

**REASONS FOR DETERMINATION
OF THE RACING PENALTIES APPEAL TRIBUNAL**

APPELLANT: DEREK COLDSTREAM

APPLICATION NO: A30/08/742

PANEL: MR D MOSSENSON (CHAIRPERSON)

DATE OF HEARING: 20 MARCH 2012

DATE OF DETERMINATION: 20 MARCH 2012

DATE OF REASONS: 21 MAY 2012

IN THE MATTER OF an appeal by Mr Derek COLDSTREAM against the determination made by Racing and Wagering Western Australia Stewards of Greyhound Racing on 23 February 2012 imposing a suspension of three months and a fine of \$1,000 pursuant to Rule 86(o) of the Racing and Wagering Western Australia Rules of Greyhound Racing.

Mr D Coldstream represented himself.

Mr C Martins represented the Racing and Wagering Western Australia Stewards of Greyhound Racing.

BACKGROUND

On 23 February 2012 the Racing and Wagering Western Australia (**RWWA**) Stewards of Greyhound Racing held an inquiry into the condition of greyhounds at the property of Mr Derek Coldstream. Mr Coldstream holds a public trainer's licence and trains a relatively large number of greyhounds. The inquiry followed a random inspection and interview of

Mr Coldstream at his establishment some eight days before the inquiry. The kennel inspection revealed a serious infestation with brown ticks. Steward O'Dea who was present at the inspection described the situation as being the worst case of infestation he had ever witnessed. A large number of dogs were badly affected.

As a consequence, Mr Coldstream was charged with having '*...omitted to ensure that greyhounds under (his) care did become infested with ticks which in the opinion of the Stewards is neglect*' in breach of RWWA Rules of Greyhound Racing Rule 86(o). Mr Coldstream admitted his guilt to the Stewards. He explained the problem arose due to "*extenuating circumstances*", namely various personal issues which had distracted him.

The Stewards gave the following reasons for imposing the penalty of suspension combined with a fine:

Mr Coldstream the Steward's have taken into account all of the relevant evidence in relation to the penalty, we have considered the acknowledgement of the offence earlier in the proceedings and the fact that this is your first offence in relation to welfare matters. All of the personal circumstances that you outlined to the Stewards, the circumstances surrounding the commission of the offence, the forthright manner in which you have conducted yourself throughout this inquiry and the preventative measures you have adopted since the 15th February 2012. Matters of animal welfare are seen as extremely serious by the Stewards, this is a case that involves a greyhound Trainer that had failed to take appropriate measures to ensure the greyhounds under his care did not become infested with the excessive amounts of ticks. There is a clear expectation of persons found guilty of such negligence should be dealt with accordingly. This sport relies very heavily on public support and unfortunately your inaction is a potential to taint the image of greyhound racing. In spite the general condition of the animals and surroundings it is unacceptable that you allowed greyhounds under your care to reach the stage as discovered by the Stewards and Dr Medd. This is totally unacceptable to the Stewards and was entirely preventable if more care had been taken. The penalty imposed must not only suit the entire circumstances of the offence must also send out a clear message to the industry that acts of negligence involving the welfare of greyhounds will not be tolerated and harsh punishments will be imposed. It is matters of this nature that tend to cast serious doubts in the minds of the public in respect of its proper control which has the potential to place the industries wellbeing and integrity at serious risk. We have also taken into account that

you have been subject to the inquiry and as such no greyhounds from your property have been involved in racing. The Stewards are of the view that a disqualification could well be within the parameters of this matter, however, we do feel that taking into consideration your health and your personal circumstances, together with the fact that these greyhounds require intensive care and treatment that a disqualification would not be appropriate. We feel that a suspension and a fine would be the appropriate penalty in all of the circumstances, therefore your license [sic] will be suspended for a period of 3 months and a fine of \$1000.00 is imposed which is payable within 14 days to the RWWA offices. Stewards also make a further order that all greyhounds at your property and the property must be inspected to the satisfaction of Dr J Medd and the Stewards prior to any greyhounds to be nominated for any events.

THE APPEAL

Mr Coldstream appealed against the severity of the penalty. In the course of presenting his submissions he argued amongst other things:

- He had never previously had a problem associated with his handling or treatment of his dogs.
- He had applied the same treatment for ticks as in previous years and the action he took was justified. As the infestation developed and worsened he had increased the dosage.
- He had been somewhat preoccupied with his personal problems at the time.
- He had been forthright with the Stewards.
- He had been caught out by the speed with which the problem developed.

In addition Mr Coldstream produced a couple of supporting letters to back up his submissions.

Mr Martins for the Stewards painted a bleak picture of the tick problem under review. The situation was described as '*deplorable*', '*out of control*' and '*extreme*'. I was referred to various passages in the transcript, including one where Mr Coldstream admitted that 13 of the greyhounds that were brought in from the yards were not treated for up to three months. I was told the failure to take timely and appropriate action to combat the tick problem made the

situation grave. It is imperative for a variety of reasons that trainers adequately address the control and prevention of external parasitic infestation. When the problem surfaced no professional assistance was sought. It was also drawn to my attention that on applying to be licensed, Mr Coldstream completed the obligatory declaration which included the obligation to at all times conduct himself in a professional manner. I was told there was a severe lack of professionalism evident in this case. The Stewards explained that an appropriate penalty was disqualification but concessions were made due to Mr Coldstream's particular circumstances.

I was not convinced it had been demonstrated the Stewards had fallen into any error in imposing the penalty which they did. For the reasons advanced by the Stewards, which I adopted, I dismissed the appeal.

Dan Mossenson

DAN MOSSENSON, CHAIRPERSON

