

Non Raceday Inquiry RIU v J McInerney - Written Reserved Decision dated 25 October 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

JOHN MCINERNEY - Respondent

Judicial Committee: Mr Paul Williams

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

Mr John McInerney, Licensed Trainer, as the Respondent

Venue: Matter was heard via teleconference

Date of Teleconference: Wednesday 24 October 2018

Date of Decision: Thursday 25 October 2018

WRITTEN RESERVED DECISION OF JUDICIAL COMMITTEE

1] On 12 October 2018 at the Wanganui Greyhound Racing Club meeting Mr McInerney was charged with a breach of Rule 45.11 of the Rules of the New Zealand Greyhound Racing Association Incorporated {the Rules} in that, as stated in Information A11004, **“(Mr McInerney) presented an overweight greyhound – SOZIN’S ANGEL – (1.7kgs over) which was the 5th time within 120 days”**

2] Rule 45.11 states:- *Where the weight of a greyhound recorded at a Meeting varies by more than one and half (1.5) kilograms from the weight recorded in a Race in which it last performed that Greyhound shall be permitted to compete in the current Race but the Trainer of the Greyhound shall be guilty of an Offence unless permission has been granted under Rule 45.12”.*

3] Rule 45.12 details the criteria to be met before a penalty can be waived and on this occasion Mr Whiterod decided those criteria were not met.

4] On the race day Ms Sammy Stone, who was representing the kennel and present when “Sozin’s Angel” was weighed, signed Information A11004 indicating the breach of the Rule was admitted. At the beginning of the teleconference Mr Whiterod confirmed a copy of Information A11004, showing that Ms Stone had admitted the breach of the Rule had been sent to Mr McInerney at the same time a copy had been sent to the office of the JCA.

5] Mr Whiterod said, as at all greyhound meetings, the scales on 12 October 2018 were checked before the weighing of greyhounds commenced. He confirmed “Sozin’s Angel” was vet checked and correctly weighed with both Stipendiary Steward Mr Austin and Ms Stone being present for the weighing of the greyhound. Because the greyhound weighed in at 29.9kgs or 1.7kgs over its last start weight at Wanganui on 17 September 2018 the greyhound was re-weighed shortly after its first weigh in and again the weight recorded was 29.9kgs.

6] Mr McInerney expressed surprise that he had been charged as he thought that with the breach of the same Rule on 12 June 2018 now being outside the 120-day reset period that all subsequent breaches of the Rule were also now excluded and that he had a “clean slate”. After a detailed explanation about the Minor Infringement System and in particular how the 120-day reset period operated he confirmed he understood the reason the breach of the Rule on 12 October 2018 had led to today’s hearing.

7] Mr McInerney said new scales had recently been purchased for his Foxton kennels and he was at a loss to understand how "Sozin's Angel" had been presented 1.7kgs over its previous raceday weight. He asked Mr Whiterod if he was confident the Club's scales were accurate and Mr Whiterod replied that a new set had been recently purchased and calibrated and checked on 9 October 2018 – i.e. 3 days before the 12 October 2018 race meeting. Mr Whiterod added that, as with all greyhound meetings, the scales were again checked on the day of the races prior to the comment of the weighing process.

8] Mr McInerney asked Mr Whiterod whether "Sozin's Angel" had been weighed with its collar on as this might have caused the over weight variance to be greater than the allowable 1.5kgs but Mr Whiterod said no greyhounds were weighed with their collars on and this was the case with "Sozin's Angel".

SUBMISSIONS ON PENALTY

9] Mr Whiterod submitted this was Mr McInerney's fifth breach of this Rule in the previous 120 days. He noted the previous penalty imposed on Mr McInerney on 10 October 2018, in relation to the breach of the Rule on 24 September 2018, was also the 5th breach of the Rule in 120 days at that time but since then the breach of the Rule on 12 June 2018 was now outside the 120-day threshold. He submitted the Stewards believed a fine of \$300 was an appropriate penalty, being the same as the penalty given by the Committee on 10 October 2018 for the then 5th breach of the Rule within 120 days.

10] Mr McInerney said he accepted he had breached the Rule and that his staff at the Foxton kennels would learn from the outcome of this hearing. He asked that the penalty to be imposed be no more than the \$300 fine imposed on 10 October 2018.

REASONS FOR PENALTY

11] The Sixth Schedule of the Rules is a list of breaches of Rules classified as Minor Infringements. The schedule lists the penalty to be imposed if a Minor Infringement occurs and also the penalty to be imposed if a second breach of the same Rule occurs within 120 days of the first breach - \$100 and \$150 respectively. Where a third or further breaches of the same Rule occur within 120 days the matter is referred to the Judicial Control Authority to determine the penalty to be imposed. Rule 45.11 is included in the list of Minor Infringements in the Sixth Schedule of the Rules.

12] Mr McInerney operates two training establishments and has had approximately 1480 starters so far this season, The Committee is concerned this is, again, Mr McInerney's fifth breach of this Rule in 120 days. The four previous breaches taken into consideration today were on 24 September, 30 July, 12 July and 26 June 2018. Also noted for completeness is the fact that this is Mr McInerney's 8th breach of this Rule since late December 2017 with 6 of the breaches happening in the North Island where he himself is not based.

13] The Committee has taken into consideration Mr McInerney's admission of the breach and his cooperation with the Stewards when advised of the breach of the Rule. However, it is somewhat surprising that only 2 days after the previous non raceday hearing his North Island kennel again breached the Rule.

14] A penalty of a fine of \$300 was imposed on 10 October 2018 for what was then Mr McInerney's 5th breach of this Rule in 120 days. After considering the submissions of both parties and taking all of the above into account a similar penalty for this latest breach of the Rule on 12 October 2018 is appropriate on this occasion.

PENALTY

15] Mr McInerney is fined \$300.

COSTS

16] The Racing Integrity Unit did not seek an order for costs.

17] The Committee has considered whether there should be an order for some costs in favour of the JCA, given this is the fourth non raceday hearing since mid-July 2018 in relation to breaches of Rule 45.11 by Mr McInerney. However, on this occasion no such order will be imposed.

Dated at Wellington this 25th day of October 2018

Paul Williams

Chairman

Penalty: