



GREYHOUND WELFARE & INTEGRITY COMMISSION

DISCIPLINARY ACTION DECISION

Date of decision:	4 May 2020
Decision-maker:	Chief Executive Officer, Judith Lind
Name of relevant person:	Mr Gary Kimber
Track:	N/A - Non-meeting
Rule no:	Rule 86B(1)(b), Rule 86A
Disciplinary action taken:	
	Charge 1 (Rule 86B(1)(b)): 2 years disqualification suspended with 16 months suspended for a period of 3 years (conditionally)
	Charge 2 (Rule 86A): To not impose any further penalty

REPORT:

During an inspection of the kennels registered to Mr Kimber, Commission Inspectors located a lure laying on top of a pulley system outside the kennels that was suspected of being derived of animal materials. The lure was surrendered to the Inspectors and sent to the Taronga Wildlife Hospital for further testing.

Analysis of the lure was conducted and the final report of Veterinary Pathologist and Registered Veterinarian Dr Lydia Tong confirmed that the lure was comprised of both synthetic and animal materials.

After considering the evidence the Commission charged Mr Kimber with a breach of Rule 86B(1)(b) and Rule 86A of the Commission's Greyhound Racing Rules ("**Rules**") for the lure located on his property.

Mr Kimber denied the charges.

DECISION:

1. Mr Kimber, at the material time being 16 September 2019, was a registered Owner Trainer and Breeder.

2. On 16 September 2019, Commission Inspectors attended at Mr Kimber's registered address to conduct an inspection of the registered kennels relating to the registration application of another person living on the property.
3. During the inspection Inspectors discovered a lure, found laying on top of a pulley system located outside of the kennels. It was determined that the lure appeared to be made of animal product. The lure was surrendered to the Inspectors.
4. The surrendered lure was examined by Dr Lydia Tong of the Taronga Wildlife Hospital and found to be comprised of:
 - skin and fur of a European rabbit; and
 - tail (bone, skin and fur) from a common brushtail possum.
5. The Commission charged Mr Kimber under Rule 86B(1)(b) and Rule 86A for the lure.
6. Mr Kimber pleaded not guilty to each charge, provided written submissions and elected to have the disciplinary proceeding conducted in writing.
7. The Commission found the charges 1 and 2 proven.
8. The Commission consequently took the following disciplinary action against Mr Kimber:
Charge 1 (Rule 86B(1)(b)): 2 years disqualification, with 16 months suspended for a period of 3 years on the condition that he does not reach Rule 86B(1)(b) in that 3 year period, pursuant to rule 95(3) of the Rules;
Charge 2 (Rule 86A): To not impose any further penalty;
with:
 - 4 months and 3 weeks being the period served under an interim suspension taken into account as time served;
 - The remaining period of disqualification to be served, commencing on 4 May 2020 and expiring on 12 August 2020.
9. In taking this disciplinary action, the Commission considered all evidence, including:
 - Mr Kimber has been a registered trainer for approximately 31 years;
 - Mr Kimber has no like matters in his disciplinary history;
 - NSW greyhound racing precedents;
 - Mr Kimber's submissions in mitigation of any penalty, including in relation to his personal and health circumstances;
 - The objective seriousness of the conduct at the lower end of the spectrum of the range of conduct captured by Rule 86B;

- The period served under an interim suspension: being 13 December 2019 to 3 May 2020.

Special Circumstances

10. The provisions of Rule 86B require a minimum penalty of disqualification for a period of not less than 10 years unless there is a finding that 'special circumstances' exist, whereupon a penalty less than the minimum can be imposed.
11. Mr Kimber provided detailed submissions in seeking to establish the existence of special circumstances. The Commission found the existence of special circumstances based upon the following factors:
 - Mr Kimber's personal circumstances, including his health circumstances, not published here for privacy reasons and have been a significant factor in the outcome of this decision;
 - Mr Kimber's registration and disciplinary history;
 - The objective seriousness of the conduct was considered to be at the lower end of the spectrum of offending behaviour captured by Rule 86B;
 - Mr Kimber obtained the lure, comprised of synthetic materials only, some 10 years prior and whilst he genuinely believed the animal materials were from a toy, he submitted these parts were not part of the lure at the time it was initially obtained and cannot recall when or by whom they were attached to the lure.
12. The totality of the matters in mitigation gave rise to a finding that special circumstances exist (noting that the factor in relation to Mr Kimber's health circumstances considered alone would be equated to the finding of special circumstances) and that a penalty less than the 10 year minimum mandatory period could be imposed.

.....End.....