

**Non Raceday Inquiry RIU v G Clark - Written Reserved Decision dated 10 February 2018 - Chair, Mr P Williams**

**Rules:**

**Repondent(s)/Other parties:**

**Name(s):**

**Decisions:**

**BEFORE THE JUDICIAL CONTROL AUTHORITY**

**UNDER THE RACING ACT 2003**

**AND IN THE MATTER of the Rules of New Zealand Greyhound Racing Authority (Incorporated)**

**BETWEEN**

**RACING INTEGRITY UNIT (RIU) - Informant**

**AND**

**GEORGIE CLARK – Secretary, Palmerston North Greyhound Racing Club – Respondent**

**Judicial Committee:** Mr Paul Williams (Chairman), Mr Tangi Utikere (Committee Member)

**Appearing:**

Mr Gavin Whiterod, Chief Stipendiary Steward (Greyhounds) for the RIU as the Informant

Ms Georgie Clark

**Venue:** Hearing held by way of Teleconference

**Date of Hearing:** 9 February 2018

**Date of Decision:** 10 February 2018

**WRITTEN RESERVED DECISION OF JUDICIAL COMMITTEE**

1] Mr Whiterod has filed Information A3385 following the running of Race 4 at the Palmerston North Greyhound Racing meeting on 5 February 2018. The Information states:-

**THAT at a race meeting conducted by the Palmerston North Greyhound Racing Club at Palmerston North on 5 February 2018 in relation to race 4, Ms Clark placed a reserve greyhound in an incorrect box – number 1 when it should have started from box 5. An alleged breach of Rule 62.1.o of the Rules of the NZ Greyhound Racing Association Inc.**

2] Rule 62.1.o states:-

*Any person (including an Official) commits an offence if he/she:-*

*Has, in relation to a Greyhound or Greyhound racing, done a thing or omitted to do a thing which is negligent, dishonest, corrupt, fraudulent or improper or constitutes misconduct.*

3] A breach of Rule 62.1.o is covered by the Code's Minor Infringement Table within the Sixth Schedule of the Rules of the NZ Greyhound Racing Association. However, on the day of the race meeting Mr Whiterod chose to file an Information rather than a Minor Infringement Notice on Ms Clark – Rule 66.3 (g) refers.

4] Ms Clark signed the Information admitting the breach of the Rule and confirmed that was still the case at today's hearing. She also confirmed she understood the Rule under which she had been charged.

5] At the beginning of the hearing Mr Whiterod sought the permission of the Committee to correct an error in the Information saying that the reference to Box 5 should have said Box 6. There were no objections to the correction being made.

**SUMMARY OF FACTS BY THE INFORMANT**

6] Mr Whiterod outlined the circumstances that led to the filing of the Information. He said when the field for the race was finalized there were 8 greyhounds allocated a box number and 2 reserve dogs. He said the first greyhound scratched from the Race was "Lil Diva" which had drawn box 6. This meant that the first reserve dog "Not Shackley" – number 9 – was to start from box 6. He added that "Not Shackley" and "El Hefe", which was drawn in the 1 box, were then also scratched which meant the second reserve dog "Cawbourne Lick" gained re-entry to the field and should have been allocated box 6 but was allocated box 1 in error by Ms Clark.

7] Mr Whiterod said that approximately one minute before the Race was due to start a trainer advised him that they thought "Cawbourne Lick" was incorrectly placed in box 1. Mr Whiterod said he then spoke briefly to Ms Clark about the matter and Ms Clark confirmed that "Cawbourne Lick" should start from box 6. Mr Whiterod said notwithstanding that information he decided to let the race go ahead as the dogs had been at the boxes for some time and the betting public had invested in the race on the basis that "Cawbourne Lick" would start from box 1.

8] Mr Whiterod added that after the race he and his colleague Mr Bateup spoke to Ms Clark about what had happened and advised her that she would be charged with a breach of Rule 62.1.o.

#### **SUBMISSIONS BY THE RESPONDENT**

9] Ms Clark told the Committee the first greyhound to be scratched was "El Hefe" from the number 1 box which meant "Not Shackley" was allocated that box number. She said the next scratching was that of "Lil Diva" from the number 6 box which meant that "Cawbourne Lick" came in off the ballot and into box 6. "Not Shackley" was then scratched which meant box 1 would be vacant but instead she made the error of allocating "Cawbourne Lick" to box 1.

10] When asked how the error happened Ms Clark said it was the receipt of the second and third scratchings close together time wise that had confused her and which led to the error occurring.

#### **DECISION**

11] As Ms Clark has admitted the breach of the Rule the charge is found proved.

#### **SUBMISSIONS OF PENALTY BY THE INFORMANT**

12] Mr Whiterod said that he chose to file an Information rather than a Minor Infringement Notice because he and Mr Bateup thought, on the day, that the standard penalty for a first breach of the Rule - \$200 - was too harsh. He said it was the first breach of any kind by Ms Clark and she had readily admitted the breach and fully cooperated with the RIU in enabling the matter to be heard only 3 working days after it happened. He conceded that it was impossible to know where "Cawbourne Lick", which had finished 2nd in the race, would have finished had it started from its correct box of 6. In conclusion he said it was the submission of the Stewards that a penalty of a fine of \$100 was appropriate on this occasion.

#### **SUBMISSIONS ON PENALTY BY THE RESPONDENT**

13] Ms Clark said she had been in the non-paying role of managing the scratching process for the Club for three and half years but was also responsible for other functions for the Club for which she was remunerated. She also asked the Committee to note this was her first breach of any Rule.

#### **REASONS FOR DECISION**

14] The Committee notes that Mr Whiterod and Ms Clark differ slightly in providing the order in which the scratchings for the Race were received. However, that in itself is not a significant issue because it is not in dispute that "Cawbourne Lick" started from box 1 instead of box 6. We do note that "Cawbourne Lick" ran second in the race but agree with Mr Whiterod that it is impossible to say whether, had it been correctly placed into box 6, it would have won. An error was made by Ms Clark in allocating the greyhound box 1 and whilst Mr Whiterod was made aware of the error sixty seconds before the start of the Race he decided to allow it to go ahead with "Cawbourne Lick" starting from an incorrect box.

15] Whilst noting Ms Clark's role in the processing of scratching is an unpaid one her three and half years in the role means she is very experienced in it and there can be no real excuses for what has happened.

16] Mr Whiterod has said he feels the standard penalty a first breach of this Rule - \$200 – is somewhat harsh and has submitted that a penalty of a fine of \$100 is appropriate on this occasion.

17] Because Mr Whiterod has lodged an Information rather than a Minor Infringement Notice the Committee believes it can make a decision on penalty based on the circumstances of the case and not necessarily impose the standard penalty as described in Minor Infringement/ Schedule. We have done that and after considering all the matters described above we believe on this occasion a fine is an appropriate penalty.

#### **DECISION OF THE JUDICIAL COMMITTEE**

18] Ms Clark is fined the sum of \$150.

Paul Williams

Chairman

**Penalty:**