

# **RACING APPEALS TRIBUNAL**

RAT 18/16

**DATE:** WEDNESDAY, 30 NOVEMBER 2016

**TRIBUNAL:** **DEPUTY PRESIDENT:** MR M KING  
**MS LISA MICHALANNEY**, GRSA STEWARD,  
GREYHOUND RACING SA LTD APPEARS FOR  
STEWARDS  
**APPELLANT:** MR T CRYER

**IN THE MATTER** of an Appeal by **MR THOMAS CRYER** against a decision of Greyhound Racing SA Ltd Stewards

**BREACH OF RULE:** GAR 83 (2) (a) which states:

*“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”.*

**PENALTY:** 2 month Suspension – Fine: \$1,500

## **DETERMINATION**

The appellant, Thomas Cryer, is a licensed greyhound trainer.

On Sunday, 15 May 2016, the appellant presented the greyhound *Cryer’s Ricky* at a Greyhound Racing South Australia race meeting at Mount Gambier. *Cryer’s Ricky* won Race 12 on that day.

A pre-race urine sample was taken from *Cryer’s Ricky*.

Subsequent testing of the urine sample and the reserve portion of the urine sample revealed the presence of Flunixin, which is a prohibited substance.

On Monday, 19 September 2016, GRSA Stewards held an enquiry and after reviewing the evidence, resolved to charge the appellant with contravention of Rule 83(2).

The appellant pleaded guilty to that charge.

After the hearing of a submission as to penalty, a penalty was imposed of a suspension of two months and a fine of \$1500.

The appellant appealed to this Tribunal against the severity of the penalty imposed by the Stewards.

In arriving at the penalty, I was advised that the Stewards took into account that the appellant had entered a plea of guilty, that the appellant had a clean record under this or similar rules, that the appellant had held a trainer's licence for an extended period of time and that the appellant was cooperative and forthright at the enquiry.

The Stewards also took into account the need for the sport to remain drug-free, the need to maintain a level playing field amongst participants in the sport and the need for a general deterrence.

In his appeal to this Tribunal, the appellant was ably represented by Mr Fewings, who submitted on his behalf, as had been submitted at the enquiry, that the Flunixin was not administered by himself or anyone on his behalf, that the most likely source of the Flunixin was via meat purchase from a knackery, and that there was no indication that the ingestion of Flunixin from the knackery meat was widespread at that time, and in fact appeared rare.

Mr Fewings also argued that the penalty should reflect the penalties imposed on other licensed persons who had breached this rule as a result of the use of meat contaminated with prohibited substances and that the penalty imposed on him was far more severe than other persons who had breached the rule in similar circumstances.

In response, Ms Michalanney, on behalf of the Stewards, submitted firstly that the offence was serious, particularly because Flunixin can enhance performance, and secondly because consistency of penalty is important and that consistency should be with other South Australian penalties, and for offences related to Flunixin rather than other prohibited substances.

With the assistance of Ms Michalanney and Mr Fewings, this Tribunal considered penalties for offences under this rule in relation to Flunixin in both South Australia and Victoria.

There does appear to be a divergence in the approach between the two States as to appropriate penalties. It is to note, however, that the RADV in Victoria has warned that the regime of fines which has operated to date may vary now that all trainers have been warned of the risks arising from the use of knackery meat.

Flunixin is a prohibited substance for good reason. It is believed to enhance greyhounds' racing performance.

Nevertheless, the appellant has committed an innocent, if careless, breach of this rule and this is the first occasion that it has occurred.

The appellant is an 84-year-old man who has been licensed for some 40 years in the industry.

His penalty must therefore reflect both the need for general deterrence and the circumstances of the appellant.

The appellant has since altered his practice, which now influences the significance of specific deterrence but not of general deterrence.

The appellant now well knows that if he takes the risk of knackery meat again, he may be before the Stewards without the benefit of a clean record.

The Stewards' concern to promote general deterrence is understandable.

In this case, however, I am persuaded that the combination of penalties, both a suspension for two months and a \$1500 fine, may not have properly reflected the penalties of other offenders with similar offences who were sentenced on the basis of a prior clean record, as was the appellant.

To achieve what I regard to be a more appropriate balance, I am prepared allow the appeal to the extent that the Stewards' penalty is varied by suspending the 2 months suspension on condition that there be no further breach of this rule by the appellant for a period of 12 months.

The \$1500.00 fine remains and I order that applicable portion of the bond be refunded.