstances, the Board considers that Stewards offered ample opportunity to the appellant to have SHANGHAI VIOLET vetted by an officiating veterinarian. The appellant refused the offer made over the telephone. The Board accepts that it would have been inconvenient for the appellant to return to the racetrack to enable that to occur, but having refused that offer, he can hardly complain that the greyhound was not examined when it was in his power for that to occur.
19. The appeal is dismissed and the decision of Stewards is affirmed. Pursuant to ss34(1A) and (2)(a), 50 per cent of the appellant's prescribed deposit is forfeited to the Secretary of the Department. Further, pursuant to ss 34(4A) and (4B)(a), the appellant is ordered to pay 50 per cent of the cost incurred in the preparation of the transcript.

**DATED: DECEMBER 2023**