

**DECISION ON AN INTERNAL REVIEW APPLICATION UNDER  
SECTION 91 OF THE GREYHOUND RACING ACT 2017**

Matter for determination	Decision dated 14 May 2024
Applicant	Mr Anthony Thomas Lowry
Internal review decision date	2 July 2024
Internal review decision by	Mr Brenton (Alby) Taylor, Chief Commissioner
Internal review decision summary	Vary decision of Senior Steward Dean Degan and Steward Ken Storck made on 14 May 2024 and to issue a \$750 fine and a twelve (12) week suspension, with the suspension wholly and conditionally suspended for a period of 12 months pending no further breaches of Rule 141(1)(a) or any like rule.

**REASONS FOR DECISION**

1. Set out below are the reasons for my decision in relation to the application by Mr Anthony Thomas Lowry ("**Mr Lowry**") for internal review under section 91 of the *Greyhound Racing Act 2017* ("**Act**") of a decision made by the Greyhound Welfare & Integrity Commission ("**Commission**" or "**GWIC**") on 14 May 2024.
2. The decision of the Commission was made by Senior Steward Dean Degan and Steward Ken Storck ("**Stewards**") who, following a plea of guilty from Mr Lowry to a breach of Rule 141(1)(a) of the Greyhound Racing Rules ("**Rules**"), determined to impose a \$1000 fine and a 12-week suspension. The decision makers determined to wholly and conditionally suspend the 12-week suspension for a period of 12 months pending no further breaches under this or any like rule by Mr Lowry.
3. This is a reviewable decision within the meaning of section 91(1) of the Act. As I was not involved in making the reviewable decision, I have dealt with this application.
4. Under section 91(7) of the Act, an internal reviewer is empowered to:
  - Confirm the reviewable decision the subject of the application; or
  - Vary the reviewable decision; or
  - Revoke the reviewable decision.

## Background

5. Mr Lowry is registered as a GWIC 'Public Trainer' and 'Breeder', having first been registered as an 'Owner' in July 2014.
6. On 23 February 2024, Mr Lowry was in charge of the greyhound Tiny Dodger ("**Greyhound**"), and he presented the Greyhound for the purposes of racing at the Wagga race meeting conducted on that date.
7. The results of a pre-race swab test conducted on the Greyhound revealed the presence of arsenic above the threshold of 800 nanograms per millilitre.
8. Rule 140(g) of the Rules outlines the threshold for arsenic as follows:

### **140 Prohibited Substances subject to a threshold**

In addition to the exempted substances, a substance is not a prohibited substance for certain offences identified in these Rules if detected at or below the following thresholds in a sample of the specified sample type:

- (g) arsenic at or below a mass concentration of 800 nanograms per millilitre in a sample of urine taken from a greyhound.

9. On 22 March 2024, Mr Lowry was notified that the Commission has commenced an inquiry into the presence of the prohibited substance in the sample.
10. On 8 May 2024, Mr Lowry was sent a Notice of Proposed Disciplinary Action ("**Notice**"), which outlined the Commission's intention to charge Mr Lowry with a breach of Rule 141(1)(a) of the Rules and proposed a penalty of a four (4) month suspension on Mr Lowry's registrations.
11. The Notice invited Mr Lowry to attend a hearing at the Commission on 14 May 2024 to enter a plea, make submissions and present evidence in relation to the matter. Mr Lowry attended the hearing on 14 May 2024, and entered a plea of guilty and made submissions in relation to the proposed penalty.
12. Following consideration of Mr Lowry's plea and submissions, together with the evidence in this matter, the decision makers formally found Mr Lowry guilty and determined to issue a fine of \$1000 and a 12-week suspension. The decision makers determined to wholly and conditionally suspend the 12-week suspension for a period of 12 months pending no further breaches under this or any like rule.

13. On 14 May 2024, Mr Lowry was issued a copy of the Notice of Disciplinary Action by email, which outlined Mr Lowry's rights for an internal review and/or an appeal of the determination.

### **The internal review application**

14. On 21 May 2024, Mr Lowry lodged an application requesting an internal review of the decision made by the Stewards on 14 May 2024.
15. In support of his internal review application, Mr Lowry provided a statement in which he submits that he believes that the likely cause of the detection of arsenic at an elevated level in the Greyhound was the food Mr Lowry was feeding the Greyhound at the time, being sardines. Mr Lowry submitted that there was no way for him to know about the existence of the substance in the food.
16. He also provided a photograph of the tin of sardines he submits he was feeding to the Greyhound.

### **Decision**

17. In considering the disciplinary action taken against Mr Lowry in this matter, I have had regard to all relevant material including all documents, evidence, and submissions provided by both the Commission and Mr Lowry. I have also considered:
  - the Commission's Penalty Guidelines which provide guidance to decision makers on appropriate penalties for various disciplinary matters.
  - Decisions in matters for like offences with similar facts to obtain a gauge on historical penalties and precedents.
  - Mr Lowry's registration and racing history within the industry.
18. Under the Penalty Guidelines, offences under Rule 141(1)(a) (often known as 'prohibited substance offences) such as the presence of Arsenic above the threshold in a greyhound's urine sample is categorised as a Category 2 offence. The Penalty Guidelines outlines a minimum penalty starting point for a first-time offender in this category of a four-month suspension of the participant's registration.

19. In this matter, the initial proposed disciplinary action was to impose a four (4) month suspension on Mr Lowry's registrations, in line with the Penalty Guidelines.
20. However, decision makers had regard to Mr Lowry's submissions at the hearing, his plea of guilty and his unblemished disciplinary history with the Commission, the decision makers determined to impose a fine of \$1000 and a 12-week suspension. Further, the decision makers determined to wholly suspend that 12-week suspension, conditional on Mr Lowry not breaching any like rule in the following 12-month period.
21. It is my view that the starting point of a four (4) month suspension as indicated by the decision makers in the Notice was appropriate.
22. The Penalty Guidelines provide for a reduction of 25% to be applied to the minimum starting point for a plea of guilty. Mr Lowry entered a guilty plea at the earliest opportunity and accordingly was entitled to this discount. Such a discount would bring the proposed penalty to a three-month (or 12-week) suspension.
23. The decision makers then, following consideration of Mr Lowry's submissions, determined to reduce the penalty further, wholly suspending that 12-week suspension on the condition of no further breaches from Mr Lowry. The decision makers also determined to impose a fine of \$1,000.
24. I have had regard to the same submissions made by Mr Lowry to the decision makers. I recognise and have had consideration of his unblemished disciplinary history across his 10 years in the industry, noting he has only held his Trainer registration for a shorter period. I am of the view that the penalty imposed by decision makers is at the upper end of the range for a first offence of this nature and perhaps could be described as austere or severe.
25. At this time, I note that there are far too many prohibited substance matters coming before the Commission and that at this time stern penalties are more likely appropriate than not to act as both a general and specific deterrent.
26. I note the comments of Mr Lowry during his interview with the Stewards and in this regard, I make the following points, which I ask him to have regard for and carefully consider including:

- i. This offence falls under the presentation rule. It is his responsibility as the Trainer 'presenting' the greyhound for racing to ensure there are no traces of prohibited or banned substances within the greyhound's system. Seeking to rely on an ignorance defence is not acceptable and now that he is alerted to this rule, he must take responsibility for presenting his dogs in future races.
- ii. Also, I have viewed the video of the kennel inspection conducted at his premises on 21 February 2024, and it is obvious from Mr Lowry's responses to the questions asked of him, that he has not taken positive actions to educate himself about the rules and obligations which fall upon participants, particularly Trainers within the sport. I encourage him to read the relevant policies and ask questions of officials and peers and undertake a positive learning experience.
- iii. In his interview with Stewards Mr Lowry poses that test kits are unavailable to participants which might allow a Trainer to 'test' a greyhound to determine whether a prohibited or banned substance remains or is present within the dog's system. There is good reason for this, in that if test kits were available as suggested, then this would afford unscrupulous Trainers the opportunity to dope 'out of competition', and rely on test kits to ensure their greyhound was clear of prohibited substances or its metabolites or markers which would in effect facilitate doping.

I encourage Mr Lowry to have regard for these comments and forthwith become more informed and continue a process of on-going education.

27. As stated above, I have researched and had regard for decisions in matters for like offences with similar facts to obtain a gauge on historical penalties and precedents. Particularly, I have had regard for the decision made by the exact same decision makers on 1 March 2024 in the matter of Mr. Bradley Northfield.
28. That matter involved similar facts, and the penalty imposed was a \$750 fine and an eight (8) week suspension, wholly and conditionally suspended for a period of 12 months pending no further breaches under this or any like rule. I note that an additional mitigating factor in that matter included the fact that Mr. Northfield was a registered Trainer with around 50 years of experience in the industry with no prior penalties, whereas Mr Lowry has only been a Trainer for some four years.

29. For all the reasons outlined above, I have taken a decision to vary the decision of the Stewards to issue a \$1000 fine and a 12-week suspension, with the period of suspension wholly and conditionally suspended for a period of 12 months pending no further breaches under this or any like rule, which in my opinion is correct.

30. Accordingly, having reviewed all the material, I vary the original decision made by the decision makers on 14 May 2024, and reduce the fine from \$1000 to \$750 whilst maintaining the suspension of twelve (12) weeks. In addition, I determine to wholly and conditionally suspended for a period of 12 months the period of suspension, pending no further breaches under this or any like rule in accordance with section 91(7)(b) of the Act.



**Brenton (Alby) Taylor** MPPA, Dip Law (LPAB), GDLP, GCAM, GAICD  
**Chief Commissioner**

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