



GREYHOUND WELFARE & INTEGRITY COMMISSION
DISCIPLINARY ACTION DECISION

Date of decision:	14 April 2022
Decision-makers:	Director Compliance, Policy & Legal, Matthew Tutt, Director Race Day Operations & Integrity, Wade Birch and Legal Officer, Annalese Summerson-Hingston
Name of relevant person:	Mr Stephen Alan Francis
Track:	N/A
Rule no.:	86(x)
Charge:	That Mr Francis made a false statement in an application for registration.
Disciplinary action taken:	To disqualify Mr Francis' registrations for a period of seven (7) months.

.....

Procedural History

1. On 31 March 2022 the Commission decision makers issued a Notice of Charge and Proposed Disciplinary Action ("**Notice**") to Mr Stephen Alan Francis, charging Mr Francis with one charge of breaching Rule 86(x) of the Greyhound Racing Rules ("**Rules**") which reads:

Rule 86(x), Rules:

A person (including an official) shall be guilty of an offence if the person-

- (x) makes any statement which to his/her knowledge is false either oral by, by print, in writing, by electronic means or by any combination thereof to a member of the Controlling Body, an officer of the Controlling Body, an employee of the Controlling Body, a veterinary surgeon or an official in the execution of his/her duty;

2. The particulars of the charge were as follows:

The particulars of the Charge are:

1. *That Mr Stephen Alan Francis, on 21 December 2021, as a registered Owner Trainer, made a false statement in a registration application, in circumstances where:*
 - a. *On 21 December 2021 Mr Francis submitted an application via the online portal for a Public Trainer and Breeder registration with GWIC;*
 - b. *In that application Mr Francis listed his residential and kennel address as an address at Raymond Terrace ("**Raymond Terrace address**");*

- c. *As part of the registration application, Mr Francis has supplied photographs of the kennel area at the Raymond Terrace address;*
 - d. *As part of the registration application, Mr Francis has supplied photographs of the whelping area at a different address in the suburb of Swan Bay (“Swan Bay address”)*
 - e. *At the time of lodging the registration application:*
 - i. *Mr Francis intended to utilise the Swan Bay address to conduct breeding activities; and*
 - ii. *Mr Francis falsely listed the address for his Breeder registration as the Raymond Terrace address.*
3. The Notice proposed a penalty of a 12-month disqualification and invited Mr Francis to a hearing in relation to the Charge.
 4. On 11 April 2022 Mr Francis and his legal representative attended a hearing in relation to the Charge. At the hearing Mr Francis pleaded guilty to the charge and his legal representative made submissions in mitigation of the proposed penalty on his behalf.

Background

5. Mr Francis applied to the Commission for a Public Trainer and Breeder’s registration on 21 December 2021 (“**the application**”). In the application, Mr Francis listed both his residential and his kennel premises as a Raymond Terrace address. As part of the application, Mr Francis supplied a series of photographs depicting kennels and a whelping area.
6. The photographs provided by Mr Francis as part of the application included photographs of a kennelling area, as well as a whelping area. On a reasonable person’s viewing of the application, it appeared that the whelping area and the kennelling area were located at the Raymond Terrace address, as this was the address listed as the kennel premises on the application.
7. On 30 December 2021, as part of the application process in relation to Mr Francis’ application, a registration officer of the Commission sought further information in relation to the whelping area depicted in the photographs provided by Mr Francis in his application on 21 December 2021.
8. Particularly, the registration officer sought the following from Mr Francis in relation to the whelping area:
 - *Please show evidence of a separate bed in the whelping room for the dam so the puppies cannot reach her. She will need the occasional break away from the pups.*
 - *I would also like to see a water bowl in the whelping room for the dam.*
 - *I can see that the whelping box is on carpet. Carpet will be very hard to clean and sanitise after whelping. My suggestion is to put a layer of lino down (or something similar) that can be washed down and disinfected.*
 - *The kennels and whelping room must have a way for you to be able to monitor the temperature, is there a thermometer inside. Please provide a photo.*
9. On 4 January 2022 Mr Francis replied to the request from the registration officer for additional information in relation to the whelping area stating as follows:

Please find attached a picture of whelping box now on black plastic flooring not carpet even though I wouldn't clean the carpet as there will be a layer of blankets, towels etc and newspaper and it would have been discarded and replaced once soiled.

Also the separate bed for mother of puppies and water bowl, fire extinguisher, power point for heat lamps and thermometer.

10. On 22 February it became known to the Commission that the photographs of the whelping area provided by Mr Francis in the application were in fact photographs from a different location, being the registered kennel address of another participant at Swan Bay.
11. What is relevant to this matter is that the registered participant located at the Swan Bay address had received a "show cause" notice on 15 December 2021 from the Commission that, amongst other things, proposed a condition which would prohibit any breeding activities from being conducted at the Swan Bay address.
12. On 22 December 2021, the registered participant to whom the "show cause" notice was issued consented to the imposition of a number of conditions, including that no breeding activities were to occur at the Swan Bay premises.
13. . On 19 January 2022 the Commission advised Mr Francis that his Public Trainer and Breeding registrations were approved.
14. On 22 February 2022 Commission Inspectors attended the Swan Bay address for kennel inspection in relation to the registered participant subject to the breeding prohibition conditions. At this inspection, Commission Inspectors discovered a breeding female that had recently whelped a litter of pups. The greyhound was registered to Mr Francis and Mr Francis was at the Swan Bay property, attending to the greyhound.
15. On 9 March 2022 Mr Francis was suspended on an interim basis by the Commission in relation to the conduct above.

Decision

16. When the Notice was issued by the decision makers on 31 March 2022, the decision makers proposed a 12-month disqualification for the offence of providing false and misleading information to the Commission. The Tribunal in the matter of *Boyd* (8 October 2021), at paragraph 28, stated:

"There have been many cases over the years in which Tribunals, as variously constituted ... have expressed the absolute fundamental nature of the necessity of a licensed person with that privilege, in the absolute unqualified privileged, having to be honest and forthright. The failure to do so will undermine public trust and public confidence in the industry and lead to its breakdown. This is particularly relevant to the Greyhound Industry with its recent history, which does not need further analysis in this decision."

17. As part of the registration application process, the Commission relies on photographs to be provided of any proposed kennel premises. The process adopted by the Commission is designed to expedite the process for both participants and the Commission. It is fundamental and critical that the information given by participants in the absence of physical kennel inspections is accurate and honest.

18. It is very difficult for the Commission to discover when photographs that are provided are in fact at a different location. Frequently, this will only occur upon a physical inspection at a subsequent time, usually well after a registration application has been approved. The requirement for a participant to be honest and forthright is therefore amplified when the decision to grant a registration is being considered by the Commission based on the information provided by the participant, such as kennel addresses and photographs claiming to be those kennel addresses.
19. By his plea of guilty, Mr Francis accepts that the information he gave to the Commission was misleading. He knew at the time of making the application on 21 December 2021 that the kennel premises depicted in some of the photos were of the Swan Bay address and not his Raymond Terrace address. He also knew that this would not be obvious to those assessing the application, as he listed the kennel premises as at the Raymond Terrace address.
20. The decision makers are entitled to draw inferences and in this matter such an inference is drawn, being that Mr Francis must have known, or ought to have known, that had he provided the information that he would be conducting breeding activities at the Swan Bay address, his application would have resulted in a different outcome.
21. To support this inference is the fact that not six days prior to the submission of the application there was disciplinary action commenced against the registered participant at the Swan Bay address to impose a number of conditions, including a prohibition on breeding activities. In addition to the above, the registered participant to whom the conditions were imposed upon is also Mr Francis' father-in-law.
22. As referred to above, on 22 December 2021, the day after Mr Francis' application to become a breeder, the Commission imposed conditions on the registered participant located at the Swan Bay address including a condition to prohibit breeding activities at those premises.
23. At the hearing on 11 April 2022, when asked for the reasons that motivated Mr Francis to provide misleading information, he provided what the decision makers considered to be unconvincing and unpersuasive reasons.
24. Mr Francis' legal representative made submissions on his behalf at the hearing that the failure by Mr Francis to list the Swan Bay address as the kennel premises at which he would be conducting breeding activities was an oversight.
25. Mr Francis' representative also submitted that he had entered into a licence with the registered participant at the Swan Bay address on 1 December 2021, entitling him to use of the kennel premises for that purpose. It was submitted that this licence was entered into by Mr Francis' and the registered participant, and commenced on 1 December 2021. The decision makers took this submission as made but note that they have not sighted a copy of the licence, and further note the submission that the licence was not signed and witnessed by a third party until 18 January 2022.
26. The decision makers find that this submission does not support Mr Francis' contention that failing to list the Swan Bay address as the kennel premises was an unfortunate oversight. Indeed, if Mr Francis had gone to the effort of entering into a licence, a legally

binding document that was prepared by lawyers, it strains credulity that he would then fail to inform the Commission of his intention to utilise the kennel premises at the Swan Bay address.

27. In addition, Mr Francis had a second opportunity to correct this error when responding to the 30 December 2021 email sent by the Commission. At no point in the email communication to the Commission by Mr Francis on 4 January 2022 did Mr Francis state the location of the whelping area as being at the Swan Bay address rather than the Raymond Terrace address. The decision makers note that this correspondence was an opportunity for Mr Francis to provide correct information in relation to the location of the whelping area, but that he did not do so.
28. It is clear to the decision makers that Mr Francis deliberately provided incorrect information on 21 December 2021 to mislead the Commission's registration officers in their consideration of Mr Francis' registration application. Whilst the decision makers emphasise that the matter involving the registered participant at the Swan Bay premises has nothing to do with Mr Francis, they find that it must have been known to Mr Francis that including any reference to the Swan Bay address in his registration would have in all likelihood resulted in an adverse outcome to Mr Francis' application.
29. It is clear that the Commission had concerns about the welfare of greyhounds being kept at the Swan Bay address, based on the disciplinary action being progressed in relation to alleged events that had occurred there. Whilst none of the conduct alleged against the registered participant at Swan Bay can be in any way attributable to Mr Francis, it was Mr Francis' attempt to, and ultimate success at, deceiving the Commission's registration officer by providing deliberately false information in his application as to where his breeding activities were to occur that has brought about this matter.
30. The decision makers note that the Raymond Terrace address otherwise depicted three racing kennels in good condition and compliant with the Commission's Code of Practice, and Mr Francis' application to conduct training activities as a Public Trainer out of this address would have been approved.

Penalty

31. The Commission decision makers have had to consider what an appropriate penalty may be in this matter. As referred to above, the Commission decision makers initially proposed a 12-month disqualification and invited Mr Francis' to make submissions in relation to this proposal. As contained in the matter of *Boyd* at paragraph [34] a consideration of the objective seriousness is relevant. The Commission decision makers, with guidance from the Tribunal, determined that an appropriate starting point was that of a disqualification for a period of 12 months.
32. Mr Francis' plea of guilty at the earliest opportunity demonstrates his remorse and contrition and entitled him to a 25% discount from the 12-month disqualification proposed. This reduced the proposed penalty to that of a nine (9) month disqualification. The decision makers then turned to consideration of whether there should be any further reduction when considering factors in mitigation as submitted on Mr Francis' behalf. Without repeating all the submissions made, it is relevant that Mr Francis has no relevant

disciplinary history. He has been engaged as a full-time participant in the greyhound racing industry since 2013. Mr Francis supports two children. The decision makers also consider that Mr Francis' registration history as an owner trainer since 2005, being a period of over 16 years, to be a factor in mitigation and goes in Mr Francis' favour, but as is always the case, there needs to be a balance in weighing up the objective seriousness of the matter and factors in mitigation.

33. As was stated in the Commission's decision of *Grech* (28 July 2021), forthrightness and honesty in providing information to the Commission, particularly in relation to the registration function, is critical. Without doing so, the integrity of the Commission's registration function will be compromised. Accordingly, this matter that touches on integrity within the industry. It is important for the integrity of the Commission's registration processes that the information provided by participants is accurate and complete.
34. This matter also touches upon welfare concerns. It was clear that the Swan Bay premises was a location that the Commission had concerns in relation to breeding activities being conducted. Whilst the decision makers noted that there is no suggestion Mr Francis engaged in any alleged breaches at the Swan Bay premises, the decision makers noted that the Commission would not have made a decision to permit Mr Francis conduct breeding activities at that location whilst the registered participant was subject to a condition prohibiting breeding activities at the premises. Whilst the reasons for imposition of a breeding activity prohibition at the Swan Bay address are not matters relevant to Mr Francis, it is the location that Mr Francis ultimately engaged in breeding activities at. This raises questions of welfare in addition to the matters of integrity.
35. The objective seriousness is a factor that weigh more heavily on the decision makers than any factors in mitigation. In Mr Francis' favour is his almost 16 years of time in the industry with no relevant disciplinary history, as well as his submissions in relation to the personal and financial impact a period of disqualification will have on him and his young family. These mitigating factors, in the decision makers view, would otherwise warrants a further reduction from that of the nine (9) month disqualification to approximately six (6) months disqualification.
36. The decision makers find that the objective seriousness and the circumstances surrounding Mr Francis' breach of Rule 86(x) is aggravated by the fact that on 4 January 2022 when the opportunity presented itself for Mr Francis to correct his earlier false and misleading statement in correspondence with the Commission, he did not avail himself of that opportunity. The fact that Mr Francis did not take the opportunity on 4 January 2022 to provide the complete and true information in relation to his application is objectively serious and aggravates the penalty from a six (6) month disqualification to that of a seven (7) month disqualification on grounds of objective seriousness.
37. Accordingly, the decision makers impose a disqualification of Mr Francis' registrations for a period of seven (7) months backdated to 9 March 2022 to take into account the time served by Mr Francis on interim suspension.

.....End.....