

**Non Raceday Inquiry RIU v R Death - Reserved Decision dated 16 March 2021 - Chair, Mr B J Scott**

**Rules:**

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

**Name(s):**

**Decisions:**

**BEFORE A JUDICIAL COMMITTEE**

**HELD AT** Cambridge Raceway

**IN THE MATTER** of the New Zealand Rules of Greyhound Racing

**BETWEEN** Racing Integrity Unit

**R QUIRKE**

Stipendiary Steward

**Informant**

**AND**

**ROBERT DEATH**

Secretary/Manager

**Respondent**

**Information No:** A09913

**Rule No:** 62.1.o

**Hearing Date:** 11 March 2021

**Judicial Committee:** BJ Scott—Chair

AL Godsalve – Member

**Present:** Mr R Death - Secretary/Manager

Mr S Wallis - Senior Stipendiary Steward

**RESERVED DECISION OF JUDICIAL COMMITTEE DATED 16 MARCH 2021**

1. Mr Death defends a charge of a breach of Rule 62.1.0 in that it is alleged that he was negligent by failing to advise Trainer, L Cole that her Greyhound NANGAR RIDGE had gained a start in Race 7 of the Waikato Greyhound Meeting on the 4th of March 2021. As a consequence of this, the Greyhound was correctly scratched under the 100km Rule by the Kennel upon their departure for the meeting.

2. Senior Stipendiary Steward, Mr S Wallis was present at the hearing and was representing the RIU. Mr Wallis read out the relevant Rule. That Rule provides: *“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. Mr Wallis told the Committee that the normal procedure when setting fields was for there to be 10 acceptances which included 2 reserves. In the event that there was a scratching then the first reserve would join the field and the second reserve would come in if there were 2 scratchings.

4. Mr Wallis said that Mrs Cole had a reserve dog in Race 9 and also NANGAR RIDGE in Race 7. He further said that the day prior to the races Auckland Trainers, the Craik family had to scratch their dogs due to Covid restrictions. This meant that the 2 Cole's dogs had gained a start and Mr Death had correctly advised them the day before in respect to the dog in Race 9, but he overlooked notifying them about NANGAR RIDGE. That was the basis of this charge.

5. Mr Wallis said that Mr Death was negligent in not notifying Mrs Cole's husband Brendan Cole about NANGAR RIDGE.

6. Mr Death said that he had been in his present position for the last 12 years and he had always dealt with Brendan Cole. He referred to all types of contact day and night with Mr Cole but said that presently contact was mainly by text message.

7. Mr Death said that the RIU case was quite simplistic, and it was not quite as clear as that. He said that the Covid restrictions caused by the Auckland lockdown had caused a lot of difficulties for not only Trainers but also Administrators. He said that on the day before the meeting Mr John Roberts was trying to get exemptions for the Craik dogs. He advised the Committee that Mr Roberts is a major owner in the Craik Kennels. He said that there was also considerable work involved in dealing with other dogs affected by the Covid lockdown.

8. He said that at 7am the next morning he sent a text to Mr Cole about NANGAR RIDGE and he received a call from him at about 8am. He apologised to Mr Cole for the mistake, but Mr Cole said that MANGAR RIDGE was a special dog and should have got a start. Mr Cole did acknowledge that he was aware that the Craik dogs would have to be scratched and yet when he received the notification about the dog in Race 9, he did not make any enquiries about NANGAR RIDGE.

9. It transpires also that NANGAR RIDGE was an acceptor at the Wanganui Greyhound Meeting the next night. Mr Death advised that in terms of Rule 19.11 a Greyhound cannot start at a meeting on 2 consecutive nights.

10. Mr Death advised the Committee that on the night Stipendiary Steward Quirke tried to deal with this matter by a Minor Infringement Notice but could not do so because he was using the wrong Rule.

### **REASONS FOR DECISION**

11. The Committee has to decide whether Mr Death was negligent in not notifying Mrs Cole (via her husband) about NANGAR RIDGE. We also have to look at contributing factors which lead to the failure to give the proper notification.

12. Firstly, the Rule refers to negligence in the same clause as some serious charges set out in the Rule. In terms of interpretation of the Clause and the word 'negligent' we have to ask if at the time that Greyhound Racing New Zealand passed these Rules was it anticipated that this Rule would be used for a simple administrative error. The answer is probably not.

13. The Oxford English Dictionary defines negligent as "failure to take proper care over something". Does this apply to Mr Death? He notified Mr Cole about the dog in Race 9 and surely by implication Mr Cole should have been aware of the position concerning NANGAR RIDGE. It should be remembered that this all happened on the day before the meeting and Mr Cole should accept some responsibility in regard to NANGAR RIDGE. It could be argued that Mr Cole contributed to any negligence that arises out of this situation.

14. In a defence to negligence did Mr Death exercise a reasonable duty of care? We have heard of the effect of the Covid restrictions, the efforts by some to obtain exemptions and clearly the fact that most people would have been aware that Auckland dogs could not race at Cambridge.

15. The evidence all leads us to the impression of mayhem on the day before the Races and this must all have had an impact on Mr Death. We also believe that he was not solely responsible for the notification about NANGAR RIDGE.

### **DECISION**

16. Taking all matters into account we dismiss the charge.

17. As this matter was heard on a Raceday there are no orders for costs in favour of the RIU and the JCA.

BJ SCOTT

Chair

**Penalty:**