

NZGRA Request for Review C Weir v RIU - Written Decision dated 9 March 2018 - Chair, Prof G Hall

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

BEFORE A JUDICIAL COMMITTEE OF THE JCA

IN CHRISTCHURCH

IN THE MATTER of the Rules of New Zealand Greyhound Racing Association (Incorporated)

BETWEEN

CALUM WEIR, Public Trainer

Applicant

AND RACING INTEGRITY UNIT (RIU)

Respondent

Judicial Committee: Prof G Hall, Chairman

Mr R McKenzie, Committee Member

Present: The Applicant in person

Mr S Wallis, Stipendiary Steward, for the Respondent

Date of oral decision: 6 March 2018

Date of written decision: 9 March 2018

WRITTEN DECISION OF JUDICIAL COMMITTEE

[1] The applicant, Mr C Weir, requested a review of the decision from Race 9 at a race meeting of the Christchurch Greyhound Racing Club held on 23 February 2018 at Addington where SAVING LOTS was stood down (3rd offence – 12 months) for failing to pursue the lure. This is an alleged breach of r 55.1(b) of the Greyhound Racing New Zealand Rules of Racing.

[2] The matter was heard at Addington Raceway and an oral decision was given to the effect that the review was not successful. We indicated that we would give our reasons in writing.

[3] After hearing from the parties, it was decided that Mr Wallis would present the RIU's case first.

Respondent's submissions

[4] On Friday 23 February 2018 the Christchurch Greyhound Racing Club held its race meeting at Addington Raceway. The Chairman of Stewards at the meeting was Mr M Austin and his deputy on the day was Mr D Balcombe.

[5] The dog in question, SAVING LOTS, is trained by Licensed Public Trainer Mr Calum Weir of Christchurch.

[6] SAVING LOTS was correctly nominated and started from Box draw 8 in race 9, the TURF BAR STAKES, which was a Class 1 race run over 520 metres.

[7] This was SAVING LOTS' first start in New Zealand having previously been domiciled in Australia.

[8] SAVING LOTS has had a total of 11 race day starts: her first 6 starts in Western Australia for 2 wins; her next 4 starts in Victoria for 3 seconds and 1 third; and the race in question, where SAVING LOTS finished second. The racing record of the greyhound thus reads 11 starts for 2 wins, 4 seconds and a third.

[9] With reference to the dog's racing record, she had been stood down on 2 occasions for an unsatisfactory performance: 4 January 2017 when she qualified at Cannington and 18 March 2017 at her second start, also at Cannington. She had also been stood down for

marring on two occasions: 21 June 2017 at Carrington, at her 7th start; and 11 November 2017 at Warragul, at her 11th start.

[10] These two previous indiscretions had led to SAVING LOTS being suspended for 12 months on the day in question, as this was her 3rd offence under r 55.1 which reads:

Where a Greyhound: b. Fails to pursue the Lure in a Race the Stewards may impose the following periods of suspension:

(e) in the case of a third or subsequent offence, under r 55.1 (which for clarity need not be the same offence as the first offence under that subsection), twelve (12) months and until the completion of a Satisfactory Trial.

[11] Following the event, Mr Austin and Mr Balcombe conducted an inquiry into the racing conduct of SAVING LOTS. Of particular concern to Stewards were the greyhound's manners when turning her head inwards towards the greyhound on her inside.

[12] As part of this investigation, Stewards directed that SAVING LOTS be subjected to a post-race veterinary examination as per r 55.2. The on-course veterinarian reported no adverse findings after this examination took place.

[13] Mr Austin and Mr Balcombe also viewed all of the available films and heard submissions from Mr Weir regarding the dog's racing conduct. After taking into account Mr Weir's submissions, the veterinary report and their own observations from video replays, both Stewards were satisfied that SAVING LOTS had breached r 55.1(b) in that she had FAILED TO PURSUE the lure as defined under r 1, which reads:

Fails to Pursue The Lure: means the action of the Greyhound voluntarily turning the head without making contact with another Greyhound, or voluntarily easing up, or stopping during a Race while free of interference.

[14] Mr Wallis also drew to the Committee's attention the definition of "turn" in the online Cambridge dictionary: "To change the direction in which you are facing or moving."

[15] Prior to the point of concern, Mr Wallis pointed out there was a distinct gap between SAVING LOTS and MALAGA MOLLY. SAVING LOTS then diverted her attention away from the lure and turned her head towards MALAGA MOLLY all the while free of interference for 3 strides before these runners made contact. SAVING LOTS then re-focused her attention back to the lure.

[16] Mr Wallis stated that SAVING LOTS had turned her head inwards towards the inside runner for 3 strides. Unfortunately, r 55.1 did not provide for the level of offending to be a mitigating factor for Stewards when determining whether a greyhound should be charged. Nor did it allow the finishing place of a greyhound to be a mitigating factor. A greyhound had either breached the rule to any degree or it had not.

[17] Mr Wallis observed that greyhound racing carried with it the weight of public money and the Stewards had to be seen to be appropriately protecting this. They were charged with the responsibility of enhancing public confidence and integrity within greyhound racing by imposing the right penalties/stand downs on greyhounds when required to do so.

[18] Mr Wallis concluded the RIU's submission by stating that on the evidence presented to this Committee that it was open for the Chairman of Stewards on the day to form the opinion that the greyhound had failed to pursue the lure and that opinion was reasonably held by Mr Austin, who had 12 years' experience.

[19] Mr Wallis thus submitted that the review should be dismissed and the stand down imposed on the day in question should stand.

Applicant's submissions

[20] Mr Weir emphasised that SAVING LOTS was "a railer". He believed the dog was wanting the rail the whole race and was chasing the lure at all times.

[21] In Mr Weir's view the dog was trying to get to the rail and had attempted to come across the number 1 dog, MALAGA MOLLY, to get to the rail, and there had been contact.

[22] The head of SAVING LOTS, Mr Weir believed, was directed towards the lure not the 1 dog. He estimated that the lure was no more than 11 metres ahead of the dog at the time of the alleged breach (6 metres ahead of the leading dog and some 5 metres back to SAVING LOTS) and the head of SAVING LOTS was directed towards it.

[23] Mr Weir did not believe that the dog's head had turned inwards towards MALAGA MOLLY but that the whole body of SAVING LOTS was angled inwards and the head was simply following the direction that her body was taking, which was towards the rail. He said the dog's body was on a slight angle and her head was not turned.

[24] Mr Weir stated that MALAGA MOLLY was tiring and was drifting out in the straight. That dog had been on the rail and had pushed off. SAVING LOTS was simply trying to get ahead of MALAGA MOLLY and get to the rail. He said that on the first bend it was clear SAVING LOTS was trying to get to the rail when she met with her first check.

[25] Mr Weir also demonstrated on the videos that SAVING LOTS had not shortened stride at the time of the alleged breach. He believed this was further evidence that SAVING LOTS had not stopped chasing, as was the fact that SAVING LOTS was the only dog to make ground on the winner at the finish of the race.

[26] Mr Weir questioned why the veterinarian check had not occurred till 20 minutes after the race had concluded. He thought this was evidence that the breach was not clear in the minds of the Stewards on the day.

[27] Mr Wallis said SAVING LOTS was so wide in the back straight that she was closer to the outside rail than the inside rail. He questioned Mr Weir as to why SAVING LOTS was so wide in the straight if she was a railer who picked her line. Mr Weir replied that once SAVING LOTS had seen clear air she had come down towards the rail.

Summing up

[28] Mr Wallis stated the Stewards did not believe MALAGA MOLLY had moved out prior to contact. SAVING LOTS had her head turned inwards before making contact with MALAGA MOLLY.

[29] In response to a questioning from the Committee, Mr Wallis stated Addington was a cambered track and greyhounds did tend to come down the track going into a bend and then roll out on leaving the bend.

[30] Mr Wallis believed the lure was 6 or 7 metres in front of the leading dog and was too far in front of SAVING LOTS for that dog to have been focusing on the lure when her head was turned sideways for the 3 strides at issue.

[31] Mr Weir stated the lure was about 6 metres in front of the lead dog and SAVING LOTS was no more than 5 metres behind the leader. SAVING LOTS was simply trying to get across to the position that best suited her, on the rail. Her whole body was turned, not just her head. The one dog was pushing out and this meant SAVING LOTS could not get to the rail as easy as she would have liked.

[32] Mr Weir concluded by stating SAVING LOTS had not turned her head and thus had not failed to pursue.

Decision

[33] The 3 strides that Mr Wallis has highlighted in his submissions are of concern to this Committee. SAVING LOTS' head is turned inwards and the dog eventually comes into contact with MALAGA MOLLY. That dog may have drifted out on the track slightly, as Mr Weir has submitted and, as Mr Wallis has stated, dogs do on exiting the bends at Addington, but the principal reason for the contact is SAVING LOTS' angled run inwards.

[34] We have paid close regard to Mr Weir's submission that the dog is a railer and was simply trying to get to the rail and that SAVING LOTS' head was directed to the lure.

[35] The videos are inconclusive as to the distance SAVING LOTS was away from the lure at the time. The angles are far from ideal and the lure is not always in shot. Mr Wallis estimated the distance to be 20 metres and Mr Weir 11 metres. There is thus a large disparity. We believe Mr Weir's calculation is the closer and we would estimate the distance to the lure to be no less than 12 metres.

[36] We do not accept Mr Weir's submission that SAVING LOTS' head was focused on the lure. She was clearly aware of the dog to her inner and her head is angled towards that dog and importantly, in our view, away from the lure. The dog's body is also moving in that direction (ie inwards), as Mr Weir has emphasised and, as we have said, this explains the contact with MALAGA MOLLY.

[37] We have considered Mr Weir's submission that there is no noticeable shortening of stride by SAVING LOTS. However, voluntarily easing up is just one manner in which a greyhound can be found to have failed to pursue. This is not a prerequisite to a finding that there has been a breach of this rule.

[38] We are satisfied that for a distance of 3 strides SAVING LOTS has failed to pursue the lure, in that the dog's head is voluntarily turned inwards and away from the lure. The review is thus not successful.

Dated at Christchurch this 9th day of March 2018.

Geoff Hall, Chairman

Penalty: