

Non Raceday Inquiry RIU v M Black - Decision dated 30 April 2021 - Chair, Hon J W Gendall QC

Rules:

Repondent(s)/Other parties:

Name(s):

Decisions:

BEFORE A COMMITTEE OF THE JUDICIAL CONTROL AUTHORITY

Information Number: A13753

BETWEEN

Racing Integrity Unit

Scott Wallis, Chief Stipendiary Steward

Informant

AND

Marsha-Lee Black, Licensed GRNZ Trainer

Respondent

INQUIRY HELD ON THE PAPERS ON 30 APRIL 2021

Judicial Committee:

Hon JW Gendall QC (Chair)

Mr LN McCutcheon (Member)

DECISION OF THE JUDICIAL COMMITTEE

1. Ms Black is a Licenced Owner/Trainer under the Rules of Greyhound Racing NZ (GRNZ). She was charged with a breach of Rule 62.1(w) of the Rules with making a false statement, on 6 April 2021, in that, during a routine kennel inspection by Ms Philippa Kinsey, a duly appointed Stipendiary Steward, stated that the broodbitch ON DEMAND and her newly born puppies were not domiciled at her kennels. She further falsely stated that the greyhound was currently at the kennels of Mr R and Ms L Udy and would be moving to her kennels "in the coming days". She knew that both these statements to be false and intended to mislead the Stipendiary Steward.

2. Ms Black admitted the charge and by consent the matter has been dealt with on the papers. We have received a Summary of Facts and Submissions as to penalty from the Informant. Ms Black has not submitted any statement as to penalty.

3. Rule 62.1(w) relevantly provides that it is an offence if any person:

• *makes any statement which is to his/her knowledge false...orally...to a member of the Board, Steward, Racecourse Investigator, ...or an official in the execution of his/her duty*

4. The general penalties provided in Rule 63.1 may apply for such a breach and include a fine of up to \$10,000, disqualification, suspension, warning off.

FACTS

5. The Respondent is Licensed with GRNZ as an Owner and Trainer. On 6 April 2021 a Stipendiary Steward, Ms Philippa Kinsey undertook a routine inspection of Ms Black's Te Kauwhata kennels. The Steward knew that she had a broodbitch ON DEMAND that had been due to whelp (give birth to a litter). In fact, the bitch had given birth to a litter of puppies on 31 March 2021. The Steward asked the Respondent if the greyhound and pups were on her property. The Respondent's demeanour when asked that question displayed some unease, and she replied that the broodbitch and puppies were located at the property of Mr and Ms Udy (another Trainer) where they had been whelped (born). She went on to add that the dogs would be back on her own property within the "next few days". When asked where the broodbitch and puppies would then be housed the Respondent stated that she would likely set up a pen inside her house. These statements were false.

6. The Steward then visited the property of Mr and Ms Udy and found no one present. So, the Steward returned to the Respondent's kennels and asked again if ON DEMAND and her puppies were on the property. The Respondent then admitted that they were in a room at the back of her kennels and had been there since 2 April 2021, two days after whelping. When asked why she did not supply this information in the first instance she said it was so she would not "get anyone into trouble". She was unable to elaborate who, or why, would be "in trouble" if she had told the truth when asked if the greyhounds were on her property.

7. On 15 April 2021, when the Respondent was visited by the Steward in order for the Information to be served on her, Ms Udy was present as support. The Respondent was again asked why she had lied and knowingly made the false statements, she said that Ms Udy had told her not to tell anyone that the puppies were domiciled at her kennels and she had been "acting on instructions". She and Ms Udy were asked why it was that they did not want anyone to know the truth and their response was that it was "nobody's business". Ms Udy said that she had not meant that the Respondent lie to the RIU if its Officials should enquire.

PENALTY

8. The Informant submitted that any penalty has to give proper emphasis to the accountability and denunciation principles and to deter others from breaches of the Rules. We agree with its contention that wilfully misleading a Stipendiary Steward is conduct that goes to the heart of the Code's regulatory regime. For the public to have confidence in the integrity of Greyhound Racing it is vital that those involved in the Industry are forthright and honest with racing officials.

9. Persons in the Industry who hold Licences must understand that the Licence is a privilege granted to them to participate, and it is not a "right" to which they are entitled, and the Rules exist to protect the Code and are there to be obeyed, and not selectively followed as the Licensee may choose.

10. Any penalty has to be fact dependent and proportionate to the offence and offender. There have been no precisely similar cases to our knowledge, but generally fines have been imposed and, in a Harness Racing decision in January 2020 (RIU v Dolan) a fine of \$1,500 resulted.

11. It is aggravating that the Respondent on the first occasion lied twice to the Steward. Whilst it is not aggravating for penalty purposes, we have not been provided with any rational explanation for the deception and there may well be matters, unknown to us, that provide some background. But what is crucial is that Animal Welfare issues must be at the forefront and, especially with whelping matters and care of litters, the GRNZ Health and Welfare Standards make it absolutely clear that all persons involved in breeding have licensing and stringent obligations for the care of greyhound bitches and puppies and permitting inspections (see Rule 7 of the Standards).

12. It is a mitigating factor that the Respondent has had a lengthy time in the Industry with a good record for any Non Raceday breaches of the Rules. Her admission of the charge is not regarded as a mitigating matter as any defence was futile. She has not advanced any submissions on penalty nor statements signalling remorse other than her motivation earlier expressed to the Steward of not wanting to get someone unknown into trouble, for some unknown reason.

13. We consider a fine of \$1,000 is required. This ought to make it clear to others in the Code that Licensees "sticking together" so as to deliberately mislead Officials and thwart them in the performance of their necessary and legitimate functions, will lead to deterrent sanctions. There is no order as to costs.

By the Committee this 30th day of April 2021

Hon JW Gendall QC (Chair)

Penalty: