

# TASMANIAN RACING APPEAL BOARD

## Appeal No 19 of 2016/2017

<b>Panel:</b>	<b>Tom Cox (Chair) Kate Cuthbertson Rod Lester</b>	<b>Appellant:</b>	<b>Michael Dobson</b>
<b>Appearances:</b>	<b>Tom Astbury on behalf of the appellant Reid Sanders on behalf of the stewards</b>	<b>Rules:</b>	<b>Greyhound Australasia Rule 83(2)(a)</b>
<b>Heard at:</b>	<b>Hobart</b>	<b>Penalty:</b>	<b>9 month disqualification</b>
<b>Date:</b>	<b>25 May 2017</b>	<b>Result:</b>	<b>Varied to a 4 month disqualification</b>

### REASONS FOR DECISION

1. The appellant has trained greyhounds for over 50 years. On 12 May 2016 the appellant presented Midnight Bird to race in race 7 – The Vets Medley Series (Heat) – over 461 metres at the Hobart Greyhound Racing Club meeting. A pre-race urine sample was taken from the greyhound which, upon subsequent analysis, was shown to contain the presence of cobalt in excess of the permitted threshold of 100 nanograms per millilitre. Confirmatory testing, again, disclosed the presence of cobalt in excess of the permitted threshold.
2. On 7 April this year the stewards conducted an inquiry into these circumstances and, following that inquiry, found Mr Dobson in breach of GAR Rule 83(2)(a) which provides:  
  
*“The owner, trainer, or person in charge of a greyhound –  
(a) Nominated to compete in an event;  
.....  
shall present the greyhound free of any prohibited substance.”*
3. Sub-rule 3 of that rule reads:  
  
*“The owner, trainer or person in charge of a greyhound presented contrary to sub-rule (2) shall be guilty of an offence.”*
4. The appellant pleaded not guilty at the inquiry, but, as noted, the stewards found otherwise and proceeded to disqualify him for a period of 9 months.

5. The appellant originally appealed to this Board against the finding that he was in breach of the rule and the severity of the penalty imposed. However, at the hearing of the appeal the appellant abandoned all of his appeal grounds concerning the finding of breach and proceeded solely on the question of the extent of the penalty imposed.
6. The stewards conceded that the appellant, having now effectively changed his plea and admitted that he was in breach of the relevant rule, should be given credit for his change in position and submitted that this Board should proceed to determine the appropriate penalty.
7. The matters concerning penalty are relatively straight forward:
  - The offence is one of strict liability and this Board is not called upon to make any finding as to the appellant's state of mind at the time of the offence
  - The appellant has been a trainer in the industry for 50 years;
  - The appellant has not previously breached the Rules of Racing as they relate to prohibited substances.
8. By contrast:
  - The presentation of greyhounds with prohibited substances undermines the integrity of the industry and negatively impacts its public perception;
  - Cobalt may be a performance enhancing substance, although the state of expert evidence in this regard is equivocal.
9. The only explanation provided by the appellant as to why Cobalt may have been present in such quantities was that his feeding regime for his greyhounds included B12 supplements the night before a race. It was a regime the appellant has employed for decades. It was a regime the appellant has now ceased.
10. The stewards also conceded that education within the Tasmanian racing industry as to the risks of presenting greyhounds or horses with cobalt has not been widespread, unlike in other jurisdictions. Accepting that to be so, we would call on the stewards to address this issue as a matter of priority.
11. In our view, the appellant's culpability in relation to this breach is relatively low, especially having regard to his longevity in the industry without a relevant prior matter and what appears to be mere inadvertence on his behalf in his feeding regime. Nevertheless, a period of disqualification is required given the impact offences of this type have on the integrity of the industry. In all the circumstances, we consider a period of four months' disqualification to be appropriate.

12. The appeal, once amended, having been wholly successful, we order that the appellant have his deposit returned to him pursuant to s.34(2) of the *Racing Regulation Act 2004*. There will be no order as to the costs of transcription.