

PENALTY DECISION



INQUIRY NUMBER: EXP 011, of 2019
PARTICIPANTS: Zhenwei Chen

PANEL MEMBER(S): Mr Paul Marks (**GRNSW appointed Steward**)

DATE OF DECISION: 20 July 2020

Introduction

1. This decision is part of an ongoing Inquiry primarily into the unauthorised export of greyhounds to Macau and China. This Inquiry is chaired by myself as a steward appointed under the GRNSW Greyhound Racing Rules (**Rules**).
2. This decision concerns Zhenwei Chen, who has been charged with six (6) counts of intending to export a greyhound and failing to obtain a greyhound passport and certified pedigree issued by Greyhounds Australasia in breach of Rule 124(1) of the Rules.
3. Mr Chen has also been charged with eight (8) counts of failing to lodge a prescribed transfer of ownership form following the purchase or acquisition of a named greyhound and failing to lodge a prescribed transfer of ownership form following the transfer or disposal of a named greyhound in breach of Rules 117(2) and 117(1) of the Rules.

Rules

4. Rule 124(1) relevantly provided:

Any person intending to export a greyhound, being the subject of these Rules or to those of a relevant Registration Controlling Body, from Australia or New Zealand to any other country (excluding Australia or New Zealand) must, prior to meeting the quarantine and inspection service requirements of the relevant country, obtain a greyhound passport and certified pedigree issued by Greyhounds Australasia.
5. Rule 117(2) relevantly provided:

A person who purchases or otherwise acquires a named greyhound shall –

...

within 10 days lodge with the Controlling Body a prescribed transfer of ownership form containing the signature of the previous registered owner together with the prescribed fee and the certificate of registration for the greyhound.
6. Rule 117(1) relevantly provided:

On the sale or disposal of a named greyhound the transferor shall -

...

within 10 days lodge with the Controlling Body a prescribed transfer of ownership form.

7. In turn, "Schedule 1 – Prescribed Forms" of the Rules describes Form "H" as "Change/transfer of ownership of a greyhound in accordance with GAR 117".

Pleas

8. On or around 8 August 2019, Mr Chen entered pleas of **guilty** to the following charges as set out in a Notification of Charge sent to Mr Chen and dated 3 May 2019:
 - a) Two (2) charges pursuant to R124(1) with respect to the greyhounds named, 'Arizona Seniorita' and 'Spring Gun';
 - b) Three (3) charges pursuant to R117(2) with respect to the greyhounds named, 'Where's Fancy', 'Leeroy Rocker', and 'C'est Le Vie'; and
 - c) Three (3) charges pursuant to R117(1) with respect to the greyhounds named, 'Where's Fancy', 'Leeroy Rocker', and 'C'est Le Vie'.
9. On or around 8 August 2019, Mr Chen entered pleas of **not guilty** to the following charges as set out in a Notification of Charge sent to Mr Chen and dated 3 May 2019:
 - a) Four (4) charges pursuant to R124(1) with respect to the greyhounds named, 'Where's Fancy', 'Leeroy Rocker', 'C'est Le Vie', and 'Triggsy';
 - b) One (1) charge pursuant to R117(2) with respect to the greyhound named, 'Triggsy'; and
 - c) One (1) charge pursuant to R117(1) with respect to the greyhound named, 'Triggsy'.

Evidence

10. With respect to the alleged breaches of Rule 124(1), Mr Chen, in his written submissions emailed to this inquiry on 14 August 2019, indicated that:
 - a) He was never advised by the Department of Agriculture of GRNSW's requirement of passports for the export of greyhounds;
 - b) He was unaware that it was an offence to export greyhounds as it related to 'Arizona Seniorita' and 'Spring Gun'; and
 - c) The greyhounds named, 'Where's Fancy', 'Leeroy Rocker', 'C'est Le Vie', and 'Triggsy' were not owned by Mr Chen at the relevant time of their export.
11. Evidence contained in the brief satisfies me that 'Arizona Seniorita', 'Spring Gun', 'Where's Fancy', 'Leeroy Rocker', and 'C'est Le Vie' have been exported to China.
12. Information obtained by this Inquiry indicates that Mr Chen was the last owner of the greyhounds named, 'Arizona Seniorita', 'Spring Gun', 'Where's Fancy', 'Leeroy Rocker', and 'C'est Le Vie', prior to their export to China.

Consideration

13. The evidence available to this inquiry does not satisfy me that Mr Chen intended to export and failed to obtain a greyhound passport and certified pedigree issued by Greyhounds Australasia with respect to greyhounds named, 'Where's Fancy', 'Leeroy Rocker', 'C'est Le Vie', and 'Triggsy'.
14. I therefore dismiss the charges alleging breach of Rule 124(1) with respect to the greyhounds named 'Where's Fancy', 'Leeroy Rocker', 'C'est Le Vie' and 'Triggsy', against Mr Chen.

15. I am not satisfied by the evidence available to this Inquiry that Mr Chen was an owner of the greyhound named 'Triggsy' prior to its export to China nor am I satisfied that Mr Chen purchased/acquired or sold/disposed of the greyhound named 'Triggsy'.
16. I therefore dismiss the charge alleging breach of Rule 117(2) with respect to the greyhound named 'Triggsy' against Mr Chen.
17. I also therefore dismiss the charge alleging breach of Rule 117(1) with respect to the greyhound named 'Triggsy' against Mr Chen.

Penalty

18. I turn then to consideration of an appropriate penalty for Mr Chen's failure to comply with the Rules for which Mr Chen has entered pleas of guilty.
19. By Rule 92(4), I am required to have regard to the following matters in reaching a decision as to penalty:
 - (a) the character and antecedents of the person charged;
 - (b) the nature of the breach and the circumstances in which it was committed, in particular, the seriousness of the breach and any negligence, recklessness or indifference of the person charged;
 - (c) whether the person has denied or admitted to charge.
20. Mr Chen has pleaded guilty at an early opportunity, and shall receive the full discount for those early pleas of guilty.
21. Mr Chen has no prior findings of being in breach of Rules 124(1), 117(2) and 117(1). I take this into account.
22. Mr Chen, in his written submissions emailed to the inquiry on 14 August 2019, indicated that:
 - a) He is a law abiding citizen of good sound character with no previous criminal history;
 - b) He always ensured that the greyhounds he owned had the best quality of life;
 - c) He was forced to give the greyhounds away to better homes that were able to cater for them;
 - d) He never had any intention to deliberately contravene the rules set out by GRNSW or any governing body;
 - e) He was a new comer to GRNSW when the offences occurred and the offences happened during a short period of time after; and
 - f) He understands that his ignorance of the rules is not an excuse for the contravention.I take all of these matters into account.
23. Despite the above matters, Mr Chen has allowed two greyhounds to leave a jurisdiction which regulates for the welfare of greyhounds in New South Wales to the relatively unregulated jurisdiction of China, thereby placing those Australian greyhounds at risk.
24. After reviewing previous penalties imposed for similar offences under the rules, in my opinion, it is appropriate to fine Mr Chen \$1000 with respect to the two charges pursuant to Rule 124(1).
25. With respect to the breaches of Rules 117(2) and 117(1), it is of critical importance to the welfare of greyhounds and the integrity of the greyhound racing industry that correct and appropriate records of the location and ownership of greyhounds is maintained by the Controlling Body. Failure to lodge a form may, to some, seem to constitute a trivial breach of

the Rules, but it is in fact essential for the proper regulation of the industry. Mr Chen's neglect in failing to ensure that the forms required under the Rules had been lodged resulted in the Controlling Body having incomplete information about the ownership of the greyhounds.

26. In my opinion, it is appropriate to fine Mr Chen \$600 with respect to the six (6) charges pursuant to Rules 117(2) and 117(1).
27. In total Mr Chen has been fined an amount of \$1600.



Mr Paul Marks

Steward