

Oaths Act 1867

Statutory Declaration

QUEENSLAND TO WIT

I, Anthony John Burke, of [REDACTED] in the State of Queensland do solemnly and sincerely declare that

I was a member of the Toowoomba Turf Club Committee [TTC] from February 2009 to October 2011.

I sought the assistance of Racing Queensland Limited ['RQL'] many times between October 2010 and September 2011 to:-

- i. Ensure good corporate governance of TTC; and
- ii. Get the protection of RQL for me as I was being bullied, discriminated against, and vilified by TTC .

Based on my knowledge of RQL's policies, and my experiences, between October 2010 and September 2011 RQL failed to act in accordance with its applicable Policies, particularly Policy against Bullying and Workplace harassment and the relevant legislation.

RQL did not protect me, and RQL bullied me.

From December 2010 until my resignation in October 2011, I was a victim of unlawful discrimination, harassment, bullying, vilification, and victimisation by the TTC and RQL.

The facts are:-

1. In or about November/ December 2010, becoming aware of a payment by TTC to a Committee Member, and being aware that the correct procedures were not followed by TTC, I made a complaint to RQL about this failure to follow required financial procedures.
2. In or about December 2010, I sought access to the Minutes of the TTC.



3. TCC denied me access to the Minutes.
4. I sought RQL's assistance to enable me to perform my duty as a Committee Member .
5. I attended at TTC on 10 February 2011 to inspect the Minutes but was denied access by TTC, and, further, I was attacked by 4 members of the Committee and the Secretary of TTC when they mobbed me and surrounded me in the carpark and prevented me leaving ['the first attack'].
6. I went to the Police Station to make a formal complaint but refrained from doing so, after I spoke by phone to Jamie Orchard at RQL, and was convinced that the matter would be dealt with by RQL, and it would not be in the interests of the Racing Industry for me to make a complaint to the Police about this first attack.
7. I reported the incident to RQL by email that day in detail specifying the actions by Members of TTC and how I felt as a result of that attack – including being scared for my safety.
8. RQL failed to investigate my complaint about being bullied by TTC, and failed to take any action against those who bullied me, verbally attacked me and mobbed me in the carpark.
9. On 11/02/2011 RQL wrote a letter to TTC advising them I should be allowed to inspect the Minutes without 'harassment'.
10. RQL acknowledged therefore that I had been 'harassed' but did nothing about it.
11. On instructions my Solicitors , @ Law , wrote to RQL asking they investigate and charge those involved in the first attack on me on 10/2/11 but RQL refused to do so.
12. The failure by RQL to follow its own policies on bullying left me feeling isolated, unsupported, and vulnerable to further attacks by Members of TTC.
13. When RQL refused to investigate the first attack on me they failed to prevent or reduce further injury to me by not acknowledging my legitimate complaint about the actions of TTC and the effect it had on me, some of which are set out in my email to RQL on that day.
14. Due to RQL's failure to protect me I complained to the Minister for Racing.



15. The Minister directed RQL to investigate my complaints. RQL instructed Barrister Freeman, to investigated my complaints, and prepare a Report.
16. The report stated that this incident [the first attack']should be investigated by RQL and those involved be charged with breaches of the Rules of Racing but RQL refused to do so.
17. To make matters worse, Barrister Freeman stated her view that the Workplace Health and Safety Act did not apply to me as I was a volunteer and not an employee.
18. RQL's own policy states that 'Race Officials' are covered by that Act, and Race Officials are defined as including Committee Members.
19. I , through my Solicitors, brought this error of law to the attention of RQL.
20. RQL refused to allow Barrister Freeman to reconsider her opinion and report about the series of actions by which I was bullied by TTC, if in fact. [as is the case] the Workplace Health and Safety Act applied to me as I was a Committee Member.
21. This was devastating for me as RQL had failed to protect me at all, and then after the Report they initiated was wrong in law, RQL again failed to act in accordance with its policies.
22. RQL refused and failed to act on the Report from the barrister that there were breaches of Sections 102, 106 and 112 of the Racing Act.
23. RQL refused to act on the Report, despite the report stating that there were grounds for charges to be made against various members of the TTC Committee.
24. RQL was advised by me, through my Solicitors, that TTC had misled the investigator.
25. RQL refused to allow Barrister Freeman to reconsider her report in light of evidence I had that showed TTC had misled her .
26. On 15 February 2011, by letter [the day after the first attack] TTC advised me that I was no longer a Member of TTC and no longer a Member of TTC's Committee.
27. I complained to RQL about this letter which failed to comply the Rules of TTC [including Rules 12 and 36 which dealt with procedure to be followed to afford natural justice] but RQL



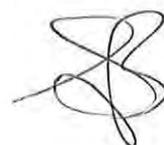
- failed to protect me against this action by TTC discriminating against me and bullying me, because RQL did not issue a Control Directive requiring TTC to follow its Rules.
28. RQL had the authority, duty and obligation to issue a Control Directive to TTC requiring TTC follow the relevant Rules of TTC to have my Membership cancelled, to ensure good corporate governance was followed, and to protect me from being bullied, as well as in the interests of the Industry to prevent the expenditure of valuable resources on litigation.
29. RQL, by failing to issue the Control Directive, failed to protect me from being discriminated against when TTC treated me differently from any other Member who is entitled to be treated in accordance with the Rules of TTC and to be afforded natural justice.
30. At this stage RQL also bullied me because by failing to issue the Control Directive RQL knew I would be forced to expend money and other resources, going to Court to seek Orders that I was a Member of TTC and a Member of the Committee of TTC [as was so Ordered].
31. RQL's failure to act to protect me, left me open to further repeated abuse and injurious consequences to me personally, socially and financially by TTC who escalated the attacks on me as set out below which all involved TTC again and again attempting to ostracise and isolate me and prevent me fulfilling my role as a Committee Member in accordance with the Associations Incorporation Act.
32. This failure of RQL to act properly at the appropriate time encouraged and allowed TTC to perpetrate repeated inappropriate acts against me.
33. I went to Court and succeeded, at great personal cost, in having an Order made by the Supreme Court that I was a Member of TTC and I was a Member of TTC executive.
34. I wrote a letter of complaint on or about 11 February 2011 about the first attack against me to the Minister for Racing, with copies to other Members of Parliament because I had no one to turn to and I needed protection and help.
35. The Chairman of TTC [Bob Frappell] obtained a copy of my letter of complaint and sued me for defamation.



36. TTC agreed to pay the Chairman's costs of that defamation law suit, despite my objections and complaints to RQL about this.
37. RQL failed to act to protect me, the TTC and the industry from the misuse of Club money to fund a law suit that was really only part of the campaign against me by TTC to ruin me by forcing me to spend money defending myself against completely unwarranted attacks .
38. The Report to RQL by Barrister Freeman stated that the agreement for TTC to pay the legal costs of the personal defamation action against me was a breach of Racing Act Section 112.
39. RQL did nothing about this, allegedly because the money was agreed to be repaid but RQL refused to verify the money was repaid and I have never seen evidence that it was repaid.
40. TTC continued to intimidate me by refusing to give me copy of Agendas for Committee Meetings; refusing me access to Minutes of Meetings, refusing me access to financial records and including a Committee Member telling me that Members of the Committee wanted to 'rip my head off' at the next Committee Meeting.
41. On my instructions my Solicitors, @ Law asked either Jamie Orchard or Shara Murray to chair the next Committee meeting because I was frightened of what might happen to me.
42. RQL refused to assist in this way thereby leaving me exposed to further attacks by TTC.
43. TTC refused to allow my Solicitor, who I wanted near for support and legal advice to even be in the carpark of the race course on the night of the Committee Meeting.
44. On that occasion the Chairman, B Frappell, another Member of the Committee and the employed Racing Secretary, A Clancy, chased me down the stairs, assaulted me, and chased me across the carpark until my Solicitor emerged from the car where he was waiting. I was terrified of what they were going to do to me.
45. I went to the Police Station that night and made a formal complaint to the Police, which investigation only ceased , with my concurrence, after I resigned as a Committee Member.



46. If RQL had acted to protect me, as I often requested, this would not have happened, but RQL did nothing to protect me, or help me to do my job, as I saw it, to try and ensure TTC was managed with good corporate governance.
47. RQL did conduct an investigation into this incident but after the employed racing secretary, A Clancy, was found to have assaulted me and was found guilty of a breach of Rule 175A of the Racing Rules, RQL rejected my request that RQL ensure the finding against him be recorded in the Minutes of TTC. The others despite their direct involvement as parties to the assault and attack on me, in company and at night, were not disciplined by RQL.
48. Therefore there were never any real consequences to TTC and the committee members, so that TTC continued to escalate their attacks on me, because as RQL was taking no action to protect me TTC felt they could continue to attack and bully me with impunity.
49. TTC continued to bully me and RQL, despite my continued requests for help, did nothing to stop TTC's intentional campaign to ruin my personal and business reputations when TTC created situations that exposed me to social rejection , creating public humiliation and shame by actions against me, in addition to those specified above, including the following [I brought the actions to the attention of RQL (including giving RQL copies of its own Policies on Bullying)seeking their protection against further acts against me by TTC and help to ensure good corporate governance was followed by TTC]:-
- a. The employed racing secretary swearing a false Affidavit in the Court Proceedings I brought;
 - b. The employed racing secretary falsifying the Membership Register produced under Subpoena in my Court action;
 - c. TTC falsely misrepresenting the outcome of my Court Action to the media and the public;
 - d. TTC refusing to correct the false and misleading press release despite being asked to do so;



- e. TTC refusing to mediate;
- f. TTC failing to honour the written Corporate Sponsorship agreement with my Company – Jewels of the Range Pty Ltd;
- g. TTC painting out in black my advertising signs on the race track;
- h. TTC failing to have my name as a Committee Member printed in the Racing Programme for Toowoomba's biggest race day, despite prior notice from my Solicitor that they must include my name as a Member of the Committee;
- i. TTC refusing to correct that error and/or apologise despite requests from my lawyer;
- j. TTC refusing to use the rings I designed for the winners of Toowoomba's major race although they were previously donated by me and given to the winners;
- k. TTC refusing to present a perpetual trophy previously donated by my family for the second biggest race day in Toowoomba;
- l. TTC denying me access to Minutes and financial records despite repeated requests;
- m. TTC failing to table documents and letters from me and others including RQL;
- n. TTC denying me access to books of record of TTC [Sponsorship Register] which I wished to view in accordance with my duties as a Committee Member;
- o. TTC refusing to allow me leave of absence from Committee Meetings despite the provision by me of a Doctors Certificate;
- p. TTC failing to follow financial requirements in relation to Contracts, particularly retaining Hopgood Ganim as their Solicitors;
- q. TTC Executive sub committee failing to comply with Rules of TTC to report to Committee and having secret meetings;
- r. A member of the Committee revealing personal information, about my marriage, told to him in confidence, to the other members of the committee;
- s. TTC giving a copy of a 'Without Prejudice' letter from my Solicitors to TTC's solicitors to a radio station where it was read out on air;



- t. TTC giving Notice of an intention to move a Motion of No Confidence in me at a Committee Meeting, which forced me to again incur legal costs to file an Application to the Court seeking urgent injunctive relief;
 - u. TTC calling a Special General Meeting to consider a Motion and that I be expelled from TTC, when the reasons, on the face of the document supporting the Motion, were that I had made complaints to RQL, and this was done while the Investigation was underway.
50. RQL refused my request that this meeting be stopped until after the Investigation report was finished. Only after representations by my Solicitor to the Minister, and a Ministerial Directive was given, did RQL issue a Control Directive to cancel the meeting to expel me.
51. RQL had a duty and responsibilities to protect me against being bullied, but not only failed to do so, but RQL itself bullied me by forcing me to incur debts of hundreds of thousands of dollars in my attempts to ensure TTC followed its obligations under legislation including the Associations Incorporation Act, which Act imposed a duty and obligation on me to take the steps I did to fulfil my role as a Committee Member .
52. In 2013 RQL gave \$350,000 to TTC for 'legal costs', most of which was incurred by the actions of TTC attacking me, and then I tried to defend myself, with no help from RQL.
53. As a direct result of the attacks on me, and the attacks by omission to act by RQL, I suffered severe psychological illness, and sought professional help.
54. The psychological impact on me caused me to have suicidal ideas which I told RQL about but RQL still refused to do its duty to me under the Policies and the law.
55. The cumulative effect of this entire period caused me financial ruin such that I went from a successful business owner with 2 jewellery stores to almost being bankrupt and working as a hospitality server at functions, just to maintain myself and my wife.
56. We were forced to leave Toowoomba to obtain work, leaving behind social connections, so the isolation and alienation feelings are magnified, and all of this was a direct result of RQL



failing to act in accordance with the Policies Section 81 (p) Manual of Section 81 (p) and RQL's failure to protect me.

57. RQL and its officers, Jamie Orchard, Shara Murray, and others in the executive did not follow procedures and policies.

58. **RQL** failed to follow policies and legislation in place and in doing so, breached, or allowed to be breached the following:-

Section 81 (p) Awareness of Duties Policy, including Harassment, Bullying and Unlawful Discrimination in the Racing Industry

Section 81 (p) Manual of Section 81 (p)

Section 81 (i) Policy on the Formation, Management and Licensing of Clubs

Section 81 (o) Record Keeping Policy

Section 81 (u) Policy on Dealing with Intangible Assets by Non-Proprietary Licensed Clubs

Section 81 (t) Policy on spending by Non-Proprietary Licensed Clubs

Section 81 (d) Policy on Complaint Management System

A.R. 175 (a) (k) (l) (q)

Racing Act 2002 Section 112

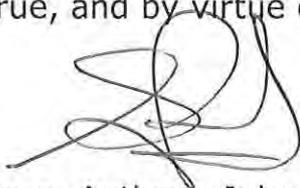
Section 59c of the Associations Incorporations Act

Failure of the Rick Management Policy

Rules of Racing Policy

The factual documentation that supports my statement is listed chronologically and annexed and marked .

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1867.



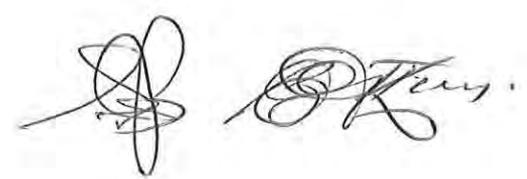
Declarer Anthony John Burke



Taken and declared before me at Brisbane this 6th day of August 2013
before me.



Barry Edward Atkins Solicitor



28/08/2009 Letter Anthony Burke ['AB] to Toowoomba Turf Club ['TTC']	AB 1
6/12/2010 Email AB to TTC	AB2
16/12/2010 Email AB to TTC	AB3
20/01/2011 Letter Jewels of the Range [JoR] to TTC	AB4
21/01/2011 email AB to TTC [cc RQL] with letter JoR to TTC	AB5
25/01/2011 Email AB to TTC with letter JoR to TTC	AB6
25/01/2011 Email TTC to AB	AB7
29/01/2011 Email AB to TTC with letter JoR to TTC	AB8
1/02/2011 Email AB to TTC with copy to Racing Qld Limited ['RQL']	AB9
1/02/2011 Email TTC to AB	AB10
1/02/2011 JoR Press Release	AB11
3/02/2011 Email AB to TTC	AB12
10/02/2011 Email AB to RQL including TO Bob Bentley	AB13
10/02/2011 JoR [AB] letter re incident 10/2/11	AB14
11/02/2011 Email cover RQL [Jaime Knight] to AB	AB15
11/02/2011 Letter RQL to AB	AB16
11/02/2011 Email TTC to AB	AB17
11/02/2011 Letter TTC to AB	AB18
14/02/2011 Email AB to RQL including to Bob Bentley	AB19
14/02/2011 Email RQL to AB	AB20
15/02/2011 Letter JoR [AB] to @ Law	AB21
16/02/2011 Email AB to Members of Parliament with copy email 10/2/ AB to RQL	AB22
16/02/2011 Email K Shine to AB	AB23
17/02/2011 Email AB to @ Law advising re discussion AB with J Orchard	AB24
18/02/2011 Fax RQL to AB	AB25
25/02/2011 Letter RQL to TTC Committee Members	AB26
26/02/2011 Email R Hopper to AB	AB27
28/02/2011 email Hopgood Ganim to AB	AB28
1/03/2011 Email AB to BA re fears and link to murder Racing Entity Melbourne	AB29
3/03/2011 Email AB to @ Law	AB30
4/03/2011 Email AB to RQL [J Orchard]	AB31
7/03/2011 Email RQL [J Orchard] to AB	AB32
8/03/2011 Email AB to @ Law	AB33
8/03/2011 Email AB to @ Law	AB34
10/03/2011 Email RQL [S Murray] to AB re CMC	AB35
10/03/2011 Email AB to @ Law	AB36
11/03/2011 Email AB to @ Law	AB37
16/03/2011 Email @ law to AB	AB38
17/03/2011 Email AB to #@Law	AB39
17/03/2011 Fax @ law to Hopgood Ganim ['HG']	AB40
18/03/2011 Email AB to @ Law	AB41
21/03/2011 Fax @Law to HG	AB42
21/03/2011 Fax @Law to RQL	AB43
21/03/2011 Fax HG to @ Law	AB44
22/03/2011 Fax @ Law to Payne Hall Lawyers	AB45
22/03/2011 Diary note B Atkins [@ Law] call to RQL J Orchard	AB46
24/03/2011 Email AB to RQL [B Bentley] enclosing letter sent to Members TTC	AB47
25/03/2011 Diary note B Atkins [@ Law] call toM Kelly Ministers Office	AB48
25/03/2011 Fax @ Law to HG - copy email AB to TTC committee members	AB49
25/03/2011 email AB to TTC committee members	AB50

29/03/2011 Email AB to TTC Committee Members	AB51
29/03/2011 Fax @ Law to HG	AB52
5/04/2011 Email AB to @ Law enclosing part Rules	AB53
7/04/2011 Email AB to @ Law	AB54
13/04/2011 Fax @ Law to RQL`	AB55
19/04/2011 Affidavit of Aaron Clancy	AB56
20/04/2011 Supreme Court Order	AB57
20/04/2011 Email @ Law to Carol Perrett [Ministers Office]	AB58
20/04/2011 Email from T Mulherin MP to AB	AB59
21/04/2011 Email AB to TTC	AB60
27/04/2011 Email TTC to AB	AB61
28/04/2011 Fax @ Law to HG	AB62
3/05/2011 Fax @ Law to HG	AB63
4/05/2011 Diary note @ Law call J Orchard	AB64
4/05/2011 Email AB to @ Law Control Bodies	AB65
5/05/2011 Email AB to @ Law Policy	AB66
5/05/2011 Email AB to @ Law Racing Board	AB67
11/05/2011 Email AB to RQL [J Orchards] enclosing copy Policy	AB68
13/05/2011 Email AB TO TTC AND TTC to AB	AB69
17/05/2011 Fax @ Law to HG	AB70
18/05/2011 Fax @ Law to RQL [S Murray] encl copy fax @ Law to HG same date	AB71
18/05/2011 Fax @ Law to HG	AB72
19/05/2011 Fax @ Law to HG	AB73
20/05/2011 Fax @ Law to HG	AB74
20/05/2011 Fax @ Law to RQL [S Murray]	AB75
20/05/2011 Fax @ Law to HG	AB76
23/05/2011 Fax @ law to RQL [S Murray]	AB77
23/05/2011 Fax @ Law to HG	AB78
23/05/2011 Fax @ law to RQL	AB79
23/05/2011 Fax @ law to HG	AB80
23/05/2011 Fax @ law to TTC	AB81
24/05/2011 Copy email from RQL to TTC	AB82
24/05/2011 Email AB to @ Law	AB83
24/05/2011 Fax @ Law to RQL	AB84
25/05/2011 Fax RQL to @ Law	AB85
27/05/2011 Fax @ Law to RQL	AB86 <i>Rec</i>
27/05/2011 Statement of AB (x 2) <i>AB</i>	AB87
27/05/2011 Fax @ Law to RQL	AB88
27/05/2011 Incident report by AB made 26/5 attached to fax to RQL on 27/5/2011	AB90
31/05/2011 Letter RQL to @ Law	AB91
1/06/2011 TTC reply email to AB about AB email to TTC 30/05/2011	AB92
1/06/2011 Fax @ Law to RQL	AB93
14/06/2011 Fax HG to @ Law	AB94
20/06/2011 Letter @ law to M Kelly	AB95
20/06/2011 Letter @ Law to T Mulherin	AB96
20/06/2011 Letter @ Law to RQL { J Orchard}	AB97
20/06/2011 Portfolio attached to 3 letters immediately above	AB98
20/06/2011 Fax @ law to HG	AB99
23/06/2011 Fax HG to @ Law	AB100
24/06/2011 Fax @ Law to HG	AB101

[Handwritten signatures] 12

25/06/2011 Email AB to RQL Formal complaint	AB102
25/06/2011 Email AB to RQL Formal complaint	AB103
27/06/2011 Agenda for TTC meeting 30/6/2011	AB104
27/06/2011 Fax @ Law to HG	AB105
27/06/2011 Fax RQL to @ Law	AB106
28/06/2011 Fax @ Law to RQL	AB107
29/06/2011 Email RQL to AB	AB108
29/06/2011 Email RQL to AB	AB109
30/06/2011 Fax @ Law to C Perret [Ministers Office], copy fax @ Law to RQL 28/6/	AB110
1/07/2011 Fax @ Law to M Kelly	AB110
1/07/2011 Fax @ Law to RQL	AB111
1/07/2011 Fax @ Law to HG	AB112
4/07/2011 Fax HG to @ Law	AB113
4/07/2011 Agenda TTC for 07/07/2011	AB114
6/07/2011 Fax RQL to @ Law	AB115
8/07/2011 Fax @ Law to RQL	AB116
11/07/2011 Fax @ Law to RQL	AB117
11/07/2011 Fax HG to @ Law	AB118
13/07/2011 Email AB to RQL [B Bentley/S Murray]	AB119
14/07/2011 Email RQL to AB	AB120
14/07/2011 Fax @ Law to HG	AB121
19/07/2011 Letter AB to TTC Members	AB122
20/07/2011 Email AB to RQL	AB123
20/07/2011 Copy article Toowoomba Chronicle	AB124
20/07/2011 Copy web page article	AB125
22/07/2011 Fax @ Law to HG	AB126
22/07/2011 Email AB to @ Law fwd email RQL to AB dated 24/06/07	AB127
26/07/2011 Email AB to RQL	AB128
26/07/2011 Email AB to RQL	AB129
26/07/2011 Email AB to RQL	AB130
26/07/2011 Email AB to RQL	AB131
26/07/2011 Email AB to RQL	AB132
26/07/2011 Fax HG to @ Law	AB133
26/07/2011 Email AB to RQL	AB134
27/07/2011 Letter @ Law to RQL with summary	AB135
28/07/2011 Statement of AB taken by W King	AB136
29/07/2011 Email AB to RQL	AB137
31/07/2011 Email AB to TTC	AB138
1/08/2011 Fax RQL to @ Law	AB139
1/08/2011 Fax @ law to RQL [S Murray]	AB140
2/08/2011 Email AB to TTC	AB141
2/08/2011 Email @ law to C Perrett [Ministers Office]	AB142
2/08/2011 Email @ Law to RQL [J Orchard]	AB143
2/08/2011 Letter TTC to Members Explanatory Memo re Expulsion Motion	AB144
2/08/2011 Email RQL to @ Law	AB145
3/08/2011 Fax @ Law to HG	AB146
4/08/2011 Email RQL to @ Law	AB147
4/08/2011 Email @ Law to RQL [J Orchard]	AB148
5/08/2011 Email Ministers Office [C Perrett] to @ Law	AB149
5/08/2011 Email @ Law to RQL [J Orchard]	AB150



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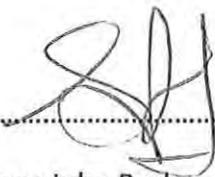
6/08/2011 Letter TTC to AB	AB151
7/08/2011 Email AB to C perrett [Ministers Office]	AB152
9/08/2011 Email RQL [J Orchard] TO @ Law	AB153
26/08/2011 Email @ Law to RQL [J Orchard]	AB154
31/08/2011 Letter RQL to @ Law	AB155
31/08/2011 Report of Barrister FREEMAN	AB156
15/09/2011 Letter RQL to @ Law	AB157
16/09/2011 Email RQL [J Orchard] to @ Law	AB158
16/09/2011 Email @ Law to RQL [J Orchard]	AB159
19/09/2011 Email @ Law to RQL [J Orchard]	AB160
20/09/2011 Email @ Law to RQL [J Orchard]	AB161
23/09/2011 Fax @ Law to HG	AB162
23/09/2011 Email RQL to @ Law	AB163
23/09/2011 Email @ Law to RQL [J Orchard]	AB164
23/09/2011 Email @ Law to Minister, K Kelly C Perrett	AB165
26/09/2011 Email to and From @ Law and RQL	AB166
28/09/2011 Email @ Law to RQL [J Orchard]	AB167
29/09/2011 Email RQL to @ Law	AB168
29/09/2011 Email AB to RQL	AB169
29/09/2011 Email RQL to @ Law	AB170
29/09/2011 Email @ Law to RQL [J Orchard]	AB171
30/09/2011 Email RQL to @ Law	AB172
30/09/2011 Email @ Law to RQL [J Orchard]	AB173
13/10/2011 Email @ Law to Ministers Office [C Perrett]	AB174
1/11/2011 Undated TTC Rules	AB 175
1/11/2011 Undated RQL Risk Management Policy	AB 176
1/11/2011 Undated RQL Rules of Racing Policy	AB177
1/11/2011 Undated RQL Policy on Clubs	AB178
1/11/2011 Undated RQL Policy on Bullying etc	AB179




This is attachment marked "AB / "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



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Barry Edward Atkins, Solicitor Witness

AB 1

Works Committee
Garden Committee
Sponsorship Committee

Anthony Burke
0423022880

To Toowoomba Turf Club Inc,
The CEO/Secretary

On behalf of my family, and me being a committee member, we would like to donate a Perpetual Trophy for the Toowoomba Cup.

The trophy is in the form of a cup is a high-grade silver-plated metal. It is mounted to a black base and if the club accepts the trophy, we will have a timber base added and the engraving. This will signify the start of a new era with the Cushion Track.

Engraving as follows

TOOWOOMBA CUP
Clifford Park Racecourse
Cushion Track

Donated by Burke Family

Regards,

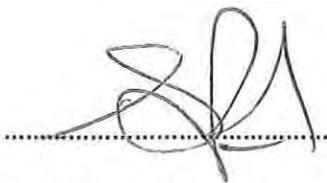
Anthony & Sabine Burke

28 August 2009.

This is attachment marked "AB 2."

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to read "B. Atkins", positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB2

From: Anthony Burke
Date: 6/12/2010 1:03:56 PM
To: aaron@toowoombaturfclub.com
Subject: minutes

Hi Aaron

Hope all is well.

Phoned the Chairman the other day after missing his call re the payment that concerned me as cannot remember the amount being approved at any level for Peter or Mark at Weetwood. Explained my concern if an audit was to occur in a deeper level that procedures may have not been followed correctly. 99% positive at no time the committee were told the amount for either prior to payment or if Peter had informed the committee of his business interest as I did or Ray had re his accounting etc. I know the treasurer did not agree with paying and existing committee person as none of the other committee would have asked for payment to do it.

Bob mentioned a meeting this week, so if you can forward previous minutes, and the agenda for the meeting to this email for me and also make my apology for the night as per my letter.

Also informed Bob that my operation went well and have recieved the all clear re cancer. All good news but have some discomfort due to the region cut and stitched.

Will most probably be back for February meeting instead of March with the positive results.

Bad luck with the burst pipe. Hopefully not the one that was replaced in the construction stage of the new track.

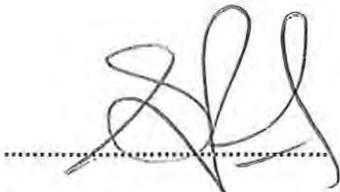
Talk soon

Anthony Burke

This is attachment marked "AB 3, "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 3

From: [jewels of the range](#)

Date: 16/12/2010 6:55:40 PM

To: aaron@toowoombaturfclub.com; ajsrburke@optusnet.com.au

Subject: Financial's

Hi Aaron

Read the press release re our financial's.

Can you please forward a copy to me along with the minutes of the last meeting so I can answer questions from members visiting me in my stores at the moment please.

Just all in accordance with the constitution as bit hard for me to come up and get a copy at the moment.

The figures seem huge so want to make sure I am telling the truth to members as they ask. Otherwise I cannot confirm answers to them.

Also did not know about legal action between TTC and RQL until told by customer to read [letsgohorseracing](#) and RQL website.

Very important that I have full disclosure of these facts as my reputation in the business community from the Chamber of Commerce to the general customer as I am in constant talks with business people daily. Also was at a BBQ the other night and talking my Mike Horan so need to know more info

Anthony Burke
Committee

From: [jewels of the range](#)
Date: 19/12/2010 11:14:06 AM
To: ajsrburke@optusnet.com.au
Subject: Fw: Read: Financial's

-----Original Message-----

From: Aaron Clancy
Date: 12/17/10 08:17:25
Subject: Read: Financial's

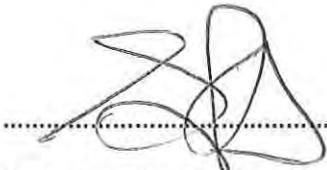
Your message

To: Aaron Clancy; ajsrburke@optusnet.com.au
Cc:
Subject: Financial's
Sent: Thu, 16 Dec 2010 18:55:33 +1000

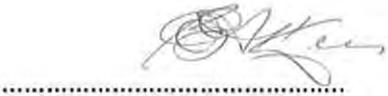
was read on Fri, 17 Dec 2010 07:16:13 +1000

This is attachment marked "AB 4, "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above a horizontal dotted line.

Anthony John Burke ^r

A handwritten signature in black ink, appearing as a series of connected loops and strokes, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 4

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Toowoomba Turf Club
January 20, 2011.
The Secretary,
Mr Aaron Clancy,

Re; 2011-2012 Weetwood and Toowoomba Cup Ring Corporate Sponsorship.

Dear Aaron,

As one of the directors of Jewels of the Range Pty Ltd, I would like to officially advise that we have not received the same level of corporate acknowledgement that has been greatly appreciated by us, from the two previous Toowoomba Chairman Mr N Stewart and Mr C Zeller.

Since the new committee was formed, neither of the directors of Jewels of the Range has been contacted in regards to what the Toowoomba Turf Club would be doing for the company for the agreed sponsorship agreement that we signed.

We have not received a phone call or invitation to meet with you, the chairman Mr Frappell or the Deputy chairman Mr Healy, but do thank Mr Healy for his financial support by shopping with us.

In the past we have had the following acknowledgements;

- Personal invitations to the Committee Room from the Sponsorship Chairman to join the Club Chairman and Deputy Chairman.
- A set of Champagne glasses with our logo and year of sponsor and a bottle of champagne.
- Personal phone calls from the Club Secretary and the Chairman to see if we are happy with the results from our sponsorship.
- Invitations to the Melbourne Cup and Corporate Sponsors.
- Invitations to Special Functions to interact with other corporate sponsors.
- A list of the races that have been named after Jewels of the Range
- 10 guest passes to use for the members area to entertain our clients and also to reward our staff.
- A front of Race Book named after the company and regular recognition in the race book when a race is named after the company.

February 18, 2011

Page 2

After 6 years of continued sponsorship and the supply of the Weetwood and Toowoomba Cup Rings which are the only ones of their kind in Australian Racing History, we feel disappointed with the current acknowledgement.

We have supported the club with sponsorship during the EI closure and the new track closure along with the 12 months of not having our signage replaced at the winning post and also the disappointment of the large Container with "Cushion" on it that was placed in an area that impeded the vision of our sign from all traffic on Hursley Road.

Mr Zeller and Mr Pankhurst did replace our signage after 12 months of not being on the finish line in August last year of which we are happy with.

When fellow business owners ask me why I no longer have races named after my company I am obligated to advise them of the above disappointments listed.

We have sponsored many organisations from Toowoomba Raiders Soccer Club Men's Youth Team, Toowoomba Raiders Ladies Youth Team, Toowoomba Raiders Ladies Reserve Grade Team, Garden City Soccer Club Juniors, Willowburn Sporting Club, Queensland Pure Bred Jersey Cow Annual Champion, Zonta Women's, Gatton Rural Ambassador and Gatton Rural Showgirl, City Bowls Club Yearly Friendship Tournament with Crows Nest, Triangle Retirement Homes annual Bowls Competition, Toowoomba Grammar School, Fairholme College, Weetwood Fashion Parade, Channel 7 Melbourne Cup Fashion Parade, Australian Standard bred Championship 2010 and many small schools for fetes and raffles.

On top of these, we as a family donated a perpetual trophy to the Toowoomba Turf Club to record the winners of the Toowoomba Cup winners since the inception of the Cushion Track.

All together our sponsorship of the Toowoomba Turf Club has surpassed \$40000. The list of all the other organisations showcase how much we value community involvement and in tough economic times and the struggle to gain corporate sponsors, I feel the Toowoomba Turf Club under the stewardship of the current chairman Mr Frappell show a distinct lack of knowledge of the corporate business world. None of the above organisations have treated Jewels of the Range as poorly as we have been since September 2010.

We had intended to further support the Toowoomba Turf Club with our other business, Nurserydirectonline.com.au but after the last 5 months have decided against it.

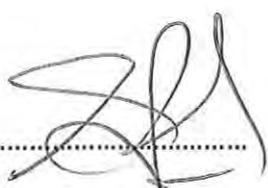
I have taken the time to compose this correspondence to hopefully help the club move forward and not ignore current sponsors anymore and also so no future sponsors are treated this way. As a business we do miss the positive interaction of the past Chairman Mr Zeller and Mr Stewart and their genuine interest in our business success.

Anthony Burke
Director
Jewels of the Range Pty Ltd

This is attachment marked "AB 5."

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 5

From: Anthony Burke
Date: 21/01/2011 12:31:23 AM
To: aaron@toowoombaturfclub.com
Bcc: rbentley@racingqueensland.com.au;
rwhitchurch@racingqueensland.com.au; Graham Healy; jewels of the range; jorchard@racingqueensland.com.au; Jaime Knight;
tomwarren@westnet.com.au; admin@justracing.com.au
Subject: letter to Aaron Clancy re 2011 sponsorship

Mr Aaron Clancy

Anthony Burke
Director
Jewels of the Range Pty Ltd
Nurserydirectonline.com.au



Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Toowoomba Turf Club
January 20, 2011.
The Secretary,
Mr Aaron Clancy,

Re; 2011-2012 Weetwood and Toowoomba Cup Ring Corporate Sponsorship.

Dear Aaron,

As one of the directors of Jewels of the Range Pty Ltd, I would like to officially advise that we have not received the same level of corporate acknowledgement that has been greatly appreciated by us, from the two previous Toowoomba Chairman Mr N Stewart and Mr C Zeller.

Since the new committee was formed, neither of the directors of Jewels of the Range has been contacted in regards to what the Toowoomba Turf Club would be doing for the company for the agreed sponsorship agreement that we signed.

We have not received a phone call or invitation to meet with you, the chairman Mr Frappell or the Deputy Chairman Mr Healy or Treasurer Mr Turnbull.

In the past we have had the following acknowledgements;

- Personal invitations to the Committee Room from the Sponsorship Chairman to join the Club Chairman and Deputy Chairman.
- A set of Champagne glasses with our logo and year of sponsor and a bottle of champagne.
- Personal phone calls from the Club Secretary and the Chairman to see if we are happy with the results from our sponsorship.
- Invitations to the Melbourne Cup and Corporate Sponsors Days.
- Invitations to Special Functions to interact with other corporate sponsors.
- A list of the races that have been named after Jewels of the Range
- 10 guest passes to use for the members area to entertain our clients and also to reward our staff.
- A front of Race Book named after the company and regular recognition in the race book when a race is named after the company.



December 11, 2012

Page 2

After 6 years of continued sponsorship and the supply of the Weetwood and Toowoomba Cup Rings which are the only ones of their kind in Australian Racing History, we feel disappointed with the current acknowledgement.

We have supported the club with sponsorship during the EI closure and the new track closure along with the 12 months of not having our signage replaced at the winning post and also the disappointment of the large Container with "Cushion" on it that was placed in an area that impeded the vision of our sign from all traffic on Hursley Road.

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When fellow business owners ask me why I no longer have races named after my company I am obligated to advise them of the above disappointments listed.

We have sponsored many organisations from Toowoomba Raiders Soccer Club Men's Youth Team, Toowoomba Raiders Ladies Youth Team, Toowoomba Raiders Ladies Reserve Grade Team, Garden City Soccer Club Juniors, Willowburn Sporting Club, Queensland Pure Bred Jersey Cow Annual Champion, Zonta Women's, Gatton Rural Ambassador and Gatton Rural Showgirl, City Bowls Club Yearly Friendship Tournament with Crows Nest, Triangle Retirement Homes annual Bowls Competition, Toowoomba Grammar School, Fairholme College, Weetwood Fashion Parade, Channel 7 Melbourne Cup Fashion Parade, Michael Flanigan Fundraiser, Andrew Donnelly Fundraiser and many small schools for fetes and raffles.

On top of these, we as a family donated a perpetual trophy to the Toowoomba Turf Club to record the winners of the Toowoomba Cup winners since the inception of the Cushion Track.

All together our sponsorship of the Toowoomba Turf Club has surpassed \$40000. The list of all the other organisations showcase how much we value community involvement and in tough economic times and the struggle to gain corporate sponsors, I feel the Toowoomba Turf Club under the stewardship of the current chairman Mr Frappell show a distinct lack of knowledge of the corporate business world. None of the above organisations have treated Jewels of the Range as poorly as we have been since September 2010.

We had intended to further support the Toowoomba Turf Club with our other business, Nurserydirectonline.com.au but after the last 5 months have decided against it.

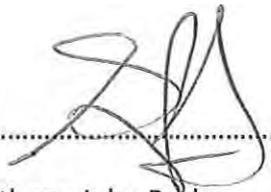
I have taken the time to compose this correspondence to hopefully help the club move forward and not ignore current sponsors anymore and also so no future sponsors are treated this way. As a business we do miss the positive interaction of the past Chairman Mr Zeller and Mr Stewart, (previous secretaries Leah and Gavin) and their genuine interest in our business success.

Anthony Burke
Director
Jewels of the Range Pty Ltd

This is attachment marked "AB 6 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB.6

From: Anthony Burke
Date: 25/01/2011 3:51:29 PM
To: aaron@toowoombaturfclub.com
Cc: rbentley@racingqueensland.com.au;
rwhitchurch@racingqueensland.com.au
Subject: reply letter to Aaron Clancy re 2011 sponsorship 25 Jan 2011

To Aaron Clancy
Please find attached a response to your email (25 January 2.29pm) I have recieved below.

Hello Anthony
Thank you for your email I have passed this on to our Chairman and he has asked if you would be available for a meeting on Monday around 4pm?

Regards Aaron

Anthony Burke
Director
Jewels of the Range
Nurserydirectonline
0423022880

.....

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Toowoomba Turf Club
January 25, 2011.
The Secretary,
Mr Aaron Clancy,

Re; 2011-2012 Weetwood and Toowoomba Cup Ring Corporate Sponsorship.

Dear Aaron,

It is disappointing that it has taken 5 days for any correspondence or contact from yourself on behalf of the Chairman.

This further outlines the irrelevance of the company that I am the director of, being Jewels of the Range.

I appreciate that after this letter that the Chairman Mr Frappell now would like a meeting with us.

Unfortunately as a company we cannot meet until we have in writing a response to the previous correspondence. When we have written correspondence from the Chairman Mr Frappell, on how he would like to rectify this, we the directors of Jewels of the Range, will have a board meeting to discuss the Toowoomba Turf Club and the Chairman Mr Frappell and his blatant disregard towards the sponsorship of Jewels of the Range and our treatment.

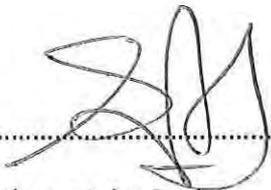
We await your correspondence and have also forwarded this letter to Mr R Bentley of Racing Queensland as the governing body of racing in Queensland, as I feel this may not be an isolated situation at the Toowoomba Turf Club. It is paramount that all clubs have a sponsor's registry so situations like ours do not occur now or in the future and I am of the opinion that the Toowoomba Turf Club is neglect in this matter which shows poor business practices and may contravene Racing Queensland's guidelines for clubs.

Anthony Burke
Director
Jewels of the Range Pty Ltd

.....

This is attachment marked "AB 7 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of stylized, overlapping loops and curves, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, featuring a prominent 'B' and 'A' followed by 'Atkins', positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

Hello Anthony,

AB7

Please find response from the Chairman of the Toowoomba Turf Club.

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

Mr. Burke,

I am in receipt of your letters regarding sponsorship arrangements between TTC and Jewels of the Range. You have elected not to meet with myself and the promotions sub-committee to discuss your advertising for the 2011 year until we respond in writing to you.

The points you make are very confusing to me and this Committee for the following reasons.

1. The current Committee was elected at the end of September and started functioning in October 2010
2. The Sponsorship arrangements in place were made by the previous administration (when you were part of the Promotional Sub-Committee) commencing in February 2010.
3. The current Committee has not altered those arrangements in any way.
4. Your agreement expires in February 2011.
5. Not all the benefits you refer to in 20th January 2011 letter are relevant to your current sponsorship agreement.

You sought and were granted a 3 month leave of absence from your Committee duties from December 1 2010. Your discussions with me indicated you had a serious health issue. With due respect it seemed inappropriate to concern you with sponsorship issues until your health issues were resolved. I assume from the number of letters you are writing and the tone those health issues are at the stage where you can discuss sponsorship with the Committee.

During an RQL audit of the TTC (for RQL by Deloitte's in May 2010), whilst you were on the board, and on the sponsorship Sub-Committee it was noted there was no sponsorship register.

You well know that was addressed by Aaron Clancy on behalf of the previous Committee after that audit. Since the new Committee was elected that register has been reviewed and is completely up-to-date. The Committee and I personally take exception to the slur you have placed on this Committee and the Toowoomba Turf Club by your public assertion that is not the case.

A comprehensive review of all sponsorship arrangements with the TTC has been completed over the past month.

It is noted that Jewels of the Range has received more than \$17,000 worth of benefits since February 2010.

It is the opinion of this Committee that your sponsorship arrangement which expires in February 2011 was more than generous to Jewels of the Range.

I make the following points.

1. Every commitment due to you in the sponsorship arrangements has been honoured by the previous Committee and the present Committee.
2. The review of sponsorship arrangements by the current Committee entered into by previous Committee's is a very good business practice that was decided at the December Committee meeting.
3. All sponsorship arrangements need to be reviewed regularly in order to ensure both parties are meeting any commitments agreed.

Perhaps your recent illness is contributing to your view of the Sponsorship and I stress again we have not altered any previous arrangements you as a member of the Committee and the Promotion and advertising Sub-committee have entered into.

I suggest an immediate meeting between you the TTC executive in order to discuss this matter and better understand your point of view.

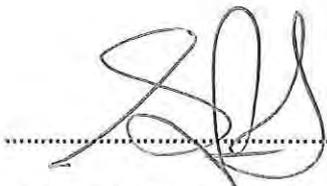
Regards,

Bob Frappell
Chairman Toowoomba Turf Club

"Light years ahead of the rest"

This is attachment marked "AB 8"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be "B. Atkins", positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB8

From: Anthony Burke
Date: 29/01/2011 9:46:55 PM
To: aaron@toowoombaturfclub.com
Bcc: admin@justracing.com.au;
rwhitchurch@racingqueensland.com.au
Subject: reponse to chairman 201

Aaron

Thank you for the follow up with the Chairman Mr Frappell.
I see he is confused as he mentions in his letter, so I hope my reply will clarify the questions, and help understand the business needs of our company, so further discussion in a positive format can continue.

I look forward to answers as requested by February 7, 2011.

Yours in business

Anthony Burke
Director
Jewels of the Range
Nurserydirectonline
0423022880

.....

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Toowoomba Turf Club
January 29, 2011.
The Secretary,
Mr Aaron Clancy,

Re; 2011-2012 Weetwood and Toowoomba Cup Ring Corporate Sponsorship.

Dear Aaron,

Thank you to the Chairman for his response to my letter as one of the Four Directors of Jewels of the Range Pty Ltd.

- This correspondence has been on behalf of the company Jewels of the Range.
- They are not a personal letter from Anthony Burke TTC Committee Member.

One of the fundamental problems with people without an educated business background is to confuse the above two points. It is important to be able to work in a black and white decision format and distinguish between the two points above.

Any referral to my position as a member of the TTC committee is irrelevant in the letter we have received as it is a separate entity to my role as a director of Jewels of the Range and has no bearing on discussions.

I have been able to discuss the sponsorship with the previous Chairman and Secretary without a conflict of being a committee person as the discussions with me have been as the Director of Jewels of the Range solely in meetings outside of committee meetings where unbiased decisions are made in the best interest of both parties.

That must be paramount in your mind when you are dealing with me, Anthony Burke, as the Managing Director of Jewels of the Range.

.....

1. I have not questioned the role of the previous committee or previous Chairman in regards to the sponsorship or with the current committee changing any agreement. What we have questioned is the role of the Chairman Mr Frappell who is also the Chairman of the Sub Committee in his lack of contact with Jewels of the Range from the time he was elected to the role of Chairman of the TTC. The previous Chairman Mr Zeller made a point of seeing what he could do for our business the day he was elected even though the agreement was from a previous committee. **In the area below we feel the Chairman Mr Frappell has not performed to a level that we have experienced before from the TTC.**
- **Since the new committee was formed, neither of the directors of Jewels of the Range has been contacted in regards to what the Toowoomba Turf Club would be doing for the company for the agreed sponsorship agreement that we signed. We have not received a phone call or invitation to meet with you, the chairman Mr Frappell or the Deputy chairman Mr Healy, but do thank Mr Healy for his financial support by shopping with us. This is common business courtesy.**
2. In regards to the following points that may not be listed on our agreement. It is good business and common sense to offer above what a business expects from the agreement and we as a company have received the below in the past and greatly appreciated them. We have also received from other clubs benefits above what have been listed on agreements and do know that a large percentage of the positives are passed onto other businesses when asked about how we are treated.
3. Highlighted in **RED** below, relates to Point 1 at the end of the letter received from the chairman and refers to part of the agreement which the company has not received and has now been without since October 2010. As a company we have used these passes to bring staff and their families to the TTC as well as customers as a reward for supporting our business.

In the past we have had the following acknowledgements;

- Personal invitations to the Committee Room from the Sponsorship Chairman to join the Club Chairman and Deputy Chairman.
- A set of Champagne glasses with our logo and year of sponsor and a bottle of champagne.
- Personal phone calls from the Club Secretary and the Chairman to see if we are happy with the results from our sponsorship.
- Invitations to the Melbourne Cup and Corporate Sponsors.
- Invitations to Special Functions to interact with other corporate sponsors.
- A list of the races that have been named after Jewels of the Range
- 10 guest passes to use for the members area to entertain our clients and also to reward our staff.
- A front of Race Book named after the company and regular recognition in the race book when a race is named after the company.

4. It is noted in the letter that \$17000 of benefits has been allocated to our company. This is pleasing to hear and would expect it to be an acceptable level as we did have great support from Mr Zeller in this area.
5. Please forward a detailed list with dates of the benefits and with the costing's to verify this amount. We would like to clarify any difference between the previous committee and Chairman and the Current Chairman and the assignment of the benefits as listed.
6. That will satisfy one of the questions we listed above when we asked for a list of races named after the company. We look forward to the Chairman Mr Frappell providing this detailed list with dates and costings as we would expect FULL TRANSPARANCY.
7. I am aware of the cost of naming a race at the TTC, as we have been quoted \$220 to do as such when fundraising for Canteen, a charity we support.

I do find the text of the received letter from the Chairman unprofessional as he challenges issues of no relevance as I have mentioned at the start of the correspondence. All the directors of Jewels of the Range have asked is for the points to be clarified in full detail to allow us to make a business decision on continuing the sponsorship for 2011-2012. The rings are of historical significance and held in high regard by the winners and the personal feedback from the jockeys is always outstanding. The rings are one off specially made for each year and valued at \$3000 each to replace and add to the Prestige of winning the Weetwood Hcp and Toowoomba Cup. Our company designed and own the copyright and patent to the design.

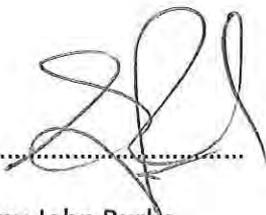
Once we have received the request above, we as directors will make a Business Decision as to whether to continue with the sponsorship. We will then contact you before the end of February with a decision and a meeting where we can discuss the future of our business agreement, which can hopefully continue in a business matter.

In Business,

Anthony Burke
Director
Jewels of the Range Pty Ltd
0423022880

This is attachment marked "AB 9 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BEA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 9

From: Anthony Burke
Date: 1/02/2011 12:43:29 PM
To: aaron@toowoombaturfclub.com
Bcc: rwhitchurch@racingqueensland.com.au; jewels of the range
Subject: Jewels of the Range

Chief of Management
Mr Aaron Clancy,
Hi Aaron,

Thank you for the call yesterday to discuss our business questions.

I look forward to meeting with you re the new proposals, **after we receive** the answers to the questions that we have sent in the last correspondence. It is imperative we get this to enable us to make a qualified decision on your new proposal, as it shows transparency and good business ethics. We can then also give qualified feedback to other businesses who are interested to see how our discussions proceed with the TTC.

I tired to phone back today but Jo said you were out.

Can you please also send a letter outlining what you said on the phone to me yesterday Monday 31/1/2011, that the TTC has decided to end the current agreement as it holds no bottom line advantage to the club and it's members and it is a commercial business decision. As you mentioned the rings add Prestige and History to the winning trainer and jockey but no advantage to the TTC.

As we are having our board meeting on February 10, to discuss our sponsor/advertising budget for the year, we would appreciate the request above to be received by us no later than February 7, 2011. As you seemed to have the information all in hand yesterday we appreciate your promptness in tending to this urgent business matter.

Yours in business

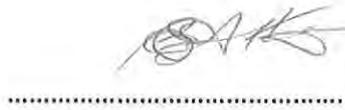
Anthony Burke
Director
Jewels of the Range
0423022880
46379955
February 1, 2011.

This is attachment marked "AB 10."

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BEA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 10

Hello Anthony,

To be honest Anthony, you proceeded to put an email with my name attached to it on a website. Therefore all detailed communication to yourself will be via face to face or over the phone. Yesterday during our phone conversation I answered many of your questions and more than happy to talk with you regarding ones you feel were unanswered. Just to reiterate from our phone conversation, all current sponsorship agreements in place with the Toowoomba Turf Club, will not be renewed in their current form.

I believe our new Sponsorship Offering will provide Jewels of the Range with the value that you are seeking.

If you would like a meeting to discuss our new proposal please give me a buzz..

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350
 P.O Box 6037 Toowoomba West QLD 4350
M: 0400 334 854
P: 07 4634 6066
F: 07 4633 1256
E: aaron@toowoombaturfclub.com
W: www.toowoombaturfclub.com

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Tuesday, 1 February 2011 12:43 PM
To: Aaron Clancy
Subject: Jewels of the Range
Importance: High

Chief of Management
 Mr Aaron Clancy,
 Hi Aaron,

Thank you for the call yesterday to discuss our business questions.

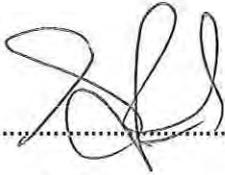
I look forward to meeting with you re the new proposals, **after we receive** the answers to the questions that we have sent in the last correspondence. It is imperative we get this to enable us to make a qualified decision on your new proposal, as it shows transparency and good business ethics. We can then also give qualified feedback to other businesses who are interested to see how our discussions proceed with the TTC.

I tired to phone back today but Jo said you were out.

Can you please also send a letter outlining what you said on the phone to me yesterday Monday 31/1/2011, that the TTC has decided to end the current agreement as it holds no bottom line advantage to the club and it's members and it is a commercial business decision. As you mentioned the rings add Prestige and History to the winning trainer and jockey but no advantage to the TTC.

This is attachment marked "AB 11,"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be "BAK" followed by a flourish.

.....
Barry Edward Atkins, Solicitor Witness

AB 11

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

PRESS RELEASE

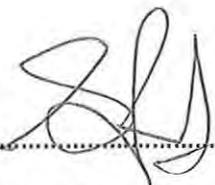
- THE MANAGING DIRECTOR OF JEWELS OF THE RANGE, ANTHONY BURKE WISHES TO ADVISE THAT ON MONDAY JANUARY 31, 2011 HE RECEIVED A PHONE CALL FROM CHIEF OF MANAGEMENT AARON CLANCY ADVISING THE BELOW DETAILS.
- Director Anthony Burke said "We have been advised that the TTC has decided to end the current sponsorship agreement that ends in February 2011, as it holds no bottom line advantage to the club and its members and it is a commercial business decision." Mr Clancy went on to say in the phone conversation that the four \$3000 diamond set one off winners rings for the winning trainer and jockey of both the Weetwood Hcp and Toowoomba Cup may add Prestige and History to the winning trainer and jockey but no advantage to the TTC.
- Director, Anthony Burke of Jewels of the Range, said he was disappointed that he was given no indication that the deal would not continue and already spent \$1000 and had the Computer Design and Sterling Silver Samples made in preparation for the 2011 event.
- Anthony Burke stated that he has had no contact from the new chairman Mr Bob Frappell since taking the chairmanship back in October 2010, in regards to his company's sponsorship of the rings for 2011. Burke states that it took a letter to Mr Aaron Clancy and Mr Bob Frappell on January 20, 2011 voicing his dissatisfaction with this lack of contact in regards to the future sponsorship.
- Mr Burke received an email today Tuesday February 1, 2011 from Toowoomba Turf Club Chief of Management Aaron Clancy which said to Mr Burke "that all detailed communication to you will be via face to face or over the phone, and all current sponsorship agreements in place with the Toowoomba Turf Club, will not be renewed in their current form."
- Mr. Burke, would like to thank the previous Chairman Neville Stewart, his committee, and Secretary Gavin McEvoy who initiated the historical rings that were the first of their kind in Australian Racing History and now hold pride of place with other prestigious trophies in the homes of Trainers Rex Lipp (twice), Mick Mair, Nick Olive, Norm Hilton and Kath Carroll, and Jockeys Tye England, Anthony Pattillo, Ken Pope, Chris Munce, Shane Scriven and the late Stathi Katsidis.

.....

This is attachment marked "AB 12;"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 12

From: Anthony Burke
Date: 3/02/2011 11:37:37 PM
To: aaron@toowoombaturfclub.com
Subject: March Committee Meeting

Hi Aaron

My leave expires end of February and look forward to rejoining committee and catching up on last three months.

Please advise of the next committee meeting date for March. I will endeavor to come out next week on Thursday around 10am if you have time for me to catch up and read thru the minutes.

Keep up he good work.

Anthony Burke
Committee Member.

Receipt

Your message

To: Aaron Clancy

Cc:

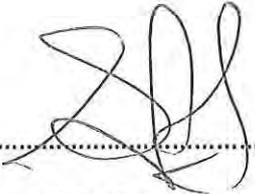
Subject: March Committee Meeting

Sent: Thu, 3 Feb 2011 23:37:37 +1000

was read on Fri, 4 Feb 2011 06:01:19 +1000

This is attachment marked "AB 13 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 13

From: Anthony Burke
Date: 10/02/2011 3:54:29 PM
To: rwhitchurch@racingqueensland.com.au; Jaime Knight;
rbentley@racingqueensland.com.au
Subject: Conduct Unbecoming of Toowoomba Turf Club Chairman and committee

Mr Bentley and Mr Orchard,
Dear Sirs,

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Weetwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

As I entered the door I saw Norm Pankhurst standing in the internal door opening of Aaron Clancy office. I was asked by a young guy sitting in the desk normally occupied by Tash if he could help. I said I was after Aaron to collect the boxes and read the minutes. I waved and said hi to Norm.

At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Gee, Jim Cosgrove, Norm Pankhurst and Aaron Clancy.

Bob said we are going up to the Weetwood Room for a meeting. We need to talk to you. I proceeded to tell him why I was here as above. He insisted in a bully and aggressive tone that I was to come upstairs. I said no and why I was here. At this stage Aaron and Alan were in the safe looking for my companies items and said they were not there. I could feel the aggression building in Bob's voice saying come upstairs we need to talk.

I said thanks to Aaron and Alan but will get the items when they find them and I was going.

As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

At this stage I felt physically and mentally threatened for my well being and started to shake and feel sick as I pushed passed them to my car. As I walked away Norm said something before Bob told him to be quiet and yelled out as I got in my car something.

At this stage I locked my doors, reversed off and saw Jim Cosgrove giving me the biggest death stare and shaking his head.

I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11.32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

I have not proceeded at this stage with the complaint as I feel it may be an internal matter that Racing Queensland may need to look into.

The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

At this time and the feeling of stress that I am now feeling I do not know how I will be able to enter my role as part of the committee in March.

Please advise whether I should fully submit this in my police report or not submit it so Racing Queensland can handle it internally.

I have tried to phone Dr John Morgan, Mr Graham Healy and Mr Alan Volz to see if they were invited to this set up to attack me on mass, but John and Graham have not returned my call and Alan has his phone off.

I await your response to this urgent matter.

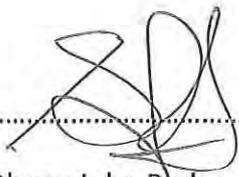
Anthony Burke

Toowoomba Turf Club Committee
0423022880

This is attachment marked "AB 11/1 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 14

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
443-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

10 February 2011.

To

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Westwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

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At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Bee, Jim Coagrove, Norm Pankhurst and Aaron Clancy.

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I said thanks to Aaron and Alan but will get the items when they find them and I was going.

As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

February 14, 2011

Page 2

At this stage I felt physically and mentally threatened for my well being and started to shake and feel sick as I pushed passed them to my car. As I walked away Norm said something before Bob told him to be quiet and yelled out as I got in my car something.

At this stage I locked my doors, reversed off and saw Jim Coagrove giving me the biggest death stare and shaking his head.

I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11:32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

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The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

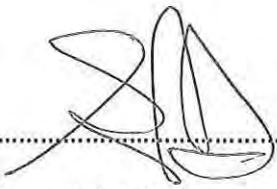
I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

Anthony Burke

Director

This is attachment marked "AB 15"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be "BAK" followed by a flourish.

.....
Barry Edward Atkins, Solicitor Witness

AB 15

Dear Mr Burke

Please find attached correspondence from Jamie Orchard.

Kind Regards
Jaime

Jaime Knight

Complaints Co-ordinator

EA to Director of Integrity Operations

PO Box 63, Sandgate QLD 4017

P +61 7 3869 9747

F +61 7 3269 8268

M 0439 66 11 05

E jknight@racingqueensland.com.au

W www.racingqueensland.com.au



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Attachments Preview:

1 out of 2 attachment(s)

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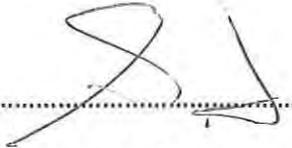
[Email this photo](#) | [Upload photo to Facebook](#)

11/12/2012

This is attachment marked "AB 16 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 16

11 February 2011



**RACING
QUEENSLAND**

Mr Anthony Burke

By email: ajsrburke@optusnet.com.au

Racing Queensland Limited
A B N 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E Info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Burke,

RE: ACCESS TO COMMITTEE MEETINGS

I refer to your email of 10 February 2011.

I have spoken to Mr Clancy about the incident to which you refer and have today written to him advising him that as long as you are a financial member, you should be allowed to have access to the minutes free of any pre-condition (such as attending a meeting etc). Obviously I also expect that you are allowed to exercise that right free from any harassment etc.

I have also advised Mr Clancy that you may be contacting him to arrange a time to inspect the Minutes. Should you wish to pursue your rights in this regard, please contact Mr Clancy to arrange an appropriate time and please do not hesitate to contact me should there be any issues.

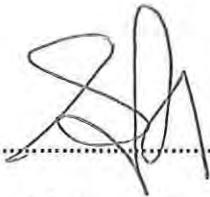
Yours sincerely,

A.J. Orchard
Director of Integrity Operations

This is attachment marked "AB 17"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 17

Anthony,

Please find letter attached.

This will also be sent via mail.

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

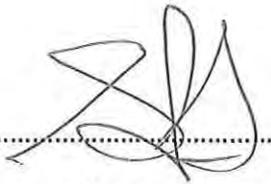
E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

This is attachment marked "AB 18"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom.

Anthony John Burke

A handwritten signature in black ink, appearing to be the initials 'BAK' followed by a flourish.

Barry Edward Atkins, Solicitor Witness



AB 18

TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 66

Mr A. Burke
Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.

Dear Mr Burke

Toowoomba Turf Club Inc Membership and Appointment to the Management Committee.

We are writing to advise you of a constitutional irregularity with respect to your current treatment as a member of TTC and member of TTC's management committee. More specifically, the requirements under Toowoomba Turf Club Inc. (TTC) Clifford Park Race Course Rules (**Rules**) have not been satisfied with respect to your application for membership of TTC in your own right or nomination for appointment to the management committee.

As the constitutional requirements under the Rules have not been observed, your TTC membership and position on the management committee are invalid and you are neither a member nor hold a position on the management committee. In light of this, please find enclosed a cheque being for refund of payment of membership fees.

This letter serves as formal notification of the invalidity of your TTC membership and appointment to the TTC management committee.

We have outlined below, the procedural requirements and conditions of the Rules that must be satisfied to be a valid member of TTC in your own right and a member of the management committee. We note that without strict compliance to the Rules you cannot be considered a valid member of TTC nor appointed to the membership committee.

Background

As you are aware, on or about February 2006 Jewels in the Range became a corporate member of TTC. On or about April 2009 Jewels in the Range appointed you as its nominee. You were appointed as a member of the management committee based on your role as nominee for Jewels in the Range.

On or about September 2010, Jewels of the Range substituted you as its nominee and Mrs Burke became the nominee for Jewels in the Range.

Under Rule 8c (8) of the Rules when Jewels in the Range replaced you as its nominee your entitlement to be a member of the management committee ceased.

In addition, as you were no longer a corporate member's nominee if you wanted to become a member of TTC in your own right you were required to apply for membership of TTC in accordance with Rule 9 of the Rules.

What are the constitutional requirements under the Rules to become a member of TTC in your own right?

Rule 9 of the Rules outlines the procedural requirements that must be adhered to when a candidate applies for membership in their own right.

Rule 9 states:

- (a) a candidate for admission as a member of TTC in their own right must be nominated by two members of TTC (who have been continuous members of TTC for at least three years). The candidate must submit an application form which is signed by the applicant, his proposer and his seconder (**Application**) (Rule 9(a)).
- (b) At the next management committee meeting the Application will be considered by the committee who will determine whether to accept or reject the Application (Rule 9(b)).
- (c) If the Application is accepted TTC will notify the applicant of the acceptance of his Application and request payment of the requisite subscription fees (Rule 9(c)).
- (d) Upon payment of the requisite subscription fees the applicant shall then be considered to be a member in their own right of TTC (Rule 9 (d)).

As you will be aware, the requirements of Rules 9 (a) and (b) were not satisfied as you did not submit an Application at all, let alone in the form prescribed by the Rules. The TTC management committee is constitutionally bound to insist that the conditions of Rule 9 are satisfied and under the present circumstances must regrettably inform you that your treatment as a member of TTC is in error as you are currently not a valid member of TTC.

"Light years ahead of the rest"



In light of your previous position on the management committee (in your capacity as the nominee of a corporate member) we trust you will appreciate that TTC is bound to observe the requirements of the Rules with respect to membership. Unfortunately, TTC is not able to circumvent the requirements of the Rules and any membership privileges that have been bestowed to you in error will now be revoked.

If you would like to be a member of TTC in your own right we would invite you to follow the procedural requirements set out in Rule 9 of the Rules. Until the requirements of Rule 9 of the Rules have been complied with TTC is constitutionally bound to refute any suggestion that you hold a valid TTC membership. Further without a valid TTC membership we are not allowed to provide you with copies of TTC minutes.

What are the constitutional requirements under the Rules to become a member of the TTC management committee?

As outlined above, when you were substituted as the nominee for the corporate member Jewels in the Range you ceased to be eligible for a continued position on the management committee. Further, before you could be appointed to the management committee you needed to satisfy the conditions of appointment set out in Rule 18 of the Rules.

Rule 18 states that a member must have:

- (a) been a "member" of TTC for at least three continuous years to be eligible to be a member of the management committee (Rule 18(1)); and
- (b) had at the nomination of at least three members with such members nominations to be provided to the TTC secretary at least 21 days prior to the AGM (Rule 18(3)).

As noted above, you are not a member of TCC in your own right as you have not applied for membership of TTC in accordance with Rule 9 of the Rules. Without valid membership of TTC in your own right for at least three continuous years you cannot satisfy the conditions of appointment set out in Rule 18(1) of the Rules. We do note that whilst you were previously appointed as a nominee of a corporate member, the Rules specifically provide that a nominee is not in fact a member of TTC.

In addition, we note that you did not receive the nomination of at least three members of TTC to be appointed to the management committee which again, means the conditions of appointment set out in Rule 18(3) of the Rules was not satisfied.

As you are, at this stage, incapable of satisfying the requirements under Rule 18 of the Rules TTC cannot allow you to sit on the management committee.

With immediate effect you will no longer be invited to participate in management committee meetings until such time as you have been duly appointed to the management committee in accordance with the Rules.

As noted you will need to have been a member of TTC for three continuous years before being eligible to apply to be appointed to the management committee. Assuming you became a member of TTC in your own right in 2011 the earliest date that you would be eligible for appointment to the management committee would be 2014.

We have enclosed a copy of the Rules with this letter to allow you to easily reference the Rules noted in this letter together with a cheque for \$110 as a refund of payment of membership fees.

The TTC will also require you to return your membership badge and guess passes to the club.

Should you have any questions in relation to the matters outlined above please contact the Secretary of the Toowoomba Turf Club on 07 4634 6066.

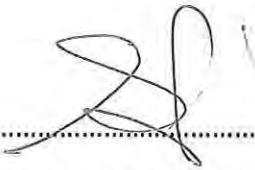
Yours faithfully,

Bob Frappell
Chairman
Toowoomba Turf Club Inc

This is attachment marked "AB 19 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB19

From: Anthony Burke

Date: 14/02/2011 9:03:46 PM

To: rwhitchurch@racingqueensland.com.au;

rbentley@racingqueensland.com.au; Jaime Knight

Subject: letter to Barry Atkins re TTC

To Racing Queensland

Please find the details I am refuting re my cancelled membership that I will have my solicitor address.

Barry Atkins is my solicitor.

I would appreciate your ruling on these areas in the letter I have forwarded to you from the TTC.

Anthony Burke

0423022880

This is attachment marked "AB 20"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be "B. Atkins", positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 20

Mr Burke,

Thank you for sending the letter which you have sent to your solicitor.

I note in the TTC letter it is suggested that Jewels of the Range became a corporate member in 2006 and that you were appointed as its nominee in or around 2009. Is that correct? If so, prior to you becoming the nominee, were you a member of TTC in your personal capacity? Assuming so, when did you so join?

Thanks and regards,

Jamie Orchard

Director of Integrity Operations

PO Box 63, Sandgate QLD 4017

P +61 7 3869 9742

F +61 7 3269 8268

M 0417 791 596

E jorchard@racingqueensland.com.au

W www.racingqueensland.com.au

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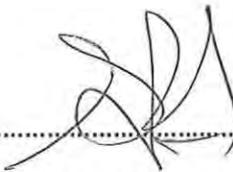
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Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, featuring a prominent circular flourish at the beginning and a trailing line, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 21

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Barry Atkins
Dear Barry,

Today I have received a letter from the Toowoomba Turf club that is attached in the email. I have not responded to the club as yet.

I would like to make a few points and arrange for a letter to go to them for these reasons.

- In July 2010, I received an invoice for my membership renewal of \$110.00
- I emailed Aaron Clancy (Chief of Management/Secretary) and said our corporate membership included my membership.
- He said he was not aware of this and that I would have to pay to re-run as a member of the Toowoomba Turf Club Management Committee.
- I paid my membership for which I have an invoice for Anthony Burke, not Jewels of the Range.
- In September leading up to the election, I was cleared as being eligible to run for the Management Committee of the Toowoomba Turf club by Aaron Clancy who has the authority to check and declare the nominees valid.
- I was then told by Aaron that I had in fact been covered by my corporate membership and that we could transfer the corporate to my wife Sabine Burke as it allows in the constitution of the club.
- A letter via email was sent to the club requesting this and an email from Aaron with a form for Sabine to sign. This was filled out and approved by the committee to transfer the corporate membership and that my membership would be now an individual membership as per the invoice I received and paid.
- I was of the belief that the professional duties of the secretary Aaron Clancy were accurate and that the Chairman Mr Zeller and Deputy Mr Norm Pankhurst with Mr Tom Warren of the executive of the time approved this transfer and that my previous years served would be continued, otherwise I would have not transferred to Sabine but asked for a refund.

They mention in the letter that the rules state that a nominee of a corporate sponsor is not in fact a member of the TTC. In Rule (8c) number 9 it says "the nominee shall not be entitled to membership of the club in his own right".

- **This is overruled by numbers 2/7/14 in below comments.**

Rule (8c) number 2 says "corporate membership shall be in the name of the company, firm or corporation which will nominate in writing one natural person ("the nominee") to received the rights, benefits, privileges, duties, obligations and disabilities of membership for the subscription year or part thereof".

- **This was abided by.**

Number 7 states that "the nominee will not be eligible to elected to the committee of that club unless that person has held that nomination for a minimum of three consecutive years".

- **I did abide by this and was elected under this banner**

.....

December 11, 2012

Page 2

I have phoned Mr Neville Stewart who has said that under Rule (8c) number 14 which states "Corporate Members shall be entitled to the naming rights to one race conducted by the club during every year of membership and any other privileges deemed appropriate by the committee"

Mr Stewart said that the committee thru consultation with Mr Peter Maker advised the club with his opinion on this matter at the time I ran for the committee. The privileges were to run for the committee as in number 7 above.

Mr Stewart and Mr Maker have said to call them for clarification if needed.

My points of concern are this;

1. Under the professional advice of the Secretary, Mr Aaron Clancy, I changed the nominee to Sabine as I was in full belief that my continuation of my membership would not be affected and that I could perform my duties as a member and a member of the management committee.
2. I would not have changed over to personal membership if I was advised professionally by Aaron Clancy who is in the position to administer this.
3. I received an invoice to my personal name from Aaron Clancy on behalf of the TTC for \$110 which I duly paid and accepted, had the money taken from my account by the TTC in return for membership to the TTC.
4. As this error falls fully with Mr Aaron Clancy as the club secretary in his advice and guarantee on this being the correct procedure, I request that this error is reversed and my full individual membership stands as in point 1.
5. I would like you to also demand that this is acted upon forthwith and that we will sue the Toowoomba Turf Club for damages in regards to my personal high standing profile in the community as a businessman and also my company Jewels of the Range.
6. I feel this has been a breach of natural justice and the error lies fully with the TTC and the Secretary Mr Aaron Clancy.

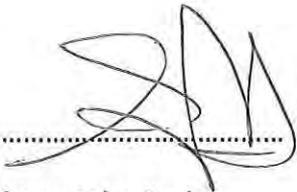
There have been events leading up to this which I will email for a full understanding of this matter. They lead to harassment from the Chairman Mr Frappell and certain members of the management committee.

Anthony Burke

Director

This is attachment marked "AB 22 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal stroke.

.....
Barry Edward Atkins, Solicitor Witness

AB 22

From: Anthony Burke**Date:** 16/02/2011 10:25:26 PM**To:** toowoomba.north@parliament.qld.gov.au;
toowoomba.south@parliament.qld.gov.au**Cc:** southport@parliament.qld.gov.au; leader@opposition.qld.gov.au;
mermaid.beach@parliament.qld.gov.au;
condamine@parliament.qld.gov.au**Subject:** Toowoomba Turf Club Siege Mentality and Bullying

Hon Mr Langbroek,
 Hon Mr Kerry Shine,
 Hon Mr Mike Horan,
 Hon Mr Peter Lalor
 Hon Mr Ray Stevens
 Hon Mr Ray Hopper,

Dear Sirs,

Without Prejudice,

I wish to make you aware of an incident that occurred at The Toowoomba Turf Club on February 10, 2011, which is to me as a business person and as a committee person of the TTC, an intrusion of personal rights. The email below outlines the incident as sent to Racing Queensland.

Racing Queensland have been pro active but the situation has now expanded to the Chairman Mr Frappell of the TTC now canceling my membership which I have sent on to Mr Orchard of Racing Queensland.

The reason I feel compelled to advise you of this is to demonstrate my protest against bullying, intimidation and scare tactics in the worse form. Group mob mentality.
 In the report you will see below the seriousness of this issue at the TTC.

Bob Frappell is the elected Chairman of the TTC by the Management Committee of Norm Pankhurst, Dr John Morgan, Mr Graham Healy, Mr Alan Volz, Mr Alan Gee, Mr Jim Cosgrove, Mr John Scott, and myself.

The question I ask is when will a stop be put to this Behaviour of a high profile person such as Bob Frappell, as the Chairman of the Toowoomba Turf Club, who has the ability to incite a violent, aggressive PRE PLANNED attack on someone such as myself without notifying me in advance of their intent to approach me. It is unacceptable and that is why I wish to make public notice of this.

This incident was done in front of office start and then proceeded to the office car park where ground staff witnessed the incident, to the degree that I received a phone call from a person asking what was going on, such was the seriousness of the attack from the mob. We have police officers, paramedics and people being cowardly attacked in public

places and I am sure this situation goes against Government Legislation.

Please feel free to call me or email me in regards to this matter. I look forward to your feedback with this issue.

I am addressing this thru my lawyer Mr Barry Atkins.

The letters joined to this email are what I believe incited this act on me.

I will be unable to be contacted from Friday February 18 until Sunday February 27, 2011 due to a personal occasion I am attending.

Anthony Burke
Director
Jewels of the Range Jewellers
Nurserydirectonline
Elected Committee Member of the Toowoomba Turf Club

Copy of email sent to Racing Queensland re the incident.

Mr Bentley and Mr Orchard,
Dear Sirs,

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Weetwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

As I entered the door I saw Norm Pankhurst standing in the internal door opening of Aaron Clancy office. I was asked by a young guy sitting in the desk normally occupied by Tash if he could help. I said I was after Aaron to collect the boxes and read the minutes. I waved and said hi to Norm.

At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Gee, Jim Cosgrove, Norm Pankhurst and Aaron Clancy.

Bob said we are going up to the Weetwood Room for a meeting. We need to talk to you. I proceeded to tell him why I was here as above. He insisted in a bully and aggressive tone that I was to come upstairs. I said no and why I was here. At this stage Aaron and Alan were in the safe looking for my companies items and said they were not there. I could feel the aggression building in Bob's voice saying come upstairs we need to talk.

I said thanks to Aaron and Alan but will get the items when they find

them and I was going.

As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

At this stage I felt physically and mentally threatened for my well being and started to shake and feel sick as I pushed passed them to my car. As I walked away Norm said something before Bob told him to be quiet and yelled out as I got in my car something.

At this stage I locked my doors, reversed off and saw Jim Cosgrove giving me the biggest death stare and shaking his head.

I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11.32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

I have not proceeded at this stage with the complaint as I feel it may be an internal matter that Racing Queensland may need to look into.

The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

At this time and the feeling of stress that I am now feeling I do not know how I will be able to enter my role as part of the committee in March.

Please advise whether I should fully submit this in my police report or not submit it so Racing Queensland can handle it internally.

I have tried to phone Dr John Morgan, Mr Graham Healy and Mr Alan Volz to see if they were invited to this set up to attack me on mass, but John and Graham have not returned my call and Alan has his phone off.

I await your response to this urgent matter.

Anthony Burke

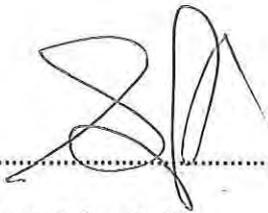
Toowoomba Turf Club Committee
0423022880

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This is attachment marked "AB 23 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 23

Anthony, sorry you are undergoing this. I think you should seek good legal advice .Kerry

Sent from my Windows Mobile® phone.

From: Anthony Burke <ajsrburke@optusnet.com.au>
 Sent: Wednesday, 16 February 2011 22:42
 To: Toowoomba South Electorate Office <Toowoomba.South@parliament.qld.gov.au>;
 Toowoomba North Electorate Office <Toowoomba.North@parliament.qld.gov.au>; Southport
 Electorate Office <Southport@parliament.qld.gov.au>; Mermaid Beach Electorate Office
 <Mermaid.Beach@parliament.qld.gov.au>; Condamine Electorate Office
 <Condamine@parliament.qld.gov.au>
 Subject: Fw: Toowoomba Turf Club Siege Mentality and Bullying

Subject: Toowoomba Turf Club Siege Mentality and Bullying

Hon Mr Langbroek,
 Hon Mr Kerry Shine,
 Hon Mr Mike Horan,
 Hon Mr Peter Lalor
 Hon Mr Ray Stevens
 Hon Mr Ray Hopper,

Dear Sirs,

Without Prejudice,

I wish to make you aware of an incident that occurred at The Toowoomba Turf Club on February 10, 2011, which is to me as a business person and as a committee person of the TTC, an intrusion of personal rights. The email below in RED outlines the incident as sent to Racing Queensland.

* Racing Queensland have been pro active but the situation has now expanded to the Chairman Mr Frappell of the TTC now canceling my membership which I have sent on to Mr Orchard of Racing Queensland.

* The reason I feel compelled to advise you of this is to demonstrate my protest against bullying, intimidation and scare tactics in the worse form. Group mob mentality.

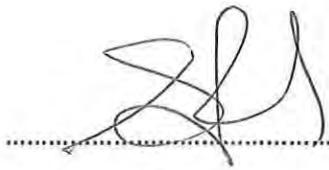
* In the report you will see below the seriousness of this issue at the TTC.

* Bob Frappell is the elected Chairman of the TTC by the Management Committee of Norm Pankhurst, Dr John Morgan, Mr Graham Healy, Mr Alan Volz, Mr Alan Gee, Mr Jim Cosgrove, Mr John Scott, and myself.

This is attachment marked "AB 24"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 24

From: Anthony Burke
Date: 17/02/2011 12:17:54 PM
To: bazlawyer@atlaw.net.au
Subject: ttc

I have had a call from Mr Jamie Orchard who heads the Integrity Department of Racing Queensland and he has drawn the same conclusion we spoke of.

- It is like the farmer Dan story you told me.
- I was told I was the corporate nominee in 2006 by the then secretary Gavin McEvoy and Chairman Neville Stewart, although there is no place to appoint a nominee on the form provided by the TTC.
- I was the only name recorded on all voting forms as this nominee since 2006 and Sabine has had no input.
- The change was initiated by Aaron Clancy when a bill for \$110 was sent and duly paid which in RQ opinion granted me dual membership (as in farmer Dan story)
- In their opinion they have sought advice that I do have individual membership and Sabine the corporate membership.
- In a worse case the TTC has to revert me to that position as per my letter I dropped in today.
- He is of the opinion that the sponsorship runs until July 2011.

They are also looking into other matters there and I will forward a copy to you when it is received.

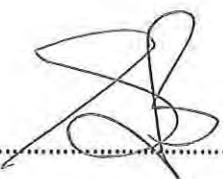
Jamie has said we are still welcome to send our letter I dropped in today if we wish from a legal area.

Anthony Burke

This is attachment marked "AB 25 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 25

18 February 2011

Mr Anthony Burke
C/o Jewels of The Range

By facsimile transmission: 4635 6622

Dear Mr Burke,

Re: Toowoomba Turf Club

I have today written to the Toowoomba Turf Club in respect of a number of issues including the matter of your membership of that club. As a matter of courtesy, I advise that I included the following comments in the letter to the Committee:

Anthony Burke – membership

During the course of considering the above matter, the Club provided me with a copy of a letter to Mr Burke indicating that in the Club's view Mr Burke's Club membership and appointment to the Committee were invalid.

I understand that Mr Burke disputes this and I have also had the opportunity to consider Mr Burke's view.

While the relationship between the Club and its members is generally a matter for those parties to resolve, Racing Queensland Limited will take an interest where the issue raises concerns about compliance with the Club's constitution and when the issue becomes public, such that it may have an impact on the reputation of the industry more generally. For that reason I offer the following comments (which I have also shared with Mr Burke).

I understand that Jewels of the Range became a corporate sponsor of the Club in February 2006 and has continued in that capacity at least until 2011. The Club has provided Sponsorship Agreements for the period from 2006 which I understand to be the corporate membership agreement. While it is not stated on the face of the document, I understand that the Chairman of the Club at the relevant time and the Club's solicitor from that time are available to give evidence to the effect that Mr Burke was, from 2006, regarded by the Club as the Corporate members 'nominee' for the purposes of the Club's rules. That the Club regarded Mr Burke as the nominee is supported by the fact that voting slips for the Club were apparently issued to Mr Burke in his personal name (on behalf of the corporate member) from that time.

Club Rule 8(c)1 provides that the nominee shall receive the rights, benefits, privileges, duties, obligations and disabilities of the membership. This clearly evidences an intention to have the nominee treated as a member. Indeed, Rule 8(c)7 indicates that the nominee may be elected to the committee upon holding nomination for three (3) continuous years, in the same way as an ordinary member may (see Rule 18).

I note in passing that Rule 8(c)1 does require the nomination of the nominee to be in writing. Whether that took place in writing can be determined by the evidence but given that the Club



**RACING
QUEENSLAND**

Racing Queensland Limited
A.B.N 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

has accepted for years subsequently that Mr Burke was the nominee and has treated him as a nominee member since the initial membership, I feel that even if the nomination was not in writing, it is at worst a minor technical breach of the Rule which the Club, in light of it's subsequent actions, would be stopped from relying upon now.

I am advised that in or around July 2010 Mr Clancy, on behalf of the Club, required Mr Burke to pay a personal membership renewal so as to continue as a member of the Committee. Mr Burke did so and accordingly purported to hold both ordinary membership and a nomination of a corporate membership from that time until September 2010 when Mr Clancy indicated that given that Mr Burke in fact did not require the ordinary membership, that he could, instead of having the ordinary membership fee refunded, replace himself as nominee with Mrs Burke. That then happened.

Rule 8(c)9 provides that a nominee is not entitled to membership of the Club in his own right. It follows that as Mr Burke was the nominee he was not entitled to the ordinary membership for which he was required to pay. Such membership was therefore presumably ineffective for so long as it coincided with Mr Burke being a nominee.

In September 2010 Mr Burke ceased to be a nominee and therefore his ordinary membership would be effective from that time.

Given this, it would seem that Mr Burke has continuously since 2006, been either a nominee or ordinary member. In light of the clear intent of Rule 8(c) of seeking to have a nominee treated as a member, I do not believe it is open to the Club to suggest that Mr Burke has not had three (3) continuous years of membership/nomination so as to prevent him qualifying to be a committee member. This is particularly so given that the conversion from nominee to ordinary member apparently took place at the requirement of the Club (through its servant).

I also note your assertion that Mr Burke did not receive the necessary nominations from three (3) members so as to be appointed to the committee in accordance with Rule 18. Again, this issue is one that should be capable of simple resolution and I would hope that supporting documents are available to determine this. Alternatively, evidence may be available from the then secretary to address this.

In summary, it would seem that the Club's assertion in respect of Mr Burke's membership of the Club and his position on the committee are questionable and there are certainly strong reasons to support Mr Burke's position.

Of course, as stated above, this issue is ultimately a matter between the Club and Mr Burke which, if necessary, may be resolved in Court. However, to avoid the potential expenditure of industry funds on litigation and to avoid publicity which is potentially damaging to the industry, I urge you to seek to resolve this matter between yourselves. In particular I note that Rule 12(d), (e) and (f) provide for a process to be followed in circumstances in which the Club is considering expulsion of a member. Should the Club, after considering all of the foregoing, decide to proceed, then it should at least follow that course in Rule 12.

Should you have any queries in respect of this matter, please do not hesitate to contact me.

Yours sincerely,



A.J.Orchard
Director of Integrity Operations

This is attachment marked "AB 26"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 26

25 February 2011

The Toowoomba Turf Club
PO Box 6037
TOOWOOMBA WEST QLD 4350



Racing Queensland Limited
A.B.N 52 142 788 874
Racecourse Rd Daagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3859 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

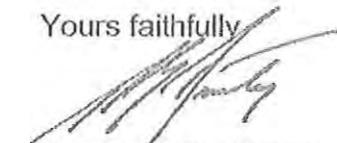
Dear Committee Members

RE: RQL MEETING – 2 MARCH 2011

Please note that there is a meeting to be held at Racing Queensland offices on Wednesday, 2 March 2011 at 10:00am between myself, Mr Wayne Milner, Mr Adam Carter and Mr Bob Frappell to discuss the Toowoomba Turf Club Financials.

I would like to extend the invitation for this meeting to all committee members of the Toowoomba Turf Club to attend.

Yours faithfully

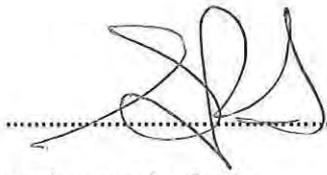


RG Bentley
Chairman

This is attachment marked "AB 27 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

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Anthony John Burke

A handwritten signature in black ink, appearing to be "BAK" with a long horizontal stroke at the end, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 27

Dear Anthony

I am writing to acknowledge receipt of your email and would like to advise that it will be brought to Mr Hopper's attention as soon as possible. My apologies for the lateness of our reply.

Kind regards

Lisa

Assistant Electorate Officer for
RAY HOPPER MP
MEMBER FOR CONDAMINE

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Wednesday, 16 February 2011 10:42 PM
To: Toowoomba South Electorate Office; Toowoomba North Electorate Office; Southport Electorate Office; Mermaid Beach Electorate Office; Condamine Electorate Office
Subject: Fw: Toowoomba Turf Club Siege Mentality and Bullying
Importance: High

From: [Condamine Electorate Office](#)
Date: 26/02/2011 2:12:28 AM
To: [Anthony Burke](#)
Subject: RE: Toowoomba Turf Club Siege Mentality and Bullying

Subject: Toowoomba Turf Club Siege Mentality and Bullying

Hon Mr Langbroek,
Hon Mr Kerry Shine,
Hon Mr Mike Horan,
Hon Mr Peter Lalor
Hon Mr Ray Stevens
Hon Mr Ray Hopper,

Dear Sirs,

Without Prejudice,

I wish to make you aware of an incident that occurred at The Toowoomba Turf Club on February 10, 2011, which is to me as a business person and as a committee person of the TTC, an intrusion of personal rights. The email below in RED outlines the incident as sent to Racing Queensland.

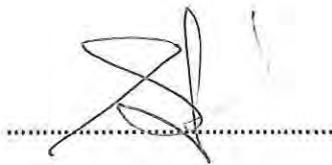
- Racing Queensland have been pro active but the situation has now expanded to the Chairman Mr Frappell of the TTC now canceling my membership which I have sent on to Mr Orchard of Racing Queensland.

11/12/2012

This is attachment marked "AB 28 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BEA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 28



Hopgood Ganim
LAWYERS

28 February 2011

Mr Anthony Burke
Director
Jewels of the Range Pty Ltd
By email: ajsrburke@optusnet.com.au

Our Ref: 1102913 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Mr Burke

Bob Frappell

We act for Mr Bob Frappell, the Chairman of the Toowoomba Turf Club (TTC).

We are instructed to write to you in relation to your recent correspondence to Racing Queensland Limited (RQL) and to the following Members of Parliament:

- The Leader of the Opposition, the Honourable John Paul Langbroek;
- The Honourable Mr Kerry Shine;
- The Honourable Mr Mike Horan;
- The Honourable Mr Peter Lalor;
- The Honourable Mr Ray Stevens; and
- The Honourable Mr Ray Hopper.

Copies of that correspondence are attached for your reference.

We are instructed by Mr Frappell that your correspondence contains a number of untrue statements relating to an incident which occurred at TTC's premises on 10 February 2011. In a nutshell, Mr Frappell considers that these statements deliberately and dishonestly misrepresent what happened during that incident and are seriously defamatory of him.

In our view, your correspondence carries the following defamatory imputations of and concerning Mr Frappell:

1. That he is a bully;
2. That he resorts to bullying, intimidation and scare tactics to get his way;

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

4545034_1.DOC

28 February 2011



3. That he incited other Committee members to mount a violent, aggressive and pre-planned attack on you;
4. That he was the leader of a "mob" which attacked you;
5. That he and other TTC Committee members acted like a pack of aggressive dogs and attacked you;
6. That he engaged in riotous or objectionable behaviour in breach of TTC's Constitution;
7. That his conduct and behaviour was such that he was unfit to occupy the office of Chairman of TTC; and
8. That he acted like a aggressive and demanding dictator towards you during the incident on 10 February 2011.

The imputations are plainly, and seriously, defamatory of Mr Frappell.

Indeed, your correspondence also contains material which is defamatory of other members of TTC's management committee. We do not yet have instructions to act for those individuals but have informed Mr Frappell that they may also have grounds to take action against you.

In addition to being defamatory, your correspondence grossly distorts the events of and surrounding the incident of 10 February 2011. That incident was witnessed by a number of independent parties all of whom will, if required, give evidence to the following effect:

1. You attended TTC's premises at approximately 11.00am on 10 February 2011 for the purpose of retrieving some items (ie. jewellery boxes) which you believed were contained in a safe on the premises, and to view some Minutes of Meetings;
2. Several TTC staff assisted you to search for the items but they could not be located;
3. Our client then approached you and asked whether you had a few minutes to spare to discuss an urgent matter with himself and other Committee members. Our client suggested that the meeting be held in the Weetwood Room;
4. You refused our client's request. Somewhat taken aback by your refusal, our client again requested a meeting, saying that he had some information which he thought it was important to share with you;
5. You again refused and stated that you "would not be bullied". You accused our client and other Committee members of bullying you. Despite being assured by Mr Pankhurst (a Committee member) that the Committee was not going to bully you, you again refused to meet and left the premises and walked into the car park;
6. Our client and other Committee members followed you to the car park and told you that it was in your best interests to agree to meet as the Committee had some important information for you regarding your membership;
7. You again refused to attend any formal meeting. You also refused to agree to an informal discussion in the car park about the matter. You then drove off in your vehicle.

We are instructed that a tape recording made by one of TTC's officers confirms the above account and completely contradicts the version set out in your correspondence to Racing Queensland Limited and to the Members of Parliament mentioned above.

26 February 2011



Your correspondence constitutes an attack on Mr Frappell's reputation, which is both inaccurate and unfair. There is simply no basis whatsoever for the imputations set out above.

We are instructed that you unsuccessfully sought election as Treasurer of the TTC but were unsuccessful. Despite the election being a fair and democratic one, you blame our client for what you perceive to be the role he played in your lack of success. You have also made other unfair attacks on our client (including, our client suspects, as the anonymous author of defamatory "blogs" published on the racehorsetalk.com.au website). We are instructed that these attacks are without foundation and have been motivated by your resentment towards our client.

Retraction

The nature and extent of the inaccuracies and distortions contained in your correspondence indicates that, in publishing that correspondence, you acted in contumelious disregard of our client's rights. The communications were inaccurate in numerous respects (as previously set out). You knew of those inaccuracies but published them in any event because of your desire for revenge against our client for the role you perceived he played in your ceasing to occupy the position of Treasurer within TTC.

Our client has grounds to commence defamation proceedings against you and, given the circumstances set out above, would be entitled to claim aggravated damages as well as compensatory damages.

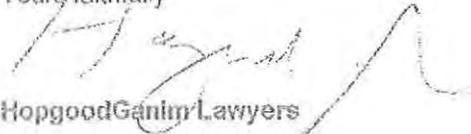
Our client holds you liable for all damages sustained to his reputation as a result of publication of your correspondence. We have discussed the matter with our client and believe that the situation is capable of being resolved without legal proceedings against you on the following basis:

1. A full and unqualified retraction of, and apology for, the defamatory imputations arising from your correspondence (the terms of which are to be drafted by us); *Request + p?*
2. Details (ie. names, email addresses and contact telephone numbers) of all the individuals, firms and companies to whom similar correspondence has been sent by you or anyone on your behalf; and
3. An undertaking (once again in terms to be drafted by us) not to publish or re-publish the defamatory imputations or imputations to similar effect in the future. *cont.*

We await your response and, in the meantime, ask you to note that no time or other indulgence is to be deemed a waiver of our client's rights, all of which are hereby reserved. We are instructed to call for your response by 5.00pm Monday, 7 March 2011.

Finally, for the avoidance of doubt, this is a Concerns Notice under the *Defamation Act 2005 (Qld)*.

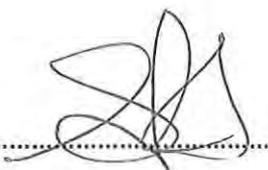
Yours faithfully


HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

This is attachment marked "AB 29"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a final vertical stroke, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected, somewhat stylized letters, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 29

From: Anthony Burke
Date: 1/03/2011 11:53:05 AM
To: bazlawyer@atlaw.net.au
Subject: Racing identity murder

Barry

This article highlights my fears from the actions I recieved from the TTC regardless of how they feel it went down as per the tape recording.

My wife rang me yesterday as soon as this happened which shows her concern.

I know since that date I am wary when I leave work, and Sabine fears for what a certain person at the club may do for me standing up to him. Sounds silly, I know but it does affect your mind.

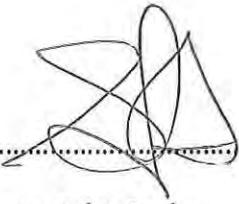
http://www.letsgohorseracing.com.au/index.php?option=com_content&view=article&id=1435:samba-murder-highlights-the-murky-side-of-racing&catid=41:vic-a-nsw&Itemid=68

Thanks
Anthony

This is attachment marked "AB 30"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 30

From: Anthony Burke
Date: 3/03/2011 3:25:13 PM
To: bazlawyer@atlaw.net.au
Subject: Breach of confidence by Ray Stevens

Mr Atkins

Barry,

As discussed the points of interest in the received letter from solicitors re defamation.

I have spoken at length with my local member Hon Mr Mike Horan about this situation.

- The Racing Act of 2002.
 - Parliamentary privilege and confidence.
1. In my letter to the the Hon Mr Horan, Hon Mr Shine, Hon Mr Hopper I addressed my local members and the member taking in the region of the TTC which acts under the governing body of Racing Queensland headed by Mr Bob Frappell and integrity officer Mr Jamie Orchard and under the Racing Act of 2002.
 2. I also advised the leader of the Opposition Mr JP Langbroek and Racing Minister for Labor Hon Mr Peter Lalor and Opposition Racing Minister Hon Mr Ray Stevens.
 3. I advised it was without prejudice to protect the use of the participants names as was the delicate matter of the situation, and acted in an apolitical manner by addressing both sides of government.
 4. I also ended the letter asking for any advice that may help solve this issue. I stated the facts as they happened to me and on how my feelings where at that point in time.

I spoke to Mr Horan on Wednesday 2 March, 2011, about an issue that has arisen in that a legal document is in place from Mr Frappell via his solicitor in Brisbane which shows the email sent to the above people in confidence is being used as evidence in action towards my comments which were made without prejudice. Mr Horan said he will look into the matter as this should not have happened due to Parliamentary privilege and confidence, and was a very serious matter and would I send him the legal documents which I did that night.

1. This email listed in the legal document from the solicitors show it was sent to the personal email account of Mr Frappell from the Opposition Racing Minister Hon Mr Ray Stevens.
2. Mr Stevens has colluded with Mr Frappell with a document sent to him under Parliamentary privilege and confidence against me.
3. I believe that this has serious issues raised with a major trust issue of Hon Mr Stevens and information that he has passed onto

- Mr Frappell in this situation and also raises questions over what other information may have been passed between these two people in regards to Parliamentary privilege and confidence.
4. I believe this to be a breach of Parliamentary Confidentiality Act
 5. Any one should be able to write to their parliamentarian in confidence at any time and feel secure in the information is treated with the upmost confidence.
- After a discussion by phone in confidence with Hon Mr Mike Horan today March 3, 2011, he has expressed his feelings that it is within my right to address this thru my solicitor and write to the CMC Complaints Department as the official government watchdog, Bruce McKeiver President on the LNP, Tim Mulherin (new racing minister) Labor, Speaker of the House Mr John (Mickel ?) Re disciplinary action, and the LNP Deputy Whip Hon Mr Mike Horan, my local member.
 - I was offered a meeting by the office of Mr JP Langbroek with Mr Stevens and a time set for 2.30pm Sunday 5 March, but after discussions with Mr Horan today have asked him to cancel it as I feel it could compromise discussions due to the loss of Trust I now have for Mr Stevens, whom I sought a solution from as the Opposition Racing Minister.

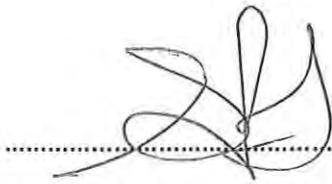
It is in my opinion that a drafted cover letter to the relevant people above is made expressing this breach of Parliamentary privilege and confidence, and a copy is sent to the acting solicitors HopgoodGanim Lawyers advising the issues raised with the information they have in receipt.

Thanks
Anthony Burke

This is attachment marked "AB 31 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be "BAK" with a long horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB31



From: Anthony Burke
Date: 4/03/2011 9:23:28 AM
To: jorchard@racingqueensland.com.au
Subject: Fw: Bob Frappell



Mr Orchard please find attached an email where Ray Stevens had breached the Parliamentary privilege and confidence and whistle blowers act.
 I will forward two more email's explaining in more detail the serious issues including Mr Frappell.

Anthony Burke

-----Original Message-----

From: Brett Bolton
Date: 28/02/2011 1:02:33 PM
To: ajsrburke@optusnet.com.au
Cc: 1102913.production@wcs.hopgoodganim.com.au
Subject: Bob Frappell

Please ignore the version attached to our previous email.

Attached is the correct version.

Marina Foley

Assistant to Brett Bolton and Ben Ricketts

HopgoodGanim Lawyers
 Level 8, Waterfront Place, 1 Eagle Street,
 Brisbane QLD 4000 Australia
 PO Box 7822, Waterfront Place, QLD 4001 Australia

T +61 7 3024 0150
 F +61 7 3024 0300



www.hopgoodganim.com.au

Gold Employer of Choice - ALB magazine, April 2010

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HopgoodGanim

LAWYERS

28 February 2011

Mr Anthony Burke
Director
Jewels of the Range Pty Ltd
By email: ajsrburke@optusnet.com.au

Our Ref: 1102913 - Brett Bolton

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Dear Mr Burke

Bob Frappell

We act for Mr Bob Frappell, the Chairman of the Toowoomba Turf Club (TTC).

We are instructed to write to you in relation to your recent correspondence to Racing Queensland Limited (RQL) and to the following Members of Parliament:

- The Leader of the Opposition, the Honourable John Paul Langbroek;
- The Honourable Mr Kerry Shine;
- The Honourable Mr Mike Horan;
- The Honourable Mr Peter Lalor;
- The Honourable Mr Ray Stevens; and
- The Honourable Mr Ray Hopper.

Copies of that correspondence are **attached** for your reference.

We are instructed by Mr Frappell that your correspondence contains a number of untrue statements relating to an incident which occurred at TTC's premises on 10 February 2011. In a nutshell, Mr Frappell considers that these statements deliberately and dishonestly misrepresent what happened during that incident and are seriously defamatory of him.

In our view, your correspondence carries the following defamatory imputations of and concerning Mr Frappell:

1. That he is a bully;
2. That he resorts to bullying, intimidation and scare tactics to get his way;

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

28 February 2011



3. That he incited other Committee members to mount a violent, aggressive and pre-planned attack on you;
4. That he was the leader of a "mob" which attacked you;
5. That he and other TTC Committee members acted like a pack of aggressive dogs and attacked you;
6. That he engaged in riotous or objectionable behaviour in breach of TTC's Constitution;
7. That his conduct and behaviour was such that he was unfit to occupy the office of Chairman of TTC; and
8. That he acted like a aggressive and demanding dictator towards you during the incident on 10 February 2011.

The imputations are plainly, and seriously, defamatory of Mr Frappell.

Indeed, your correspondence also contains material which is defamatory of other members of TTC's management committee. We do not yet have instructions to act for those individuals but have informed Mr Frappell that they may also have grounds to take action against you.

In addition to being defamatory, your correspondence grossly distorts the events of and surrounding the incident of 10 February 2011. That incident was witnessed by a number of independent parties all of whom will, if required, give evidence to the following effect:

1. You attended TTC's premises at approximately 11.00am on 10 February 2011 for the purpose of retrieving some items (ie. jewellery boxes) which you believed were contained in a safe on the premises, and to view some Minutes of Meetings;
2. Several TTC staff assisted you to search for the items but they could not be located;
3. Our client then approached you and asked whether you had a few minutes to spare to discuss an urgent matter with himself and other Committee members. Our client suggested that the meeting be held in the Weetwood Room;
4. You refused our client's request. Somewhat taken aback by your refusal, our client again requested a meeting, saying that he had some information which he thought it was important to share with you;
5. You again refused and stated that you "would not be bullied". You accused our client and other Committee members of bullying you. Despite being assured by Mr Pankhurst (a Committee member) that the Committee was not going to bully you, you again refused to meet and left the premises and walked into the car park;
6. Our client and other Committee members followed you to the car park and told you that it was in your best interests to agree to meet as the Committee had some important information for you regarding your membership;
7. You again refused to attend any formal meeting. You also refused to agree to an informal discussion in the car park about the matter. You then drove off in your vehicle.

We are instructed that a tape recording made by one of TTC's officers confirms the above account and completely contradicts the version set out in your correspondence to Racing Queensland Limited and to the Members of Parliament mentioned above.

28 February 2011



Your correspondence constitutes an attack on Mr Frappell's reputation which is both inaccurate and unfair. There is simply no basis whatsoever for the imputations set out above.

We are instructed that you unsuccessfully sought election as Treasurer of the TTC but were unsuccessful. Despite the election being a fair and democratic one, you blame our client for what you perceive to be the role he played in your lack of success. You have also made other unfair attacks on our client (including, our client suspects, as the anonymous author of defamatory "blogs" published on the racehorsetalk.com.au website). We are instructed that these attacks are without foundation and have been motivated by your resentment towards our client.

The nature and extent of the inaccuracies and distortions contained in your correspondence indicates that, in publishing that correspondence, you acted in contumelious disregard of our client's rights. The communications were inaccurate in numerous respects (as previously set out). You knew of those inaccuracies but published them in any event because of your desire for revenge against our client for the role you perceived he played in your ceasing to occupy the position of Treasurer within TTC.

Our client has grounds to commence defamation proceedings against you and, given the circumstances set out above, would be entitled to claim aggravated damages as well as compensatory damages.

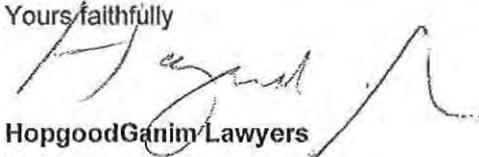
Our client holds you liable for all damages sustained to his reputation as a result of publication of your correspondence. We have discussed the matter with our client and believe that the situation is capable of being resolved without legal proceedings against you on the following basis:

1. A full and unqualified retraction of, and apology for, the defamatory imputations arising from your correspondence (the terms of which are to be drafted by us);
2. Details (ie. names, email addresses and contact telephone numbers) of all the individuals, firms and companies to whom similar correspondence has been sent by you or anyone on your behalf; and
3. An undertaking (once again in terms to be drafted by us) not to publish or re-publish the defamatory imputations or imputations to similar effect in the future.

We await your response and, in the meantime, ask you to note that no time or other indulgence is to be deemed a waiver of our client's rights, all of which are hereby reserved. We are instructed to call for your response by 5.00pm Monday, 7 March 2011.

Finally, for the avoidance of doubt, this is a Concerns Notice under the *Defamation Act 2005 (Qld)*.

Yours faithfully


HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

Brett Bolton

From: Mermaid Beach Electorate Office [Mermaid.Beach@parliament.qld.gov.au]
Sent: Thursday, 17 February 2011 5:00 PM
To: bob@flexi.net.au
Subject: FW: Toowoomba Turf Club Siege Mentality and Bullying
Importance: High
Attachments: letter to aaron clancy re 2011 sponsorship.doc; press release re Weetwood Hcp and Toowoomba Cup Rings.doc

From: Mermaid Beach Electorate Office
Sent: Thursday, 17 February 2011 9:22 AM
To: Ray Stevens
Subject: FW: Toowoomba Turf Club Siege Mentality and Bullying
Importance: High

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Wednesday, 16 February 2011 10:42 PM
To: Toowoomba South Electorate Office; Toowoomba North Electorate Office; Southport Electorate Office; Mermaid Beach Electorate Office; Condamine Electorate Office
Subject: Fw: Toowoomba Turf Club Siege Mentality and Bullying
Importance: High

Subject: Toowoomba Turf Club Siege Mentality and Bullying

Hon Mr Langbroek,
Hon Mr Kerry Shine,
Hon Mr Mike Horan,
Hon Mr Peter Lalor
Hon Mr Ray Stevens
Hon Mr Ray Hopper,

Dear Sirs,

Without Prejudice,

I wish to make you aware of an incident that occurred at The Toowoomba Turf Club on February 10, 2011, which is to me as a business person and as a committee person of the TTC, an intrusion of personal rights. The email below in RED outlines the incident as sent to Racing Queensland.

18/02/2011

- Racing Queensland have been pro active but the situation has now expanded to the Chairman Mr Frappell of the TTC now canceling my membership which I have sent on to Mr Orchard of Racing Queensland.
- The reason I feel compelled to advise you of this is to demonstrate my protest against bullying, intimidation and scare tactics in the worse form. Group mob mentality.
- In the report you will see below the seriousness of this issue at the TTC.
- Bob Frappell is the elected Chairman of the TTC by the Management Committee of Norm Pankhurst, Dr John Morgan, Mr Graham Healy, Mr Alan Volz, Mr Alan Gee, Mr Jim Cosgrove, Mr John Scott, and myself.
- The question I ask is when will a stop be put to this Behaviour of a high profile person such as Bob Frappell, as the Chairman of the Toowoomba Turf Club, who has the ability to incite a violent, aggressive PRE PLANNED attack on someone such as myself without notifying me in advance of their intent to approach me. It is unacceptable and that is why I wish to make public notice of this.
- This incident was done in front of office start and then proceeded to the office car park where ground staff witnessed the incident, to the degree that I recieved a phone call from a person asking what was going on, such was the seriousness of the attack from the mob. We have police officers, paramedics and people being cowardly attacked in public places and I am sure this situation goes against Government Legislation.
- Please feel free to call me or email me in regards to this matter. I look forward to your feedback with this issue.
- I am addressing this thru my lawyer Mr Barry Atkins.
- The letters joined to this email are what I believe incited this act on me.
- I will be unable to be contacted from Friday February 18 until Sunday February 27, 2011 due to a personal occasion I am attending.

Anthony Burke
Director
Jewels of the Range Jewellers
Nurserydirectonline
Elected Committee Member of the Toowoomba Turf Club

18/02/2011

Copy of email sent to Racing Queensland re the incident. On February 10, 2011.

Mr Bentley and Mr Orchard,
Dear Sirs,

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Weetwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

As I entered the door I saw Norm Pankhurst standing in the internal door opening of Aaron Clancy office. I was asked by a young guy sitting in the desk normally occupied by Tash if he could help. I said I was after Aaron to collect the boxes and read the minutes. I waved and said hi to Norm.

At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Gee, Jim Cosgrove, Norm Pankhurst and Aaron Clancy.

Bob said we are going up to the Weetwood Room for a meeting. We need to talk to you. I proceeded to tell him why I was here as above. He insisted in a bully and aggressive tone that I was to come upstairs. I said no and why I was here. At this stage Aaron and Alan were in the safe looking for my companies items and said they were not there.

I could feel the aggression building in Bob's voice saying come upstairs we need to talk.

I said thanks to Aaron and Alan but will get the items when they find them and I was going.

As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

At this stage I felt physically and mentally threatened for my well being and started to shake and feel sick as I pushed passed them to my car.

As I walked away Norm said something before Bob told him to be quiet and yelled out as I got in my car something.

At this stage I locked my doors, reversed off and saw Jim Cosgrove giving me the biggest death stare and shaking his head.

I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11.32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

I have not proceeded at this stage with the complaint as I feel it may be an internal matter that Racing Queensland may need to look into.

The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

At this time and the feeling of stress that I am now feeling I do not know how I will be able to enter my role as part of the committee in March.

Please advise whether I should fully submit this in my police report or not submit it so Racing Queensland can handle it internally.

I have tried to phone Dr John Morgan, Mr Graham Healy and Mr Alan Volz to see if they were invited to this set up to attack me on mass, but John and Graham have not returned my call and Alan has his phone off.

I await your response to this urgent matter.

Anthony Burke

Toowoomba Turf Club Committee
0423022880



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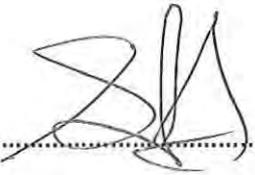
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This is attachment marked "AB 32 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 32

Anthony,

I have raised this matter with our in house counsel today. Given that this is an issue in respect of which we have no direct jurisdiction to act and given that we have obligations ourselves under the Racing Act to report matters to the CMC, we believe we should now refer these issues to the CMC. Accordingly, we will refer the matter to the CMC tomorrow morning.

I am on a 7-25 flight tomorrow morning but will be available on 0417 791 596 if you wish to discuss this.

Regards,
Jamie

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Monday, 7 March 2011 11:53 AM
To: Jamie Orchard
Subject: Re TTC
Importance: High

Hi Mr Orchard

My solicitor is seeking confirmation from Hon Mr Kerry Shine re the whistle blowers act with Ray Stevens.

The turf club has not responded to our request for a meeting re my dismissal as per the constitution and seven days to answer.

I see this as a breach of the clubs constitution.

Anthony Burke

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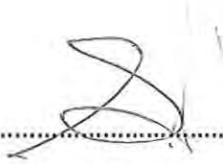
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Unless expressly attributed, the views expressed in this email do not necessarily represent the views of Racing Queensland Limited.

This is attachment marked "AB 33"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Tuesday, 8 March 2011 11:41 AM
To: bazlawyer@atlaw.net.au
Subject: Fw: Conduct Unbecoming of Toowoomba Turf Club Chairman and committee

Barry

This is the full account of what happened as I wrote it down straight after it happened while fresh in my mind this day.

Renee Whitchurch is Bob Bentley personal assistant, and Jaime Knight is integrity personal assistant to Mr Jamie Orchard

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 10/02/2011 3:54:29 PM
To: rwhitchurch@racingqueensland.com.au; Jaime Knight; rbentley@racingqueensland.com.au
Subject: Conduct Unbecoming of Toowoomba Turf Club Chairman and committee

Mr Bentley and Mr Orchard,
Dear Sirs,

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Weetwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

As I entered the door I saw Norm Pankhurst standing in the internal door opening of Aaron Clancy office. I was asked by a young guy sitting in the desk normally occupied by Tash if he could help. I said I was after Aaron to collect the boxes and read the minutes. I waved and said hi to Norm.

At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Gee, Jim Cosgrove, Norm Pankhurst and Aaron Clancy.

Bob said we are going up to the Weetwood Room for a meeting. We need to talk to you. I proceeded to tell him why I was here as above. He insisted in a bully and aggressive tone that I was to come upstairs. I said no and why I was here. At this stage Aaron and Alan were in the safe looking for my companies

items and said they were not there.

I could feel the aggression building in Bob's voice saying come upstairs we need to talk.

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As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

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I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11.32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

I have not proceeded at this stage with the complaint as I feel it may be an internal matter that Racing Queensland may need to look into.

The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

At this time and the feeling of stress that I am now feeling I do not know how I will be able to enter my role as part of the committee in March.

Please advise whether I should fully submit this in my police report or not submit it so Racing Queensland can handle it internally.

I have tried to phone Dr John Morgan, Mr Graham Healy and Mr Alan Volz to see if they were invited to this set up to attack me on mass, but John and Graham have not returned my call and Alan has his phone off.

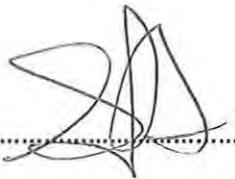
I await your response to this urgent matter.

Anthony Burke

This is attachment marked "AB 34"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

.....
Anthony John Burke

A handwritten signature in black ink, featuring a stylized 'B' and 'A' followed by a long horizontal stroke.

.....
Barry Edward Atkins, Solicitor Witness

AB 34

From: Anthony Burke
Date: 8/03/2011 11:03:34 AM
To: Sales
Subject: RE: FW: 11030 Burke re TTC

I do feel threatened and very anxious when I think of the situation and worry when I leave work or hear a car pull up at home in the night. I do not know if it will inflame the issue but I feel sick and it is affecting Sabine and myself in feeling safe.

Anthony

-----Original Message-----

From: Sales
Date: 8/03/2011 10:13:04 AM
To: 'Anthony Burke'
Subject: RE: FW: 11030 Burke re TTC

I'll think about that.

My initial concerns are:-

1. Do you still feel threatened and at risk?
2. Would the prospect of an Order inflame the issues and reduce the prospect of being able to work on the Committee?
3. We cannot threaten to make a Complaint to the Police as that is in itself a criminal act.

At the least you should expand on your 'notes' of the event.

I will obtain a detailed statement from you this week – maybe Thursday on all issues.

Barry Edward Atkins (B.A., LLB(Hons.))

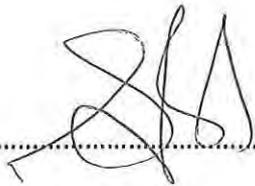
Solicitor & Attorney

@LAW

This is attachment marked "AB 35 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 35

From: Anthony Burke
Date: 10/03/2011 5:03:33 PM
To: bazlawyer@atlaw.net.au
Subject: Fw: Re: Confirmation that the complaint by RQ has been lodged with the CMC

-----Original Message-----

From: Shara Murray
Date: 10/03/2011 3:02:12 PM
To: Anthony Burke
Cc: Jamie Orchard; bazlawyer@atlaw.net.au
Subject: Re: Confirmation that the complaint by RQ has been lodged with the CMC

Dear Mr Burke
 I confirm that RQL referred this matter to the CMC on Tuesday, 8 March 2011.
 Regards
 Shara

Sent from my iPhone

On 10/03/2011, at 2:58 PM, "Anthony Burke"
 <ajsrburke@optusnet.com.au<<mailto:ajsrburke@optusnet.com.au>>> wrote:

Mr Orchard

My solicitor has asked if you can confirm the complaint has been lodged with the CMC.
 Can you please advise confirmation as per the email the other day that said it was being
 produced to them..

Thanks

Anthony Burke
 0423022880

<image.gif>

<stampa_girl_line_en.gif><<http://www.incredimail.com/?id=606430&rui=130572622&sd=20110310>>

*****E-Mail Disclaimer*****

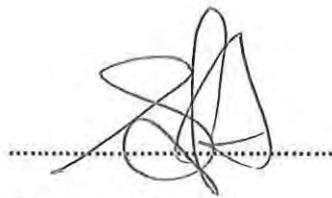
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If you have received this email by mistake, please inform the sender as soon as possible and delete the message and any copies of this message from your computer system network. The confidentiality, privacy or legal professional privilege attached to this email is not waived or destroyed by

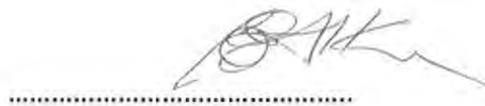
This is attachment marked "AB 36"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be "BAK" with a long horizontal stroke extending to the right, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Thursday, 10 March 2011 10:31 PM
To: bazlawyer@atlaw.net.au
Subject: Re: DRAFT letter only

Barry

I wrote to racing Queensland about the harassment/intimidation and attack as I did not know who else to turn to.

I sent the copy to the local sitting members, racing minister and opposition racing minister and LNP leader as I had not heard from Racing Queensland on the matter to get an answer or suitable advice as I mention at the bottom of the letter without prejudice.

I have been isolated and victimized by Mr Frappell and the members of the committee present that day. I did not know where to turn.

I did not file a report under the Peace and Goodwill Act as I did not want to harm the names of these people and suffer the stress of it. This may be my error that I was scared to do this for fear of personal reprisal. I wish I had the guts to have done it then.

I have not defamed anyone when all I have stated is the situation as it happened to me.

I also do not want to pay any cost to him as I cannot afford anything with business so bad.

If I did it would have to come out of my weekly salary of \$550 after tax where I have \$50 week left after home loans and basic electricity, food, and my sons university accommodation costs of \$400 a week. I would need a payment plan for this. I do not draw any more from our business for my wages. I am an income earner on payg.

As previously mentioned I will walk away from the club as a member, relinquish what is owed to the business as a separate entity in regards to our signs and passes and write a retraction without admission as you mentioned, and both parties pay their own costs.

This would be my preferred result as the stress I am feeling is not healthy.

Anthony Burke

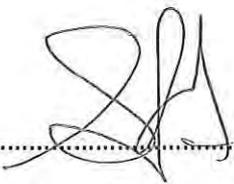
-----Original Message-----

From: Barry Atkins

This is attachment marked "AB 37 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

Barry Atkins

AB 37

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Friday, 11 March 2011 10:55 AM
To: bazlawyer@atlaw.net.au
Subject: Defamation claim

Hi Barry,

Just thinking out loud about this:

- I feel I am in the right based on the details you have sent thru
- I do not know about the so called blog
- I have only sent the details re this situation to racing Qld after the incident. The other details I have sent RQ are to do with them being the governing body to rule on my dismissal from the TTC in accordance with the rules of the club.
- With the issue now reported to the CMC by Racing Queensland, does that give us a stay of proceedings until the CMC make a detailed report into the release of the article from Ray Stevens to Bob Frappell?
- When do we send our complaint to the CMC? Or do we not have a case to do so?
- Do you think I am in the right and this can be won and damages awarded to us.

If so, as in being correct in our defense, will you act pro bono in the defense or are we best to engage a defense layer who will act pro bono if the case is strong so there costs are returned after winning?

David Grace has been mentioned as a person who may look at this if you feel it is strong.

Please let me know.

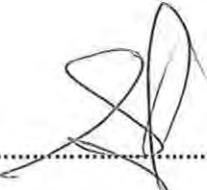
Anthony Burke

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This is attachment marked "AB 38 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

AB 38

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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16 March 2011

Our Ref: BA: _____

Anthony Burke
By email: *email address*

Dear Anthony,

Re: Conflict of Interest

In relation to the conflict of interest allegation against Hopgood Ganim, I have carefully re-read the Rules, particularly rule 30 which deals with the function and powers of the Committee.

1. We are yet to ascertain whether there is a "general retainer" of Hopgood Ganim by the Toowoomba Turf Club.

Based upon the function and powers of the Committee, as I expected, the Committee must (Rule 30.9) "delegate any of their powers to sub-committees" and this would have to be done for a sub-committee to be entitled to instruct their solicitors in relation to a dispute.

Alternatively, under Rule 30.10, "the Chairman, the Treasurer and one other member of the Committee shall constitute an Executive Committee which may issue instructions to the Secretary and servants of the club in matters of "urgency connected with the management of the affairs of the club during the interval between meetings of the committee".

Therefore, for Hopgood Ganim to be (absent a general retainer) properly instructed by the Toowoomba Turf Club, that sub-committee needs to have made the decision.

The decision can only be made "in matters of urgency".

If that sub-committee issued instructions then they "shall report their 1 (sic) the next meeting of the committee".

Please ascertain the dates of the committee meetings, particularly February and March, which is the period that you received communication from the Toowoomba Turf Club and I received communication from their alleged solicitors.

In general, as we discussed at our meeting over coffee last week, it is important that we do not "react" to the allegations made by the Toowoomba Turf Club because it now appears that those allegations were made:-

1. potentially devoid of actual authority; and
2. not in accordance with the Rules.

We must be entitled to ensure that the Toowoomba Turf club complies with its Rules, and this has been admitted and agreed to by their solicitors.

By accurately pointing the Toowoomba Turf Club to the Rules and requiring the Toowoomba Turf Club to fulfil its obligations and duties in accordance with the Rules, such a course will

1
have the best benefit to you of ensuring that any decision made about you is made in accordance with the Rules and having given you the right to participate in the debate.

Such a course of action would, in my opinion:-

1. be a lot easier to run as a court action should it come to that; and
2. more importantly, provide adequate evidence for an official complaint to Racing Queensland that the Toowoomba Turf Club has failed to comply with the Rules.

Rule 30.20 does allow the members of the committee to pass a resolution by what I would call a "fine minute" being a resolution in writing signed by all members of the committee.

Hopgood
Should you subsequently attend a meeting of the management committee and Frappell seeks to participate in a debate about you, then perhaps if we allow Hopgood Ganim to continue acting for Frappell and for Toowoomba Turf Club, then Frappell would be prohibited from voting under Rule 31 Meetings of Management Committee sub-Rule 5, as quite clearly Frappell "is interested in any contract or arrangement made ...with the Club". His solicitors acting for him personally will be in a contract.

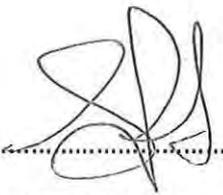
He will have been meant to disclose this to the committee before the arrangement or contract I first taken into consideration or he is to disclose his interest at the first meeting of the committee after he becomes so interested and "no member of the committee shall vote as a member of the committee in respect of any contract or arrangement in which he is interested and if he does so he is cote (sic) shall not be counted.

It may be a long bow to draw, but we would certainly raise it is an issue for consideration.

Yours faithfully *BA*
Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 39 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 39

From: Anthony Burke
Date: 17/03/2011 7:13:27 PM
To: bazlawyer@atlaw.net.au
Subject: doctor

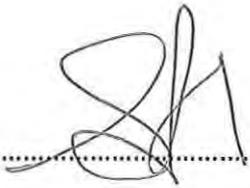
Hi Barry

I have attended my regular doctor today, Dr Steve Shorey due to the stress from the actions of the TTC. He has given me a referral to a practice on Herries Street and I have made an appointment for next Thursday after I attend Dr Shorey for a further full assessment. I have been prescribed medication to assist with my feelings from this matter initiated by the TTC directors and Secretary.

Anthony Burke

This is attachment marked "AB ⁴⁰ "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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AB 39/40

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

17 March 2011

Your Ref: 1102847 - Liz Cameron
Our Ref: BA: 11061

Hopgood Ganim Lawyers
P.O. Box 7822
WATERFRONT PLACE QLD 4001
BY FAX 3024 0041

URGENT

Dear Colleagues,

Re: Jewells of the Range - Sponsorship of Toowoomba Turf Club

We are instructed that:-

1. Our client's sponsorship agreement is for a financial year;
2. since the sponsorship agreement was initiated, and agreed to, our clients have complied by the provision of rings for both the Toowoomba and Weetwood Cups, winning jockeys and trainers, to a value of \$12,000.00 continually: the last rings were supplied in March 2010 as sponsorship agreed to with the Toowoomba Turf Club for the financial year 1 July 2010 to 30 June 2011.
3. Despite our client complying with its obligations under the sponsorship agreement, your client has failed to comply with its obligations.

Our client is currently compiling a list of damages, of which we will notify you.

Of immediate and greater concern, however, is the action taken by your clients to black out the two signs, constructed and sign-written by our client, which had been present on your client's premises around the racetrack.

The Weetwood Cup and the Toowoomba Club both run on Thursday 31 March 2011.

Your client must reinstate the signs at their expense within four days from the date of this letter in sufficient time for them to be properly prepared and present at the Weetwood Carnival day of racing.

Your client's failure to do so will sound in damages in favour of our client in any subsequent court action in relation to which we give you notice that our client will claim indemnity costs based on \$600.00 per hour plus GST for solicitors and \$6000.00 per day plus GST for Counsel.

We urge you to advise your client that on balance the signs must be reinstated or your client will be perceived, in relation to the other matters concerning my client and your client, to be acting maliciously and vindictively, let alone in breach of contract.

We look forward to immediate resolution of at least this aspect of the disputes between our clients within the time specified, failing which we will take further action without further notice to you.

Yours faithfully,

Barry Atkins



TOOWOOMBA TURF CLUB
Clifford Park Race Course

Hursley Rd Toowoomba Q 4350 PO Box 6037 Toowoomba West Q 4350
Phone (07) 4634 6066 Fax (07) 4633 1266

SPONSORSHIP AGREEMENT

PARTIES

Toowoomba Turf Club
Hursley Rd
TOOWOOMBA Q 4350

"The Club"

And

AJ & SR Burke
Jewels of the Range
17 Stanmore St
TOOWOOMBA Q 4350

"The Sponsors"

TERMS OF AGREEMENT

DATE AGREEMENT COMMENCES: February 2008

DATE AGREEMENT CEASES: Ongoing with a renewal date of twelve months from the above mentioned date. This agreement will cease only upon written notice being given by either party

SPONSORSHIP CONTRIBUTION:

- The Sponsor agrees to provide Four (4) 9carat gold rings and associated packaging (as per approved design) for use as Trainer and Jockey trophies to be presented to the winning Trainer and Jockey in the Westwood Handicap and Toowoomba Cup conducted during that year

SPONSORSHIP BENEFIT:

- In return for the provision of the above mentioned the Club will make available to the Sponsor signage space at the Club's winning post and 400m mark for advertising of the Sponsors business
- 1 Membership pass and 10 Guest passes for use every race day of the year
- Naming rights to 5 races during the year
- Advertising space in race book on nights/s of nominated races/s
- The Club agrees not to acquire any other Sponsors during the period of this agreement that might represent a direct conflict with The Sponsors without gaining prior permission in writing.

Signed, Toowoomba Turf Club

Date

.....
Secretary

Witnessed by
.....

Signed.

Date

.....
AJ Burke

.....

Witnessed by

.....

Signed.

Date

.....
SR Burke

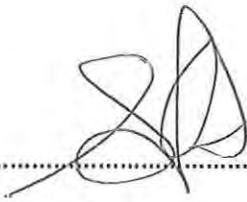
.....

Witnessed by

.....

This is attachment marked "AB 41 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left. The signature is positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected, somewhat scribbled letters. The signature is positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Friday, 18 March 2011 1:12 PM
To: bazlawyer@atlaw.net.au
Subject: Fw: RE: Jewels of the Range

Barry

You will see the denial to give us notice in writing from Aaron re our current arrangement after my questions re possibly sitting down to continue in another format. This shows that an agenda was in motion from the reply and subsequent letter to terminate my membership.

-----Original Message-----

From: Aaron Clancy
Date: 1/02/2011 4:41:40 PM
To: Anthony Burke
Subject: RE: Jewels of the Range

Hello Anthony,

To be honest Anthony, you proceeded to put an email with my name attached to it on a website. Therefore all detailed communication to yourself will be via face to face or over the phone. Yesterday during our phone conversation I answered many of your questions and more than happy to talk with you regarding ones you feel were unanswered.

Just to reiterate from our phone conversation, all current sponsorship agreements in place with the Toowoomba Turf Club, will not be renewed in their current form.

I believe our new Sponsorship Offering will provide Jewels of the Range with the value that you are seeking.

If you would like a meeting to discuss our new proposal please give me a buzz..

Regards, Aaron

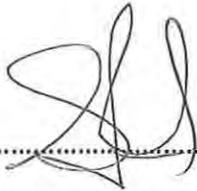
Aaron Clancy

Chief of Management

This is attachment marked "AB 42"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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AB42
Spencer

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 21 March 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11061
Your Ref: Liz Cameron - 1102847
Property: JEWELS OF THE RANGE - SPONSORSHIP OF TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Colleagues,

Please advise if you have instructions to deal with all matters directly and consequentially in dispute between our client and the Toowoomba Turf Club? If so then we raise a new issue.

Our clients 2010 Sponsorship Agreement was not complied with by your client in that the sign near the finishing post was not re-erected, before last year's Weetwood day following the installation of the cushion track.

Consequentially, independent of the dispute about the 2011 Sponsorship Agreement the sign must be erected in time for this year's Weetwood – next Thursday 31/3/11 – regardless of your client's attitude to the current Sponsorship Agreement.

In relation to the current Sponsorship Agreement you have advised that it 'expired' in February 2011. Our client has already prepared the rings to be used for a mould and is ready willing and able to comply with their obligations under the current Sponsorship for Weetwood on 31/3/11 but will need confirmation today your client will allow him to supply the rings, to enable the final rubber mould and gold casting to be done before 31/3/11. Please advise if your client agrees.

Please advise, in relation to all matters in dispute, if you have instructions to accept Service of any Court documents required to be served on your client, and if you give an undertaking to enter an appearance according to the exigencies thereof.

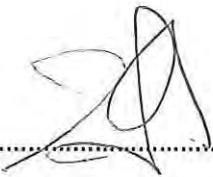
Br

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 43 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....
Anthony John Burke



.....
Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

AB 43

FACSIMILE TRANSMISSION

Date: 21 March 2011
To: Racing Queensland
Facsimile: 07 3269 8268
Your Ref: Mr A. J. Orchard
Our Ref: BA:11059
Re: Anthony Burke - Committee Member of Toowoomba Turf Club

Total number of pages: 1 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr Orchard,

I confirm our telephone discussion this morning as:-

1. I am the solicitor for Mr Anthony Burke;
2. My client has instructed me to raise the following issues with you;
3. Mr Burke was elected as a member of the committee of the Toowoomba Turf Club (TTC);
4. Mr Burke has had difficulty accessing copies of the minutes and is embroiled in a number of disputes with TTC;
5. Last Thursday, apparently, TTC committee met and rejected (according to the local paper – “unanimously”) a proposition put to the TTC by Racing Queensland (RQ);
6. Although our client is a committee member, he did not receive notice of the meeting held last Thursday;
7. As you are aware, some of the disputes between my client and TTC revolve around questions of membership in relation to which you have written to TTC requesting that TTC comply with the Rules specifically Rule 12 relating to cessation (sic) of membership;
8. It is my professional opinion that my client’s company Jewells of the Range is a corporate member of TTC;
9. There has been a dispute over whether my client remained the “nominee” of the corporate member or whether under Rule 8c.8 which reads “that person shall be removed from the committee should a nominee so elected cease to be the nominee for whatever reason”;

10. Even if my client is liable to be removed from the committee under Rule 8c.8, Rule 36 requires at sub-Rule e, that he may only be removed "if he is removed by an Ordinary Resolution of a General Meeting or a Special Meeting convened to deal with such resolution". No such resolution has been passed, nor has there been a General Meeting or Special Meeting convened to deal with such a resolution.
11. Our client wishes to apply to the Court for a Declaration that he is still a committee member.
12. Our client wants RQ to join with him as an applicant;
13. My client contemplates that RQ will pursue an application seeking a Declaration consequent upon our client being successful in obtaining a Declaration that he is still a committee member, that the failure to give notice to our client of the committee meeting and the subsequent holding of the meeting without all committee members being notified, means that the meeting itself was invalid, and that the decisions reached at that meeting are also invalid.
14. Whether such declarations would give cause to RQ to consider its position in relation to TTC is a matter for you.
15. Our client asks that you indemnify him against any Costs Order made by the relevant Court or Tribunal in favour of TTC, should our client be unsuccessful in seeking the Declaration.
16. Our client would remain liable for our costs based on an agreement between our client and ourselves.
17. We ask you to give serious consideration to this proposal and to discuss it further wish us if you need.

Yours faithfully



Barry Atkins
Solicitor & Attorney

HP LaserJet 3390

Fax Call Report



01 Ab
0748329529
21 Mar 2011 16:39

Job	Date	Time	Type	Identification	Duration	Pages	Result
23/58	21/ 3/2011	16:38:21	Snd	32698268	0:41	2	OK

1. I am the solicitor for Mr Anthony Burke;
I confirm per telephone discussion this morning re:
2. My client has requested me to raise the following issues with you:
3. Mr Burke was elected as a member of the committee of the (TTC) Turf Club (TTC).
4. Mr Burke has he / officially accessing copies of the minutes and is entitled to be a member of dispute with TTC;
5. Last Thursday, apparently, TTC committee met and rejected (according to the local paper - "unanimously") a proposition put to the TTC by Racing Queensland (RQ);
6. Although our client is a committee member, he did not receive notice of the meeting held last Thursday;
7. As you are aware, some of the disputes between my client and TTC revolve around questions of membership in relation to which you have written to TTC requesting that TTC comply with the Rules specifically Rule 12 relating to cessation (sic) of membership;
8. It is my professional opinion that my client's company details of the Range is a corporate member of TTC;
9. There has been a dispute over whether my client remained the "owner" of the corporate member, or whether under Rule 8c 8 which reads "the person shall be removed from the committee should a nominee so elected cease to be the nominee for whatever reason".

Dear Mr Orchard,

MESSAGE

Total number of pages: 1 including cover sheet
If you do not receive all pages, please telephone 07 4609 3033 (option key 07 4652 9373)

Date: 21 March 2011
To: Racing Queensland
Facsimile: 07 3269 5245
Your Ref: Mr A. Orchard
Our Ref: BA:1058
Re: Anthony Burke - Committee Member of Turf Club

FACSIMILE TRANSMISSION

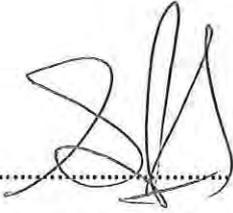
Perkins
Barristers & Solicitors
123 Margaret Street
PO Box 904
COOMBOONA QLD 4300
Tel: 07 4619 3033
Fax: 07 4633 9525
E-mail: info@perkins.com.au

PERKINS
@LAW

This is attachment marked "AB ^{44P} "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a vertical stroke, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal tail, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 44



21 March 2011

Mr Barry Atkins
Solicitor & Attorney
By facsimile: 4632 9529

Our Ref: 1102487 - Liz Cameron

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Dear Colleague

“Jewels of the Range” Sponsorship Agreement

We refer to your facsimile transmission dated 17 March 2011 which we received on 18 March 2011.

We also refer to your facsimile transmitted at 10.49am today.

For convenience, we will respond to both facsimiles together, given that they both relate to the issue concerning the Sponsorship Agreement.

In your facsimile of 17 March 2011, you assert that the Sponsorship Agreement between our respective clients (**Sponsorship Agreement**) is “for a financial year” and remains in force.

With respect, this is incorrect.

The Sponsorship Agreement states that it “commences in February 2010”. It is for a 12 month term with the parties having the ability to mutually renew “12 months from the abovementioned date” of February 2010. The Sponsorship Agreement ceases “upon written notice being given by either party”.

On 1 February 2011, our client’s Mr Clancy sent your client an email which stated, inter alia, “all current sponsorship agreements in place with the Toowoomba Turf Club will not be renewed in their current form”. On 2 February 2011, your client issued a media release entitled “*Toowoomba Turf Club not interested in marriage with sponsor – so no rings will be exchanged*” (**Media Release**). In that Media Release, your client:

1. Acknowledged that he had just been informed by our client “that it doesn’t want their sponsorship” with Jewels of the Range “renewed in its present format”;
2. Quoted Mr Clancy’s email transmission of 1 February 2011 referred to above; and
3. Stated that “Jewels of the Range has withdrawn their sponsorship to the Toowoomba Turf Club...”.

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

21 March 2011



In these circumstances, the Sponsorship Agreement is clearly at an end, and your client's arguments to the contrary are without factual or legal foundation.

Given the expiration of the Sponsorship Agreement, our client has no contractual or other obligation to reinstate or display your client's signage at the race track, and will not be doing so.

Turning now to your facsimile transmitted at 10.49am today, we understand you to be asserting that, because our client allegedly failed to display or re-erect your client's signage near the finishing post before last year's Weetwood Race Day, it is obliged to do so for this year's Weetwood Day, irrespective of its attitude towards the 2010 Sponsorship Agreement.

With respect, that seems to us to be a somewhat novel legal proposition. We would have thought that any failure by a party to perform its obligations under a contract for a fixed term exposes that party to liability to a claim under that contract, not an obligation to do something outside the term of that contract.

Finally, in case it is not clear from the foregoing, our client does not require your client to supply the rings, and nor is your client under any obligation to do so. Our client cannot be held responsible for any pre-emptive steps taken by your client to prepare the rings without first enquiring of our client whether the Sponsorship Agreement was going to be renewed.

We have instructions to accept service on behalf of the TTC of any court proceedings instituted by your client.

Yours faithfully

HopgoodGanim Lawyers

Contact: **Liz Cameron**
Associate
T 07 3024 0341
F 07 3024 0041
E l.cameron@hopgoodganim.com.au

Partner responsible: **Nicole Radice**

This is attachment marked "AB¹⁴⁵ "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB 45

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 22 March 2011
To: Payne Hall Lawyers
Facsimile: 3229 9482 Attn Mr J Payne
Our Ref: BA:11048
Re: Anthony Burke Alleged Defamation of B Frappell
Total number of pages: 14 including cover sheet
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

I refer to the telephone conversation between Mr Payne and Mr Atkins today.

I confirm:-

1. We act for Mr a Burke;
2. Please give us your Opinion on the alleged Defamation including prospects of successfully defending any action under the Defamation Act 2005 or the Whistle Blowers (Protection) Act;
3. We undertake to pay your reasonable fees which you have estimated to be under \$500.00.

We enclose:-

1. Copy Letter Hopgood Ganim to A Burke dated 28/2/11;
2. Enclosures being the email and letter complained about;
3. Email from Burke to us;
4. Copy Letter Hopgood Ganim to us dated 09/03/11;
5. Copy email confirming Racing Qld have referred the sending of the email by Ray Stevens to B Frappell to the CMC;
6. Copy letter from us to Hopgood Ganim dated 15/3/11;
7. Copy reply from Hopgood Ganim dated 15/3/11

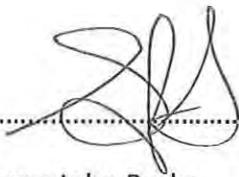
Thank you for your assistance. Please advise if you require anything further.

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 46"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 46

22/3/11

701 J. Orchard

→ RPL won't join
in proceedings.
b/c matter b/t
A.B & TTC

Compliance = Rules

↳ RPL not take resp.
for e/ non compl.

In some cases approp for them 2 b
involved

Complaint?

answer etc mem.

Formal
Processes
& Rules

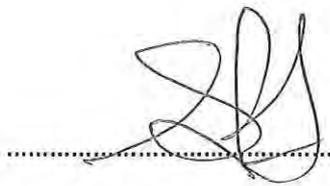
Not uncommon matter 2
b/c of act rules.

Not in approp for me
2 list.

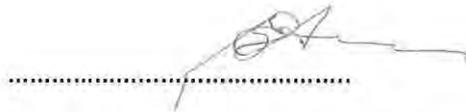
offences/actions → disciplinary
p.o.v.

This is attachment marked "AB 47 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 47

From: Anthony Burke
Date: 24/03/2011 5:12:40 PM
To: rbentley@racingqueensland.com.au;
rwhitchurch@racingqueensland.com.au;
jorchard@racingqueensland.com.au; Jaime Knight
Cc: Shara Murray
Subject: letter to committee members march 2011

Racing Queensland

Please find a letter I will be forwarding to the members of the TTC committee as I seek to gain my natural justice as an elected member of the club that has been denied me by constant ignorance of the Rules of the Toowoomba Turf club.

I seek your assistance in bringing to account these issues and I will also be speaking to Mr Mike Kelly from the Minister's Office tomorrow.

Thanking you

Anthony Burke
04230228800

.....
To Dr John Morgan, Mr John Scott, Mr Graham Healy, Mr Norm Pankhurst, Mr Alan Volz,
Mr Allan Gee, Mr Jim Cosgrove, Mr Peter Turnbull

Dear Dr John Morgan

I am writing personally to you to ask for your help in resolving an impasse between the Club and me.

I hope you can help save me and the Club hundreds of thousands of dollars in legal costs.

I was duly elected a member of the Committee at the AGM last year.

The Committee confirmed my individual membership and a change of nominee for my business "Jewels of the Range" at the committee meeting on 21 August 2010, confirmed on 25 September 2010.

Under Standing Order 16 that "subject" cannot be "reopened", unless there is a notice of motion at another meeting, amended or rescinded by another vote numerically more than the number of votes, which confirmed my individual membership. There has been no subsequent resolution of the committee and I am therefore I am an individual member of the Club.

Under Rule 36. I can only be removed from my office as a committee member by an ordinary resolution at a special or general meeting convened to deal with such a resolution.

My legal adviser has told me that as these rules and standing orders govern the operation of the club I will be successful in obtaining an urgent interim injunction in my favour.

I believe I would be successful, because the rules and standing orders control the club and that Club must comply with the rules. These rules are 100% proof that I remain a committee member.

The combined cost to both the Club and me of such an application to the Court would be over \$100,000. The subsequent, full court hearing will no doubt have a combined cost of even greater than that. We are looking at over a quarter of million dollars in total legal costs.

To avoid these enormous costs, I simply ask you to ensure that my name is listed as a committee member in the race day program for next Thursday's Weetwood.

I believe that the Club has not complied with its obligations under the Rules.

My business is an ongoing sponsor of the club. The sponsorship agreement has not been terminated By a Decision of the Committee.

.....

March 24, 2011

Page 2

The two signs either side of the winning post have been removed, and my other sign at the end of the straight has been blacked out.

To prevent any court action, I simply ask that the two signs be re - erected, and that the sign at the end of the straight be replaced, before next Thursday.

If my signs are not replaced and/ or I am not named as a Committee Member in the race day programme I will have no alternative other than to sue the Club seeking Orders of the Court in my favour for damages and costs. I do not really want to do that as that will generate more friction and conflict in the Club, but if I have to I will.

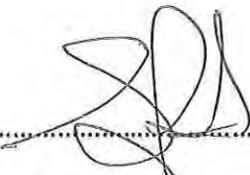
I wanted to give you, individually the opportunity to give serious consideration to the very real issue that the Club must comply with its Rules and the consequences if the Club continues to fail to obey the Rules.

Frankly, I do not understand why I am being treated the way I have been. If any member of the committee has any issue to raise with me, I am open to sitting down and discussing any issue in a proper manner to work through the issue.

Anthony Burke
Elected Committee Member Toowoomba Turf Club
0423022880

This is attachment marked "AB 48"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected loops and a long horizontal stroke.

.....

Barry Edward Atkins, Solicitor Witness

AB48

Barr as

From: Sales [sales@atlaw.net.au]
Sent: Thursday, 24 March 2011 4:33 PM
To: 'Anthony Burke'
Subject: RE: FW: Burke -Jewels of the Range

OK to call him;

Maybe give him a copy of the draft letter that you intend sending to the members of the Committee

Barry Edward Atkins (B.A., LLB(Hons.))
Solicitor & Attorney
@LAW
Tel: 07 4639 3038
Fax: 07 4632 9529
Email: bazlawyer@atlaw.net.au
Web: www.atlaw.net.au

Park View Chambers
123 Margaret Street
(P.O. Box 605)
Toowoomba Qld 4350

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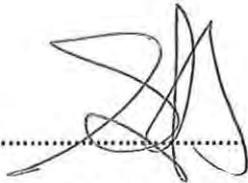
From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Thursday, 24 March 2011 4:13 PM
To: Sales
Subject: RE: FW: Burke -Jewels of the Range
Importance: High

20/3/11

no m. Kelly
may be 2 treat
confidential

This is attachment marked "AB 4-0 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end.

.....
Anthony John Burke

A handwritten signature in black ink, consisting of the letters 'BA' followed by a long horizontal stroke.

.....
Barry Edward Atkins, Solicitor Witness

TRANSACTION REPORT

FRI/25/MAR/2011 05:06 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	25/MAR	05:05PM	30240041	0:00:37	3	MEMORY OK	SG3 9712

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 25 March 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11048
Your Ref: 1102913 - Brett Bolton
Re: Anthony Burke letter to B Frappell

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We enclose copy letter from our client to your client about the TTC Committee.

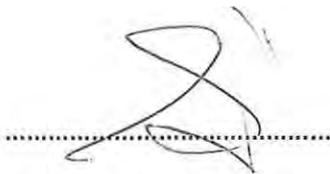
This letter, as shown, has been sent directly to all Committee Members from Mr A Burke, Committee Member TTC.

Barry Atkins 
Solicitor & Attorney

This is attachment marked "AB 50 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by 'J B', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, consisting of the initials 'BA' followed by a long horizontal stroke, written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 50

To Dr John Morgan, Mr John Scott, Mr Graham Healy, Mr Norm Pankhurst, Mr Alan Volz,
Mr Allan Gee, Mr Jim Cosgrove, Mr Peter Turnbull

Dear Dr John Morgan

I am writing personally to you to ask for your help in resolving an impasse between the Club and me.

I hope you can help save me and the Club hundreds of thousands of dollars in legal costs.

I was duly elected a member of the Committee at the AGM last year.

The Committee confirmed my individual membership and a change of nominee for my business "Jewels of the Range" at the committee meeting on 21 August 2010, confirmed on 25 September 2010.

Under Standing Order 16 that "subject" cannot be "reopened", unless there is a notice of motion at another meeting, amended or rescinded by another vote numerically more than the number of votes, which confirmed my individual membership. There has been no subsequent resolution of the committee and I am therefore I am an individual member of the Club.

Under Rule 36. I can only be removed from my office as a committee member by an ordinary resolution at a special or general meeting convened to deal with such a resolution.

My legal adviser has told me that as these rules and standing orders govern the operation of the club I will be successful in obtaining an urgent interim injunction in my favour.

I believe I would be successful, because the rules and standing orders control the club and that Club must comply with the rules. These rules are 100% proof that I remain a committee member.

The combined cost to both the Club and me of such an application to the Court would be over \$100,000. The subsequent, full court hearing will no doubt have a combined cost of even greater than that. We are looking at over a quarter of million dollars in total legal costs.

To avoid these enormous costs, I simply ask you to ensure that my name is listed as a committee member in the race day program for next Thursday's Weetwood.

I believe that the Club has not complied with its obligations under the Rules.

My business is an ongoing sponsor of the club. The sponsorship agreement has not been terminated By a Decision of the Committee.

.....

March 25, 2011

Page 2

The two signs either side of the winning post have been removed, and my other sign at the end of the straight has been blacked out.

To prevent any court action, I simply ask that the two signs be re - erected, and that the sign at the end of the straight be replaced, before next Thursday.

If my signs are not replaced and/ or I am not named as a Committee Member in the race day programme I will have no alternative other than to sue the Club seeking Orders of the Court in my favour for damages and costs. I do not really want to do that as that will generate more friction and conflict in the Club, but if I have to I will.

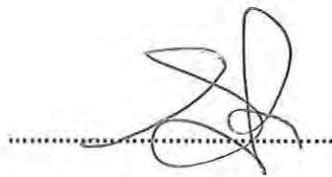
I wanted to give you, individually the opportunity to give serious consideration to the very real issue that the Club must comply with its Rules and the consequences if the Club continues to fail to obey the Rules.

Frankly, I do not understand why I am being treated the way I have been. If any member of the committee has any issue to raise with me, I am open to sitting down and discussing any issue in a proper manner to work through the issue.

Anthony Burke
Elected Committee Member Toowoomba Turf Club
0423022880

This is attachment marked "AB 51 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the left, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 51

Barry Atkins

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Tuesday, 29 March 2011 5:42 PM
To: johnscott@mansell.com.au; peterturnbull4@bigpond.com;
badenvally@harboursat.com.au; reception@jnmorganmedical.com; A; Graham Healy;
allan_gee@bigpond.com
Subject: Confidential and private TTC matters
Attachments: Alexander v Toowoomba Hockey Association.PDF

Dear Sirs

I am disappointed that only one of your fellow committee members responded to my e-mail ;

These are important issues , which will not go away because they directly relate to the proper governance of the club by the committee;

I am a committee member under our rules.

I have enclose a copy of a court decision involving the Toowoomba Hockey Association , who like TTC, failed to follow its rules;

That the Courier mail report of that court decision, said the costs order against the Toowoomba Hockey Association was \$50,000;

I previously stated in my e-mail to all fellow committee members, that I am genuinely trying to prevent the club being forced to pay enormous legal costs;

That like the member in that court case, I have been denied Natural Justice as I have never had the opportunity to answer any allegations made against me, and the details of which have not been provided to me.

I have stated many times now thru my solicitor that I am willing to meet with the committee, to try and resolve the issues, provided my legal representative is present

I was not given notice of the recent committee meeting that was held, at which a decision to reject RQ's offer was made.

I am greatly concerned that because the meeting was invalidly held, that the decision may be invalid.

At the next committee meeting I intend to move a motion to seek independent legal advice about the invalidity or otherwise of the meeting and the decision to reject RQ's offer.

I can be contacted on 0423022880

Anthony Burke

Toowoomba Turf Club

Elected Committee Member 2010-2012

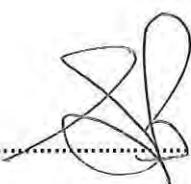


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This is attachment marked "AB 52"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 29 March 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11059
Your Ref: 1102847 - Liz Cameron
Re: Anthony Burke COMMITTEE MEMBER OF TOOWOOMBA TURF CLUB
TTC

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your most recent facsimile.

The letters written to you, on instructions from my client, are not meant to be debating issues.

Those letters are evidence that our client has consistently alerted your client to the real issues, and requested the TTC comply with its Rules. You have merely asserted that TTC have complied with its Rules, but given us no evidence of those assertions. If you have any tangible evidence then give it to us.

Your client has failed to respond in any meaningful way to refute our clients' allegation that your client has failed to comply with a large number of Rules directly relevant to all of the issues.

We do not accept that you have asked our client for a statement. We again offer to meet with your client to try and resolve the issues.

In addition to your client's failure to comply with its Rules, your client at has also denied my client Natural Justice, and we reserve our clients rights to take appropriate action in the future . Our client also claims your client has acted ultra viries.

We again confirmed that our client seeks indemnity from your client for all costs associated with the matters in dispute in accordance with the Rules.

We enclose a copy of a court decision directly on point involving Toowoomba Hockey Association who failed to afford their member Natural Justice and acted ultra viries their Constitution and Rules.

I believe an Order was made for costs -`on the usual basis` but the quantum has not yet been agreed. The Courier Mail report estimated costs of \$50,000.

Barry Atkins 
Solicitor & Attorney

TRANSACTION REPORT

TUE/29/MAR/2011 02:43 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	29/MAR	02:41PM	30240041	0:01:47	9	MEMORY OK	SG3 9843

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 29 March 2011
 To: Hopgood Ganim Lawyers
 Fax No: 07 3024 0041
 Our Ref: BA:11059
 Your Ref: 1102847 - Liz Cameron
 Re: Anthony Burke COMMITTEE MEMBER OF TOOWOOMBA TURF CLUB
 TTC

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

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We do not accept that you have asked our client for a statement. We again offer to meet with your client to try and resolve the issues.

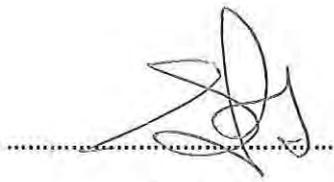
In addition to your client's failure to comply with its Rules, your client at has also denied my client Natural Justice, and we reserve our clients rights to take appropriate action in the future. Our client also claims your client has acted ultra vires.

We again confirmed that our client seeks indemnity from your client for all costs associated with the matters in dispute in accordance with the Rules.

We enclose a copy of a court decision directly on point involving Toowoomba Hockey Association who failed to afford their member Natural Justice and acted ultra vires their Constitution and Rules.

This is attachment marked "AB 53 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected, somewhat fluid letters, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB 53

IMPORTANT NOTICE - LEGAL PRIVILEGE

This communication is intended only for the use of the addressee and may contain legally privileged and confidential information. If you are not the addressee, you are notified that any transmission, distribution or replication of this message or its attachments is strictly prohibited. The legal privilege and confidentiality attached to this e-mail is not waived, lost or destroyed by reason of a mistaken delivery to you. If you have received this email in error, we would appreciate immediate notification by telephone and ask that the message be permanently deleted from your system.

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Tuesday, 5 April 2011 3:42 PM
To: bazlawyer@atlaw.net.au
Subject: Racing Queensland Rules

5/4
Review
Rules
12m

Rules

As requested

Is there anything in particular you would like me to look for to save you time on rules or act.

Anthony



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Nothing I can find in racing Queensland rules but in /Act I have the following statements that possibly relate to TTC ignoring requests of RQ in the letter to them re my membership. Jamie Orchard today (off the record) in a phone call offered to give me advice on where to find info I needed.
So maybe when we win the court ruling we can advise RQ of the decision and the ignoring of advice from the TTC in correspondence sent to them?

- Main purposes of Act and how they generally are Achieved

1. B) To ensure the integrity of all persons involved with
Racing or betting under this Act;
2. C) the performance by each control body of its function
Under this Act of managing its code of racing
- 3.

Chapter 3 Control bodies managing

Their codes of racing

Part 1 Introduction

78 Purposes of ch 3

- (1) The main purposes of this chapter are to provide for—
- (a) the way each control body may perform its function of
Managing its code of racing when it becomes
Responsible for managing the code; and
 - (b) particular provisions applying to licensed clubs.
- (2) Generally, the control body performs its function by—
- (a) making policies about the management of its code of
Racing, especially about its licensing scheme for
Controlling activities relating to the animals, clubs
Participants and venues and about the way in which
Races are to be held for its code of racing; and



(b) making rules of racing; and
(c) giving directions to licensed clubs and ensuring
Compliance by taking disciplinary action relating to the
Licence of a club that does not comply with a direction.

(3) A control body's policies ensure there is guidance for persons
Involved in the code of racing and transparent
Decision-making relating to matters dealt with by the policies.

(4) This chapter also provides for offences relevant to matters
Dealt with in the chapter.

Part 4 Control bodies may take

Certain action against licensed

Clubs

101 Grounds for suspension or cancellation

(1) Each of the following is a ground for suspending or cancelling
A licensed club's licence—

(a) the club is not complying, or has not complied, with a

Control body direction given to the club;

(b) a ground that another provision of this Act states is a
Ground for suspending or cancelling a licensed club's
Licence;

(3) Subsection (1) does not limit the grounds that, under the
Control body's rules of racing about disciplinary action, may
Be grounds for taking disciplinary action relating to a licensed
club's licence.

106 Direction to licensed club to rectify matter

(1) This section applies if, after considering the accepted Representations for a show cause notice, the control body—

(a) still believes a ground exists to suspend or cancel the Licensed club's licence; and

(b) believes a matter relating to the ground to suspend or Cancel the licence is capable of being rectified and it is Appropriate to give the club an opportunity to rectify the Matter.

(2) The control body may direct the club to rectify the matter.

(3) The direction can be effected only by the control body giving The club an information notice about the control body's Decision to give the direction to it, including the period for Rectifying the matter.

(4) The period stated in the information notice must be reasonable Having regard to the nature of the matter to be rectified.

(5) A licensed club must comply with a direction under this Section within the period for rectifying the matter stated in the Information notice, unless it has a reasonable excuse.

Maximum penalty—400 penalty units.

(6) The licensed club can not be prosecuted, or have its licence Suspended or cancelled, for the ground giving rise to the Information notice unless the club—

(a) fails to comply with the notice within the period stated In the notice as the period for rectifying the matter; and

(b) does not have a reasonable excuse for failing to comply With the notice.

(7) A control body's power to give a direction to a licensed club

Under another provision of this Act is not limited by the

Control body's power to give a direction under this section.

-----Original Message-----

From: Barry Atkins

Date: 5/04/2011 4:11:15 PM

To: 'Anthony Burke'

Subject: RE: Racing Queensland Rules

The "Committee of the Club is in the definitions as being, in our case – TTC.

Any rule that deals with 'the committee of the club' will be relevant to your case.

Barry Edward Atkins (B.A., LLB(Hons.))

Solicitor & Attorney

@LAW

Tel: 07 4639 3038

Fax: 07 4632 9529

Email: bazlawyer@atlaw.net.au

Web: www.atlaw.net.au

Park View Chambers

123 Margaret Street

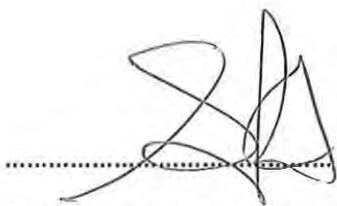
(P.O. Box 605)

Toowoomba Qld 4350

This is attachment marked "AB 54"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be the initials 'BA' followed by a horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB54

Barry Atkins

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Thursday, 7 April 2011 4:24 PM
To: bazlawyer@atlaw.net.au
Subject: feelings from ttc decisions and act
Attachments: feelings from ttc decisions and act.pdf

My thoughts as I feel at this point in time

Anthony Burke



FREE Animations for your email - by IncrediMail!

Click Here!

Anthony Burke

1. The impact of the act initiated by the Toowoomba Turf Club to kick me off the committee and as a member without natural justice and following the rules of the club has had various heartfelt feelings that vary from betrayal of fellow committee members and the personal feelings with family of stress and embarrassment and lack of self worth. I have had to seek medical help from my local doctor who has prescribed medication and also referred me to a psychologist who I now see weekly to help me cope.
2. I felt the worse feelings of depression when I received a text from my 21 yr old daughter Kirsten who is an Advanced Care Paramedic with Queensland Ambulance. Kirsten was excited that she could come to Weetwood with me in the committee room as my son and wife had the previous years but she has not been able to as she was based in Townsville. This year she is living in Brisbane and commutes to Murgon and organised holidays to join me. I could not answer her text as I did not know how to explain or give answers to what had happened. My wife had to call and explain. She still came home and we watched DVD's on the day instead of mixing with fellow sponsors, dignitaries, fellow members and customers who attended the Weetwood Day on March 31 2011.
3. On the evening of the Weetwood I received a phone call from my parents in Brisbane who I had not been able to tell about what had happened. This night I told them what I could. They have visited me and offered support.
4. On a daily basis leading up to this day I had customers in my store asking what I liked at the races, if I was going and just had to say I was busy and not attending which wrenched at my gut. Emails from friends in Brisbane and messages from people on face book asking the same questions over and over is stress I have never felt.
5. My business signage on the TTC course was removed and another painted over in black and where impossible to explain to customers, jockeys and trainers who are customers of mine.
6. The worse of all is the feelings that I see my wife experiences as she struggles to cope with seeing me as I am now and not as my normal self, the financial stress on legal expenses when we are under financial stress from the retail downturn in Toowoomba placed on us by the floods, trying to explain to our staff what is going on as I am unable to. The fact that I have asked for financial help from family and friends destroys her-self worth and the way they (the TTC) have set out to destroy our personal names and business names in the community where we have given so much at all times for so many organisations.
7. I have only just told my 19 yr old son Matthias on Sunday April 3 2011 what has happened as my wife had told him a brief overview. My brother in-law, father in-law

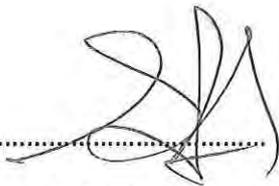
and many other family and friends support me and like me do not understand why this has happened. It embarrasses me that I have not told my sister, my brother and my Grandparents.

8. I could never do what has happened to me to anyone else.
9. I now understand why people commit suicide.

This is attachment marked "AB⁵⁵"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

AB55

FACSIMILE TRANSMISSION

Date: 13 April 2011
To: Racing Qld
Fax No: 3269 6404
Our Ref: BA:11030
Your Ref: Mr A J Orchard
Re: Anthony Burke and TOOWOOMBA TURF CLUB ["TTC"]

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Jamie,

I enclose a copy of the originating Application filed on behalf of Mr A Burke seeking Declarations and Orders against the TTC.

The Hearing is set down for next Wednesday 20/4/11 in Brisbane.

Please urgently give me the letter from you enclosing a copy of the Notification by TTC to RQ of the Committee Members elected last AGM in September 2010.

In that letter please advise if TTC have notified RQ , since 15/2/11, that A Burke is no longer a Committee Member.

We believe that this evidence from RQ will be proof absolute that Anthony remains a Committee Member of TTC.

Incidentally, in relation to your letter to my client which set out the contents of your letter to TTC, at page 2 regarding Rule 18 – the allegation by TTC that Anthony was not a duly elected Committee Member as he failed to have a nomination form signed – is a completely baseless assertion as Rule 18.6 specifies that a “retiring committee member [which Anthony was] entitles Anthony to “be eligible for re-election without nomination”.


Barry Atkins
Solicitor & Attorney

TRANSACTION REPORT

WED/13/APR/2011 10:26 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	13/APR	10:25AM	32696404	0:00:31	3	MEMORY OK	SG3 0485

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 13 April 2011
To: Racing Qld
Fax No: 3269 6404
Our Ref: BA:11030
Your Ref: Mr A J Orchard
Re: Anthony Burke and TOOWOOMBA TURF CLUB ["TTC"]

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Jamie,

I enclose a copy of the originating Application filed on behalf of Mr A Burke seeking Declarations and Orders against the TTC.

The Hearing is set down for next Wednesday 20/4/11 in Brisbane.

Please urgently give me the letter from you enclosing a copy of the Notification by TTC to RQ of the Committee Members elected last AGM in September 2010.

In that letter please advise if TTC have notified RQ, since 15/2/11, that A Burke is no longer a Committee Member.

We believe that this evidence from RQ will be proof absolute that Anthony remains a Committee Member of TTC.

Incidentally, in relation to your letter to my client which set out the contents of your letter to TTC, at page 2 regarding Rule 18 – the allegation by TTC that Anthony was not a duly elected Committee Member as he failed to have a nomination form signed – is a completely baseless assertion as Rule 18.6 specifies that a “retiring committee member [which Anthony was] entitles Anthony to “be eligible for re-election without nomination”.


Barry Atkins
Solicitor & Attorney

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

ORIGINATING APPLICATION

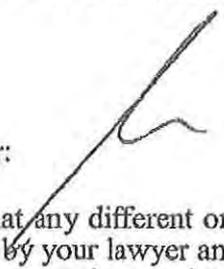
To the Respondent:

TAKE NOTICE that the Applicant is applying to the Court for the following orders:

1. A declaration that the Applicant is a Member of the Respondent.
2. A declaration that the Applicant is a Committee Member of the Respondent.
3. Such further or other order as the Court considers appropriate; and
4. The Respondent pay the Applicant's costs of the application.

This application will be heard by the Court at Brisbane at 10 am on 20 April 2011.

Filed in the Brisbane Registry on 11 April 2011.

Registrar: 

If you wish to oppose this application or to argue that any different order should be made, you must appear before the Court in person or by your lawyer and you shall be heard. If you do not appear at the hearing the orders sought may be made without further notice to you. In addition you may before the day for hearing file a Notice of Address for Service in this Registry. The Notice should be in Form 8 to the Uniform Civil Procedure Rules. You must serve a copy of it at the Applicant's address for service shown in this application as soon as possible.

ORIGINATING APPLICATION
Filed on Behalf of the Applicant



Cooper Grace Ward Lawyers
Level 21, 400 George Street,
Brisbane QLD 4000
Reference: EJS2:10094832
Phone No: 07 3231 2444
Fax No: 07 3221 4356
Town Agents for
@LAW
123 Margaret Street,
Toowoomba QLD 4350
Phone No: 07 4639 3038
Fax No: 07 4632 9529

On the hearing of the application the Applicant intends to rely on the following affidavits:

1. Affidavit of Anthony John Burke to be filed
2. Affidavit of Barry Edward Atkins to be filed

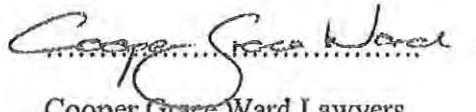
If you intend on the hearing to rely on any affidavits they must be filed and served at the Applicant's address for service prior to the hearing date.

THE APPLICANT ESTIMATES THE HEARING SHOULD BE ALLOCATED 60 minutes.

PARTICULARS OF THE APPLICANT:

Name: Anthony John Burke
Applicant's residential or business address: Shop 5, 11 James Street
TOOWOOMBA QLD 4350
Applicant's solicitors name: Barry Edward Atkins
and firm name: @LAW
Solicitor's business address: 123 Margaret Street
TOOWOOMBA QLD 4350
Address for service: c/- Cooper Grace Ward Lawyers
Level 21, 400 George Street,
BRISBANE QLD 4000
Reference: EJS2:10094832
Telephone: 07 3231 2444
Fax: 07 3221 4356
E-mail address:

Signed:



Description:

Cooper Grace Ward Lawyers
As Town Agent for @LAW
Solicitors for the Applicant

Dated:

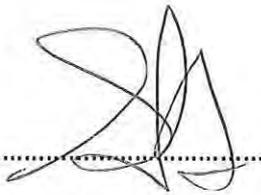
11 April 2011

This application is to be served on: TOOWOOMBA TURF CLUB INC
of: Clifford Park Racecourse, Hursley Road,
Toowoomba QLD 4350

This is attachment marked "AB 56 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB56

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE

AND

Respondent: TOOWOOMBA TURF CLUB INC

AFFIDAVIT

I, AARON JOEL CLANCY of c/- Hursley Road, Toowoomba in the State of Queensland, make oath and say as follows:

1. I am the Racing Secretary of the Toowoomba Turf Club Inc (**Respondent**). I have held this role since June 2010. My responsibilities in this role are many and varied and span the entire organisation. I am involved in the preparation and implementation of the planning and coordination of the organisation's strategic direction, its human resources and general operational procedures. All line managers from each department report to me. I in turn report, and am responsible, to the Management Committee of the Respondent.
2. I have read the Affidavit of Anthony John Burke affirmed on 11 April 2011 and filed herein (**Mr Burke's Affidavit**). I am aware that Mr Burke has applied to this Honourable court for declarations that he is a Member of the Respondent and a Committee Member of the Respondent.
3. I refer to paragraph 5 of Mr Burke's Affidavit in which he states that, as the nominee of a Corporate Member (Jewels of the Range Pty Ltd), he became entitled "to enjoy all the benefits of an individual membership" under the Respondent's Rules (a copy of the Respondent's Rules is exhibited to Mr Burke's Affidavit and marked "AJB1"). I do not agree that this is an accurate statement about the effect of the Respondent's Rules. Rule 8(c) deals with Corporate Members. Rule 8(c) contains 14 sub-rules and, when read in its entirety, makes it clear that the nominee of a Corporate Member merely exercises the rights of the Corporate Member in his or her capacity as a nominee, and not as a member in the nominee's own capacity. I note in this regard that rule 8(c)(9) is in the following terms:

"The nominee shall not be entitled to Membership of the Club in his own right."
4. I refer to paragraph 8 of Mr Burke's Affidavit in which he refers to the corporate membership invoice for \$110.00 which the Respondent sent to Jewels of the Range Pty Ltd in June 2010. The Respondent's administration staff had sent invoices to all members (both corporate and individual) at that time advising them that their membership subscriptions were payable for the financial year ended 30 June 2011. On 6 July 2010, I received an email from Mr Burke

Sheet 1

Signed: *Aaron Clancy*
Deponent

Taken by:

Brian Stanley Heale
A Justice of the Peace/Solicitor



AFFIDAVIT
Filed on behalf of the Respondent
Form 46 Rule 431

HopgoodGanim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4687987_1.DOC

19/4/11

to the effect that his company had not previously had to pay any membership fee for its corporate membership as the fee had formed part of the amount paid by his company under its sponsorship agreement with the Respondent. I responded to Mr Burke by email later that day to the effect that I was unaware of how his company's sponsorship agreement with the Respondent was set up and did not know what was payable (I had only recently assumed my role as Racing Secretary of the Respondent). After receiving my email, Mr Burke replied later that day by email and stated that he would "pay the \$110.00 so it does not lapse and we can work it out later when you have time to track down the T&A of our sponsorship. Not a problem, we will send cheque today.". Exhibited hereto and marked with the letter "A" is a bundle containing copies of the email transmissions I exchanged with Mr Burke on 6 July 2010. These emails clearly show that my exchanges with Mr Burke on the topic of membership related to corporate membership, and not to any individual membership of Mr Burke. Further, those emails do not state (as Mr Burke seems to have claimed to Racing Queensland Limited – see exhibit "AJB8" to his Affidavit) that all Mr Burke had to do to become a member of the Respondent in his own right was to pay the \$110.00 membership fee claimed in the invoice.

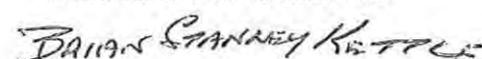
5. I do not agree with paragraph 9 of Mr Burke's Affidavit and say that it is clear from the email transmissions I exchanged with Mr Burke on 6 July 2010 that the \$110.00 membership fee was paid to give the Respondent the opportunity to check its records to see whether the fee was payable by the Corporate Member (ie. Jewels of the Range Pty Ltd) or had, as Mr Burke claimed, been included as part of the sponsorship fee which Jewels of the Range Pty Ltd had paid to the Respondent under its sponsorship arrangements.
6. I deny paragraph 10 of Mr Burke's Affidavit. I gave no such advice to Mr Burke. To my knowledge, there were no further discussions between the Respondent and Mr Burke about the membership issue until 21 August 2010. On that date, there was a meeting of the Respondent's Committee. During that meeting, Mr Burke advised the Committee in "General Business" that he wished to change the nominee of Jewels of the Range Pty Ltd from himself to his wife and take out individual membership in his own name as he had already paid the \$110.00 membership fee in July 2010. A copy of the Minutes of that Meeting is exhibited to Mr Burke's Affidavit and marked "AJB2". I refer to point 5 in the "General Business" section of those Minutes.
7. The Committee did not take a vote on Mr Burke's foreshadowed application for individual membership at the meeting on 21 August 2010 as he only informed the Committee of his plans during the General Business section of the meeting.
8. I refer to paragraph 11 of Mr Burke's Affidavit and say that, on 14 September 2010, Mr Burke telephoned me and asked me to change the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife. I told Mr Burke that he would need to complete a Corporate Application form for the change of nominee and emailed a copy of that form to Mr Burke later that day. A copy of my email is exhibit "AJB3" to Mr Burke's Affidavit.
9. I do not agree with paragraph 12 of Mr Burke's Affidavit. The Minutes of the Committee Meeting do not (as Mr Burke asserts) record his election by the Committee as an individual member of the Respondent. I refer in this regard to paragraph 6 hereof. Further, the Minutes do not, as Mr Burke asserts, record that he abstained from voting when he was "duly elected as an individual member" of the Respondent by the Committee. Those Minutes record Mr Burke's abstention from voting on a motion to accept the membership application of a Mr David Silver.
10. I refer to paragraph 14 of Mr Burke's Affidavit. Exhibited hereto and marked with the letter "B" is a copy of the Minutes of the Meeting of the Committee of the Respondent held on 25 September 2010.

Sheet 2

Signed:


Deponent

Taken by:

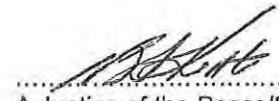

A Justice of the Peace/Solicitor




11. I refer to paragraphs 16 to 20 of Mr Burke's Affidavit and say that, contrary to the matters asserted in those paragraphs, the procedures for certifying the eligibility of committee candidates are as follows:
- (a) When nominations are taken for casual committee vacancies, it is my role as the Respondent's Racing Secretary to ensure that all nominees have complied with the requirements of the Rules;
 - (b) Retiring Committee Members do not need to nominate or be certified to be eligible for re-election. Therefore, the assertion by Mr Burke in paragraph 18 of his Affidavit that I needed to certify the eligibility of each candidate who had nominated and that I had certified his eligibility, is incorrect;
 - (c) Rule 8(3) provides that all candidates for election to the Committee have to be nominated in writing by at least three members. However, sub-rule 6 provides that each retiring Committee Member (Mr Burke was such a member for the purposes of the Respondent's Annual General Meeting held in September 2010) are eligible for re-election without following the nomination procedure specified in sub-rule 3.
12. I refer to paragraph 24 of Mr Burke's Affidavit. The letter to which he refers came to be written in the following circumstances:
- (a) In January 2011, I was in the process of formulating new sponsorship proposals for prospective sponsors of the Respondent. In the course of doing so, I noted the provisions of rule 8(c)(8) of the Rules;
 - (b) I then informed the Respondent's Chairman, Mr Frappell, that Mr Burke may have breached the Rules by changing the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife, while still remaining on the Committee;
 - (c) I also informed Mr Frappell that, as Mr Burke had decided to apply for individual membership, he needed to complete and lodge an application for individual membership, to be supported by two other members of the Respondent, and that he had not done so;
 - (d) After investigating the matter further, the Respondent informed Mr Burke, by the letter to which he refers in paragraph 24 of his Affidavit, that he could no longer remain on the Committee because he had not observed the Rules, and invited him to complete the necessary paperwork to become an individual member.
13. I refer to paragraph 34 of Mr Burke's Affidavit in which he refers to rule 18.6, and note that his assertion in paragraph 34 that he was a retiring Committee Member and therefore did not need to nominate to be eligible for re-election seems to be in conflict with the assertion in paragraph 18 of his Affidavit that I certified his eligibility for election to the Committee.
14. All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by Aaron Joel Clancy on 19th April 2011 at Toowoomba in the presence of:


Deponent


A Justice of the Peace/Solicitor

BRIAN STANLEY HOTTLE

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND

Respondent: TOOWOOMBA TURF CLUB INC

CERTIFICATE OF EXHIBIT

Bound and marked "A" is the exhibit to the Affidavit of Aaron Joel Clancy sworn 19th April 2011:


Deponent


A Justice of the Peace/Solicitor
BRIAN STANLEY KETTLE



CERTIFICATE OF EXHIBIT
Filed on behalf of the Respondent
Form 47 Rule 435

HopgoodGanim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4689518_1.DOC

WA

From: Aaron Clancy
Sent: Tuesday, 6 July 2010 2:58 PM
To: 'jewels of the range'
Subject: RE: Membership

Hello Anthony,

I hope you are having a great week. At this stage I have not looked into the Terms and Conditions of your sponsorship agreement with us. So I have not amended any condition. No doubt moving forward we will have more structure in place for all sponsors. I will give Col a quick call and double check with what Ken has advised.

Did you like the survey?

Regards,

Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350
P.O Box 6037 Toowoomba West QLD 4350
M: 0400 334 854
P: 07 4634 6066
F: 07 4633 1256
E: aaron@toowoombaturfclub.com
W: www.toowoombaturfclub.com

From: jewels of the range [mailto:jewelsoftherange@bigpond.com]
Sent: Tuesday, 6 July 2010 10:58 AM
To: Aaron Clancy; Ken Gordon
Subject: Membership

Hi Aaron,

Received your letter to members for our Corporate membership for AJ & SR Burke / Jewels of the Range.

With our sponsorship of the rings the \$110 fee has not been payable but forms part of our sponsorship agreement.

Just confirm this with Ken Gordon, but happy to pay it if there has been a change for this coming year.

19/04/2011

Thanks
Anthony Burke

On another matter, heard on the radio TAB that Brisbane Racing Club have new rules for the Trainers there including a direct debit for the fees to be able to train due to non payment of many trainers. This may be a good initiative for the TTC as well.



[FREE Animations for your email - by IncrediMail!](#)

[Click Here!](#)

29-OCT-07 16:07

JEWELSOFTHERANGE

0746579955

PAGE: 4

Page 2 of 3

W: www.toowoombaclub.com

From: jewels of the range [mailto:jewels of the range@bigpond.com]
Sent: Tuesday, 6 July 2010 3:21 PM
To: Aaron Clancy
Subject: RE: Membership

Hi Aaron

I will do the survey and return it as think it is great. Will not be too much positive in my answers though. Will be honest constructive answers.

I will pay the \$110 so it does not lapse and we can work it out later when you have time to track down the T & A of our sponsorship. Not a problem, will send cheque today. I do not think Col will know as he has never had any thing to do with sponsors at any time while he has been on the committee. I will see if I can find my copy at home in my old hard drive the computer guys saved for me last month when it died. That will save you time.

Anthony

-----Original Message-----

From: Aaron Clancy
Date: 7/8/2010 2:58:13 PM
To: jewels of the range

3/9/2011

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

CERTIFICATE OF EXHIBIT

Bound and marked "B" is the exhibit to the Affidavit of Aaron Joel Clancy sworn 19th April 2011:

Aaron Clancy
Deponent

B. White
A Justice of the Peace/Solicitor
Brian Stanney Kettle



CERTIFICATE OF EXHIBIT
Filed on behalf of the Respondent
Form 47 Rule 435

HopgoodGanim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4689518_1.DOC

481

TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 8037 Toowoomba West, QLD 4350
Phone (07) 46 34 60 66 Fax (07) 46 33 12 58



Minutes of a Meeting of the Committee of the Toowoomba Turf Club Inc. held in the Committee Room, Clifford Park Racecourse, on Saturday 25th September, commencing at 11.03am

PRESENT: Col Zeller (Chairman), Norm Pankhurst (Deputy Chairman), Kim McCasker, Graham Healy, Anthony Burke, John Morgan, Peter Turnbull, Bob Frappell, Aaron Clancy (Secretary)

Apologies: Ken Gordon

AGENDA

1. Apologies
2. Confirmation of Minutes
3. Business Arising
4. Correspondence
5. Business Arising
6. Financial Report
7. Chairman's Report
8. Training Applications
9. Membership Applications
10. General Business

2. Confirmation of Minutes

Minutes of the previous Meeting of the Committee held on 25th September 2010, were taken as read and confirmed moved by B Frappell and seconded by G Healy carried unanimously.

3. Business Arising

N Pankhurst moved the Neil Vettors our water truck driver who has been given notice to finish up and stop the carting of water, seconded by B Frappell. Carried unanimously

The Verdi Drain should be based here, as that we part of the agreement. Secretary to follow up.

Ron White- We need to have a discussion with him in regards to coming to an agreement of full time employment of the club.

4. Correspondence

Inwards:

- 2 Sep- Kevin O'Brien sent letter to TTC, Karen Maund, and Jamie Orchard
- 6 Sep- Invoice for Racing QLD for Chute Extension+ Wages for Maintenance.
- 16 Sep- Bob Bentley Response
- 17 Sep- Adam Carter Requesting TAB Clubs ISR Insurance renewals FY10/11
- 20 Sept- J Orchard advising TTC he has asked Karen Maund to leave the Lauriston Racing Stables.

Outwards:

- 10 Aug- Letter to Tracey Hamade advising her Permission to Train has been terminated.
- 30th Aug- Letter to trainers advising them of the action taken from our Trainers Meeting
- 2nd Sept- Letter to Racing QLD advising decision on partnership
- 10Sept- Advised Managed Solution we would like to take over our website from them
- 14Sept- Letter to John Wiedman for advice of Nominee campaign letter.
- 14Sept- Response to Racing QLD regarding us repaying the 6Mil
- 14Sept- Letter asking Allen Volz to rewrite or rephrase his campaign letter
- 14 Sep- Letter to Tom Warren asking if would consider rewriting or rephrasing his Treasurers report

It was moved by P Turnbull and seconded by A Burke that the above inwards-outwards correspondence as tabled and read. Carried

"Light years ahead of the rest"



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 68 Fax (07) 46 33 12 58

5. Business Arising

1. Racing QLD have not paid our Subsidy this month, I have emailed and called Adam Carter with no response.
2. Allen Volz changed is campaign letter
3. Tom kept his letter the same.
4. We have a new Website developer
Karen Maund spoke with the ATA, I am waiting for response from Jamie Orchard to see where we are at.
5. C Zeller advised that K O'Brien is the rightful tenet of the stable block and K Maund must leave the stables. We have documentation in the form of an agreement stating that K O'Brien is the tenant. Aaron to do a contract for on course stabling and give it to the tenets to sign. All our on course stables are currently full.

6. Financial Report

T Warren presented the yearly Financial Report

B Frappell raised that he has been on the Committee for 3 months and there has been no up to date financials and no P&L, nor budget presented at any meeting.

We need to look at a getting a new accountant.

Secretary to arrange current accountant to come in this week to finish off July and August financials and email them to the Committee.

It was moved by G Healy to recommend to the new Committee that we advertise for our new accountant Seconded by A Burke.

It was moved by T Warren to except the yearly finical report, 2nd by N Pankhurst. Motion, Carried

7. Chairman's Report

C Zeller explained that the although we need to pay the Racing Qld loan for the 350m chute, he believes that the original plans already showed the chute was included. He also questioned the actual size of the chute. C Zeller also mentioned that we could argue that the chute was part of the 4mil grant that was given to RQL for work to be done at the TTC.

C Zeller advised that the new Committee should arrange a meeting as soon as possible with Racing QLD to discuss the loan repayment and to organise a schedule of repayments for the Chute. The new Committee should also discuss the joint venture. C Zeller mentioned that the TTC must be very efficient with compliance and all of our workings as Racing QLD will be keeping close tabs on us.

C Zeller made mention and wanted it to be noted that the TTC did not drop the ball in regards to scheduling meetings with Racing QLD to discuss a joint venture. Racing QLD postponed meetings and then advised a meeting on really short notice, which was not suitable and TTC had to cancel. It was then a few months before Racing QLD could schedule another meeting

Sky International agreement- Lek consultants were engaged by RQL to negotiate the best broadcast deal for Racing Clubs in QLD. L.E.K, have drafted a longform agreement which should be signed off on, in the next 2 weeks. Individual negotiations will start with all Clubs after this.

8. Trainers Applications- Nil

9. Membership Applications

1. Pat Sexton
2. Samantha Wickham

It was moved by T Warren that the above applicants be granted membership of the Toowoomba Turf Club, seconded A Burke.

"Light years ahead of the rest"



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 66

10. General Business:

Ron White- Meeting set for Monday 27th Sept to discuss Ron White's promotion to full time employment.

Norm motioned that C Zeller be given life membership for his contribution to the club for the past 16 years and for his work in his current role as Chairman. Seconded B Frappell, unanimous

P Turnbull raised what a great job our trainee gardeners have done with receiving 3rd place in the Carnival of Flowers competition. Although we won last year, we had 4 gardeners and the boys have done a great job.

PSP- It was raised that a meeting needs to be set up with PSP to discuss their DVD pricing. The Chairman will look to set the meeting up for Monday 27th Sept.

Dr J Morgan raised that he believed the Gold Coast Turf Club would revive 10 mil in cash out of the 50mil joint venture with racing QLD.

Meeting Closed 124pm

Signed

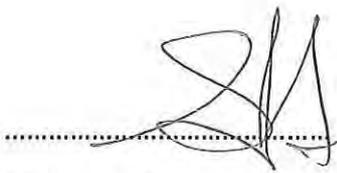
Date

.....
Bob Frappell
TTC CHAIRMAN

"Light years ahead of the rest"

This is attachment marked "AB 57 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

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Anthony John Burke

A handwritten signature in black ink, consisting of a large, stylized 'B' followed by a horizontal stroke.

Barry Edward Atkins, Solicitor Witness

Duplicate

AB57

SUPREME COURT OF QUEENSLAND

REGISTRY: BRISBANE
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

ORDER

Judge: Justice Daubney
Date: 20 April 2011
Initiating document: Originating Application filed 11 April 2011

THE COURT DECLARES THAT:

1. The Applicant is a Member of the Respondent.
2. The Applicant is a Committee Member of the Respondent.

Signed:


ACTING DEPUTY REGISTRAR



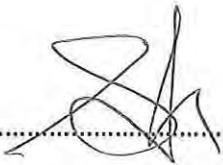
FINAL ORDER

Cooper Grace Ward Lawyers
Level 21, 400 George Street,
Brisbane QLD 4000
Phone No: 07 3231 2444
Fax No: 07 3221 4356
Town Agents for
@LAW
123 Margaret Street,
Toowoomba QLD 4350
Phone No: 07 4639 3038
Fax No: 07 4632 9529

This is attachment marked "AB 58 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 58

Barry Atkins

From: Perrett, Carol <Carol.Perrett@racing.qld.gov.au>
Sent: Friday, 20 April 2012 5:13 PM
To: 'Barry Atkins'
Subject: RE: Burke and RQL

Barry

I refer to Mr Burke's emails to Mr Wilesmith of this office on 19 April 2012 and to your e-mail below. While the government is conducting an investigation into the operations of RQL, the scope of the investigation is limited and currently does not include issues concerning Mr Burke.

We currently have a large volume of documents to review and expect that this will take a considerable period of time to complete.

As was identified in the previous dealings with your client, many of the matters referred as issues of complaint, while of concern to your client, did not fall within the jurisdiction of this office. Accordingly, I would suggest that you review the material to ensure it is relevant, and provides some causal link to your client's complaints. A succinct list of these complaints should also be provided, as well as the remedy your client is seeking. If any of the complaints relate to alleged breaches of the Associations Incorporations Act, these should be referred to the Department of Communities, Child Safety and Disability Services. Likewise, any alleged criminal behaviour should be reported to the Queensland Police Service.

I note that you have evidence that you wish to provide. This office does not have the capacity to consider it now. However, it may be considered after the scope of our initial investigation has been finalised. If you wish to provide relevant documents, it is a matter for you as to whether you wish to send such documents to this office now or alternatively wait until we advise you that we are in a position to review your evidence.

If you decide to send in documents, please send only copies not originals.

In any event, you should not wait for the outcome of any investigation by this office, if you consider that Mr Burke has legal remedies that should be pursued.

In regard to access to RQL's documents, you would need to make any request to RQL. While it is my understanding that RQL is not subject to the *Right to Information Act 2009*, you should make your own enquiries in this regard.

Regards Carol

From: Barry Atkins [<mailto:bazlawyer@atlaw.net.au>]
Sent: Thursday, 19 April 2012 5:21 PM
To: Perrett, Carol
Subject: Burke and RQL

Dear Carol,

I realise you have a very heavy workload at the present. You will recall the investigation by Barrister April Freeman on instructions from RQL about TTC and A Burke.

Recently evidence has come to light that the actions of Mr. J Orchard the Integrity Director of RQL did not act impartially in his assessment of, and response to, the complaints by Mr. Burke against TTC.

I believe he acted in a biased way in dealing with Mr. Burke's complaints about treatment by TTC and the Members of the TTC Committee.

Prior to the recent election I gave written notice to RQL that Mr. Burke claimed damages from RQL, it being vicariously liable for actions of TTC.

I also claimed damages from Mr. Burke against RQL.

We understand that the new Government is investigating RQL.

Mr. Burke and I have important evidence to supply to any such investigation into the previous operation of RQL.

Mr. Burke also seeks access to all documents held by RQL about the TTC and about Mr. Burke under Freedom of Information legislation.

Please advise the procedure to advance resolution of the issues.

Barry Edward Atkins (B.A., LLB(Hons.))
Solicitor & Attorney
@LAW
Tel: 07 4639 3038
Fax: 07 4632 9529
Email: bazlawyer@atlaw.net.au
Web: www.atlaw.net.au

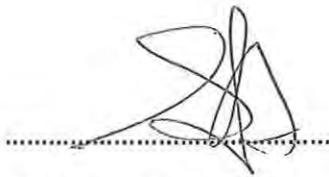
Park View Chambers
123 Margaret Street
(P.O. Box 605)
Toowoomba Qld 4350

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Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as the letters 'BA' with a long horizontal stroke extending to the right, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness



AB 59



**Queensland
Government**

Hon Tim Mulherin MP
Member for Mackay

Reference: CTS01595/11

**Minister for Primary Industries,
Fisheries and Rural and Regional
Queensland**

20 APR 2011

Mr Anthony Burke
ajsrburke@optusnet.com.au

Dear Mr Burke

I refer to your email of 16 February 2011 to the former Minister for Tourism and Fair Trading concerning your allegations against other members of the committee of the Toowoomba Turf Club.

As the Office of Racing falls within my ministerial portfolio responsibilities your email was forwarded to me for response.

If you believe you have been threatened or assaulted, then it is important you raise these matters with the appropriate authorities, including the Queensland Police Service.

As Racing Queensland Limited is the control body for thoroughbred racing, if you have allegations regarding the conduct of licensees or a member of the Toowoomba Turf Club, you should contact Mr Jamie Orchard, Director of Integrity Operations on telephone 07 3869 9777 or email jorchard@racingqueensland.com.au.

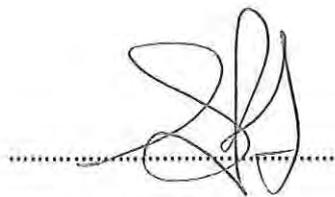
Yours sincerely

TIM MULHERIN, MP
**Minister for Agriculture, Food
and Regional Economies**
Member for Mackay

Level 8
Primary Industries Building
80 Ann Street Brisbane
GPO Box 46 Brisbane
Queensland 4001 Australia
Telephone +61 7 3239 3000
Facsimile +61 7 3229 8541
Email dpi@ministerial.qld.gov.au
ABN 65 959 415 158

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Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

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Anthony John Burke

A handwritten signature in black ink, appearing to be the initials "BA" with a flourish.

Barry Edward Atkins, Solicitor Witness

AB 60

From: Anthony Burke
Date: 21/04/2011 2:59:02 PM
To: allan_gee@bigpond.com; aaron@toowoombaturfclub.com;
peterturnbull4@bigpond.com; johnscott@mansell.com.au;
Graham Healy; badenvalley@harboursat.com.au; A_reception@jnmorganmedical.com
Cc: bob@flexi.net.au
Bcc: bazlawyer@atlaw.net.au
Subject: Happy Easter

I would like to wish you all a Happy Easter with your Families.
The Supreme Court has confirmed that I am a member and also a committee member of the Toowoomba Turf Club and that I was denied Natural Justice.

I look forward to helping the club improve as it moves forward as a pro active elected by the members committee member. I eagerly look forward to checking out how the Parks and Garden Portfolio is going next week.

Aaron,
If you can please forward all the minutes from November 2010 to today to this email as I will read them over Easter.
Also can you please advise of the next committee meeting so I can attend and join in all the good things happening.

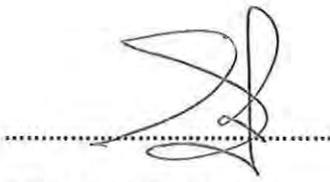
Thanks
Anthony Burke

Elected Committee Member
Toowoomba Turf Club 2010-2012.

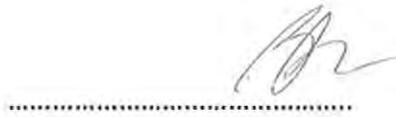
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Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'B' followed by a few loops, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

Anthony,

ABE1

The minutes that are sent out after each meeting, which you will receive via email after the next meeting are only for proof reading before the next meeting, they are not official documents and changes can be made before they become official(which is only when signed by the Chairman).

In the June minutes under General Business you will see that ' Bob Frappell requested that the minutes from the previous meetings be sent via email after each meeting. Previous minutes were sent out 10 to 14 days after meeting'.

This is what we are adhering too. We do not have official soft copies of minutes, only hard copies, in a folder, in the office for all members to view upon request. So please make a time if you wish to come and view the minutes.

Anthony I hope you are aware that being on the Committee of the Toowoomba Turf Club takes commitment and can be time consuming. I would like to think that you can make the time, maybe 1hour this week and another hour next week to view the minutes.

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]

Sent: Wednesday, 27 April 2011 8:34 PM

To: Aaron Clancy

Subject: RE: minutes

Importance: High

Aaron

I came out today on the off chance you had time but you were talking to some lady's and children on the Grandstand Front Lawn.

My time is very valuable as you can understand, as I understand yours is.

There has been no policy change to Emailing Committee Members as you state.

I wish to have the minutes of ALL MEETINGS inclusive of monthly meeting emailed to me under the minutes of June 2010 where it was moved for this to occur.

This will give me time to peruse at my leisure and make notes for questions I may have to help me catch up with the going on's,

I wish to make a positive influence with my views on these minutes to help the club where I can.

As the meeting today looked to go off well, and you said you will have time, please email me at ajsrburke@optusnet.com.au and also for all future correspondence to do with my position as a member of the TTC and the Committee.

It was a good feeling to be back and I thank Graham and Peter for shaking my hand. I also enjoyed catching up with a few of my customers and acquaintances at the track

Anthony Burke
Elected Committee Member
Toowoomba Turf Club 2010-2012

-----Original Message-----

From: Aaron Clancy
Date: 27/04/2011 8:46:08 AM
To: Anthony Burke
Subject: RE: minutes

Hey Anthony,

There has been no policy change.

As I said last week, we have a race meeting today and we are all very busy preparing for the races after the Easter break. Tomorrow or Friday there are no problems at all.

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350
P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

From: Anthony Burke [<mailto:ajsrburke@optusnet.com.au>]
Sent: Monday, 25 April 2011 4:02 PM
To: Aaron Clancy
Subject: minutes
Importance: High

Hi Aaron

Will try and get out Wednesday morning to catch up.

Just wondering ? Has there been a policy change

in regards to minutes being sent to committee members?

I know Bob moved the motion and I seconded the motion when Col was chairman.

See you then

Anthony



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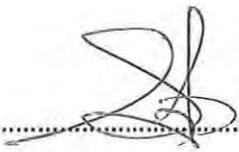


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Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB 62

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Liability limited by a scheme approved under professional standards legislation

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 28 April 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11030
Your Ref: MR. B Bolton
Re: Anthony Burke - TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Your clients have issued a false and misleading press statement.

They have intentionally distorted the truth.

They have lied.

They have defamed my client.

My client was not 're-instated'.

The TTC denied my client natural justice, as opined by Justice Daubney.

"THE Toowoomba Turf Club has returned to a full management committee following yesterday's decision by the Supreme Court of Queensland to reinstate Anthony Burke onto the TTC committee.

Anthony Burke sought a ruling from the court yesterday after his membership and committee position was reviewed and deemed invalid in January last year.

The judge ruled that Anthony Burke could continue his role on the TTC management committee.

The TTC did not oppose Mr Burke's application and no costs were awarded.

TTC Race Secretary Aaron Clancy said that the Club was not in a position to overrule the constitution and that the avenue Mr Burke took was the right option for a ruling to be made.

"The TTC is now back to a full management committee and they will continue to work tirelessly to bring the club back to profitability and are currently on track to do so in this financial year," Mr Clancy said."

My client demands and apology and retraction as well as details of all parties that received the press release.

This is a Concerns notice under the Defamation Act.

The defamation complained of is that your client alleges he was 're-instated'.

This is not true and damages my client's reputation.

The orders made were declarations that Mr Burke is a Member and a Committee Member. There was no Order that he be 're-instated'.

My client's positions were not 'deemed invalid'.

The Chairman of the TTC wrote a meaningless letter without any actual Authority. It was a nullity. The Rules of the TTC were not followed.

We are greatly disappointed that the TTC has chosen to risk being taken back to Court, after they have lied to the public.

Our client is not listed on the web site as he must be straight away.

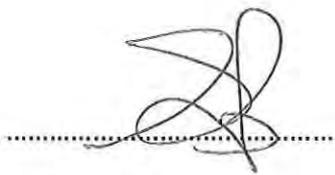
Barry Atkins
Solicitor & Attorney

cc:
fax:

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Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

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Anthony John Burke

A handwritten signature in black ink, consisting of the initials 'BA' followed by a flourish, written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB 63

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Liability limited by a scheme approved under professional standards legislation

Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 3 May 2011
To: Hopgood Ganim Lawyers Fax No: 3024 0002
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke and TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your facsimile today. We reserve both Mr. Atkins' and our client's rights in relation to the contents thereof.

We are instructed to ask your client how it intends to rectify the false and misleading statement made by TTC in the race day programme of 'Weetwood' 2011 when our clients name was not listed on the inside front cover as a committee member.

We have sent the Order for filing and will send you a copy.

We are quite surprised that you write of the 'spirit.... of that ruling'.

Your client is bound by the Declarations made. The Declarations were not 'is NOW' or 'is AGAIN' but that he IS a member of the TTC and IS a Committee Member.

Our client was not 'reinstated' as asserted by your client's press release.

No other interpretation is possible as our client was NOT reinstated.

Our client again asks that you confirm to us that your client will correct it's false and misleading statement that he was 'reinstated'.

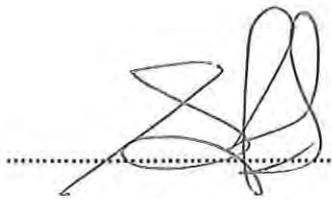
Our client has reviewed the Minutes of the Committee meetings previously wrongfully withheld from him. They prove that the Chairman of the TTC had no authority to write the letter which purported to advise our client that he was not a member of the TTC or it's Committee. That letter was a nullity written without authority and in breach of the Rules of TTC.

Please give us your client's response to our question in paragraph 2 of this letter within 24 hours.

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 64 "

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of Anthony John Burke sworn 6 August 2013

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Anthony John Burke

A handwritten signature in black ink, featuring a large, stylized initial 'BA' followed by a long, sweeping horizontal stroke. The signature is positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB64

4/5/11

70 J. Orchard
Our website

Rules ↓

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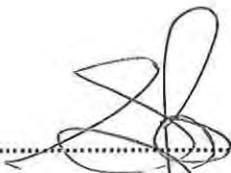
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of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

Solicitor & Attorney

@LAW

Tel: 07 4639 3038

Fax: 07 4632 9529

Email: bazlawyer@atlaw.net.au

Web: www.atlaw.net.au

AB65

Park View Chambers

123 Margaret Street

(P.O. Box 605)

Toowoomba Qld 4350

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From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]

Sent: Wednesday, 4 May 2011 10:51 PM

To: bazlawyer@atlaw.net.au

Subject: Racing act 2002

Division 1 Function and powers of control

Bodies

33 Function of control body

(1) The function under this Act of a control body is to manage its

Code of racing.

(2) A control body has—

(a) the powers necessary for performing its function; and

(b) all other powers necessary for discharging the

Obligations imposed on the control body under this Act

(2) To the extent a control body believes necessary or desirable

For performing the control body's function, the control body

May, by notice given to a licensed club, give a direction to the

Club (a *control body direction*) relating to—

(a) the operations of the club, including, for example,

Matters in relation to the licensed club's assets; or

(b) a licensed venue for which the club is the licence holder.

(3) A control body direction may require a licensed club to do something or to refrain from doing something.

(4) As mentioned in section 101(1)(a), if the licensed club is not complying, or has not complied with the control body direction, the control body may suspend or cancel the club's licence.

Chapter 3 Control bodies managing Their codes of racing

Part 1 Introduction

78 Purposes of ch 3

(1) The main purposes of this chapter are to provide for—

(a) the way each control body may perform its function of managing its code of racing when it becomes responsible for managing the code; and

(b) particular provisions applying to licensed clubs.

(2) Generally, the control body performs its function by—

(a) making policies about the management of its code of racing, especially about its licensing scheme for controlling activities relating to the animals, clubs, participants and venues and about the way in which races are to be held for its code of racing; and

(b) making rules of racing; and

(c) giving directions to licensed clubs and ensuring compliance by taking disciplinary action relating to the licence of a club that does not comply with a direction.

(3) A control body's policies ensure there is guidance for persons involved in the code of racing and transparent decision-making relating to matters dealt with by the policies.

(4) This chapter also provides for offences relevant to matters dealt with in the chapter.

79 Policies and rules of racing are statutory instruments

The policies and rules of racing made by a control body for its code of racing are statutory instruments within the meaning of *The Statutory Instruments Act 1992*.

81 Matters for which a control body must have a policy

A control body must have a policy for its code of racing about

Each of the following—

(b) safeguarding the public interest in the code;

(c) record keeping, including keeping records about

Decisions;

(p) making its officials and other staff, and licence holders,

Aware of their duties under laws, including, for example,

The Anti-Discrimination Act 1991;

Part 4 Control bodies may take

Certain action against licensed

Clubs

101 Grounds for suspension or cancellation

(1) Each of the following is a ground for suspending or cancelling

A licensed club's licence—

(a) the club is not complying, or has not complied, with a

Control body direction given to the club;

(b) a ground that another provision of this Act states is a

Ground for suspending or cancelling a licensed club's

Licence;

102 Show cause notice

(1) If a control body believes a ground exists to cancel or suspend

A licensed club's licence as mentioned in section 101(1), the

Control body must, subject to section 105(1)(a), give the club

A notice (a *show cause notice*).

(2) The show cause notice must state the following—

(a) the action the control body proposes taking under this

Part (the *proposed action*);

(b) the grounds for the proposed action;

(c) an outline of the facts and circumstances forming the

Basis for the grounds;

(d) if the proposed action is to suspend the licence, the

Proposed suspension period;

(e) an invitation to the club to show within a stated period

(the *show cause period*) why the proposed action should

Not be taken.

(3) The show cause period must be a period ending at least 28

Days after the day the show cause notice is given to the club.

103 Representations about show cause notice

(1) The licensed club may make written representations about the Show cause notice to the control body in the show cause Period.

(2) The control body must consider all written representations (the *accepted representations*) made under subsection (1).

104 Immediate suspension of licensed club's licence

(1) The control body may suspend the licensed club's licence immediately if the control body believes—

(a) a ground exists to suspend or cancel the licence; and

(b) the circumstances are so extraordinary that it is imperative to suspend the licence immediately to

Ensure—

(i) the public interest is not affected in an adverse and Material way; or

(ii) the conduct of racing by the club is not jeopardised In a material way.

(2) The suspension—

(a) can be effected only by the control body giving the club

An information notice, together with a show cause

Notice; and

(b) operates immediately the notice is given to the club; and

(c) continues to operate

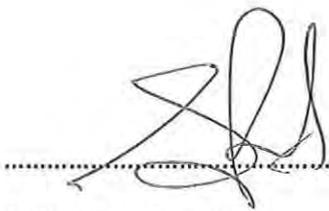
FREE Animations for your email - by IncrediMail!

[Click Here!](#)

This is attachment marked "AB 66 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, featuring a large initial 'B' and a long horizontal stroke, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

From: Anthony Burke
Date: 22/05/2012 10:19:39 PM
To: jewels of the range
Subject: Fw: Policy RQ

AB 6 k

-----Original Message-----

From: Anthony Burke
Date: 5/05/2011 11:17:08 AM
To: bazlawyer@alaw.net.au
Subject: Policy RQ

http://www.queenslandracing.com.au/documents/pdf/Policies/Amended%20policy%20on%20the%20formation%20and%20management%20of%20clubs_Final%202008.pdf

Queensland Racing Limited

POLICY ON THE FORMATION, MANAGEMENT AND LICENSING OF CLUBS

COMMENCEMENT DATE

This policy comes into effect on 2 July 2004.

PURPOSE

The *Racing Act 2002* (the Act) authorises Queensland Racing Limited (Queensland Racing) to make policies for the sound management of the industry. Section 81(I) of the Act requires Queensland Racing to make a policy on the formation and management of clubs eligible to be licensed to hold race meetings.

Race clubs are the mechanism by which the racing industry delivers its "product" to its customers. The racing industry depends on properly formed and soundly managed race clubs for its continued prosperity.

Proprietary race clubs are race clubs that conduct races for profit. They are businesses, as opposed to the not-for-profit race clubs, which exist to run race meetings for the benefit of members.

Under previous racing legislation, proprietary race clubs were prohibited. The Act removed this statutory prohibition. Currently, all Queensland race clubs are non-proprietary race clubs. However, this may change if a corporation applies to Queensland Racing for registration as a race club.

(The Act provides that a licensed club that was a non-proprietary club at the time it was licensed but subsequently became a corporation would continue to be considered non-proprietary for the purposes of the application of its revenues and profits and disposal of its assets.)

Mismanagement of race clubs and instances of harassment, discrimination, misconduct and unsafe work practices can cause great harm to the individuals involved, as well as reduce productivity and damage the image of the Queensland racing industry.

It is in the interest of the racing industry and the public generally that the industry is a safe place to work, free from unsafe work practices, unlawful discrimination, harassment and misconduct.

The purpose of this policy is to ensure Queensland race clubs, whether they are proprietary or non-proprietary, are properly formed and managed and that they provide a work environment free from unsafe work practices, harassment, unlawful discrimination and misconduct.

POLICY STATEMENT

Club Formation

Queensland Racing will ensure that race clubs are properly constituted under either the *Associations Incorporations Act 1981* (for clubs formed as incorporated associations) or the *Corporations Act 2001* (Cth) (for clubs formed as corporations) before it licenses these clubs.

Application for a Licence

In accordance with the Act and the Rules of Racing, clubs shall apply for registration on or before 1 July each year. Accompanying their application, clubs must provide a written statement showing:

- The name of the race club
- The names of all office bearers connected with the club
- A national police certificate for each executive officer of the club. (Amended 6 May 2005)
- The course where the club proposes to hold race meetings
- The club's constitution
- A list of members of the club

In accordance with the Rules of Racing, a race club committee must not contain more than two licensees as members unless the club has obtained written permission from Queensland Racing. A licensee must not hold the position of race club secretary without written permission from Queensland Racing Limited. (For the purposes of this rule, a person holding a permit to train his or her own horses shall not be deemed to be a licensee.)

Race club committee members and executive officers must be of good character. In accordance with section 88 of the Act, Queensland Racing will not licence a club if a committee member or executive officer is a bankrupt or has a conviction, other than a spent conviction, for:

- an offence under the Act or previous racing legislation
- an indictable offence, or a summary offence that involved dishonesty, fraud, stealing or unlawful betting
- an offence under another state's laws about racing or betting.

Should a national police certificate contain a conviction other than those listed above, Queensland Racing will consider the relevance of the conviction. Queensland Racing will not license a club if it considers that such a conviction shows evidence that the person is not of sufficient good character or is unsuitable to be associated with the administration of a race club. In doing this, Queensland Racing may consider the person's character, business reputation, current financial position and financial background.

Race clubs must pay the prescribed licence fee to Queensland Racing.

Grant of a Licence and Conditions

Licences granted by Queensland Racing Limited to clubs carry the following conditions:

1. (a) If a club cancels or abandons the race meeting or attempts to cancel or abandon a race meeting without the consent of Queensland Racing, the club agrees that Queensland Racing's representatives who control races at race events, together with all horses, jockeys, owners, trainers, bookmakers, and other persons involved in the conduct of race events and betting on licensed venues and in the transmission by sound or video of the race events, may enter the licensed venue with all equipment, vehicles and other property for the purposes of conducting the race event, and broadcasting and telecasting that event and the conduct of betting and to do such acts and things as are necessary for or incidental or convenient to the conduct of the race meeting for the club.
- (b) If a club cancels or abandons or attempts to cancel or abandon an event without the consent of Queensland Racing and Queensland Racing believes that it is in the best interests of the management of the code of racing for the event to be held, the club consents to an injunction restraining it from in any way interfering with the carrying on of the event under the control Queensland Racing for the club.
- (c) These provisions apply notwithstanding any provision of any other Policy or Rule.
2. Queensland Racing has the power to impose such other conditions on a licence issued to a club as it determines necessary.

Proprietary Race Clubs

A proprietary race club must be formed in accordance with the *Corporations Act 2001* (Cth). The club must be registered under the *Corporations Act 2001* (Cth) and have a constitution that requires, at all times, at least three directors and that persons appointed or employed as executive officers of the corporation are eligible individuals. An eligible individual is a person who:

- is not affected by bankruptcy action
- is not subject to an exclusion action under any control body's rules of racing
- is not disqualified from managing corporations under the *Corporations Act 2001* (Cth).

In addition to provisions above relating to the good character of race club committee members and executive officers, a proprietary club must provide a national police certificate for each person who is a business associate or executive associate of the proprietary race club.

Club Management

Queensland Racing will oversee the financial management and performance of all Queensland race clubs to ensure they are properly managed.

All Queensland race clubs, whether proprietary or non-proprietary, must manage their finances according to the Act, the Rules of Racing and the Financial Management Procedures Manual for Queensland Thoroughbred Race Clubs and under section 34(2) of the Act, must comply with a direction from Queensland Racing in relation to the club's operations or racing venue. The Financial Management Procedures Manual for Queensland Thoroughbred Race Clubs is available on the Queensland Racing website.

Non-proprietary race clubs must comply with Queensland Racing's Policy on Spending by Non-proprietary Licensed Clubs and Policy on Disposal of Assets by Non-proprietary Licensed Clubs.

In accordance with the Rules of Racing, race clubs must forward to Queensland Racing within 90 days of the end of the financial year a properly audited balance sheet and profit and loss statement showing the operations of the club for the financial year just concluded.

Within 30 days of a race club's annual general meeting, the club must forward to Queensland Racing a written report on its activities over the year and a copy of any corporate, strategic, business or other plan the club may have adopted in that period.

Safe Working Environment

Queensland Racing requires race clubs to take all reasonable steps to provide a safe working environment for their officials, other staff and licensees by fostering a culture of high ethical standards and support for whistleblowers and by not tolerating unlawful discrimination, harassment or unsafe work practices.

Race clubs must provide information and training to their officials and staff to help ensure they are aware of their rights and responsibilities under relevant legislation, including:

- *Anti-Discrimination Act 1991*
- *Disability Discrimination Act 1992*
- *Human Rights and Equal Opportunity Commission Act 1986*
- *Public Sector Ethics Act 1994*
- *Racial Discrimination Act 1975*
- *Sex Discrimination Act 1984*
- *Whistleblowers Protection Act 1994*
- *Workplace Health and Safety Act 1995*

Race club managers and supervisors must model appropriate standards of Behaviour and use staff meetings regularly to discuss ethical standards and expectations of appropriate Behaviour.

Race clubs must not tolerate offensive, explicit or pornographic calendars, literature, posters and other materials in the workplace.

Disciplinary Action

Queensland Racing will take disciplinary action against a club that contravenes the Act, Associations Incorporations Act 1981, Corporations Act 2001 (Cth), the Rules of Racing, the Financial Management Procedures Manual for Queensland Thoroughbred Race Clubs, Queensland Racing's policies or directives or legislation providing for a safe working environment.

Queensland Racing will periodically audit race clubs to ensure they continue to be suitable to be licensed.

APPLICATION

This policy applies to all race clubs licensed by Queensland Racing, whether they are proprietary or non-proprietary.

DEFINITIONS

Business associate – a person Queensland Racing believes will be associated with the ownership or management of the

operations of a proprietary race club.

Conflict of interest – refers to a conflict between a private interest and official duty. For example, being in a position to use public office, knowledge and access to resources or influence for improper purposes or private interests. Conflicts of interest can be real or apparent. A real conflict of interest exists when a reasonable person would conclude that the official's private interests interfere, or are likely to interfere, with the proper performance on his or her official duties. An apparent conflict of interest exists when there is an appearance that an official's private interests may interfere with the proper performance of his or her official duties although, in reality, this may not be the case.

Direction (from Queensland Racing) – a written direction given by Queensland Racing to a race club relating to the club's operations or racing venue. Queensland Racing may require a club to do something or refrain from doing something.

Disciplinary action (by Queensland Racing against a club) – may include cancelling, suspending or varying the club's licence or imposing a monetary penalty.

Discrimination – occurs when a person is treated more or less favourably than another person would be under similar circumstances. Discrimination is unlawful when it is on the basis of an attribute described in the Anti-Discrimination Act (I.e. Sex, marital status, pregnancy, parental status, breastfeeding, age, race, impairment, religion, political belief or activity, trade union activity, lawful sexual activity

Sexuality, gender identity, family responsibilities; or association with, or relation to, a person identified on the basis of any of the above attributes).

Eligible corporation – a corporation that is registered under the Corporations Act 2001 (Cth) and has a constitution that requires, at all times, at least three directors and that persons appointed or employed as executive officers are eligible individuals.

Eligible individuals – an individual who is not affected by bankruptcy action, does not have a disqualifying conviction, is not subject to an exclusion action under any control body's rules of racing and is not disqualified from managing a corporation under the Corporations Act 2001 (Cth).

Executive associate – an executive officer of a corporation, partner, trustee or another person Queensland Racing believes will be associated with the ownership or management of the operations of a proprietary race club.

Executive officer – a person who is concerned with or takes part in a corporation's management, which is to include as a minimum, the President/Chair, Vice President/Chair, Treasurer and Secretary/CEO. (Amended 6 May 2005)

National police certificate – a document known as a "national police certificate" available from the Commissioner of Police.

Non-proprietary race club – a not-for-profit race club. A non-proprietary race club has a constitution that both:

- (a) provides for the application of all of the club's profits and other income to the promotion of the club's objects and
- (b) prohibits the payment of dividends to the members of the club.

Official misconduct – generally means conduct that involves:

- Behaviour which is dishonest or not impartial in the exercise of powers or authority (e.g. Soliciting or receiving benefits);
- Behaviour which adversely affects or could adversely affect, directly or indirectly, the honest or impartial exercise of powers or authority (e.g. Allowing personal relationships to affect decisions, or using sexual harassment to obtain a gain at the expense of the public);
- a breach of trust placed in a person by reason of his or her employment (e.g. To breach the confidentiality of matters of a personal nature);
- misuse by any person of information or material acquired in connection with his or her employment, either for the benefit of the person or another person (e.g. Disclosing confidential or privileged information to an unauthorised other person); and
- which constitutes or could constitute a criminal offence or a disciplinary breach that provides reasonable grounds for termination of employment.

Proprietary race club – a for-profit race club.

Proprietary racing – racing where the persons conducting the race meeting receive a share of the profits, instead of the profits being returned to the code of racing for use as prize money.

Sexual harassment – is any unwanted, unwelcome or uninvited Behaviour of a sexual nature that makes a person feel humiliated, intimidated or offended.

Spent conviction – a conviction for which the rehabilitation period under the Criminal Law (Rehabilitation of Offenders) Act 1986 has expired under that Act and that is not revived under section 11 of that Act.

Whistleblower – a person who discloses information about official misconduct, maladministration, negligent or improper management of public funds, reprisal, or danger to persons or the environment in the public interest to an authority that is able to investigate and remedy the matter.

PROCEDURES

Roles and responsibilities

Queensland Racing

Queensland Racing will:

- assess race clubs' licence applications to ensure all the required information is provided and that the club is properly constituted
- conduct investigations to ensure that club committee members, executive officers and other people associated with the ownership or management of race clubs are of good character and suitable to hold such positions
- analyse race clubs' financial statements, annual reports and strategic and business plans to ensure the clubs are properly managed
- regularly audit the operations of race clubs to ensure their continued suitability to be licensed.

Race Club Secretaries

Race club secretaries must ensure their club provides full documentation for its licence application.

Race Club Treasurers

Race club treasurers must ensure their club provides its annual report, properly audited balance sheet and profit and loss statement and copies of any corporate, strategic, business or other plan the club may have adopted during the financial year

Review

This policy was review in August 2008.

Next review date will be August 2010.

Rules of Racing

Race clubs must comply with the Rules of Racing that govern the formation and management of race clubs.

This policy was made by Queensland Racing Limited on 2 July 2004 under s.81(1) of the Racing Act 2002. For further information contact Malcolm Tuttle, Chief Operations Manager, by phoning (07) 3869 9730 or Emailing mtuttle@queenslandracing.com.au.

-----Original Message-----

From: Barry Atkins
Date: 5/05/2011 10:59:32 AM
To: 'Anthony Burke'
Subject: RE: Racing act 2002

Jamie told me there is a Policy on the website of RQ re. administration of the Club.

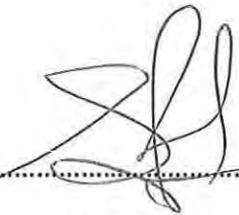
Have you found this?

Barry Edward Atkins (B.A., LLB(Hons.))

This is attachment marked "AB 67 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 67



From: Anthony Burke
Date: 5/05/2011 9:53:33 AM
To: bazlawyer@atlaw.net.au
Subject: Racing rules

"Club" includes any person or body holding or proposing to hold a race meeting in the

Commonwealth.

"The Committee of the Club" means the Committee of any Club which is registered with a Principal

Racing Authority or whose meetings are registered with a Principal Racing Authority.

AUSTRALIAN RACING BOARD

[rules 208, 209 deleted and replaced by new rules 208 to 215 on 1.8.98]

[rules 208 to 213 deleted and replaced by the insertion of new rule 208 on 1.8.03]

AR.208. The Australian Racing Board is a company limited by guarantee incorporated under the

Corporations Act established to make, change and administer the Australian Rules of Racing and

Otherwise do all things whatsoever that the Board considers to be conducive to developing,

Encouraging, promoting or managing the Australian thoroughbred racing industry, *[inserted 1.8.03]*

AR.209. The Australian Racing Board may, from time to time, publish Codes of Practice setting out

Standards of conduct for persons commercially associated with Australian thoroughbred racing.

[Rule added 1.5.05]

REGISTRATION OF CLUBS AND MEETINGS

AR.13. The Principal Racing Authority may in its discretion accept or refuse registration of any such

Club or meeting, or having granted it may at any time revoke it.

AR.7. A Principal Racing Authority shall

(l) not have the reserved right to make new Rules (other than local Rules) or to rescind or alter these Rules,

And a principal Racing Authority which does not comply with this requirement shall *ipso facto* cease to

Be a Principle Racing Authority;

(ii) have the control and general supervision of racing within its territory;

(d) To penalise:-

(l) any person contravening the Rules or disobeying any proper direction of any

Official, or

(ii) any licensed person or official whose conduct or negligence in the

Performance of his duties has led, or have led, to a breach of the Rules.

(s) To investigate alleged breaches of a Code of Practice published by the Australian

Racing Board and to warn-off or penalise any person it finds to have committed a

Breach of such a Code of Practice.

[AR.7 deleted & replaced 19.3.09]

OFFENCES

AR.175. The Committee of any Club or the Stewards may penalise;

(g) Any person who gives at any inquiry or appeal any evidence which in their opinion is false or

Misleading in any particular.

(gg) Any person who makes any false or misleading statement or declaration in respect of any matter in

Connection with the administration or control of racing

(k) Any person who has committed any breach of the Rules, or whose conduct or negligence has led or

Could have led to a breach of the Rules.

[amended 20.11.02]

(l) Any person who attempts to commit, or conspires with any other person to commit, or any person who

Connives at or is a party to another committing any breach of the Rules.

~~U~~ (q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly

Behaviour.

V) Any person who commits a breach of a Code of Practice published by the Australian Racing

Board.

AR.175A. Any person bound by these Rules who either within a racecourse or elsewhere in the opinion of the

Committee of any Club or the Stewards has been guilty of conduct prejudicial to the image, or interests, or

Welfare of racing may be penalised.

This policy applies to all race clubs licensed by Queensland Racing Limited.

This policy relates to Queensland Racing Limited's policies for:

- the standard required of licensed venues

DEFINITIONS

Direction (from Queensland Racing Limited) – a written direction given by

Queensland Racing Limited to a race club relating to the club's operations or racing

Venue. Queensland Racing Limited may require a club to do something or refrain

From doing something.

~~U~~ **Disciplinary action (by Queensland Racing Limited against a club)** – may include

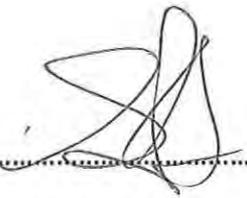
Cancelling, suspending or varying the club's licence or imposing a monetary penalty.

~~U~~ Queensland Racing Limited may give a

Direction to a race club regarding its operations.

This is attachment marked "AB 68 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

AB68



From: Anthony Burke
Date: 22/07/2011 3:40:17 PM
To: bazlawyer@atlaw.net.au
Subject: Fw: RE: Minutes and financial's



Found this one to add to our list of RQL failing to protect me

-----Original Message-----

From: Anthony Burke
Date: 11/05/2011 5:37:11 PM
To: jorchard@racingqueensland.com.au
Cc: rbentley@racingqueensland.com.au
Subject: Fw: RE: Minutes and financial's

Hi Jamie

As per my lawyer's questions with a portfolio I am assembling, I would like you to see the response to a series of questions that I put to Aaron Clancy today.

You will see he is not providing me with information as a committee member. I have been told the upcoming meeting of the TTC will be (in Graham Healy words) fiery and with people wanting to rip my head off.

This concerns me and would like your advice as to my fear for my health and safety if attending the meeting on May 30.

The above is also a continuance of a failing to operate under the Racing Policy that both Racing Queensland and the Incorporation Act stipulate.

I have been advanced warned of impending **harassment** by the acting chairman Graham Healy on Saturday night April 30 with Life Member Tom Warren present that the upcoming committee meeting will be aimed at me by the full committee. Graham said they all have a problem with my legal choice and the costs to the club.

I am being **discriminated** against by the Secretary as the below email reply shows, and previous correspondence I have also. I am not being treated as an equal although the Supreme Court decision confirmed I am. I feel this is a an example of Gross **Misconduct** by the secretary and the committee of the TTC.

I am not asking you to take action on this as yet, but would like to discuss my options with you and my Lawyer Mr Barry Atkins as soon as possible.

Queensland Racing Limited

POLICY ON THE FORMATION, MANAGEMENT AND LICENSING OF CLUBS

Mismanagement of race clubs and instances of **harassment**, **discrimination**, **misconduct** and unsafe work practices can cause great harm to the individuals involved, as well as reduce productivity and damage the image of the Queensland racing industry.

It is in the interest of the racing industry and the public generally that the industry is a safe place to work, free from unsafe work practices, unlawful discrimination,

harassment and misconduct.

The purpose of this policy is to ensure Queensland race clubs, whether they are proprietary or non-proprietary, are properly formed and managed and that they provide a work environment free from unsafe work practices, harassment, unlawful discrimination and misconduct.

Mismanagement of race clubs and instances of harassment, discrimination, misconduct and unsafe work practices can cause great harm to the individuals involved, as well as reduce productivity and damage the image of the Queensland racing industry.

Continued

The result of an incorrectly worded press release damages my name and the image of the Racing Industry and even though we have thru their lawyers asked for it to be corrected, it has been refused.

The present action of supply from the committee to supply the funds for Bob Frappell to sue me for defamation smacks in the face of the accusation by an unknown person on "Wednesday Whinge" article where Mr Bentley and Racing Queensland act in a great light of the correct use of members funds.

I also after reading the minutes have found a recorded official comment from Bob Frappell with John Morgan which conflicts with the legal affidavit Aaron Clancy presented to the Supreme court.

With my costs for legal matters now advancing \$40000 for correctness and procedural action to be followed, the TTC seem to be able to continue with no governance stopping this happening.

I am happy to work with Racing Queensland to ensure the industry image and name is protected before this goes further.

I need to discuss many issue at the utmost urgency to do with these matters

Anthony Burke
0423022880

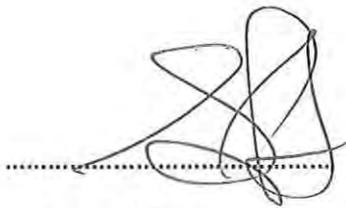
-----Original Message-----

From: Aaron Clancy
Date: 11/05/2011 4:24:48 PM
To: Anthony Burke
Subject: RE: Minutes and financial's

Anthony 12pm will be fine for you to read the minutes.

This is attachment marked "AB 69 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized, cursive name, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

TRANSACTION REPORT

AB69

FRI/13/MAY/2011 01:48 PM

FAX(TX)

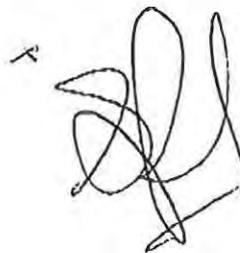
#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	13/MAY	01:48PM	46331256	0:00:16	1	MEMORY OK	SG3 1814

20: TTC

13/5/11

I Anthony Burke require you give me by 4pm today by fax to 0746329529 copies of the following correspondence specified in the minutes, which correspondence forms part of the Minutes, and which correspondence I am entitled to see in my role as Committee member TTC :-

- 25/2/11 Heggood Garnim to TTC Minutes Feb'11
- Code of Conduct Minutes Feb'11
- Letter TTC to Heggood Garnim re Racing Act 6 Dec Minutes
- Audited figures from HFK. 23/12 ^{minutes} 24.1.11
- email to Jamie Orchard 14/2 ^{minutes} 17.2
- financial report attached to Minutes 17/3/11
- copy of advice from Heggood Garnim specified in the 17/3/11 minutes at point 12.1 of General Business.



Anthony Burke

Please bring all your questions to the next Committee Meeting.

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Wednesday, 11 May 2011 4:07 PM
To: Aaron Clancy
Subject: Minutes and financial's
Importance: High

Hi Aaron

Will be closer to 12 tomorrow but can you have some details on financial's for me there, bills for lawyers etc.

Noticed that the club has to outlay close to \$500000 for equipment for the track maintenance and only saw \$108000 cash in the bank in

the January minutes and no further updates in the minutes of cash on hand in February, March, or April minutes.

I noticed the committee was happy to pay to continue the Wendy Blain legal challenge so will need update there too.

As well as the Code of Conduct draft that the minutes say went to RQ, will read that too.

Also I noted in the minutes I wrote down there is only 2 sponsors being renewed, XXXX and Fitton. Can you show me where in the minutes the new sponsors the club has, have supplied cash injections as this seems the reason for not renewing other previous sponsors

In your words to me was that there is no bottom line advantage unless cash paid? Channel Seven does not pay cash, I would like an update on your new proposal for them due September as I was involved in the last one with Leah and talk to Mike Godsall with business regularly.

A friend of mine in the jewellery business told me that Central Jewellers did trophies this year and was curious as to your information to Channel 7 re my business as they did not pick up my vouchers from my business for the Fashions of the Fields of which we have supplied for the last 6 years. I deal with Mike on a weekly basis so I can ask him if you prefer.

New Sponsors that I see are Neil Mansell Transport, Snooze, Palm Village? On semaphore board, Plumbing shop/Race winners DVD, Also see a lot of race named after the Best Bets that Pat O'Shea offered by memory for Free? Will be great to see how much cash you have brought in with these new sponsors.

But show me in the Signed minutes the Chairman has on file there.

Can you also show me a photo of the Winners of the Weetwood and

Toowoomba Cup receiving the Perpetual and Personal trophy from this year as I was not invited.

I have hand written so much of the minutes now and concerned none of the above is in the signed minutes.

Look forward to your answers to the above and many more.

Thanks

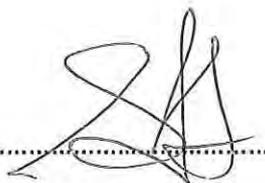
Anthony

FREE Animations for your email - by IncrediMall!

Click Here!

This is attachment marked "AB 70 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal line, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB 70

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041 02 B2
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your fax refusing our client's request to inspect financial records and Club records [Sponsorship Register].

Our client and Mr Atkins will attend at your client's office at 9 am tomorrow morning to inspect the Minutes.

Your client continues to refuse to supply our client with copies of the minutes and the 'draft minutes'.

We note your client continues to obstruct our client from fulfilling his role as a Committee member. Our client has duties to the TTC which your client is continuously preventing him from carrying out by their refusal to allow our client to inspect all records of the TTC free from harassment and without conditions.

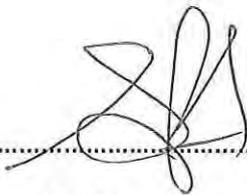


Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 71 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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AB 71

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 18 May 2011
To: Racing Queensland ATTN Ms S Murray URGENT
Facsimile: 32699043
Our Ref: BA:11075
Re: Anthony Burke and TTC

Total number of pages: 5 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

I enclose a copy of a letter sent to TTC's lawyers this morning about some of the matters we discussed by telephone today.



Barry Atkins
Solicitor & Attorney

TRANSACTION REPORT

WED/18/MAY/2011 10:30 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	18/MAY	10:29AM	32699043	0:00:55	5	MEMORY OK	SG3 2059

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 18 May 2011
To: **Racing Queensland ATTN Ms S Murray URGENT**
Facsimile: 32699043
Our Ref: BA:11075
Re: Anthony Burke and TTC

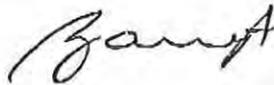
Total number of pages: 5 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

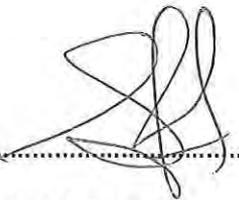
I enclose a copy of a letter sent to TTC's lawyers this morning about some of the matters we discussed by telephone today.



Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 72"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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AB 72

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 18 May 2011
To: Hopgood Ganim
Fax No: 3024 0002
Our Ref: BA:11075
Your Ref: B Bolton
Re: Anthony Burke inspection of all books and records of Toowoomba Turf Club
4 pages in total

Dear Sir,

We confirm our client and Mr Atkins will attend at the offices of your client this morning to inspect all books of record kept by the TTC in accordance with its Rules, objects and Obligations under all relevant legislation.

We draw your client's attention to the following section of the Associations Incorporation Act ["AIA"].

"Part 7 Management committee

60 Management committee

(1) Subject to this Act, the business and operations of an incorporated association shall be controlled by a management committee.

(2) Every member of the management committee and any manager duly appointed by the management committee acting in the business or operations of the incorporated association shall be deemed to be the agent of the incorporated association for all purposes within its objects."

Our client is attending as a Committee Member of TTC and under this legislation he is an agent of the TTC for all purposes within the TTC's objects.

We will be inspecting the Sponsorship Register, in relation to which we enclose a copy of an undated letter from Mr Frappell to Mr Burke.

You will observe the December meeting of the Committee decided that it was 'very good business practice' to 'review the sponsorship arrangements'. Our client will be doing that this morning.

We will be inspecting the payments ledger and the receipts ledger. Our client agrees to meet with the treasurer next week with Mr Atkins to examine the books of accounts offered in your letter yesterday but those figures do not cover the period since Feb2011 which are relevant to the issue of whether Mr Clancy has breached the AIA by misleading the Committee by omission of relevant material [which issue is dealt with in the AIA].

Our previous inspection of the Minutes reveal that Mr Clancy and Mr Frappell have misled the Committee by omitting in 'correspondence received' letters from this Firm dated 17/2/11 and a letter from Racing Queensland dated about 18/2/11. *

At the February Committee meeting a motion was passed in words to the effect [we are unable to quote them verbatim as your client refuses to give us a copy of the Minutes], that all correspondence is to be presented to the Committee. At that Committee meeting Mr Frappell failed to table a copy of his letter to Mr Burke of 15 February. *

We demand copies of the minutes including the correspondence be sent to Mr. Burke by email today in accordance with the following section of the AIA:-

"57B Inspection of minutes

(1) If asked by a member of an incorporated association, the association's secretary must, within 28 days after the request is made—

(a) make the minute book for a particular general meeting available for inspection by the member at a mutually agreed time and place; and

(b) give the member copies of the minutes of the meeting.

(2) The incorporated association may require the member to pay the reasonable costs of providing copies of the minutes."

Our client will pay the reasonable costs of the copies

Your clients continuing failure and refusal to comply with its obligations under the AIA to supply my client with copies of the Minutes and the financial records is clearly intentionally obstructing a Committee member, Mr Burke, in breach of m the TTC's obligations under the AIA.

Your client must also give our client copies of all financial records that he has repeatedly asked for but been refused , as required by the AIA section set out below:-

"59C Inspection of financial documents

(1) If asked by a member of an incorporated association, the association's secretary must, within 28 days after the request is made—

(a) make the association's financial documents available for inspection by the member at a mutually convenient time and place; and

(b) give the member copies of the documents."

Please ensure copies of all current financial records including payment ledger and receipts ledger are sent to our client by email today.

The AIA imposes certain obligations on my client including:-



57 Management committee to ensure association complies with its rules for meetings

(1) The members of the management committee of an incorporated association must ensure that the association complies with its rules about the calling and holding of meetings.

Maximum penalty for each member of the management committee—10 penalty units.

(2) It is a defence to a prosecution of a member of the management committee for an offence against subsection (1) for the member to prove he or she took all reasonable steps to ensure the association complied with the subsection. “

Unless the TTC allows Mr Burke to inspect today everything he needs to inspect to comply with his obligation under the above section, the TTC is guilty of preventing our client fulfilling his obligations under the AIA.

The TTC **MUST** assist Mr Burke, as its Agent, to ensure the TTC complies with the AIA about meetings, particularly where there is evidence of misleading the Committee by withholding correspondence as specified above.

To fail to do so makes Mr Clancy [who is instructing you] guilty of preventing a Committee Member from exercising his rights and obligations under the AIA, and further guilty of failing to ensure the TTC complies with its obligations under the AIA.

The continued refusal by your client to allow my client to exercise his ‘entitlement’ to inspect the books of the TTC is in clear breach of the rights my client has as a Committee member.

We note the following section of the AIA:-

69A Functions of secretary

(1) The secretary’s functions include—

- (a) calling meetings of the incorporated association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the president of the association; and
- (b) keeping minutes of each meeting; and
- (c) keeping copies of all correspondence and other documents relating to the association; and
- (d) maintaining the association’s register of members.”

Our client will also inspect copies of all correspondence this morning and the Membership Register.

As you will advise your client about these sections of the AIA there can be no defence that Mr Clancy, if he continues to instruct you to advise us that the TTC refuses to allow Mr Burke to inspect all records of the TTC, has acted appropriately.

Our client requested copies of the Minutes and the financial records more than 28 days ago. Failure to provide the complete copies will result in further action by our client.

Barry Atkins 
Solicitor & Attorney

TRANSACTION REPORT

WED/18/MAY/2011 10:28 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	18/MAY	10:27AM	30240002	0:01:03	4	MEMORY OK	SG3 2058

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 18 May 2011
To: Hopgood Ganim
Fax No: 3024 0002
Our Ref: BA:11075
Your Ref: B Bolton
Re: Anthony Burke inspection of all books and records of Toowoomba Turf Club

4 pages in total

Dear Sir,

We confirm our client and Mr Atkins will attend at the offices of your client this morning to inspect all books of record kept by the TTC in accordance with its Rules, objects and Obligations under all relevant legislation.

We draw your client's attention to the following section of the Associations Incorporation Act ["AIA"].

"Part 7 Management committee

60 Management committee

(1) Subject to this Act, the business and operations of an incorporated association shall be controlled by a management committee.

(2) Every member of the management committee and any manager duly appointed by the management committee acting in the business or operations of the incorporated association shall be deemed to be the agent of the incorporated association for all purposes within its objects."

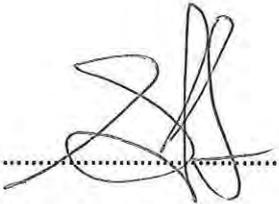
Our client is attending as a Committee Member of TTC and under this legislation he is an agent of the TTC for all purposes within the TTC's objects.

We will be inspecting the Sponsorship Register, in relation to which we enclose a copy of an undated letter from Mr Frappell to Mr Burke.

This is attachment marked "AB 13 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal line, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB 73

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 19 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Thank you for your facsimile yesterday.

We note you have admitted the letter from Racing Queensland Limited to your client of about 18 February 2011 regarding Mr Burke (and another) has not been tabled at any committee meeting.

We reserve our client's rights to take action in the future as appropriate in relation to this misleading of the committee by omission.

Despite your statement to the contrary, your firm does act for Mr Clancy.

We refer you to point 6 on page 3 of the Minutes of your client's April 2011 committee meeting.

Therefore we again ask you to advise your clients instructions within 48 hours whether Mr Clancy will make available the original tape recording and a typed transcript of that recording to the next committee meeting on 26 May 2011.

Your and your client's perception of reality is markedly different to that of us and our client.

There is a number of aspects to your letter that require a detailed reply which we will do next Monday when Mr Atkins returns from the law conference he is attending.

In short, however, our client particularly takes umbrage at your assertion that his actions since the Court decision have cost your client's members' money.

All letters from this firm that you have been "bombarded with" have been written on instructions and have been entirely appropriate because your client has:-

1. failed to supply a copy of the minutes and/or associated documents to my client despite the fact that it is obvious that obligation on your client to do so is inherent to the proper operation of your client by its committee members'
2. Despite your protestations to the contrary, the facts are that your client has:-
 - a. failed, and refused, to rectify the false and misleading statement of the listed committee members in the Weetwood Race Day programme; and

- b. failed, and refused, to rectify the false and misleading public notice regarding nominations for a casual vacancy on the committee; and
- c. misrepresented the Court's decision to the public

All of our letters have been directed to these matters.

You have never advised us the legal basis for your client to discriminate against our client compared to all the other committee members, by refusing to give him copies of the "draft" minutes which have been supplied to every other committee member.

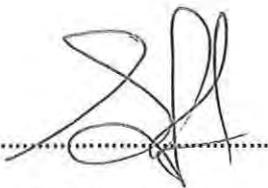
There are other aspects of your letter, in addition to the matters listed above, which prove your client is not genuinely acting in the interests of the Toowoomba Turf Club, but indeed acting with *mala fides* towards our client. These will be addressed in future correspondence.

per 

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 74 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal line, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

AB 74

FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club ["TTC"]
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your letter received by facsimile on 17 May 2011.

We agree with you that "any recording he [Mr. Clancy] possesses would be held on behalf of the Club".

Because you say in that letter you do not act for him, we have written directly to him.

Because the tape recording is in the possession of your client's employed racing secretary, we are writing to you about the Toowoomba Turf Club, on instructions, to advise you that in our client's personal opinion and in our professional opinion:-

1. Mr Clancy, as your client's employee, has misled the committee of TTC by omission, in breach of his duties and obligations
2. the tape recording held by Mr. Clancy, on behalf TTC should have been tabled at the Club's committee meetings in February, March and April 2011;
3. your client's employed racing secretary failed to table the tape at the Club's committee meetings in February, March and April 2011;
4. your client's employed racing secretary withheld that item from the Committee;
5. your client's committee, during the time my client was wrongfully excluded from the committee meetings [February, March and April 2011], failed to fulfil its duties to ensure that the employed racing secretary tabled that tape, when the Chairman of the Committee knew of the existence of the tape;
6. your client's chairman, Mr. B Frappell, [for whom you also act in relation to the threat of defamation proceedings against our client], knowing of the existence of the tape, failed:-
 - a. to ensure the item was tabled at Committee Meetings in February, March and April 2011;
 - b. to advise the Committee of his conflict of interest regarding the tape in circumstances where you had had written, on Mr. Frappell's instructions, to Mr. Burke threatening defamation proceedings for which Mr. Frappell relied on the

tape , as it [allegedly] confirmed Mr. Frappell's version of events in the TTC Offices and car park;

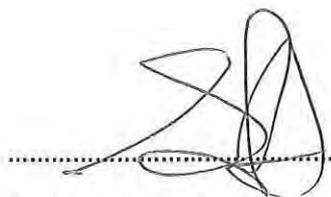
7. our client's duty to the Club includes requiring Mr Clancy to table the tape at the committee meeting on 26 May. This is what we have written to Mr Clancy about, as well as the following:-
- a. The employed racing secretary has misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];
 - b. A formal complaint is being made by a committee member of the Toowoomba Turf Club (Mr A. Burke) to Racing Queensland about :-
 - i. The most serious misleading of the committee by the employed racing secretary; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item [held by Mr. Clancy on behalf of the TTC]; and
 - iii. The current Chairman, Mr. B Frappell, failing to:-
 1. require the tabling of the item when he knew it existed; and
 2. in circumstances where he had a conflict of interest, failing to declare that conflict of interest to the Committee.
 - c. A committee member, Mr A. Burke, is making a formal complaint to the Office of Fair Trading about:-
 - i. The misleading of the committee by the employed racing secretary by the omission to table the item at Committee Meetings in February, March and April 2011; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item; and
 - iii. The Chairman failing to require the tabling of the item when he knew it existed in circumstances where he had a conflict of interest; and
 - iv. The Chairman failing to declare a conflict of interest, when he knew the tape existed, in circumstances where he had a conflict of interest; and
 - v. The current Chairman failing his duty to the Club to ensure the item was tabled at a Committee Meeting when he knew it existed.

With respect, we disagree totally with your last paragraph because it is Mr Clancy's obligation and duty to table the item at the first Committee Meeting after the tape was made, **not if**, "a majority of the committee validly directs Mr Clancy to provide any tape recording and/or transcripts to all committee members."

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 75 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

Anthony John Burke

A handwritten signature in black ink, featuring a stylized 'BA' followed by a horizontal line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB75

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Racing Queensland
Attn: Ms S. Murray
Facsimile: 3269 9034/ 3269 6715
Our Ref: BA:11030
Re: Anthony Burke – Toowoomba Turf Club – Mr A. Clancy – Mr B. Frappell

Total number of pages: 4 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

I enclose copy of fax sent to solicitors for TTC and a copy of a fax sent direct to Mr. A Clancy the employed racing secretary of the TTC.

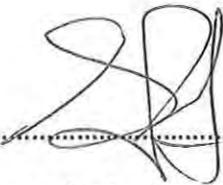
As Mr. Burke is making a formal complaint to Racing Queensland, but is away until Monday, the Complaint will be formalised when he returns and is able to sign a letter of complaint to you about the matters set out in my above two faxes to solicitors for TTC and Mr. A Clancy.

per BA

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 76 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB76

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club ["TTC"]
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your letter received by facsimile on 17 May 2011.

We agree with you that "any recording he [Mr. Clancy] possesses would be held on behalf of the Club".

Because you say in that letter you do not act for him, we have written directly to him.

Because the tape recording is in the possession of your client's employed racing secretary, we are writing to you about the Toowoomba Turf Club, on instructions, to advise you that in our client's personal opinion and in our professional opinion:-

1. Mr Clancy, as your client's employee, has misled the committee of TTC by omission, in breach of his duties and obligations
2. the tape recording held by Mr. Clancy, on behalf TTC should have been tabled at the Club's committee meetings in February, March and April 2011;
3. your client's employed racing secretary failed to table the tape at the Club's committee meetings in February, March and April 2011;
4. your client's employed racing secretary withheld that item from the Committee;
5. your client's committee, during the time my client was wrongfully excluded from the committee meetings [February, March and April 2011], failed to fulfil its duties to ensure that the employed racing secretary tabled that tape, when the Chairman of the Committee knew of the existence of the tape;
6. your client's chairman, Mr. B Frappell, [for whom you also act in relation to the threat of defamation proceedings against our client], knowing of the existence of the tape, failed:-
 - a. to ensure the item was tabled at Committee Meetings in February, March and April 2011;
 - b. to advise the Committee of his conflict of interest regarding the tape in circumstances where you had had written, on Mr. Frappell's instructions, to Mr. Burke threatening defamation proceedings for which Mr. Frappell relied on the tape . as it [allegedly] confirmed Mr. Frappell's version of events in the TTC Offices and car park;

7. our client's duty to the Club includes requiring Mr Clancy to table the tape at the committee meeting on 26 May. This is what we have written to Mr Clancy about, as well as the following:-
- a. The employed racing secretary has misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];
 - b. A formal complaint is being made by a committee member of the Toowoomba Turf Club (Mr A. Burke) to Racing Queensland about :-
 - i. The most serious misleading of the committee by the employed racing secretary; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item [held by Mr. Clancy on behalf of the TTC]; and
 - iii. The current Chairman, Mr. B Frappell, failing to:-
 1. require the tabling of the item when he knew it existed; and
 2. in circumstances where he had a conflict of interest, failing to declare that conflict of interest to the Committee.
 - c. A committee member, Mr A. Burke, is making a formal complaint to the Office of Fair Trading about:-
 - i. The misleading of the committee by the employed racing secretary by the omission to table the item at Committee Meetings in February, March and April 2011; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item; and
 - iii. The Chairman failing to require the tabling of the item when he knew it existed in circumstances where he had a conflict of interest; and
 - iv. The Chairman failing to declare a conflict of interest, when he knew the tape existed existed, in circumstances where he had a conflict of interest; and
 - v. The current Chairman failing his duty to the Club to ensure the item was tabled at a Committee Meeting when he knew it existed.

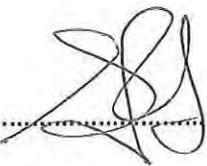
With respect, we disagree totally with your last paragraph because it is Mr Clancy's obligation and duty to table the item at the first Committee Meeting after the tape was made. not if, "a majority of the committee validly directs Mr Clancy to provide any tape recording and/or transcripts to all committee members."

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 77"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

AB 77

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Racing Queensland
Attn: Ms S. Murray
Facsimile: 3269 9034/ 3269 6715
Our Ref: BA:11030
Re: Anthony Burke – complaint about Mr A. Clancy

Total number of pages: 2 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

I enclose copy letter sent today to Hopgood Ganim being a formal complaint by Mr. A Burke to TTC about the actions and conduct of Mr. A Clancy in acting without authority.

Please accept that copy as Mr. Burke's formal complaint to Racing Queensland about the actions and conduct of Mr. A Clancy in acting without authority.

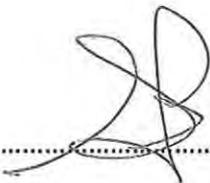


Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 78"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

AB78

FACSIMILE TRANSMISSION

Date: 23 May 2011

To: Hopgood Ganim Lawyers

Fax No: 07 3024 0002

Our Ref: BA:11030

Your Ref: Mr B. Bolton

Re: Anthony Burke complaint to Toowoomba Turf Club Inc. about Mr. A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client has instructed us to make a formal complaint to both your client, TTC, and Racing Queensland about the conduct and actions of Mr. A Clancy, your client's employed racing secretary.

You advised us in writing, at the outset of the communications between our Firms, in response to our question to you, that you received instructions from Mr. A Clancy.

Our client has reviewed the Minutes of the Committee Meetings since October 2010 to and including April 2011.

Nowhere in those Minutes does it record a decision of the Committee to authorise Mr. Clancy to instruct you regarding matters in dispute between our client and TTC.

Nowhere in those Minutes does it record a decision of the Committee to delegate authority to Mr. Clancy to make unilateral decisions about the conduct of the disputes [several in number] between our client and your client.

It is now clear that Mr. Clancy has continuously acted without express authority of the TTC.

His authority as an employee does not and could not extend to making decisions, to instruct your law firm, about matters in dispute between the parties.

We particularly refer to your recent advice to us that your client [TTC] rejected our open offer of settlement regarding the dispute over the Sponsorship Agreement between your client and our client, Jewels of the Range.

The rejection of that offer, on instructions from Mr. A Clancy exposes TTC to a costs order against them on an indemnity basis if our client is successful.

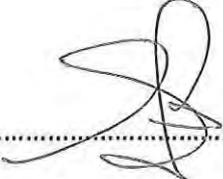
Our client believes that Mr. A. Clancy did not seek a decision from the Committee before rejecting that offer, but acted unilaterally without actual authority from TTC.

Barry Atkins
Solicitor & Attorney

Bh

This is attachment marked "AB 79"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB 79

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Racing Queensland
Attn: Ms S. Murray
Facsimile: 3269 9034/ 3269 6715
Our Ref: BA:11030
Re: Anthony Burke – Toowoomba Turf Club – Mr A. Clancy – Mr B. Frappell

Total number of pages: 2 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

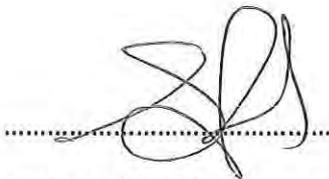
Dear Shara,

I enclose copy of fax sent to solicitors for TTC regarding the failure of the TTC to award a perpetual trophy donated by the Burke Family for the Toowoomba Cup in 2011.

Barry Atkins 
Solicitor & Attorney

This is attachment marked "AB 80 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BE' followed by a horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB 80

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: the Burke family and Toowoomba Turf Club Inc.

If you do not receive all 1 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We act for the Burke family who donated a perpetual trophy to TTC for the Toowoomba Cup.

TTC accepted this offer of a perpetual trophy in 2009.

TTC did not give the trophy to the winning connections of this years Toowoomba Club.

No motion has been passed by TTC to cease awarding this perpetual trophy, as far as Mr. Burke can ascertain from reading the Minutes which your client immorally refuses to give Mr Burke a copy of.

Only Mr. Clancy and/or Mr. Frappell could have made the decision to not give the trophy this year. Please advise whether it was one or both and if one, which one.

Such action was done without authority of the TTC.

This latest attack on my client, Mr. Burke, and now directly on his family demonstrates the mala fides of Mr. Clancy and Mr. Frappell towards Mr. Burke.

Our client [the Burke Family] instructs us to ask you to advise what action your client will take to rectify this insulting, malicious, vindictive attack on my client and his family in circumstances where the attack was done by the current Chairman and/or the current employed racing secretary without any authority of the TTC.

Our client [the Burke family] have instructed us to send a copy of this letter to Racing Queensland with a request that Racing Queensland investigate the circumstances which gave rise to TTC failing to award a perpetual trophy.



Barry Atkins
Solicitor & Attorney

TRANSACTION REPORT

MON/23/MAY/2011 12:10 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	23/MAY	12:09PM	30240002	0:00:22	1	MEMORY OK	SG3 2239

@LAWPrincipal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529*FACSIMILE TRANSMISSION*

Date: 23 May 2011
 To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
 Our Ref: BA:11030 Your Ref: Mr B. Bolton
 Re: the Burke family and Toowoomba Turf Club Inc.

If you do not receive all 1 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We act for the Burke family who donated a perpetual trophy to TTC for the Toowoomba Cup.
 TTC accepted this offer of a perpetual trophy in 2009.

TTC did not give the trophy to the winning connections of this years Toowoomba Club.

No motion has been passed by TTC to cease awarding this perpetual trophy, as far as Mr. Burke can ascertain from reading the Minutes which your client immorally refuses to give Mr Burke a copy of.

Only Mr. Clancy and/or Mr. Frappell could have made the decision to not give the trophy this year. Please advise whether it was one or both and if one, which one.

Such action was done without authority of the TTC.

This latest attack on my client, Mr. Burke, and now directly on his family demonstrates the mala fides of Mr. Clancy and Mr. Frappell towards Mr. Burke.

Our client [the Burke Family] instructs us to ask you to advise what action your client will take to rectify this insulting, malicious, vindictive attack on my client and his family in circumstances where the attack was done by the current Chairman and/or the current employed racing secretary without any authority of the TTC.

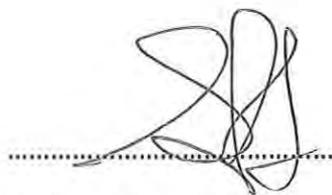
Our client [the Burke family] have instructed us to send a copy of this letter to Racing Queensland with a request that Racing Queensland investigate the circumstances which gave rise to TTC failing to award a perpetual trophy.



Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 8 / "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke at the bottom, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal stroke, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

TRANSACTION REPORT

MON/23/MAY/2011 12:36 PM

FAX(TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	23/MAY	12:36PM	46331256	0:00:16	1	MEMORY OK	SG3 2241

AB81

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 23 May 2011
Date: 23 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: legal costs of TTC fighting Mr. A Burke
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

Our client requires that you table at the Committee Meeting due 26/5/11 copies of all material relating to the legal costs of the TTC fighting Mr. Burke over various legal matters.

In relation to each and every of those legal matters our client, in his capacity as Committee member TTC, in accordance with his duties as a Committee member TTC, requires you table copies of all material from and to Hopgood Ganim relating to legal costs, fees and expenses, including, but not limited to:-

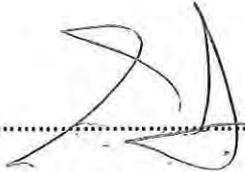
1. Original signed Cost Agreement between TTC and Hopgood Ganim;
2. Written Estimate of costs given to TTC by Hopgood Ganim;
3. Copies of all invoices received by TTC from Hopgood Ganim;
4. Details of all payments made by TTC to Hopgood Ganim.

AB

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 82"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 82

24 May 2011

Mr Bob Frappell
Chairman
Toowoomba Turf Club Inc.
PO Box 6037
TOOWOOMBA WEST QLD 4350

By E-mail: aaron@toowoombaturfclub.com
Original by Post



Racing Queensland Limited
A.B.N 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Frappell

**RE: DISPUTE BETWEEN TOOWOOMBA TURF CLUB INC.
& ANTHONY BURKE**

I am writing to you in relation to the continual dispute between your club, the Toowoomba Turf Club Inc. (TTC) and Committee Member, Mr Anthony Burke.

With respect to the issues Mr Burke has raised with Racing Queensland Limited concerning the TTC and its officers, I am of the opinion that it is in all parties' interests that the simplest and least expensive route to resolve these matters ought be adopted.

I strongly recommend that the TTC initiate a form of mediation and/or dispute resolution to be conducted between itself and Mr Burke in order to resolve these ongoing disputes.

This will both save industry funds and protect the reputation of the industry which is at risk from this continuing dispute.

Should you wish to discuss this matter further, please do not hesitate to contact myself on (07) 389 9712.

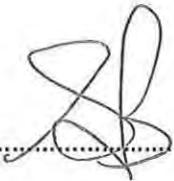
Yours faithfully

Shara Murray
Senior Corporate Counsel | Company Secretary

Cc. Mr Jamie Orchard, RQL Director of Integrity Operations
Mr Brett Bolton, HopgoodGanim Lawyers
Mr Barry Atkin, @LAW

This is attachment marked "AB83 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of stylized, overlapping loops and curves, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected, slightly wavy lines, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 83

Barry Atkins

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Tuesday, 24 May 2011 6:49 PM
To: Sales
Subject: Re: FW: Dispute between Toowoomba Turf Club Inc. & Anthony Burke

Barry

I spoke to Bob Bentley off the record tonight and he expects it to be rejected. He said I need to proceed as discussed and with breaches they must be reported to the OFT immediately as well as them and the government department relevant as if the license is suspended it will be better for us as I was showing our good faith in advising the full committee and them ignoring it. That way it is recorded for future reference and is fully transparent. Both Barrels !!!!

They can then step in if this happens and correct matters in line with the law and the policy.

So tomorrow we proceed and send all relevant documents as discussed we have all the cards face up with the issues breached and they will have no options.

No bluffing in this card game

Anthony

-----Original Message-----

From: Sales
Date: 24/05/2011 4:59:49 PM
To: 'Anthony Burke'
Subject: FW: Dispute between Toowoomba Turf Club Inc. & Anthony Burke

Read the attached – maybe AC will table it at the meeting on Thursday.

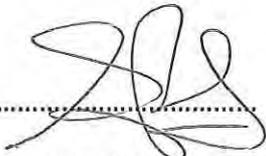
Do you still want to send the complaint to OFT tomorrow – think over night.

If they agree at the meeting on Thursday to hold a mediation within , say 1 week, and they agree they will not discuss anything at all about you, me and the letter to members etc etc then I can leave the meeting and everyone can get on with business.

RQ are right that the matter will end up bring the industry into disrepute.

This is attachment marked "AB 84"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be "B. Atkins" with a flourish at the end.

.....
Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

84
AB SA
Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Date: 24 May 2011
To: Racing Queensland
Attn: Ms S. Murray
Facsimile: 3269 9034/ 3269 6715
Our Ref: BA:11030
Re: Anthony Burke – Toowoomba Turf Club – Mr A. Clancy – Mr B. Frappell
Total number of pages: ~~4~~³ including cover sheet
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

I enclose a copy of a letter sent by Mr. Burke to all TTC members.

There is an attachment being the letter from our barrister.

Mr. Burke has been told by other Club members that the current Committee intend to use this letter to try and kick Mr. Burke out using the Rule that is about ~~bring~~^{bringing} the Club into disrepute.

We alert you to this prospect and will tell you straight away if any steps are taken.

The letter was seen by me before Mr. Burke sent it. The content is true and accurate.

If any disrepute or odium attaches to the Club because of the content of this letter it is a direct result of the Club's actions, particularly since the Court Decision on 20/4/11.

I have advised TTC's lawyers that I will attend the Committee Meeting due 26 May 2011 but I have had no response.

I am alerting you to this as you may need to consider the issue if the Committee ask you to chair the meeting. Frankly I do not think they will invite you to do that.

Therefore to avoid a confrontation at the meeting on Thursday my client asks you give you opinion on his rights to have his legal representative present at the Committee Meeting.

I believe it is an inherent right of all people to have legal advice at all times. Given the history of this matter, to be honest, I am not surprised that Anthony feels vulnerable and threatened. He wants to have me present.

Barry Atkins 
Solicitor & Attorney

24 May 2011

«FIRSTNAME» «SURNAME»
«ADDRESS1»
«ADDRESS2»

Dear «FIRSTNAME»,

THE TRUTH IS HERE

You deserve to know the truth about my Committee membership of the Toowoomba Turf Club.

You elected me as a Committee Member at the AGM in 2010.

In February this year the Chairman, Mr. Frappell wrote me a letter trying to terminate my individual and Committee memberships.

At a Supreme Court Hearing on 20 April 2011 the Judge said that the Club had failed to give me natural justice.

I was forced to take the Club to Court to enable me to continue to serve as your committee member.

This action was not taken lightly by me but when the Club failed to comply with its Rules (Rule 12, 37 and Standing Order 16) I had no option.

Racing Queensland wrote to the Club telling it to avoid spending money on litigation and to comply with its Rules. This letter was withheld from the committee.

The Supreme Court declared that I was both a member of the Club and a Committee member.

After the Court decision, the Toowoomba Turf Club issued a false and misleading press release saying I was "back on" or "reinstated to" the Committee after my membership was 'deemed invalid'.

That is not true.

Despite me asking for a retraction and correction the TTC refused to set the record straight. That is why I am writing to you directly to ensure you know the truth.

I **attach** a copy of a letter from my Barrister which shows the truth – I have always been and remain a member of TTC and a Committee Member of this Club.

I am greatly disappointed that I have had to spend a lot of money to apply to the Supreme Court which ruled in my favour when the Club failed to give me natural justice.

As a Club member I am greatly disappointed that the Club chose to spend a large amount of money arguing with me when I did nothing wrong.

The Club does not accept responsibility for its actions. For example my name was left off the list of Committee members in the Weetwood Race Day programme and the Club refuses to do as I asked to correct this falsehood and let its members and the public know the truth – that I was a Committee member when Weetwood was run.

The truth is that I was elected your Committee member in 2010 and I have never been removed as a Committee member. I look forward to serving you in 2011 and 2012 until my elected term expires.

I am available to discuss with you this letter or any other aspect of the Club's affairs that is troubling you.

We cannot let the little people get swept under the carpet by those who have a distorted view of reality. If I can I will help you and together we might get the Toowoomba Turf Club back on track!

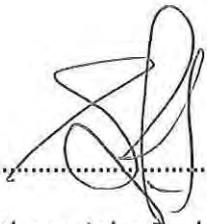
Yours faithfully

Anthony Burke
Elected Committee Member
2010-2012 Toowoomba Turf Club

85 

This is attachment marked "AB ~~86~~ "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013


.....
Anthony John Burke


.....
Barry Edward Atkins, Solicitor Witness

25 May 2011

AB 86
85



**RACING
QUEENSLAND**

Mr Barry Atkins
@ Law
Parkview Chambers
123 Margaret Street
TOOWOOMBA QLD 4350

Racing Queensland Limited
A B N 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
www.racingqueensland.com.au

By facsimile: 4632 9529

Dear Mr Atkins,

I refer to your facsimile transmission of 23 May 2011 addressed to Ms Shara Murray. Given that the transmission included a letter which constitutes a formal complaint, Ms Murray has referred the matter to me.

I have considered the matters you have raised and given that they principally relate to issues between your client and the Club, I believe they may be best addressed as part of the dispute resolution process that Ms Murray has suggested the Club undertake. On that basis, I propose to take these issues no further, pending an indication as to whether that resolution process will be undertaken and if so, what outcomes are achieved.

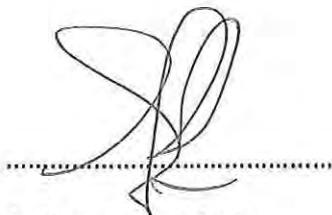
I also note your request that Ms Murray chair the next Committee meeting and that I attend. RQL is not able to consider such a request unless and until it is made by the club. If the club does make such a request, we will consider our position at that point.

Yours sincerely,

A.J.Orchard
Director of Integrity Operations

This is attachment marked "AB 87 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the left.

Anthony John Burke

A handwritten signature in black ink, featuring a large, stylized initial 'B' followed by a few smaller loops.

Barry Edward Atkins, Solicitor Witness

AB 87

I, Anthony John Burke, of Shop 5 Number 11 James Street Toowoomba, in the State of Queensland, make this signed statement to support a formal complaint to Racing Queensland ("RQ") about the conduct and actions of the current Chairman of the TTC Mr B. Frappell ("BF") and the currently employed racing secretary Mr A. Clancy ("AC").

Background

I was elected as a committee member of TTC ("TTC") in 2009.

I was again elected as a committee member of the TTC in 2010 for a two year period.

Soon after the new committee commenced I sought, and received, leave of absence from the committee such that I did not have to attend meetings for the three months ending 1 March 2011.

While I was on leave from the committee I continued to try and be involved.

Complaint

I complain that the actions of both BF and AC over a six month period demonstrate a consistent pattern of behaviour that shows both BF and AC:-

1. have little or no regard for the truth when it suits them;
2. have no regard for the Rules of TTC;
3. have no regard for the concept of natural justice;
4. have acted without authority delegated by the TTC (in AC's case);
5. have acted without authority delegated by the committee of TTC (in BF's case);
6. have misled the TTC committee on many occasions by omission in that documents sent to TTC were not tabled at committee meetings.

Listed below are incidents I have been able to identify from reading the minutes.

The TTC has denied me, one of its committee members, copies of the minutes of the committee meetings.

This commenced from at least 6 December last year and continues.

The continued refusal to allow me to have copies of the minutes is despite the Supreme Court of Queensland declaring that I was a member of TTC and a committee member.

In the list below I am referred to as "AB".



1. The Portfolio of Illegal Sequence of Events Applied by the TTC under the stewardship of Chairman BF and Secretary AC.
 - a. 24/10/2010 email from AB to AC to pass onto BF re apology re attendance at Stathi funeral” (not tabled at November Meeting)
 - b. 5/12/2010 email AB to AC re cancelled races (no response by email or phone).
 - c. 6/12/2010 email AB to AC could you forward previous minutes and the agenda for the upcoming meeting. (none were forwarded)
 - d. 6/12/2010 email RQ to AB and all committee received from RQ “Bob Bentley” re TTC viability. (not tabled at TTC committee meeting) not 100% not showed in minutes as we did not double-check it last time.
 - e. 9/12/2010 email AB to AC, BF, TTC sponsors need invoices sent for (not noted in minutes as presented)
 - f. 16/12/2010 AB email to TTC with apology not attending JJ Atkins dedication. (not tabled at a subsequent committee meeting)
 - g. 16/12/2010 AB email to AC asking for a copy of financials on press release and also the previous minutes. Also please send details re story on legal action from RQ as on RQ website and Letsgohorseracing site. (no response and email not tabled at subsequent committee meeting)
 - h. 22/12/2010 AB email to AC and Bob Bentley re Life Member not being invited to the JJ Atkins dedication. “I also noted I wished this dissatisfaction from me is noted in the minutes for members to see” (and nor was it tabled)
 - i. 21/01/2011 AB email with letter to AC from Jewels of the Range re questions about our concern the TTC has not filled the obligations of our sponsorship contract. (noted in the minutes)
 - j. 25/01/2011 email AB letter sent to AC (cc to Bob Bentley) with questions to answer by BF. (not tabled at subsequent committee meeting)
 - k. 28/01/2011 AB received email from AC on TTC letterhead on behalf of BF stating



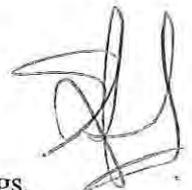
“every commitment due to you in the sponsorship arrangement has been honoured by the previous committee and the present committee (letter not tabled at subsequent committee meeting).

- l. Letter received by AB from BF. (Letter written without authority of the committee. Letter refers to AB’s previous letter “confusing ...the committee”. No evidence that BF consulted the committee. Letter not tabled as outward correspondence at subsequent committee meeting).
- m. 29/01/2011 AB email to AC for BF with request again for answers so we can have a positive discussion and request answers by February 7 2011. (not tabled at subsequent committee meeting)
- n. 01/02/2011 AB email to AC advising look forward to meeting with him re new sponsorship proposal (not tabled at subsequent committee meeting) (no new sponsorship proposal given)
- o. 01/02/2011 AB received email from AC angry that Jewels of the Range released a press release (not tabled at subsequent committee meeting)
- p. 03/02/2011 AB email to AC can he advice on the March meeting and that I would be out to read the minutes. (I did not receive notice of March meeting)
- q. 10/02/2011 attended the TTC at 11.15 and incident as per letter to RQ occurred including denied minutes from AC and BF. (this incident is not noted in the minutes except BF stating “we can sue him for defamation”). Without notice to AB and without AB’s consent, AC taped the incident in the TTC offices and car park. This tape recording, as stated by the solicitors for TTC, Hopgood Ganim, and agreed to by my solicitor, had to be held by AC “on behalf of the club”. AC refuses to make a copy of the tape recording available to me or to provide me with a transcript of the tape recording (which I offered to pay for).
- r. 14/02/2011 AB received email from AC, with letter from BF purporting to terminate my membership. (no authority or delegation of authority was given to BF by TTC



committee to write this letter. BF had in or about October 2010 advised the committee that he would not utilise an executive sub-committee. No advice was sought from solicitors for TTC prior to sending this letter. The letter, as opined by Mr Justice Daubney at The Supreme Court hearing of the application by AB, "denied Mr Burke natural justice". (nothing noted in the minutes where a special meeting was called to act this way) No advice from HG noted in the minutes to this action from BF

- s. 18/02/2011 AB received email from RQ re advice sent to TTC re my membership and the action advised from RQ for the TTC to follow. (not tabled at the committee meeting)
- t. 28/02/2011 AB received email from Brett Bolton HG re defamation action. The defamation threat was instituted by BF without referring the matter to TTC.
- u. At a meeting of the committee a motion was moved, seconded and it is not clear whether it was carried, that the TTC pay the costs of BF's defamation action against AB. At the next committee meeting the minutes state the previous motion was carried but then falsely states that as not all members were present (when they were) a new motion was moved, seconded and carried. That motion was to fund the action of BF's defamation action against AB with any award of damages to be paid to the Club. This constitutes champarty. It is illegal and void against public policy. I spoke to Mr Graham Healy who chaired the meeting for that part of the meeting where the motion was discussed. Mr Healy informed me and I believe that the motion was that only the costs awarded to BF in any successful defamation suit would come to the Club, not the full amount of the damages. No advice was tabled at the committee meetings advising the committee of the risk of costs being ordered against the committee if the defamation action was unsuccessful. No advice from TTC's solicitors as to an estimate of the costs of the action were tabled at the relevant committee meetings.
- v. 20/4/11 the Supreme Court declared "Mr Burke is a member and committee member of TTC"

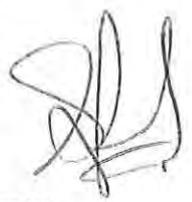


- w. My solicitor wrote to TTC requesting a false and misleading press release of about 21/4/2011 be corrected. The falsehood in the press release was that I was "reinstated" to the TTC committee. I attach a letter from my barrister verifying my opinion that the press release was not true and that I was not "reinstated" but declared to be and always have been both a member of the Club and a committee member. TTC refused to correct the press release.
- x. I subsequently identified a news item on the website of The Chronicle where AC was quoted as saying that my committee membership was "deemed invalid". Despite my solicitor's requiring TTC correct this falsehood, TTC has refused to do so.
- y. 13/4/2011 TTC advertised for nominations for a casual vacancy on the committee in the Public Notices section of The Chronicle newspaper closing 20/4/11. Despite my solicitor's subsequently writing to TTC's solicitors requesting that TTC cause to be published a retraction and correction of that false and misleading advertisement, TTC refused to do so.
- z. 1/2/2011 AB received an email from AC stating that "all current sponsorship agreements in place with the Toowoomba Turf Club will not be renewed in their current form". That email is not tabled in the minutes. That email was written without authority. There is no evidence in the minutes that TTC made that decision at all.
- aa. My solicitor has recently sent to RQ copies of correspondence regarding the conduct of AC. I rely upon the content of those copy facsimiles sent to TTC and TTC's solicitors.
- bb. As RQ will know, the Weetwood Race Day is the biggest race day in Toowoomba's racing calendar. Prior to Weetwood this year, on instructions, my solicitor wrote to TTC's solicitors stating that it was obligatory for TTC to list me as a committee member in the Weetwood Race Day programme.
- cc. TTC denied that their deletion of my name would be a ground for a defamation action by me, in law. TTC did not have my name in the Weetwood Day committee list in the programme. Subsequently my solicitors wrote to TTC's solicitors asking what action



TTC proposed to undertake to correct this false and misleading statement. TTC replied that they would do nothing.

- dd. In 2009 TTC accepted the offer of a donation by AB and my family to purchase and donate a perpetual trophy to be awarded to the winning connections of the Toowoomba Cup. In 2011 this trophy was not given. This was confirmed by the appointed photographer for the local paper Toowoomba Chronicle as the winning trainer Robert Heathcote in telephone conversations. No decision was made by the Committee to not present this.
- ee. In 2011 AB's business Jewels of The Range agreed to donate two x \$100 vouchers to be used at the Jewels of The Range shop. This was in conjunction with the Fashions on the Field run by Channel 7. The cheques were not collected by Channel 7 as arranged prior to Weetwood. AB spoke to AC and asked why Channel 7 were told not to use these vouchers. AC told AB he would find out and advise but has not done so.
- ff. The culture demonstrated by the continued failure to comply with good governance principles demonstrates a degree of vindictiveness towards me that was completely unwarranted and entirely inappropriate.
- gg. The sponsorship agreement AB's company, Jewels of The Range, had with TTC was expressed to be ongoing subject to the ability of either party to terminate the agreement in writing.
- hh. I believe that BF and AC conspired to injure my personal and business reputation. Evidence for this is provided in the fact that no decision was made by TTC committee to authorise AC to write to AB's company Jewels of The Range terminating the existing sponsorship agreement.
- ii. Even when AC wrote to AB, (without authority, advising that all sponsorship agreements ...will not be renewed, without authority and without a decision of TTC) AC also wrote that "new sponsorship offering will provide Jewels of The Range with the value that you are seeking". No new offer has been made by TTC to Jewels of The



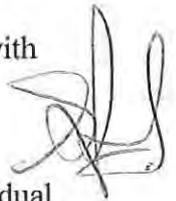
Range.

- jj. I have observed that a business competitor of my company, Central Jewellers, has now been given naming rights to at least one race. I have sought to inspect the Sponsorship Register but have been denied access.
- kk. I have been denied access to copies of the signed Minutes. This is absurd and a complete violation of the principles applicable to the good governance of the Club as all committee members must be entitled to have copies of Minutes for their own records and to review.
- ll. I have been denied access to the “draft” minutes sent electronically to all other committee members. I have been discriminated against by AC.
- mm. I have been subjected to an insulting and offensive slur on my integrity by a letter from TTC’s solicitors written on instructions from TTC asserting that the actions I was taking were “on behalf of another person”.
- nn. BF should have his Chairmanship of the TTC committee removed from him as he is not a fit and proper person to fulfil that role. The lack of fitness is shown by the many examples above where he has acted without authority and failed to table correspondence at the committee meetings.
- oo. BF has caused a huge loss of members’ funds by writing the letter on 14 February 2011 without authority from authority and without advice from the Club’s solicitors. Subsequently the actions of AC in instructing TTC’s solicitors to refuse to obey the Rules set out in TTC’s Rules (some of which rules were identified in the letter form RQ to TTC of 18 February which was not tabled at any committee meeting) have forced AB to take TTC to Court to seek justice.
- pp. The costs of defending that Court action (in circumstances where in the affidavit filed on the day of the hearing TTC stated that they “neither opposed nor supported AB’s application) shows what a waste of money it was for TTC to not take steps to cure the only irregularity they relied upon – that AB had not signed an application for



individual membership.

- qq. In relation to that, I complain about the conduct of AC in failing to ensure that the Rules of the Club were followed. Had he done his job as the employed racing secretary I would have signed an application and there would have been no problem.
- rr. I attended at the offices of TTC on 10 February to inspect the Minutes, in accordance with the letter from RQ to TTC that I should be able to inspect the Minutes “without conditions and without harassment”. I was denied access to the Minutes on that date.
- ss. The actions of BF and AC included following me out to the car park when I was attempting to leave and, according to the letter from BF’s solicitors to AB, on or about 28 February 2011, BF said to me, words to the effect, “there is an important issue we need to discuss with you about your membership”.
- tt. It is apparent from this chronology that BF and AC conspired to try to identify any means by which they could get rid of me from TTC, when I had done nothing wrong.
- uu. Even if there was any legitimacy in the single argument that I was not a member and not a committee member, because I had failed to sign an application form, proper governance of TTC would make it imperative that the Club:
 - i. seek legal advice before writing a letter to get rid of someone; and
 - ii. having the Club’s solicitors draft that letter; and
 - iii. tabling the letter from RQ of 18 February which urged the Club to avoid wasting the Club members’ money on litigation; and
 - iv. look for an alternative methodology to cure any irregularity.
- vv. Both personally and through my solicitors I offered to meet with the committee members at least four times. On each occasion this offer was rebuffed by BF or AC.
- ww. I believe that the committee members were never told of my willingness to meet with them.
- xx. There is an argument that I did not need to sign an application to become an individual member because I had previously been the nominee for a corporate member. In those



circumstances this “irregularity” could have been cured by the signing of an application by me and full disclosure to the committee.

- yy. BF has lied to the public about the rejection of the RQ proposal when he was quoted as saying that “the vote was unanimous”. The vote was 8:1. This disregard for the truth is symptomatic of the approach BF takes to his position as current Chairman of TTC.
- zz. The Minutes and proper procedure were not followed in relation to the rejection of the offer from RQ. I was at that time a committee member and was not given notice of the meeting. Arguable, the decision to reject RQ’s proposal is invalid because a meeting was not validly held. I have given notice to TTC of a motion to seek independent legal advice about this. Of concern to me is that a motion was moved and seconded at the time of consideration of the proposal from RQ to put the proposal to the club members. This was never voted on, in breach of the obligations of the Chairman to conduct the committee meetings in accordance with appropriate requirements, the most basic of which is to put to the committee members for a vote a motion that has been moved and seconded.

aaa. I attach copies of:-

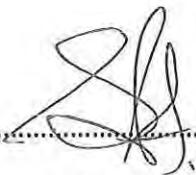
- i. Affidavit of AC filed in Supreme court 20/4/2011; and
- ii. Minutes of April committee meeting.

These show two different versions of events.

A handwritten signature in black ink, consisting of several loops and a long tail, located in the bottom right corner of the page.

This is attachment marked "AB 87"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 87

STATEMENT OF ANTHONY JOHN BURKE MADE 27/5/11 ABOUT INCIDENTS IN AND OUTSIDE TOOWOOMBA TURF CLUB PREMISES

I am a committee member of the Toowoomba Turf Club.

I was aware that a committee meeting was scheduled for 26th May at 7.15 pm.

In the week leading up to the committee meeting, I asked the employed racing secretary numerous times for a copy of the agenda, which he refused to give me.

He made various excuses including an email at approximately 5pm on 26 May saying that the agenda was still being prepared.

I instructed my solicitor to notify TTC (through their solicitors) and Racing Queensland that I intended my legal representative to attend the committee meeting. They did this on 23/5/11.

I required my solicitor to attend to protect me.

I expected that this protection would be by way of legal advice regarding the items on the agenda and the obligation of TTC to comply with its rules.

I did not expect that my solicitor would end up protecting me from an assault by the employed racing secretary and a verbal attack by that person and a committee member and the current committee Chairman.

On the day of the meeting I received a so-called "flying minute" from the racing secretary to all committee members asking they vote on whether my solicitor could attend the meeting.

The vote was negative.

TTC's solicitors wrote to my solicitor after 5.00 pm yesterday advising him that he was not to attend the premises of TTC and that he would be refused entry to the meeting.

I determined that it was in my interests to have my solicitor nearby to enable me to seek independent legal advice in relation to the items on the agenda as quickly as possible.

My solicitor and I drove to the Toowoomba Turf Club and parked outside the premises of TTC in Hursley Road arriving at approximately 6.45 pm.

As I had not received an agenda I and my solicitor decided that I would go to the committee meeting room, obtain my copy of the agenda and return to the vehicle to discuss the items on the agenda.

I walked into the committee room.

I asked the racing secretary, Clancy, for a copy of the agenda, which he gave me.

I told Clancy that I was returning to my vehicle to get a Dictaphone.

Clancy volubly demanded that I not exit the committee room with the agenda saying that I was not allowed to.

I told Clancy, to the effect, that as a committee member I was entitled to a copy of the agenda and that

I was returning to my vehicle with it.

I told Clancy that if he physically attempted to stop me, it would be an assault and I would have him charged with assault.

I exited the committee room.

I was followed by Cosgrove and Frappell. Clancy was in front of me.

At the lower level, when all I was trying to do was attempting to exercise my right as a committee member to view the agenda before the meeting and to take independent legal advice from my solicitor, I was confronted again, but this time by Cosgrove.

While my attention was diverted to Cosgrove, I noticed that Clancy had come very close to me.

I swung around and took a photograph of Clancy.

Clancy reached out and hit the arm in which I was carrying a folder with notes, inside which was a tin of cough lollies, and on top of which was my copy of the agenda.

After hitting my arm Clancy attempted to grab and remove from my possession my copy of the agenda.

When Clancy hit my arm I said to him "that's an assault and I will be making a complaint".

I walked away but the three of them followed me.

I was frightened because of their demeanour and their physical proximity to me, but my fear was particularly heightened by my recollection and almost "reliving" the incident on 10 February 2011 (which I complained of to Racing Queensland) when the same three people, with other members of the committee, surrounded me in the car park of TTC as I was attempting to leave, at which time I felt threatened and under attack.

I walked on to the footpath but the three of them followed me still.

At this time I was holding my mobile phone up, attempting to video their actions, but I now find out that it did not work.

My solicitor, Barry Atkins, observed my approach and exited my vehicle.

He was introduced to Jim Cosgrove and said "what are you blokes doing out here on the street?"

Clancy said that I had taken the agenda from the committee room.

My solicitor said that as I was a committee member I was entitled to a copy of the agenda.

Clancy said that I was only entitled to a copy of the agenda at the meeting.

My solicitor said that the motion the committee had passed refusing him entry to the premises and the meeting was not validly passed.

My solicitor said that he and I were coming into the meeting.

The three, Frappell, Clancy and Cosgrove, immediately scurried back into the premises of TTC.

I told my solicitor at that time what had happened in relation to the assault.

Because I was not physically injured, and our plan had been to participate in an appropriate way at the meeting in accordance with my duties as a committee member, we examined the items on the agenda including the list of correspondence.

We observed an item on the agenda regarding my personal letter to the members of the club.

Even though my solicitor and I believe that I had a right for my solicitor to be present at the meeting to give me advice generally, and particularly in relation to the item that referred to my letter to the members, we determined that he would not accompany me back into the meeting.

I commenced walking back towards the building where the meeting was being held.

I stopped and turned, walked towards my solicitor who was still standing outside TTC premises on the footpath, and asked him whether we should make an official complaint of the assault.

He suggested to me that we could do that later and that I should proceed to attend the meeting.

I proceeded to attend the meeting.

At the start of the meeting I was aware that the meeting was being recorded (I subsequently found out both audio and visual).

I told the committee that I had been assaulted by Clancy.

I subsequently left the committee meeting at approximately 8.30 pm advising the committee members that I was obliged to go to my retail shop to ensure that it was properly locked after late night trading.

After completing this I decided not to return to the committee meeting because I suspected it would be finished and I was still shaken by the experience.

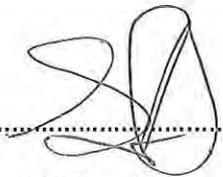
On 27 May I spoke to the integrity officer of Racing Queensland Mr Jamie Orchard and complained about the assault.

Mr Orchard told me to arrange for a formal statement to be sent to him which is what I have done.

I will be going to the police as soon as possible to make a formal complaint about the assault.

This is attachment marked "AB 86"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB 88

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 27 May 2011

To: Racing Queensland

Attn: Ms A. J. Orchard

URGENT

Facsimile: 3269 9034/ 3269 6715

Our Ref: BA:11030

Re: Assault on a committee member by the TTC employed racing secretary [A Clancy] – 26 May 2011;

and incident involving Chairman TTC [B Frappell] ,Committee member [J Cosgrove] and the TTC employed racing secretary [A Clancy] – 26 May 2011

Total number of pages: including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

I am the solicitor for Mr A. Burke.

My client has instructed me to send to you:-

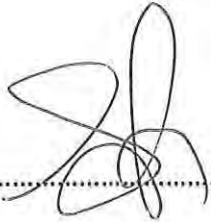
1. copy of a statement by Mr Burke, verified by him by email, the original of which he will sign and send to you next week;
2. an other statement typed personally by Mr Burke while the incident was fresh in his mind

Yours faithfully

Barry Atkins 
Solicitor & Attorney

This is attachment marked "AB 90"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end.

.....
Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal line.

.....
Barry Edward Atkins, Solicitor Witness

Anthony Burke
5/11 James Street
Toowoomba 4350
0423022880

AB 90

Incident Report May 26 2011 at Toowoomba Turf Club

- I attended the TTC at 6.45pm aprox with my lawyer Mr B Atkins from @LAW.
- I parked outside the premises of the TTC on Hursley Road, north of the central entry behind the Bob Gibbs Building.
- I entered the grounds by myself and was asked my name by a security guard at the entrance to the Members. He allowed me to enter.
- I walked into the Weetwood Room and approached Aaron Clancy who was at the food area and asked for the agenda for tonight's meeting.
- He gave me a photo copy of the agenda.
- I said thanks, will be back in a minute as I have to get something from my car.
- He said you cannot take that (the agenda) with you out of here.
- I said I can as it has always been emailed and not to touch me.
- He tried to by his presence to stand in my way and prevent me exiting the door.
- I went passed him as he continually demanded the agenda and stood in front of me as I descended the stairs. I noticed Jim Cosgrove over my right shoulder trapping me from stepping back.
- I continued down the stairs with Aaron Clancy in front demanding agenda and I said "do not touch me as that is assault" at least 4 times.
- I reached the bottom of the stairs and the security guard moved aside to let me pass and I went thru the glass doors to the car park with Aaron Clancy to my left and Jim Cosgrove behind my right shoulder both within 60cm of my body.
- As I walked 20metres towards the gate Jim Cosgrove raced in front of me to prevent my exiting the grounds of the TTC
- Aaron Clancy did the same on my left front
- I had to stop, so took out my phone camera and tried to take a photo of JC while shaking. It did not work but was unaware at the time.
- As I turned to my left to take AC photo he was on top of me basically and tried to and did physically grab the agenda from my left hand as it was sitting on top of a closed Manilla folder.

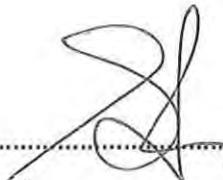
- AC pulled hard and hit my left upper forearm and in the motion and the pressure and jolt forced a 50g tin of Bach "rescue Pastille" out of the folder and shattered the contents on the ground.
- I yelled at him "that's assault, I don't believe you've just done that" I was shaking and dry in the mouth as I walked at pace to the exit and rounded the corner to my car.
- Aaron and Jim and now Bob Frappell on the scene followed to confront me further as they demanded the agenda.
- Mr Atkins came was standing there with my car on Hursley Road outside the premises and they came to an abrupt halt.
- I think Mr Atkins said "what's the problem here gentleman" JC extended his hand and introduced himself and Mr Atkins reciprocated
- AC and BF then said some words in discussion with Mr Atkins and me with the agenda that I cannot remember due to the situation and stress I was under.
- BF then said words to the effect "we'll go inside" and turned with the others to follow JC & AC.
- I asked Mr Atkins after I calmed down and composed myself a bit to wait for me and I was going into the meeting.
- I told Mr. Atkins about the assault
- I entered the meeting and no one said anything.
- BF opened the meeting at 7pm and said it was being videoed and taped tonight.
- Peter Turnbull moved a motion to not allow committee members to record in any way committee meetings; it was put and voted on in affirmative.
- I stated on the record that Aaron Clancy had touched my arm in the process of trying to pull the agenda from my grasp.
- He denied touching me
- I said you did otherwise how would a tin come flying from a closed Manilla folder without you doing so.
- No one commented and BF moved on with the meeting.
- I left the meeting at 8.20pm to go to my ridge store to check it was closed and took Mr Atkins with me.

Anthony Burke

This is attachment marked "AB 91 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

31 May 2011



Mr Barry ATKINS
Principal
@Law
Park View Chambers
P.O. Box 605
Toowoomba Q 4350

AB 91

Racing Queensland Limited
ABN 57 112 96 871
Racecourse QLD 9600 QLD 4012
PO Box 605 Toowoomba QLD 4350
T 07 4689 6777
F 07 4209 6000
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Atkins

RE: COMPLAINT MADE TO RACING QUEENSLAND LIMITED BY MR ANTHONY BURKE RE AN ALLEGED INCIDENT THAT OCCURRED AT A TOOWOOMBA TURF CLUB COMMITTEE MEETING ON 26 MAY 2011

As a result of a complaint that Mr Anthony BURKE, Committee Member of the Toowoomba Turf Club has made to this office in relation to an incident that is alleged to have taken place at the Toowoomba Turf Club on the 26 May 2011 when he has alleged that he was assaulted by the Club Secretary, Mr Aaron CLANCY and then harassed and intimidated by Mr CLANCY, the Club Chairman, Mr R FRAPPELL and a Committee Member Mr J COSGROVE a Hearing will be conducted in the Hearing Room of the Steward's Office located in Hursley Road Toowoomba commencing at 11.a.m. on Tuesday 07 June 2011 and you are required to attend that Hearing as a witness.

The panel to conduct that Hearing will be Senior Steward Martin KNIBBS, Senior Steward Paul McILVEEN and myself.

If there is any reason that you might not be able to attend this Hearing please make contact with me on 0411.601.930.

Yours Sincerely

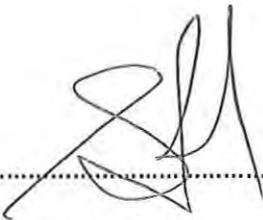
W J KING

Manager, Investigations and Operations
Racing Queensland Limited.

This is attachment marked "AB 92 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be the initials 'BA' followed by a horizontal line, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

Barry Atkins

AB 92

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Wednesday, 1 June 2011 9:09 AM
To: bazlawyer@atlaw.net.au
Subject: Fw: RE: Wednesday morning 10am

photo draft

-----Original Message-----

From: Aaron Clancy
Date: 31/05/2011 5:00:26 PM
To: Anthony Burke
Cc: bob@flexi.net.au; Peter Turnbull; HEALY@t130.aone.net.au
Subject: RE: Wednesday morning 10am

Hello Anthony,

not sponsorship register

Thank you for your email.

You are only entitled to view the Membership Register. Due to recent events the Executive Committee would like to be available while you view the Membership Register. At this stage tomorrow morning is not suitable.

Could you please liaise with the Executive Committee with another time that suits all parties?

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]

Sent: Monday, 30 May 2011 10:14 AM

To: Aaron Clancy

Subject: Wednesday morning 10am

Importance: High

Dear Aaron

I would like to attend the office of the TTC on Wednesday 10am June 1 to view the following without being subject to what has been happening in the past.

If this time is not suitable please advise an alternate time.

1. Sponsors register
2. Membership register
3. Draft minutes from Committee Meeting last Thursday night
4. Also require a membership form for someone.

Thanks

Anthony



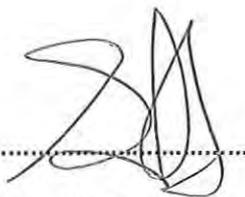
FREE Animations for your email - by IncrediMail! [Click Here!](#)



This is attachment marked "AB 43 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

TRANSACTION REPORT

AB93

WED/01/JUN/2011 05:06 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	01/JUN	05:06PM	32696404	0:00:22	2	MEMORY OK	SG3 2784

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 1 June 2011
To: Racing Qld Fax number: 07 3269 6404 **ATTN Mr. W King**
Re: Anthony Burke - Hearing 7.6.11

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

FACSIMILE TRANSMISSION

Dear Mr. King,

Thank you for your time this morning on the telephone.

As you know I am the Solicitor for Mr. Burke. I am also a witness and will attend the hearing.

Legal representatives are not allowed at the hearing.

I see no conflict in continuing to assist Mr. Burke and acting on his instructions.

Mr. Burke requests you ensure that the audio/video recording of the meeting 26/5/11 be heard and seen at the Hearing.

The recording will show:-

1. Mr. Clancy trying to prevent Mr. Burke leaving the room;
2. Mr. Burke telling Mr. Clancy not to touch him as that would be an assault; and
3. Mr. Burke reporting to the Committee that an assault had taken place.

We enclose a transcript of an audio recording made by Mr. Burke at the start of the Committee meeting.

You will note the meeting was being recorded by video in accordance with a motion passed.

Mr. Burke and I have both demanded a copy of this recording be made available to Mr. Burke but the TTC has failed to do so.

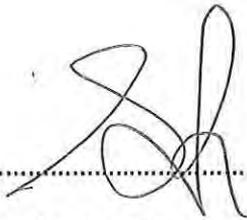
Please confirm you will ensure the recording is available at the Hearing.

Thank you for taking this step to ensure that all relevant material is at the Hearing and accessible.

B. Atkins

This is attachment marked "AB *9/4* "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of stylized initials 'AJB'.

.....
Anthony John Burke

A handwritten signature in black ink, consisting of stylized initials 'BA'.

.....
Barry Edward Atkins, Solicitor Witness



HopgoodGanim
LAWYERS

AB 94

14 June 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Mr Atkins

**Toowoomba Turf Club Inc & Anthony Burke
Aaron Clancy & Anthony Burke**

We refer to your facsimiles transmitted at 11.05am and 11.18am today.

Our client has no objection in principle to participating in a formal mediation with your client. Indeed, our client has been urging your client for several weeks now to "move on" and participate constructively as a member of the Committee.

However, your facsimile is devoid of any detail. If your client is serious and genuine about mediation, he should provide further details of his proposal, specifically:

1. A statement of the issues he considers should be mediated;
2. How the mediator is to be appointed and remunerated (ie. is the mediator to be appointed by a third party or selected by the parties from a panel by mutual agreement; will the parties share the mediator's costs equally?);
3. The procedures to be followed both before and during the mediation (ie. will the parties have an opportunity to provide Position Papers to the mediator; is there to be a bundle of agreed documents to be given to the mediator; are any other pre-mediation directions necessary or required; is the venue to be a neutral venue?).

Your client is invited to submit a detailed proposal addressing these matters, and any other matters of which he may be advised. Any proposal from your client along these lines will receive appropriate consideration from our client.

We cannot however help but note that your later facsimile today (in which you record your client's apparent intention to take civil court action against Mr Clancy) seems at odds with your first facsimile. Be that as it may, we have instructions to act for Mr Clancy in relation to the matter

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

Mr Barry Atkins
Solicitor & Attorney
@Law

14 June 2011



referred to in your later facsimile and to accept service on his behalf of any initiating court documents.

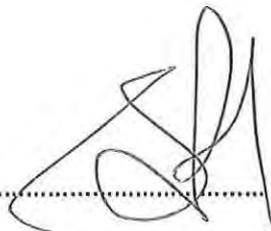
Yours faithfully

HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

This is attachment marked "AB 95"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'B' followed by a horizontal line, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

20 June 2011

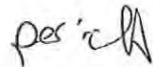
Mr Mike Kelly
Office of Racing
GPO Box 46
BRISBANE QLD 4001

Dear Sir,

We **enclose** a portfolio of problems at Toowoomba Turf Club.

This document is sent to you **'in confidence'** and claiming protection under the Whistleblowers Protection Act.

Yours faithfully

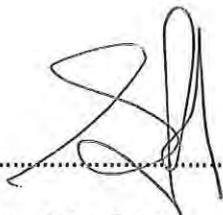


Barry Atkins
Solicitor & Attorney

encl.

This is attachment marked "AB 96 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long vertical stroke, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'B' followed by a horizontal stroke, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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AB 96

20 June 2011

Mr Tim Mulherin
Office of Racing
GPO Box 46
BRISBANE QLD 4001

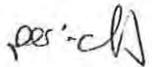
AG

Dear Sir,

We **enclose** a portfolio of problems at Toowoomba Turf Club.

This document is sent to you '**in confidence**' and claiming protection under the Whistleblowers Protection Act.

Yours faithfully

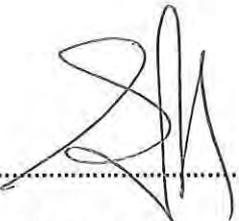


Barry Atkins
Solicitor & Attorney

encl.

This is attachment marked "AB 97"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Fax: 07 4632 9529

AB 97

20 June 2011

Mr Jamie Orchard
Racing Queensland
P.O. Box 63
SANDGATE QLD 4017

Dear Sir,

We enclose a portfolio of problems at Toowoomba Turf Club.

This document is sent to you 'in confidence' and claiming protection under the Whistleblowers Protection Act.

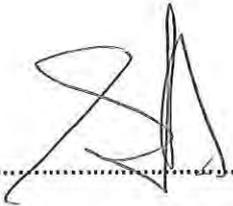
Yours faithfully

Barry Atkins
Solicitor & Attorney

encl.

This is attachment marked "AB 98 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a vertical line and a small flourish.

.....
Anthony John Burke

A handwritten signature in black ink, appearing as a cursive 'B' followed by a horizontal line and a small flourish.

.....
Barry Edward Atkins, Solicitor Witness

AB 98

I, Anthony John Burke, of Shop 5 Number 11 James Street Toowoomba, in the State of Queensland, make this statement "in confidence" and claiming protection under the Whistleblowers Protection Act about the conduct and actions of the current Chairman of the TTC Mr B. Frappell ("BF") and the current employed racing secretary Mr A. Clancy ("AC").

I complain that the actions of both BF and AC over a six month period demonstrate a consistent pattern of behaviour that shows both BF and AC:-

1. have little or no regard for the truth when it suits them;
2. have no regard for the Rules of TTC;
3. have no regard for the concept of natural justice;
4. have acted without authority delegated by the TTC (in AC's case);
5. have acted without authority delegated by the committee of TTC (in BF's case);
6. **have misled the TTC committee on many occasions by omission in that documents sent to TTC were not tabled at committee meetings.**

Listed below are incidents I have been able to identify from reading the minutes.

The TTC has denied me, one of its committee members, copies of the minutes of the committee meetings. There may well be more instances of these matters I complain of but Ac's denial of me having copies of the Minutes has obstructed my investigation of the actions by AC and BF.

The denial of access to the Minutes commenced from at least 6 December last year and continues.

The continued refusal to allow me to have copies of the minutes is despite the Supreme Court of Queensland declaring that I am a member of TTC and a committee member.

In the list below I am referred to as "AB".

1. Facts relied on.
 - a. 24/10/2010 email from AB to AC to pass onto BF re apology re attendance at Stathi funeral" **(not tabled at November Meeting)**
 - b. 5/12/2010 email AB to AC re cancelled races (no response by email or phone).

- c. 6/12/2010 email AB to AC could you forward previous minutes and the agenda for the upcoming meeting. (none were forwarded)
- d. 6/12/2010 email RQ to AB and all committee received from RQ "Bob Bentley" re TTC viability. **(not tabled at TTC committee meeting)** [I am not 100% certain this is not shown in minutes as I have had to attend 4 times recently to read the Minutes , as TTC refused to give me copies, and I am relying on my handwritten notes, but this allegation is able to be verified from the Minutes.]
- e. 9/12/2010 email AB to AC, BF, TTC sponsors need invoices sent for **(not tabled at TTC committee meeting)**
- f. 16/12/2010 AB email to TTC with apology not attending JJ Atkins dedication. **(not tabled at a subsequent committee meeting)**
- g. 16/12/2010 AB email to AC asking for a copy of financials on press release and also the previous minutes. Also please send details re story on legal action from RQ as on RQ website and Letsgohorseracing site. (no response and email **not tabled at subsequent committee meeting)**
- h. 22/12/2010 AB email to AC and Bob Bentley re Life Member not being invited to the JJ Atkins dedication. "I also noted I wished this dissatisfaction from me is noted in the minutes for members to see" **(It was not noted in the minutes for members to see and nor was it tabled)**
- i. 21/01/2011 AB email with letter to AC from Jewels of the Range re questions about our concern the TTC has not filled the obligations of our sponsorship contract. (noted in the minutes)
- j. 25/01/2011 email AB letter sent to AC (cc to Bob Bentley) with questions to answer by BF. **(not tabled at subsequent committee meeting)**
- k. 28/01/2011 AB received email from AC on TTC letterhead on behalf of BF stating "every commitment due to you in the sponsorship arrangement has been honoured by the previous committee and the present committee (letter **not tabled at subsequent**

committee meeting). Written without authority of TTC.

- l. Letter received by AB from BF. Letter written without authority of the committee. Letter refers to AB's previous letter "confusing ...the committee". No evidence that BF consulted the committee. **Letter not tabled as outward correspondence at subsequent committee meeting.**
- m. 29/01/2011 AB email to AC for BF with request again for answers so we can have a positive discussion and request answers by February 7 2011. **(not tabled at subsequent committee meeting)**
- n. 01/02/2011 AB email to AC advising look forward to meeting with him re new sponsorship proposal **(not tabled at subsequent committee meeting)** (no new sponsorship proposal given)
- o. 01/02/2011 AB received email from AC angry that Jewels of the Range released a press release **(not tabled at subsequent committee meeting).** Written without authority.
- p. 03/02/2011 AB email to AC can he advise on the March meeting and that I would be out to read the minutes. (I did not receive notice of March meeting)
- q. 10/02/2011 attended the TTC at 11.15 and incident as per letter to RQ occurred including denied minutes from AC and BF. (this incident is **not noted in the minutes** except BF stating "we can sue him for defamation"). Without notice to AB and without AB's consent, AC taped the incident in the TTC offices and car park. This tape recording, as stated by the solicitors for TTC, Hopgood Ganim, and agreed to by my solicitor, had to be held by AC "on behalf of the club". AC refuses to make a copy of the tape recording available to me or to provide me with a transcript of the tape recording (which I offered to pay for). **Tape not tabled by AC at February, March or April Committee meetings.**
- r. 14/02/2011 AB received email from AC, with letter from BF purporting to terminate my membership. (no authority or delegation of authority was given to BF by TTC

- committee to write this letter.) BF had in or about October 2010 advised the committee that he would not utilise an executive sub-committee. No advice was sought from solicitors for TTC prior to sending this letter. The letter, as opined by Mr Justice Daubney at The Supreme Court hearing of the application by AB, “denied Mr Burke natural justice”. (nothing noted in the minutes where a special meeting was called to act this way) No advice from HG noted in the minutes to this action from BF
- s. 18/02/2011 AB received email from RQ re advice sent to TTC re my membership and the action advised from RQ for the TTC to follow. **(not tabled at the committee meeting)** [copy letter from RQ to AB including content of letter from RQ to TTC attached]
- t. 28/02/2011 AB received email from Brett Bolton HG re defamation action. The defamation threat was instituted by BF without referring the matter to TTC.
- u. At a meeting of the committee a motion was moved, seconded and it is not clear whether it was carried, that the TTC pay the costs of BF’s defamation action against AB. At the next committee meeting the minutes state the previous motion was carried but then falsely states that as not all members were present (when they were) a new motion was moved, seconded and carried. That motion was to fund the action of BF’s defamation action against AB with any award of damages to be paid to the Club. This constitutes champarty. It is illegal and void against public policy. AB spoke to Mr Graham Healy who chaired the meeting for that part of the meeting where the motion was discussed. Mr Healy informed me and I believe that the motion was that only the costs awarded to BF in any successful defamation suit would come to the Club, not the full amount of the damages. No advice was tabled at the committee meetings advising the committee of the risk of costs being ordered against TTC if the defamation action was unsuccessful. **No advice from TTC’s solicitors as to an estimate of the costs of the action were tabled at the relevant committee meetings.**
- v. 20/4/11 the Supreme Court declared “Mr Burke is a member and committee member

of TTC”

- w. My solicitor wrote to TTC requesting a false and misleading press release of about 21/4/2011 be corrected. The falsehood in the press release was that I was “reinstated” to the TTC committee. Committee members have received a copy of a letter from my barrister verifying my opinion that the TTC press release was not true and that I was not “reinstated” but declared to be and always have been both a member of the Club and a committee member. TTC refused to correct the press release, based on AC’s instructions to Hopgood Ganim. AC never had authority from TTC to issue the false press release nor to refuse to correct the falsehood.
- x. AB subsequently identified a news item on the website of The Chronicle where AC was quoted as saying that my committee membership was “deemed invalid”. Despite my solicitor’s requiring TTC correct this falsehood, TTC has refused to do so. AB’s memberships were never ‘deemed invalid’.
- y. 13/4/2011 TTC advertised for nominations for a casual vacancy on the committee in the Public Notices section of The Chronicle newspaper closing 20/4/11. Despite my solicitor’s subsequently writing to TTC’s solicitors requesting that TTC cause to be published a retraction and correction of that false and misleading advertisement, TTC refused to do so. AC had no authority from TTC to make this decision.
- z. 1/2/2011 AB received an email from AC stating that “all current sponsorship agreements in place with the Toowoomba Turf Club will not be renewed in their current form”. **That email is not tabled in the minutes.** That email was written without authority. There is no evidence in the minutes that TTC made that decision at all.
- aa. Attached are copies of letters from my Solicitors to AC dated 20.05.11;23.05.11;23.05.11 and 26.05.11. Attached are copies of letters from my Solicitors to Hopgood Ganim dated 23.05.11; and 23.05.11.
- bb. Prior to Weetwood Race Day this year, on instructions, my solicitor wrote to TTC’s

solicitors stating that it was obligatory for TTC to list me as a committee member in the Weetwood Race Day programme.

- cc. AC and/or BF , without authority from TTC's Committee , did not have my name in the Weetwood Day committee list in the programme when I was at that time a Committee Member. This was done without authority or delegation of authority. Subsequently my solicitors wrote to TTC's solicitors asking what action TTC proposed to undertake to correct this false and misleading statement. AC without authority from TTC Committee instructed Hopgood Ganim to advise AB that TTC would do nothing to correct that falsehood.
- dd. In 2009 TTC accepted the offer of a donation by AB and my family to purchase and donate a perpetual trophy to be awarded to the winning connections of the Toowoomba Cup. In 2011 this trophy was not given. This was confirmed by the appointed photographer for the local paper Toowoomba Chronicle as the winning trainer Robert Heathcote in telephone conversations. No decision was made by the Committee to not present this.
- ee. In 2011 AB's business Jewels of The Range agreed to donate two x \$100 vouchers to be used at the Jewels of The Range shop. This was in conjunction with the Fashions on the Field run by Channel 7. The cheques were not collected by Channel 7 as arranged prior to Weetwood. AB spoke to AC and asked why Channel 7 were told not to use these vouchers. AC told AB he would find out and advise but has not done so. No decision was made by TTC to not allow the use of this donation.
- ff. The culture demonstrated by the continued failure of TTC to comply with good governance principles demonstrates a degree of vindictiveness towards AB that is completely unwarranted and entirely inappropriate.
- gg. The sponsorship agreement AB's company, Jewels of The Range, had with TTC was expressed to be ongoing subject to the ability of either party to terminate the agreement in writing.

- hh. No decision was made by TTC committee to authorise AC to write to AB's company Jewels of The Range terminating the existing sponsorship agreement.
- ii. Even when AC wrote to AB, (without authority, advising that all sponsorship agreements ...will not be renewed, (without authority and without a decision of TTC) AC also wrote that "new sponsorship offering will provide Jewels of The Range with the value that you are seeking". No new offer has been made by TTC to Jewels of The Range.
- jj. I have observed that a business competitor of AB's company, Central Jewellers, has now been given naming rights to at least one race. I have sought to inspect the Sponsorship Register but have been denied access.
- kk. I have been denied access to copies of the signed Minutes. This is absurd and a complete violation of the principles applicable to the good governance of the Club as all committee members must be entitled to have copies of Minutes for their own records and to review.
- ll. I have been denied access to the "draft" minutes sent electronically to all other committee members. I have been discriminated against by AC.
- mm. I have been subjected to an insulting and offensive slur on my integrity by a letter from TTC's solicitors written on instructions from TTC asserting that the actions I was taking were "on behalf of another person".
- nn. The many examples above show where AC and BF have acted without authority and **failed to table correspondence at the committee meetings**. This misleads the Committee by omission.
- oo. BF has caused a huge loss of members' funds by writing the letter on 14 February 2011 without authority from the Committee and without advice from the Club's solicitors. Subsequently the actions of AC in refusing to obey the Rules set out in TTC's Rules (some of which rules were identified in the letter form RQ to TTC of 18 February which was not tabled at any committee meeting) forced AB to take TTC to

Court to seek justice.

- pp. The costs of defending that Court action (in circumstances where in the affidavit filed on the day of the hearing TTC stated that they “neither opposed nor supported AB’s application) shows what a waste of money it was for TTC to not take steps to cure the only irregularity they relied upon – that AB had not signed an application for individual membership – before the matter went to Court.. No authority was ever given to AC to make unilateral decisions about the dispute and the Court Application regarding my Club and Committee memberships.
- qq. In relation to that, I complain about the conduct of AC in failing to ensure that the Rules of the Club were followed. Had he done his job as the employed racing secretary and made sure I had signed an Application for Membership I would have signed an application and there would have been no problem. The absence of the signed application was the only ‘ground’ for trying to terminate my club and committee memberships.
- rr. I attended at the offices of TTC on 10 February to inspect the Minutes, in accordance with the letter from RQ to TTC that I should be able to inspect the Minutes “without conditions and without harassment”. I was denied access to the Minutes on that date.
- ss. The actions of BF and AC included following me out to the car park when I was attempting to leave and, according to the letter from BF’s solicitors to AB, on or about 28 February 2011, BF said to me, words to the effect, “there is an important issue we need to discuss with you about your membership”.
- tt. It is apparent from this chronology that BF and AC tried to identify any means at all by which they could get rid of me from TTC, when I had done nothing wrong.
- uu. Even if there was any legitimacy in the single argument that I was not a member and not a committee member, because I had failed to sign an application form, proper governance of TTC would make it imperative that the Club:
- i. seek legal advice before writing a letter to get rid of someone; and

- ii. having the Club's solicitors draft that letter; and
 - iii. tabling the letter from RQ of 18 February which urged the Club to avoid wasting the Club members' money on litigation; and
 - iv. look for an alternative methodology to cure any irregularity.
- vv. Both personally and through my solicitors I offered to meet with the committee at least members at least four times. On each occasion this offer was rebuffed by BF or AC.
- ww. I believe that the committee members were never told of my willingness to meet with them.
- xx. There is an argument that I did not need to sign an application to become an individual member because I had previously been the nominee for a corporate member. In those circumstances this "irregularity" could have been cured by the signing of an application by me and full disclosure to the committee.
- yy. BF has lied to the public about the rejection of the RQ proposal when he was quoted in The Chronicle as saying that "the vote was unanimous". The vote was 8:1. This disregard for the truth by BF in his position as current Chairman of TTC is a great concern to me as a Committee Member of TTC..
- zz. The Minutes show proper procedure were not followed in relation to the rejection of the offer from RQ. I was at that time a committee member and was not given notice of the meeting. Arguable, the decision to reject RQ's proposal is invalid because a meeting was not validly held. I have given notice to TTC of a motion to seek independent legal advice about this. Of concern to me is that a motion was moved and seconded at the time of consideration of the proposal from RQ to put the proposal to the club members. This was never voted on, in breach of the obligations of the Chairman to conduct the committee meetings in accordance with appropriate requirements, the most basic of which is to put to the committee members for a vote a motion that has been moved and seconded.

aaa. I attach copies of:-

- i. Affidavit of AC filed in Supreme court 20/4/2011; and
- ii. Minutes of April committee meeting.

These show two different versions of events.

bbb. I attach a transcript of a recording made [with AC's consent] when I attended with my Solicitor to inspect the Minutes [as AC refused to give me copies]. The refusal was without authority of the TTC through its Committee.

18 February 2011

Mr Anthony Burke
C/o Jewels of The Range

By facsimile transmission: 4635 6622

Dear Mr Burke,

Re: Toowoomba Turf Club

I have today written to the Toowoomba Turf Club in respect of a number of issues including the matter of your membership of that club. As a matter of courtesy, I advise that I included the following comments in the letter to the Committee:

Anthony Burke – membership

During the course of considering the above matter, the Club provided me with a copy of a letter to Mr Burke indicating that in the Club's view Mr Burke's Club membership and appointment to the Committee were invalid.

I understand that Mr Burke disputes this and I have also had the opportunity to consider Mr Burke's view.

While the relationship between the Club and its members is generally a matter for those parties to resolve, Racing Queensland Limited will take an interest where the issue raises concerns about compliance with the Club's constitution and when the issue becomes public, such that it may have an impact on the reputation of the industry more generally. For that reason I offer the following comments (which I have also shared with Mr Burke).

I understand that Jewels of the Range became a corporate sponsor of the Club in February 2006 and has continued in that capacity at least until 2011. The Club has provided Sponsorship Agreements for the period from 2006 which I understand to be the corporate membership agreement. While it is not stated on the face of the document, I understand that the Chairman of the Club at the relevant time and the Club's solicitor from that time are available to give evidence to the effect that Mr Burke was, from 2006, regarded by the Club as the Corporate members 'nominee' for the purposes of the Club's rules. That the Club regarded Mr Burke as the nominee is supported by the fact that voting slips for the Club were apparently issued to Mr Burke in his personal name (on behalf of the corporate member) from that time.

Club Rule 8(c)1 provides that the nominee shall receive the rights, benefits, privileges, duties, obligations and disabilities of the membership. This clearly evidences an intention to have the nominee treated as a member. Indeed, Rule 8(c)7 indicates that the nominee may be elected to the committee upon holding nomination for three (3) continuous years, in the same way as an ordinary member may (see Rule 18).

I note in passing that Rule 8(c)1 does require the nomination of the nominee to be in writing. Whether that took place in writing can be determined by the evidence but given that the Club



**RACING
QUEENSLAND**

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W www.racingqueensland.com.au

has accepted for years subsequently that Mr Burke was the nominee and has treated him as a nominee member since the initial membership, I feel that even if the nomination was not in writing, it is at worst a minor technical breach of the Rule which the Club, in light of it's subsequent actions, would be stopped from relying upon now.

I am advised that in or around July 2010 Mr Clancy, on behalf of the Club, required Mr Burke to pay a personal membership renewal so as to continue as a member of the Committee. Mr Burke did so and accordingly purported to hold both ordinary membership and a nomination of a corporate membership from that time until September 2010 when Mr Clancy indicated that given that Mr Burke in fact did not require the ordinary membership, that he could, instead of having the ordinary membership fee refunded, replace himself as nominee with Mrs Burke. That then happened.

Rule 8(c)9 provides that a nominee is not entitled to membership of the Club in his own right. It follows that as Mr Burke was the nominee he was not entitled to the ordinary membership for which he was required to pay. Such membership was therefore presumably ineffective for so long as it coincided with Mr Burke being a nominee.

In September 2010 Mr Burke ceased to be a nominee and therefore his ordinary membership would be effective from that time.

Given this, it would seem that Mr Burke has continuously since 2006, been either a nominee or ordinary member. In light of the clear intent of Rule 8(c) of seeking to have a nominee treated as a member, I do not believe it is open to the Club to suggest that Mr Burke has not had three (3) continuous years of membership/nomination so as to prevent him qualifying to be a committee member. This is particularly so given that the conversion from nominee to ordinary member apparently took place at the requirement of the Club (through its servant).

I also note your assertion that Mr Burke did not receive the necessary nominations from three (3) members so as to be appointed to the committee in accordance with Rule 18. Again, this issue is one that should be capable of simple resolution and I would hope that supporting documents are available to determine this. Alternatively, evidence may be available from the then secretary to address this.

In summary, it would seem that the Club's assertion in respect of Mr Burke's membership of the Club and his position on the committee are questionable and there are certainly strong reasons to support Mr Burke's position.

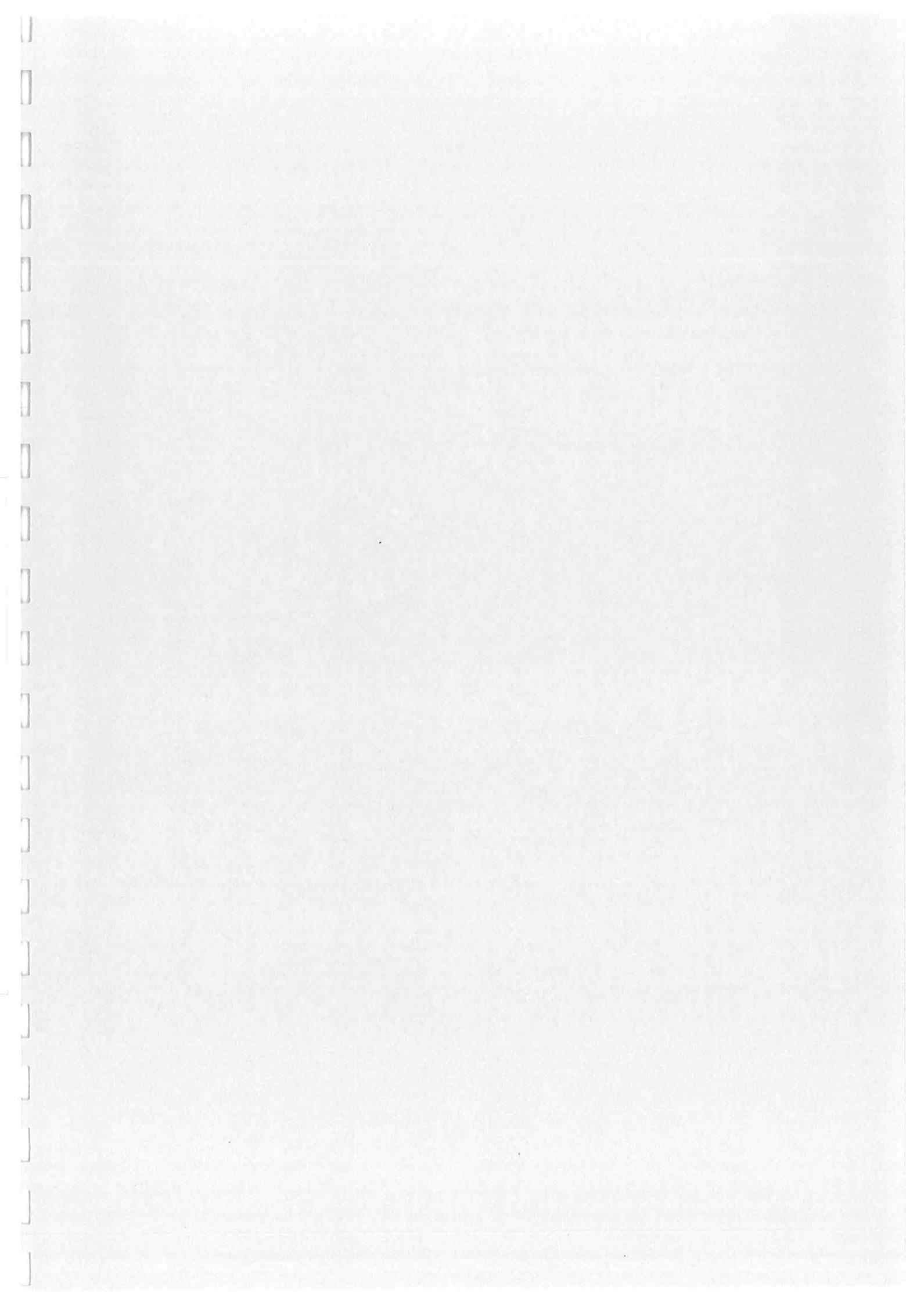
Of course, as stated above, this issue is ultimately a matter between the Club and Mr Burke which, if necessary, may be resolved in Court. However, to avoid the potential expenditure of industry funds on litigation and to avoid publicity which is potentially damaging to the industry, I urge you to seek to resolve this matter between yourselves. In particular I note that Rule 12(d), (e) and (f) provide for a process to be followed in circumstances in which the Club is considering expulsion of a member. Should the Club, after considering all of the foregoing, decide to proceed, then it should at least follow that course in Rule 12.

Should you have any queries in respect of this matter, please do not hesitate to contact me.

Yours sincerely,



A.J.Orchard
Director of Integrity Operations



18 February 2011

Mr Anthony Burke
C/o Jewels of The Range

By facsimile transmission: 4635 6622

Dear Mr Burke,

Re: Toowoomba Turf Club

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During the course of considering the above matter, the Club provided me with a copy of a letter to Mr Burke indicating that in the Club's view Mr Burke's Club membership and appointment to the Committee were invalid.

I understand that Mr Burke disputes this and I have also had the opportunity to consider Mr Burke's view.

While the relationship between the Club and its members is generally a matter for those parties to resolve, Racing Queensland Limited will take an interest where the issue raises concerns about compliance with the Club's constitution and when the issue becomes public, such that it may have an impact on the reputation of the industry more generally. For that reason I offer the following comments (which I have also shared with Mr Burke).

I understand that Jewels of the Range became a corporate sponsor of the Club in February 2006 and has continued in that capacity at least until 2011. The Club has provided Sponsorship Agreements for the period from 2006 which I understand to be the corporate membership agreement. While it is not stated on the face of the document, I understand that the Chairman of the Club at the relevant time and the Club's solicitor from that time are available to give evidence to the effect that Mr Burke was, from 2006, regarded by the Club as the Corporate members 'nominee' for the purposes of the Club's rules. That the Club regarded Mr Burke as the nominee is supported by the fact that voting slips for the Club were apparently issued to Mr Burke in his personal name (on behalf of the corporate member) from that time.

Club Rule 8(c)1 provides that the nominee shall receive the rights, benefits, privileges, duties, obligations and disabilities of the membership. This clearly evidences an intention to have the nominee treated as a member. Indeed, Rule 8(c)7 indicates that the nominee may be elected to the committee upon holding nomination for three (3) continuous years, in the same way as an ordinary member may (see Rule 18).

I note in passing that Rule 8(c)1 does require the nomination of the nominee to be in writing. Whether that took place in writing can be determined by the evidence but given that the Club



**RACING
QUEENSLAND**

Racing Queensland Limited
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PO Box 63 Sandgate QLD 4017

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E info@racingqueensland.com.au

W www.racingqueensland.com.au

has accepted for years subsequently that Mr Burke was the nominee and has treated him as a nominee member since the initial membership, I feel that even if the nomination was not in writing, it is at worst a minor technical breach of the Rule which the Club, in light of it's subsequent actions, would be stopped from relying upon now.

I am advised that in or around July 2010 Mr Clancy, on behalf of the Club, required Mr Burke to pay a personal membership renewal so as to continue as a member of the Committee. Mr Burke did so and accordingly purported to hold both ordinary membership and a nomination of a corporate membership from that time until September 2010 when Mr Clancy indicated that given that Mr Burke in fact did not require the ordinary membership, that he could, instead of having the ordinary membership fee refunded, replace himself as nominee with Mrs Burke. That then happened.

Rule 8(c)9 provides that a nominee is not entitled to membership of the Club in his own right. It follows that as Mr Burke was the nominee he was not entitled to the ordinary membership for which he was required to pay. Such membership was therefore presumably ineffective for so long as it coincided with Mr Burke being a nominee.

In September 2010 Mr Burke ceased to be a nominee and therefore his ordinary membership would be effective from that time.

Given this, it would seem that Mr Burke has continuously since 2006, been either a nominee or ordinary member. In light of the clear intent of Rule 8(c) of seeking to have a nominee treated as a member, I do not believe it is open to the Club to suggest that Mr Burke has not had three (3) continuous years of membership/nomination so as to prevent him qualifying to be a committee member. This is particularly so given that the conversion from nominee to ordinary member apparently took place at the requirement of the Club (through its servant).

I also note your assertion that Mr Burke did not receive the necessary nominations from three (3) members so as to be appointed to the committee in accordance with Rule 18. Again, this issue is one that should be capable of simple resolution and I would hope that supporting documents are available to determine this. Alternatively, evidence may be available from the then secretary to address this.

In summary, it would seem that the Club's assertion in respect of Mr Burke's membership of the Club and his position on the committee are questionable and there are certainly strong reasons to support Mr Burke's position.

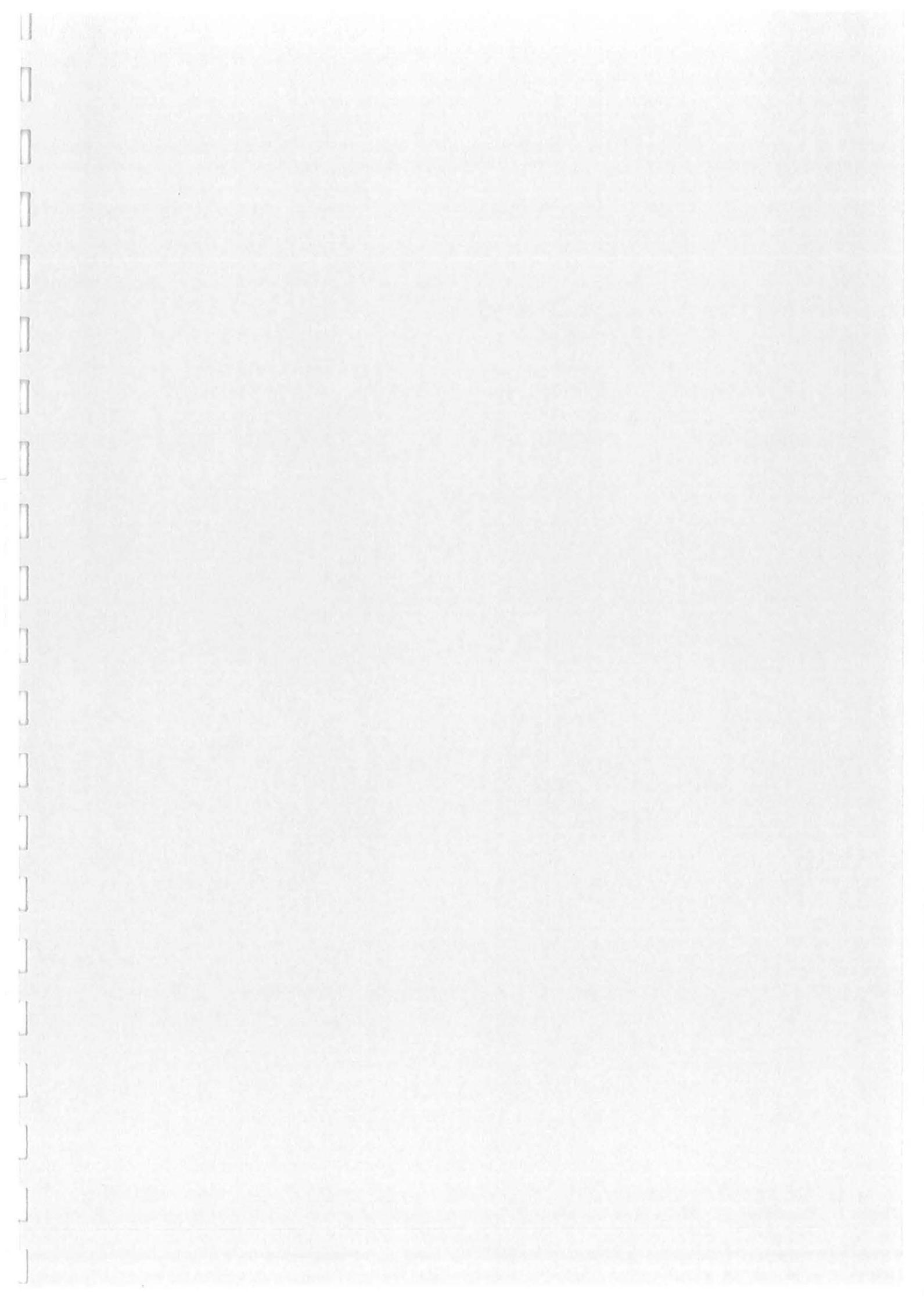
Of course, as stated above, this issue is ultimately a matter between the Club and Mr Burke which, if necessary, may be resolved in Court. However, to avoid the potential expenditure of industry funds on litigation and to avoid publicity which is potentially damaging to the industry, I urge you to seek to resolve this matter between yourselves. In particular I note that Rule 12(d), (e) and (f) provide for a process to be followed in circumstances in which the Club is considering expulsion of a member. Should the Club, after considering all of the foregoing, decide to proceed, then it should at least follow that course in Rule 12.

Should you have any queries in respect of this matter, please do not hesitate to contact me.

Yours sincerely,



A.J.Orchard
Director of Integrity Operations



SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

AFFIDAVIT

I, AARON JOEL CLANCY of c/- Hursley Road, Toowoomba in the State of Queensland, make oath and say as follows:

1. I am the Racing Secretary of the Toowoomba Turf Club Inc (Respondent). I have held this role since June 2010. My responsibilities in this role are many and varied and span the entire organisation. I am involved in the preparation and implementation of the planning and coordination of the organisation's strategic direction, its human resources and general operational procedures. All line managers from each department report to me. I in turn report, and am responsible, to the Management Committee of the Respondent.
2. I have read the Affidavit of Anthony John Burke affirmed on 11 April 2011 and filed herein (Mr Burke's Affidavit). I am aware that Mr Burke has applied to this Honourable court for declarations that he is a Member of the Respondent and a Committee Member of the Respondent.
3. I refer to paragraph 5 of Mr Burke's Affidavit in which he states that, as the nominee of a Corporate Member (Jewels of the Range Pty Ltd), he became entitled "to enjoy all the benefits of an individual membership" under the Respondent's Rules (a copy of the Respondent's Rules is exhibited to Mr Burke's Affidavit and marked "AJB1"). I do not agree that this is an accurate statement about the effect of the Respondent's Rules. Rule 8(c) deals with Corporate Members. Rule 8(c) contains 14 sub-rules and, when read in its entirety, makes it clear that the nominee of a Corporate Member merely exercises the rights of the Corporate Member in his or her capacity as a nominee, and not as a member in the nominee's own capacity. I note in this regard that rule 8(c)(9) is in the following terms:

"The nominee shall not be entitled to Membership of the Club in his own right."
4. I refer to paragraph 8 of Mr Burke's Affidavit in which he refers to the corporate membership invoice for \$110.00 which the Respondent sent to Jewels of the Range Pty Ltd in June 2010. The Respondent's administration staff had sent invoices to all members (both corporate and individual) at that time advising them that their membership subscriptions were payable for the financial year ended 30 June 2011. On 6 July 2010, I received an email from Mr Burke

Sheet 1

Signed:

X

Aaron Clancy
Deponent

Taken by:

[Signature]
A Justice of the Peace/Solicitor

Brian Stanley Hewitt



AFFIDAVIT
Filed on behalf of the Respondent
Form 46 Rule 431

Hopgood Ganim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4687987_1.DOC

to the effect that his company had not previously had to pay any membership fee for its corporate membership as the fee had formed part of the amount paid by his company under its sponsorship agreement with the Respondent. I responded to Mr Burke by email later that day to the effect that I was unaware of how his company's sponsorship agreement with the Respondent was set up and did not know what was payable (I had only recently assumed my role as Racing Secretary of the Respondent). After receiving my email, Mr Burke replied later that day by email and stated that he would "pay the \$110.00 so it does not lapse and we can work it out later when you have time to track down the T&A of our sponsorship. Not a problem, we will send cheque today.". Exhibited hereto and marked with the letter "A" is a bundle containing copies of the email transmissions I exchanged with Mr Burke on 6 July 2010. These emails clearly show that my exchanges with Mr Burke on the topic of membership related to corporate membership, and not to any individual membership of Mr Burke. Further, those emails do not state (as Mr Burke seems to have claimed to Racing Queensland Limited - see exhibit "AJB8" to his Affidavit) that all Mr Burke had to do to become a member of the Respondent in his own right was to pay the \$110.00 membership fee claimed in the invoice.

5. I do not agree with paragraph 9 of Mr Burke's Affidavit and say that it is clear from the email transmissions I exchanged with Mr Burke on 6 July 2010 that the \$110.00 membership fee was paid to give the Respondent the opportunity to check its records to see whether the fee was payable by the Corporate Member (ie. Jewels of the Range Pty Ltd) or had, as Mr Burke claimed, been included as part of the sponsorship fee which Jewels of the Range Pty Ltd had paid to the Respondent under its sponsorship arrangements.
6. I deny paragraph 10 of Mr Burke's Affidavit. I gave no such advice to Mr Burke. To my knowledge, there were no further discussions between the Respondent and Mr Burke about the membership issue until 21 August 2010. On that date, there was a meeting of the Respondent's Committee. During that meeting, Mr Burke advised the Committee in "General Business" that he wished to change the nominee of Jewels of the Range Pty Ltd from himself to his wife and take out individual membership in his own name as he had already paid the \$110.00 membership fee in July 2010. A copy of the Minutes of that Meeting is exhibited to Mr Burke's Affidavit and marked "AJB2". I refer to point 5 in the "General Business" section of those Minutes.
7. The Committee did not take a vote on Mr Burke's foreshadowed application for individual membership at the meeting on 21 August 2010 as he only informed the Committee of his plans during the General Business section of the meeting.
8. I refer to paragraph 11 of Mr Burke's Affidavit and say that, on 14 September 2010, Mr Burke telephoned me and asked me to change the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife. I told Mr Burke that he would need to complete a Corporate Application form for the change of nominee and emailed a copy of that form to Mr Burke later that day. A copy of my email is exhibit "AJB3" to Mr Burke's Affidavit.
9. I do not agree with paragraph 12 of Mr Burke's Affidavit. The Minutes of the Committee Meeting do not (as Mr Burke asserts) record his election by the Committee as an individual member of the Respondent. I refer in this regard to paragraph 6 hereof. Further, the Minutes do not, as Mr Burke asserts, record that he abstained from voting when he was "duly elected as an individual member" of the Respondent by the Committee. Those Minutes record Mr Burke's abstention from voting on a motion to accept the membership application of a Mr David Silver.
10. I refer to paragraph 14 of Mr Burke's Affidavit. Exhibited hereto and marked with the letter "B" is a copy of the Minutes of the Meeting of the Committee of the Respondent held on 25 September 2010.

Sheet 2

Signed:

Aaron Clary
Deponent

Taken by:

DAVID SILVER

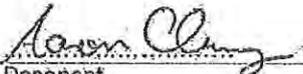
A Justice of the Peace/Solicitor

DAVID STANLEY KETTLE



11. I refer to paragraphs 16 to 20 of Mr Burke's Affidavit and say that, contrary to the matters asserted in those paragraphs, the procedures for certifying the eligibility of committee candidates are as follows:
- (a) When nominations are taken for casual committee vacancies, it is my role as the Respondent's Racing Secretary to ensure that all nominees have complied with the requirements of the Rules;
 - (b) Retiring Committee Members do not need to nominate or be certified to be eligible for re-election. Therefore, the assertion by Mr Burke in paragraph 18 of his Affidavit that I needed to certify the eligibility of each candidate who had nominated and that I had certified his eligibility, is incorrect;
 - (c) Rule 8(3) provides that all candidates for election to the Committee have to be nominated in writing by at least three members. However, sub-rule 6 provides that each retiring Committee Member (Mr Burke was such a member for the purposes of the Respondent's Annual General Meeting held in September 2010) are eligible for re-election without following the nomination procedure specified in sub-rule 3.
12. I refer to paragraph 24 of Mr Burke's Affidavit. The letter to which he refers came to be written in the following circumstances:
- (a) In January 2011, I was in the process of formulating new sponsorship proposals for prospective sponsors of the Respondent. In the course of doing so, I noted the provisions of rule 8(c)(8) of the Rules;
 - (b) I then informed the Respondent's Chairman, Mr Frappell, that Mr Burke may have breached the Rules by changing the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife, while still remaining on the Committee;
 - (c) I also informed Mr Frappell that, as Mr Burke had decided to apply for individual membership, he needed to complete and lodge an application for individual membership, to be supported by two other members of the Respondent, and that he had not done so;
 - (d) After investigating the matter further, the Respondent informed Mr Burke, by the letter to which he refers in paragraph 24 of his Affidavit, that he could no longer remain on the Committee because he had not observed the Rules, and invited him to complete the necessary paperwork to become an individual member.
13. I refer to paragraph 34 of Mr Burke's Affidavit in which he refers to rule 18.6, and note that his assertion in paragraph 34 that he was a retiring Committee Member and therefore did not need to nominate to be eligible for re-election seems to be in conflict with the assertion in paragraph 18 of his Affidavit that I certified his eligibility for election to the Committee.
14. All the facts and circumstances herein deposed to are within my own knowledge save such as are deposed to from information only and my means of knowledge and sources of information appear on the face of this my Affidavit.

Sworn by Aaron Joel Clancy on April 2011 at Toowoomba in the presence of:


Deponent


A Justice of the Peace/Solicitor

BRIAN STANLEY

SUPREME COURT OF QUEENSLAND

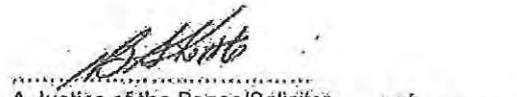
REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

CERTIFICATE OF EXHIBIT

Bound and marked "A" is the exhibit to the Affidavit of Aaron Joel Clancy sworn April 2011;


Deponent


A Justice of the Peace/Solicitor
BRIAN STANLEY KETTLE



CERTIFICATE OF EXHIBIT
Filed on behalf of the Respondent
Form 47 Rule 435

HopgoodGanim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4689518_1.DOC

"A"

From: Aaron Clancy
Sent: Tuesday, 6 July 2010 2:58 PM
To: 'jewels of the range'
Subject: RE: Membership

Hello Anthony,

I hope you are having a great week. At this stage I have not looked into the Terms and Conditions of your sponsorship agreement with us. So I have not amended any condition. No doubt moving forward we will have more structure in place for all sponsors. I will give Col a quick call and double check with what Ken has advised.

Did you like the survey?

Regards,
Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350
P.O Box 6037 Toowoomba West QLD 4350
M: 0400 334 854
P: 07 4634 6066
F: 07 4633 1256
E: aaron@toowoombaturfclub.com
W: www.toowoombaturfclub.com

From: jewels of the range [mailto:jewelssoftherange@bigpond.com]
Sent: Tuesday, 6 July 2010 10:58 AM
To: Aaron Clancy; Ken Gordon
Subject: Membership

Hi Aaron,
Received your letter to members for our Corporate membership for AJ & SR Burke / Jewels of the Range.
With our sponsorship of the rings the \$110 fee has not been payable but forms part of our sponsorship agreement.
Just confirm this with Ken Gordon, but happy to pay it if there has been a change for this coming year.

19/04/2011

Thanks
Anthony Burke

On another matter, heard on the radio TAB that Brisbane Racing Club have new rules for the Trainers there including a direct debit for the fees to be able to train due to non payment of many trainers. This may be a good initiative for the TTC as well.



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29-OCT-07 18:07

JEWELSOFTHERANGE

0746379955

PAGE: 4
Page 2 of 3

W: www.towoombasturfclub.com

From: Jewels of the range [mailto:jewelsoftherange@bigpond.com]
Sent: Tuesday, 6 July 2010 3:21 PM
To: Aaron Clancy
Subject: RE: Membership

Hi Aaron

I will do the survey and return it as think it is great. Will not be too much positive in my answers though. Will be honest constructive answers.

I will pay the \$110 so it does not lapse and we can work it out later when you have time to track down the T & A of our sponsorship. Not a problem, will send cheque today. I do not think Col will know as he has never had any thing to do with sponsors at any time while he has been on the committee. I will see if I can find my copy at home in my old hard drive the computer guys saved for me last month when it died. That will save you time.

Anthony

-----Original Message-----

From: [Aaron Clancy](mailto:Aaron.Clancy)

Date: 7/8/2010 2:58:13 PM

To: [jewels of the range](mailto:jewels.of.the.range)

3/9/2011

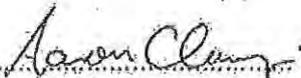
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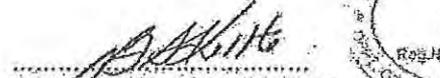
REGISTRY: Brisbane
NUMBER: 3042 of 2011

Applicant: ANTHONY JOHN BURKE
AND
Respondent: TOOWOOMBA TURF CLUB INC

CERTIFICATE OF EXHIBIT

Bound and marked "B" is the exhibit to the Affidavit of Aaron Joel Clancy sworn April 2011:


Deponent


A Justice of the Peace/Solicitor
BRIAN STANLEY KETTLE



CERTIFICATE OF EXHIBIT
Filed on behalf of the Respondent
Form 47 Rule 435

HopgoodGanim Lawyers
Level 8, Waterfront Place
1 Eagle Street
Brisbane QLD 4000

Phone: 3024 0302 Facsimile: 3024 0002

Ref: 1102847 - 4689518_1.DOC



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 68 Fax (07) 46 33 12 69

Minutes of a Meeting of the Committee of the Toowoomba Turf Club Inc. held in the Committee Room, Clifford Park Racecourse, on Saturday 25th September, commencing at 11.03am

PRESENT: Col Zeller (Chairman), Norm Pankhurst (Deputy Chairman), Kim McCasker, Graham Healy, Anthony Burke, John Morgan, Peter Turnbull, Bob Frappell, Aaron Clancy (Secretary)

Apologies: Ken Gordon

AGENDA

1. Apologies
2. Confirmation of Minutes
3. Business Arising
4. Correspondence
5. Business Arising
6. Financial Report
7. Chairman's Report
8. Training Applications
9. Membership-Applications
10. General Business

2. Confirmation of Minutes

Minutes of the previous Meeting of the Committee held on 25th September 2010, were taken as read and confirmed moved by B Frappell and seconded by G Healy carried unanimously.

3. Business Arising

N Pankhurst moved the Neil Vettors our water truck driver who has been given notice to finish up and stop the carting of water, seconded by B Frappell. Carried unanimously

The Verdi Drain should be based here, as that we part of the agreement. Secretary to follow up.

Ron White- We need to have a discussion with him in regards to coming to an agreement of full time employment of the club.

4. Correspondence

Inwards:

- 2 Sep- Kevin O'Brien sent letter to TTC, Karen Maund, and Jamie Orchard
- 6 Sep- Invoice for Racing QLD for Chute Extension+ Wages for Maintenance.
- 18 Sep- Bob Bentley Response
- 17 Sep- Adam Carter Requesting TAB Clubs ISR Insurance renewals FY10/11
- 20 Sept- J Orchard advising TTC he has asked Karen Maund to leave the Lauriston Racing Stables.

Outwards:

- 10 Aug- Letter to Tracey Hamade advising her Permission to Train has been terminated.
- 30th Aug- Letter to trainers advising them of the action taken from our Trainers Meeting
- 2nd Sept- Letter to Racing QLD advising decision on partnership
- 10 Sept- Advised Managed Solution we would like to take over our website from them
- 14 Sept- Letter to John Wiedman for advice of Nominee campaign letter.
- 14 Sept- Response to Racing QLD regarding us repaying the 6Mil
- 14 Sept- Letter asking Allen Volz to rewrite or rephrase his campaign letter
- 14 Sept- Letter to Tom Warren asking if would consider rewriting or rephrasing his Treasurers report

It was moved by P Tumbull and seconded by A Burke that the above inwards-outwards correspondence as tabled and read. Carried

"Light years ahead of the rest"



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hansley Road, Toowoomba, QLD 4350 PO BOX 8037 Toowoomba West, QLD 4350

Phone (07) 40 34 00 66 Fax (07) 48 33 12 88

6. Business Arising

1. Racing QLD have not paid our Subsidy this month, I have emailed and called Adam Carter with no response.
2. Allen Volz changed is campaign letter
3. Tom kept his letter the same.
4. We have a new Website developer
Karen Maund spoke with the ATA, I am waiting for response from Jamie Orchard to see where we are at.
5. C Zeller advised that K O'Brien is the rightful tenet of the stable block and K Maund must leave the stables.
We have documentation in the form of an agreement stating that K O'Brien is the tenant.
Aaron to do a contract for on course stabling and give it to the tenets to sign. All our on course stables are currently full.

6. Financial Report

T Warren presented the yearly Financial Report

B Frappell raised that he has been on the Committee for 3 months and there has been no up to date financials and no P&L, nor budget presented at any meeting.

We need to look at a getting a new accountant.

Secretary to arrange current accountant to come in this week to finish off July and August financials and email them to the Committee.

It was moved by G Healy to recommend to the new Committee that we advertise for our new accountant Seconded by A Burke.

It was moved by T Warren to except the yearly finical report, 2nd by N Pankhurst. Motion, Carried

7. Chaiman's Report

C Zeller explained that the although we need to pay the Racing Qld loan for the 350m chute, he believes that the original plans already showed the chute was included. He also questioned the actual size of the chute. C Zeller also mentioned that we could argue that the chute was part of the 4mil grant that was given to RQL for work to be done at the TTC.

C Zeller advised that the new Committee should arrange a meeting as soon as possible with Racing QLD to discuss the loan repayment and to organise a schedule of repayments for the Chute. The new Committee should also discuss the joint venture. C Zeller mentioned that the TTC must be very efficient with compliance and all of our workings as Racing QLD will be keeping close tabs on us.

C Zeller made mention and wanted it to be noted that the TTC did not drop the ball in regards to scheduling meetings with Racing QLD to discuss a joint venture. Racing Qld postponed meetings and then advised a meeting on really short notice, which was not suitable and TTC had to cancel. It was then a few months before Racing QLD could schedule another meeting

Sky International agreement- Lek consultants were engaged by RQL to negotiate the best broadcast deal for Racing Clubs in QLD. L.E.K, have drafted a longform agreement which should be signed off on, in the next 2 weeks. Individual negotiations will start with all Clubs after this.

8. Trainers Applications- Nil

9. Membership Applications

1. Pat Sexton
2. Samantha Wickham

It was moved by T Warren that the above applicants be granted membership of the Toowoomba Turf Club, seconded A Burke.

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Phone (07) 46 34 60 65 Fax (07) 46 33 12 63

10. General Business:

Ron White- Meeting set for Monday 27th Sept to discuss Ron White's promotion to full time employment.

Norm motioned that C Zeller be given life membership for his contribution to the club for the past 16 years and for his work in his current role as Chairman. Seconded B Frappell, unanimous

P Turnbull raised what a great job our trainee gardeners have done with receiving 3rd place in the Carnival of Flowers competition. Although we won last year, we had 4 gardeners and the boys have done a great job.

PSP- It was raised that a meeting needs to be set up with PSP to discuss their DVD pricing. The Chairman will look to set the meeting up for Monday 27th Sept.

Dr J Morgan raised that he believed the Gold Coast Turf Club would revive 10 mil in cash out of the 50mil joint venture with racing QLD.

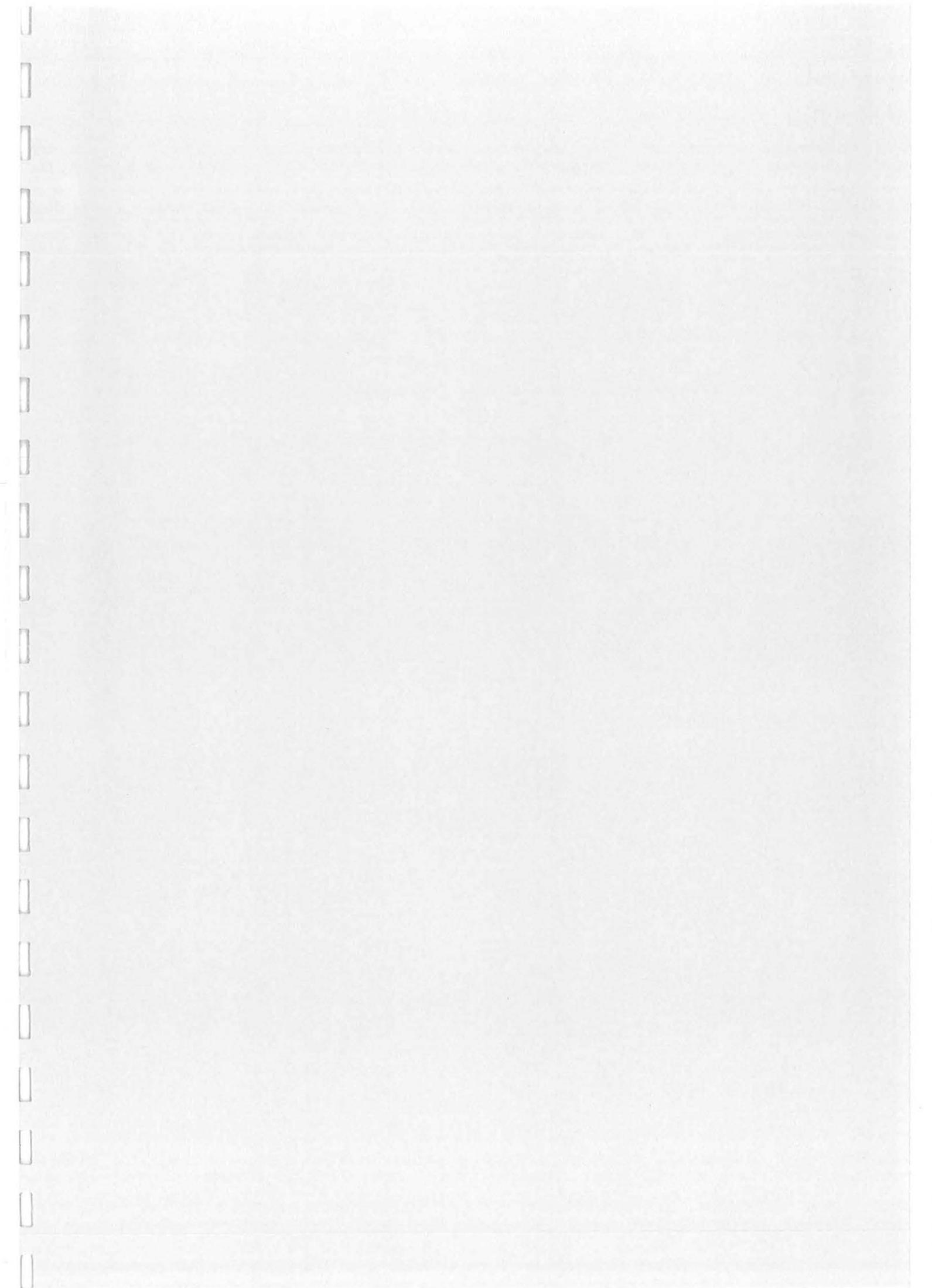
Meeting Closed 124pm

Signed

Date

.....
Bob Frappell
TTC CHAIRMAN

.....
"Light years ahead of the rest"





TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 66

Minutes of the Committee Meeting 7th April 2011

The Minutes of the Committee of the Toowoomba Turf Club Inc. held in the Weetwood Room, Clifford Park Racecourse, on Thursday 7th April 2011

PRESENT: Bob Frappell (Chairman), Graham Healy (Deputy Chairman), John Scott, Allen Volz, Allan Gee, Jim Cosgrove, Norm Pankhurst, Aaron Clancy (Secretary), Brandon Long (Communications Officer)

Meeting commences at 7.06pm

1. Apologies

P Turnbull

Dr J Morgan will be late

2. Confirmation of Minutes

G Healy moved that the minutes as amended are a true and accurate record, seconded by A Gee
Carried, unanimous

3. Chairman's Introduction

B Frappell would like to note on the record that there was no vote from the Committee on life members' invitations to Weetwood. The matter was discussed with almost all of the Committee and they agreed with Bob's thoughts. He said it has always been the Chairman's prerogative as to who to invite. B Frappell takes full responsibility for not inviting former chairman Neville Stewart. A Clancy suggested to B Frappell that the Club should invite life members to the Dalrello Deck for Weetwood day free of charge for meals and drinks, and that is what was done.

4. Business arising from minutes

B Frappell outlined two major issues concerning the Club's partnership with Lion Nathan:

1. Literage
2. Providing XXXX with exclusive use of the Grand Marquee for Weetwood puts the Club in a difficult position. It should be looked at carefully. We should talk to Lion Nathan about modifying the sponsorship proposal which will allow the Club to use the Grand Marquee for the general public on Weetwood Day, as the Platinum Marquee has performed poorly for three years in a row. B Frappell is organising a meeting with XXXX.

A new printer has been installed in the office and the staff praises its usability and efficiency.

The Stathi Katsidis statue has been erected and the Committee Members think it is an impressive monument.

"Light years ahead of the rest"



5. Inwards & outwards correspondence

Inwards Correspondence:

- 18th March- Faxes from A Burke's solicitor. These faxes were covering old ground.
- 21st March- Fax from A Burke's solicitor stating that if we don't put A Burke's name in the race book(Weetwood Day) this could be cause for a defamation case against the Turf Club
- 23rd March- Email from Paul Brennan outlining the cost for us to purchase the machinery
- 23rd March- Email from RQL outlining the time frames and the outcomes of us taking over the maintenance of the Cushion Track
- 23rd March- Email from RQL outlining what they require if we agree to drop all legal proceedings.
- 25th March- Further faxes from A Burke's solicitor outlining the reasons that A Burke is a member of the Club.
- 26th March- Fax from A Burke's solicitor stating that he can only be removed from the Committee under rule 36
- 28th March- Fax from A Burke's solicitor stating that A Burke is a Committee Member and that we should provide him with notice of our upcoming meetings.
- 28th March- 2 Faxes from A Burke's solicitor asking that I send A Burke all the email addresses of the Committee so he can fulfill his role of Committee Member.
Fax stating that A Clancy needs to hand over the recording of the incident that occurred at the TTC. They have stated that A Clancy needs to seek personal legal advice.
Fax from A Burke's solicitor asking A Clancy if Hopgood Ganim represent him personally, as A Clancy has not handed over the recording. A Clancy has also breached the rules that the Secretary is governed by.
- 28th March- Email from A Burke stating that A Clancy will need to inform him of the upcoming Committee Meeting
- 30th March- Letter from Ian Macfarlane advising us that he has been written to from a Mrs. Haynes who had flood damage in her home at the back of the Turf Club.
- 31st March- Email from RQL advising us of the rules/policy for expenditure for Racing Clubs.*
- 31st March- Email from Paul Brennan advising us that the Hopeful Plate will remain on the Saturday.
- 31st March- Invoice from RQL for 114k for maintenance from Sept 2010 to end of Feb 2011
- 5th April- Email from Wayne Milner advising us that with our proposal for the sinking fund he would like to see it increased in the first couple of years.

Out Wards Correspondence

- 22nd March- Sinking Fund proposal sent to Wayne Milner
- 21st March- Hopgood reply to A Burke's Solicitor stating our position has not changed.
- 22nd March- Hoopgood respond to A Burkes Solicitor reiterating the Clubs position that A Burke is not a member.
- 23rd March- Hopgood advise A Burke's Solicitor that as they have presented no new information, that they will not be responding to any more faxes as this is costing the TTC money and A Burke should take the appropriate course of action if he feels that he has been wronged.
- 24th March- Advice from Hopgood stating that the correspondence we have received from RQL does not state in writing that the track is a grant.
- 25th March- Hopgood respond to RQL outlining what the TTC requires in regards to taking over the maintenance of the Cushion Track.
- 29th March- Email from A Clancy to A Burke advising him that all correspondence from him and his lawyer should go through to our solicitor.
- 30th March- Letter to A Burke's Solicitor, once again outlining the position of the Club.



Other Correspondence

Email from Wayne Milner to Letsgohorseracing outlining facts regarding the decision of the TTC not to enter into a partnership.
18th March- Media Release from Racing QLD regarding the decision of the TTC not to go into a partnership with RQL.

*It was moved by A Gee and seconded by A Volz that the correspondence has been tabled and accepted.
Carried, unanimous*

Dr J Morgan enters meeting at 7.52pm

6. Business arising from correspondence

The majority of correspondence concerns Hopgood Ganim's advice and A Burke's solicitors' advice. A Clancy said that on the 28th March, Burke's solicitor said A Clancy should seek legal advice for two reasons:
1. The fact that A Clancy would not hand over the sound recording of the situation involving A Burke
2. A Clancy has not informed A Burke of upcoming meetings so therefore has breached the rules of the Club.

Hopgood Ganim is representing A Clancy now.

In regards to the sinking fund, B Frappell said Racing Queensland cannot force the Club to do it. It is up to the Committee of the TTC and RQ can only advise the Club. B Frappell said Wayne Milner from RQ has been good to talk to about the fund.

B Frappell provides an overview of the A Burke situation to Dr J Morgan:

At a Committee Meeting in September 2010, B Frappell was sitting across the table from A Burke when it was voted to remove the joining fee. Subsequently, A Burke said he would make his wife the corporate member and B Frappell did not know he was just a corporate member. Clearly 8c of the constitution states that if you are a corporate member, you cannot be a normal member and vice versa. TTC took legal advice to whether he was legally elected onto the committee. Hopgood Ganim replied to the TTC with the advice that A Burke was not a legal member. B Frappell said the Club does not have the capacity to negotiate this, as A Burke breached rules and also did not fill out a membership application form.

Recently, B Frappell has been speaking to Hopgood Ganim about holding a bi-election. They advised B Frappell to hold a bi-election for A Burke's position, as the Club would be neglecting its duty if it did not hold a bi-election to replace a Committee member as soon as possible. B Frappell asked them if the uncertainty surrounding the A Burke matter might postpone election, to which Hopgood Ganim replied "no". B Frappell said it will take about three to four weeks to hold a bi-election, so the Club should be planning to hold an election in May as it cannot wait.

It was moved by J Cosgrove and seconded by A Volz that the Club holds a bi-election as soon as possible to fill the casual vacancy created by Anthony Burke's non-constitutional election.

Carried, unanimous



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Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 66

Financial Report- Please see financial report attached.

A Gee will deputise for P Turnbull tonight

Committee Members agreed that the Club will not make a decent profit on food, but the catering reputation has improved.

A Gee noted that Catering Manager Jason Leicht had hired a mobile food warmer trolley for Weetwood 2011 and that the Club needs to buy one as it can be used on a regular basis.

It was moved by A Gee and seconded by G Healy to approve the purchase of a mobile food warmer trolley for the cost of \$5000.

Carried, unanimous

B Frappell approached a debt collection lawyer following the Club's ongoing issues with trainer's accounts, functions and other matters.

It was moved by G Healy and seconded by A Gee for the approval for legal practitioner Neil McGinley to act on the club's behalf to settle its debts and to send him a letter of appointment.

Carried, unanimous

8. Parks, Gardens, Works and Maintenance

J Cosgrove gives works report.

It was moved by J Scott and seconded by J Cosgrove that the Club approves for payment the cost of repairing the tar behind the betting ring.

Carried, unanimous

J Cosgrove said Dubbo Dunnys wrecked the TTC front fence on Weetwood Day. The cost will deducted from their account.

J Cosgrove has outlined a plan for the TOTE in breezeway to be moved in to the catering room to allow for more room in this area.

It was moved by A Volz and seconded by J Scott to approve the relocation of the old tote under the Weetwood Room to the catering office to make more space and that the old tote building be demolished.

Carried, unanimous

With the slasher, B Frappell took it to assess its reparability, B Frappell has been found it to be uneconomical to repair as the gearbox is smashed. B Frappell said he will buy it off the Club for \$100 to use personally for parts.
It was agreed.

9. Liquor & Catering Report not available

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10 & 11. Training Applications and Membership Applications

The below applications for Membership are as follows:

Paul Rice, Michelle Price, Alana Aspinall, Michael Nolan, Jeffrey Paul Cahill, Garry Barrett

Up for Training approval is:

Trevor wheeler

It was moved by J Cosgrove and seconded by N Pankhurst that members and trainers applications be approved Carried, unanimous

Some trainers have not been paying for their horses and have been given warnings that they must pay.

The Club will see Karen Maund to discuss payment of her account and to attain a completed trainer's application so she has permission to train, or she cannot return to the track on Monday morning.

Outstanding payments must be made by Friday 15th April.

It was generally agreed.

12. General business

12.1 Progress of the arrangements post rejection of RQL offer

There have been rumours that we will lose race dates; this is not true as all dates are finalized for the 2011/2012 financial year.

12.2 The accounting treatment of the Grant

The Club will seek advice from its auditors on how to account for the grant.

12.3 The sinking fund

The TTC has the right to accept or reject a sinking fund and set its own level of contribution.

12.4 Trevor Woodham Job rejection/Employing a replacement/time frame

An offer was made to Trevor Woodham to stay at Clifford Park as curator for TTC instead of RQ, which he turned down.

The Club will have to employ full time track curators. The position vacancy has been advertised externally.

12.5 The equipment replacement and cost

The Club is purchasing the following from RQ:

Tyre rollers	\$4000 each
40ft container	\$3,123
2x Trackmasters	\$36,950
1x Power harrow	\$24,640
Cleg hammer	\$6734
2x John Deere tractors Vanderfield Pty Ltd	\$176,000

At 7.05% interest rate

The Club will consider doing a sponsorship deal with Vanderfield Pty Ltd, whereby they will pay the interest.

The Club will need approval from RQ to buy this equipment

Moved J Cosgrove, seconded A Gee to purchase the above equipment from RQL and Vanderfields Pty Ltd, carried

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Cushion Track Australia have advised us that they gave a seven year warranty to RQL as they have a good relationship with them. The normal warranty is three years.

It was moved by A Volz and seconded by A Gee that the Club asks for a copy of the warranty being offered by Cushion Track Australia in its entirety.

Carried, unanimous

12.6 The latest bill from RQL for track Maintenance

We have received an invoice in the vicinity of \$114,000 from RQL for six months maintenance charges. We will send our correspondence to Hopgood Ganim to see where we stand.

12.7 Weetwood discussion and plans for a debrief

A Weetwood debrief will be held next Thursday
G Healy wants a debrief with police and liquor licensing as well

12.8 The track tickets checking results

Mick Jaynes and Bruno have taken over from Rick as track work auditor
B Frappell proposes a substantial change to charging out track tickets.
Our new policy is as follows:

Trainers to submit completed track ticket form to the office in the first week of each month.

The form must state all horses using the track for the previous month, there are no exceptions.

The TTC will send an invoice in the 2nd week of the month. If your track ticket form has not been submitted then we will invoice you for the horses that we have recorded for you that month.

Once invoiced you will have to the 15th of the following month to pay.

If you cannot reach this deadline and cannot pay the TTC, you will be required to contact us during this month to explain your circumstances.

Failure to pay, and failure to contact the TTC, you will be issued with a breach notice and your 'Permission to Train' here at the Toowoomba Turf Club will be reviewed by the Committee.

*It was moved by G Healy and seconded by N Pankhurst to approve the policy moving forward
Carried, unanimous*

12.9 Trainers meeting and outcome

Very positive outcome. Trainers were happy that they will now have six weeks to pay their track tickets.

12.10 Rubber mats for horse stalls, can we order another 100?

*It was moved by J Scott and seconded by J Cosgrove that the Club orders another 100 rubber mats for the tie up stalls,
Carried, unanimous*

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12.11 Toowoomba Cup

A Clancy emailed Paul Brennan inquiring into whether it is possible to move the Toowoomba Cup to the Saturday following Weetwood on Thursday, as done in previous years. A Clancy said if the Club wants the Cup on Saturday, he will have to do up a proposal to present to RQ. He asked to hear the thoughts of Committee Members on this matter:

The majority of the Committee was happy for A Clancy to present a proposal to RQL

12.12 4DDB proposal

G Healy, B Frappell and A Volz excuse themselves from the meeting at 10.31pm due to a perceived conflict of interest, so remaining Committee Members can discuss proposal.

It was moved by J Cosgrove and seconded by J Scott that the Club accepts the 4DDB sponsorship proposal for 12 months with a 3 months probation period

3 abstentions, carried

It was moved by N Pankhurst and seconded by A Volz that J Cosgrove be acting vice chairman and acts on the executive until the next meeting on 26 May 2011.

Carried, unanimous

Meeting concludes at 10.56pm

Date: 20 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club **PRIVATE**
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: tape recording of events in the offices and car park of the TTC

To be read only by Mr. A Clancy personally.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

You currently have in your possession a tape recording of events in the offices and car park of the Toowoomba Turf Club ["TTC"] in February 2011.

You hold that item on behalf of the TTC.

Our client requires you to table the tape at the committee meeting on 26 May.

You, the employed racing secretary of TTC, have misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to Racing Queensland about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to the Office of Fair Trading about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

As our client has 'required' you, in your capacity as employed racing secretary of TTC to do something – table the tape at the next Committee Meeting on 26 May 2011 – we need to inform you that you have a right to seek independent legal advice.

Barry Atkins
Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 23 May 2011
Date: 23 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: legal costs of TTC fighting Mr. A Burke

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

Our client requires that you table at the Committee Meeting due 26/5/11 copies of all material relating to the legal costs of the TTC fighting Mr. Burke over various legal matters.

In relation to each and every of those legal matters our client, in his capacity as Committee member TTC, in accordance with his duties as a Committee member TTC, requires you table copies of all material from and to Hopgood Ganim relating to legal costs, fees and expenses, including , but not limited to:-

-
1. Original signed Cost Agreement between TTC and Hopgood Ganim;
 2. Written Estimate of costs given to TTC by Hopgood Ganim;
 3. Copies of all invoices received by TTC from Hopgood Ganim;
 4. Details of all payments made by TTC to Hopgood Ganim.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: Sponsorship Register

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

Mr. Burke requires you table the current Sponsorship Register at the Committee Meeting due 26 may 2011.

Barry Atkins
Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 26 May 2011
To: Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: Committee meeting 26/5/11

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for Mr. A Burke, a committee member.

Our client complains that you have failed to issue the agenda for tonights meeting in accordance with the Rules of TTC.

We note we have previously written to you advising our client requires you to table at the meeting today:-

1. The tape recording you hold on behalf of the TTC of the incident at TTC on 10/2/11;
2. All material received from and sent to Hopgood Ganim regarding costs on :-
 - a. Mr. Frappell's defamation action against Mr. Burke;
 - b. the dispute about Sponsorship with Jewels of the Range;
 - c. the dispute over club and committee membership including the Court Hearing;
 - d. disputes since the Court Hearing.
3. tape recordings of the last 6 committee meetings;
4. The Sponsorship Register.

Our client also requires you to table the Membership Register.

Barry Atkins
Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke complaint to Toowoomba Turf Club Inc. about Mr. A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client has instructed us to make a formal complaint to both your client, TTC, and Racing Queensland about the conduct and actions of Mr. A Clancy, your client's employed racing secretary.

You advised us in writing, at the outset of the communications between our Firms, in response to our question to you, that you received instructions from Mr. A Clancy.

Our client has reviewed the Minutes of the Committee Meetings since October 2010 to and including April 2011.

Nowhere in those Minutes does it record a decision of the Committee to authorise Mr. Clancy to instruct you regarding matters in dispute between our client and TTC.

Nowhere in those Minutes does it record a decision of the Committee to delegate authority to Mr. Clancy to make unilateral decisions about the conduct of the disputes [several in number] between our client and your client.

It is now clear that Mr. Clancy has continuously acted without express authority of the TTC.

His authority as an employee does not and could not extend to making decisions, to instruct your law firm, about matters in dispute between the parties.

We particularly refer to your recent advice to us that your client [TTC] rejected our open offer of settlement regarding the dispute over the Sponsorship Agreement between your client and our client, Jewels of the Range.

The rejection of that offer, on instructions from Mr. A Clancy exposes TTC to a costs order against them on an indemnity basis if our client is successful.

Our client believes that Mr. A. Clancy did not seek a decision from the Committee before rejecting that offer, but acted unilaterally without actual authority from TTC.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11061 Your Ref: Mr. B Bolton
Re: JEWELS OF THE RANGE - SPONSORSHIP OF TOOWOOMBA TURF CLUB ["TTC"]

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

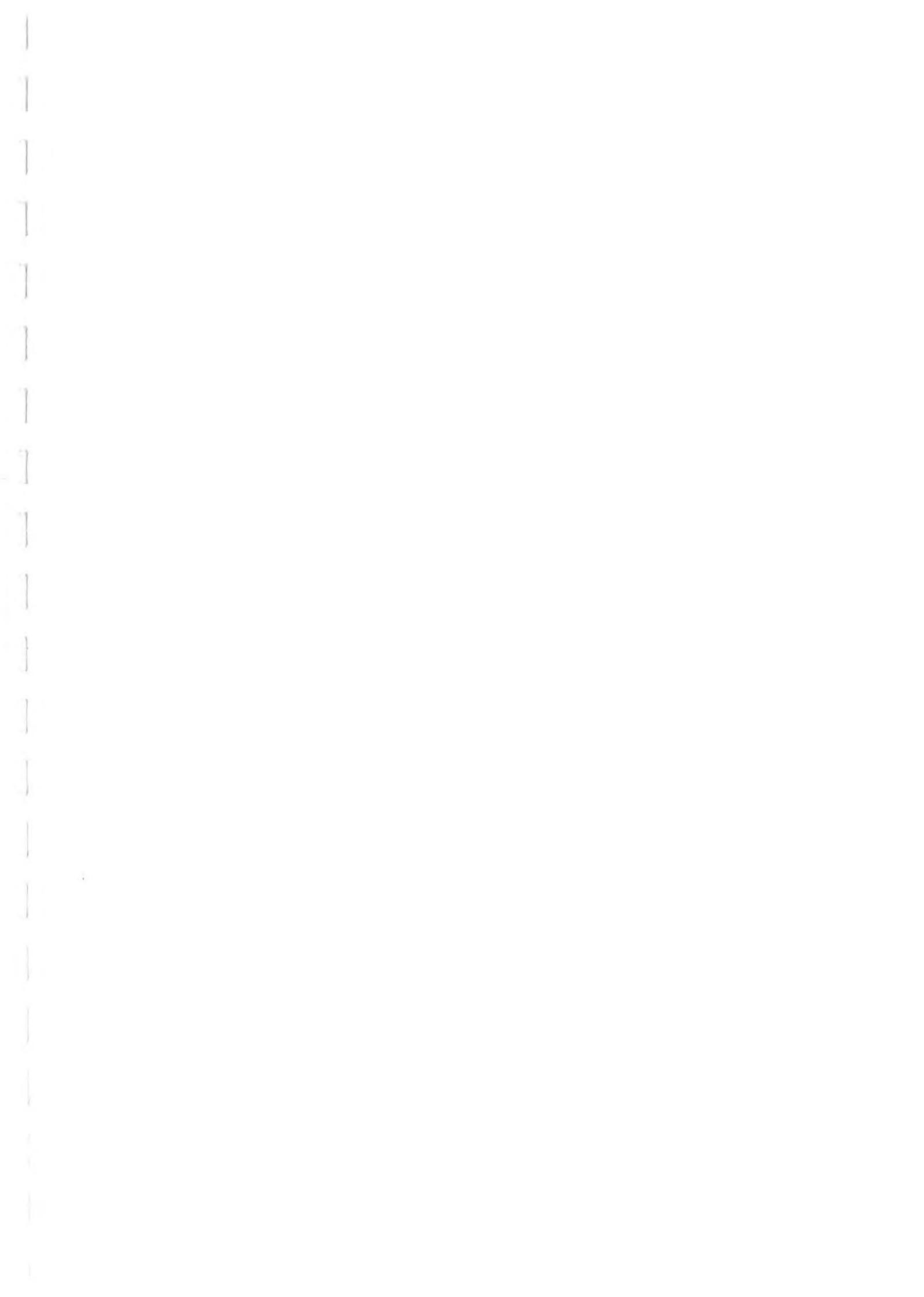
Dear Sirs,

We are instructed to bring to your and your client's attention the fact that there is no decision of the TTC recorded in its Committee Minutes to end all current sponsorship agreements.

Our client considers that they still have a current Sponsorship Agreement with your client because:-

- 1.No decision has been made to end their Sponsorship Agreement;
2. Advice from Mr. A Clancy that the Sponsorship Agreement between our clients had been ended was advice without authority from TTC as no decision to take that action was made by TTC;
- 3.If we are wrong in our analysis at point 2 above the purported attempt by Mr. A Clancy to end the Sponsorship Agreement between our clients was not "in writing" as required by the current Sponsorship Agreement.

Barry Atkins
Solicitor & Attorney



Transcript

AC: Mr Atkins's can't go through them.

BA: Yes I can.

AC: Are you a member of the Club?

BA: I'm recording this by the way.

AC: Yeah, no, that's fine, are you a member of the Club?

BA: I'm here with Mr Burke who is a committee member to inspect the Minutes.

AC: Right.

BA: Your solicitors have written to my law firm advising Mr Burke to make arrangements to come and inspect the Minutes, which he has done.

AC: As a member of the Club.

BA: He's inspecting the Minutes as a committee member.

AC: He is a member of the Club.

BA: He is a member of the Club.

AC: Yep.

BA: That's right. I am his solicitor, I am bound by the duties of confidentiality to my client, consequently these are documents which he is entitled to see.

AC: I am not disputing that.

BA: and I am entitled to assist him to review them. Had you provided copies, as you are obliged to, then Mr Burke would have given them to me.

AC: I'm not quite sure that's right about being obliged to, but anyway.

BA: Well I'm telling you absolutely that you are obliged to and there are two reasons for that. There are three reasons. The first reason is that Mr Burke is obliged....

AC: (interjects - something)

BA: ...no, just let me finish.

AC: Interjects loudly...

BA: let me finish.

AC: (louder) ...to be honest, with you.

BA: let me be finished. Mr Burke is entitled,

AC: (even louder) – No!

BA: Don't interrupt me.

AC: (shouts) ...I can interrupt you.

BA: No you can't Mr Clancy. Because I'm telling you why he is entitled to look at those minutes.

AC: No that's _____

BA: He is a committee member.

AC: (talks over)

BA: No, I'm telling you because I am here with him. He is a committee member.

AC: (talking over) Would you like to come with me and I will come back..

BA: Number two, number two, he is entitled to have copies. And number three is he entitled to have his solicitor present. All right?

AC: I'm just going to double-check that, if that's okay.

BA: I have spoken to the general council of Racing Queensland this morning. She knows that I am coming. She rang you. She told you to make the minutes available. If you do not make those minutes available you are obstructing an investigation.

AC: Mr Burke, I will have the minutes available to you within five minutes. Okay?

BA: No, make them available now. We are here. We simply want a room.

AC:take orders from you, I'm sorry.

BA: Well you don't take orders from any one, other than the committee, of which Mr Burke is a member, and there has been no ruling of the committee that he do not have access to the committee minutes.

AC: I agree, I agree, and _____ of the Minutes, of

BA: No, you have not been obliged

AC: I'm not, I asked Anthony

BA: You have not....

AC: (yelling) Don't interrupt me!

BA: Don't yell at me.

AC: I am talking to Anthony Burke about this,

BA: Listen, don't yell at me.

AC: you don't interrupt me when I am talking to Anthony.

BA: Because you made a false statement. You said you were helping him, you have not made them available, you have not made copies available. He is entitled to copies, it's very simple.

AC: Well how come our solicitors seem to think that's different?

BA: Your solicitor's wrong. He's obviously wrong.

AC: Okay, I'll ask him.

BA: If the Club really wants this matter to go further, then it can continue to do what you are doing, which is obstructing his rights as a committee member.

AC: Did I make the minutes available to you yesterday at 12 o'clock? Did I say come in? Did I say come in this morning and see them? Did I say come in last week and see them?

AB: Well

AC: Have I made them available to you every single time you have asked to come in?

AB: Only the signed Minutes you mean?

AC: Yes.

BA: Not electronic copies?

AC: I don't have electronic copies.

BA: Every other committee member received electronic copies. Your solicitors wrote back to me and said that the committee members have received copies electronically, some by email. There was a motion passed by the committee, moved by Frappell, it mightn't have been a motion

AC: I know all this.

BA: What, you know that Frappell said that the copies of the minutes are to be sent to the committee members electronically?

AC: Yes, for proofing before the next.....

BA: Right, and every other committee member has seen them.

AB: Yes, and I spoke to Graham and he said he's got them, I've spoken to other committee members.

AC: And I sent you, did I not send you the minutes of the last meeting electronically for proofing?

AB: I got the April.

AC: Yes.

BA: But we want to see the other ones.

AC: But they're not official, they're for proofing, there's been changes made to them.

BA: That's right. We want to see the difference.

AC: Yeah, they're in here.

BA: Good.

AB: We want to compare the difference.

AC: Oh, well that's irrelevant.

BA: No it's not irrelevant.

AC: It is.

BA: Those are minutes that are given electronically to the committee members and Mr Burke is a committee member, has always been a committee member.

AC: For proofing.

BA; Well then give them to him for proof.

AC: Proof of what?

BA: He is entitled as a committee member.

AC: But they're not official minutes.

BA: They are documents that go to the committee. He is a committee member.

AC: (interrupts) Doesn't...

BA: You are not allowed to prevent him doing his job at a committee member.

AC: Oh, I'm definitely not doing that.

BA: You are most certainly doing that.

AC: No, I'm providing the minutes for Mr Burke to look at.

AB: You've denied the financials for me to look at.

AC: No I haven't.

AB: You did yesterday. I sent you an email asking for the financials, you said I'd have to go to the next committee meeting.

AC: Well we have a finance sub-committee for that.

AB: My obligation as a member of the management committee is finance of the Club, regardless of whether I'm on a finance sub-committee.

AC: Okay, let me just quickly check this.

BA: Well you can give him the minutes right now.

AC: No, I am unsure and following protocol, as you can imagine running a turf club, I am unsure with you not being a member if you're allowed to sit with him.

BA: I am his solicitor.

AC: I don't know, I don't know.

BA: You know I am his solicitor.

AC: I am trying to follow up and do the right thing.

BA: Well it's very clear, you had a phone call this morning from the general council of Racing Queensland didn't you?

AC: Yes I did.

BA: Now I've spoken to her this morning.

AC: Oh that's great.

BA: And I have told her that I'm coming. She knows that I am coming. Okay, your solicitors

AC: (interrupting) Do they know you were coming here this morning?

BA: Your solicitors

AC: (interrupting) who has been covering the legal obligations between us back and forward about the minutes

BA: I

AC: No, I'm asking a questions, have you instructed them that you will be here this morning? (pause). Yes or no?

BA: I am trying to recall, there have been a lot of letters, but I believe that I advised your solicitors that

AC: that you were coming in with Mr Burke?

BA: That Mr Burke was entitled to copies.

AC: No, no, no, you're not answering my question.

BA: That's because I'm trying to recall.

AC: Oh well, how long is it going to take to recall it? Did you

BA: Is this the way you behave when you went out into the car park with the rest of the committee members and took a tape recording of what was going on? Is this the tape recording, this is the tape recording that you say you won't make available to Mr Burke?

AC: Look, I'm not

BA: You're an employee aren't you?

AC: Well, yes.

BA: Yes. So you have a duty of fidelity to your boss, don't you, and your boss is the committee, isn't it?

AC: Well.

AB: It's a full committee.

AC: To a full committee.

BA: So you are you going to make that tape available to the full committee?

AC: Um, I would have to check.

BA: Good. Now, is your purpose in preventing my client looking at the minutes

AC: (interrupting) I'm not preventing your client from looking at the minutes.

BA: You're preventing, oh, so you're preventing me looking at the minutes....

AC: 'cos I just told you

BA: As, as.

AC: No, I'm not sure, because we have to make the minutes available to members. As you are not a member, I'm not quite sure if you're allowed to see them.

BA: I am Mr Burke's solicitor.

AC: And I understand that.

BA: And I am an officer of the Court.

AC: I understand that.

BA: I am bound by duty of confidentiality. I cannot reveal anything that Mr Burke tells me, as his...

AC: (interrupting) And I just want.

BA: as his solicitor.

AC: And I just want to double-check that, if that's okay. Please allow me to go and check that.

BA: Of course. Here. Allow me to give you my phone so you can make the phone call here in front of us.

AC: No, I'm not making

BA; I'll ring your solicitors for you. Or shall I ring the Racing Queensland general council?

AC: Well, if you like, you can ring whoever you want. I'll be back in five minutes, I just want to make a quick phone call and then I'm more than happy for you to sit down and I put this on record to look through the minutes.

BA: And, he is also going to look through the electronic copies that you have sent to the other committee members.

AC: I.

BA: And if you refuse to do that, you are obstructing an investigation.

AC: I don't have them.

BA: Of course you've got them.

AC: Why would I have them?

BA: Oh, so you're telling me that you have erased, from all of your computers, all of the copies of the minutes that were sent to the other committee members electronically.

AC: Um, at this stage, yeah, I don't keep them, because...

BA: So you don't comply with your obligations to keep permanent records of the documents that are relevant to this Club?

AC: Official, official documents.

BA: No, they're not,

AC: They're drafts. What have been sent out are drafts. Drafts, there's no legislation that states that I have to keep drafts.

BA: Okay, they are documents.

AC; Drafts.

BA: You cannot compare the final result by reference to the minutes unless the earlier minutes, sent for proofing as you said, are available for inspection. If you fail to do so, you must be hiding those electronic minutes. Why are you hiding the electronic minutes?

AC: Why are you hiding.

BA: Why are you preventing my client looking at electronic copies of the minutes that every other committee member has looked at?

AC: Because they're, I'm not hiding them, I don't know if I have them, because as you would be aware,

BA: You obviously do have them.

AC: You're not on email, are you?

BA: You obviously do.

AC: No, I'm asking you a question, are you on email?

AB: No.

AC: And so, when you get 20 to 30 emails a day, and sent out 40 to 50 emails a day, over a twelve month time period, it makes a lot of less available room for other content. So we do not keep everything we sent.

BA: Do you not have a backup system?

AC: Um, yes, yes we got a backup.

BA: So the documents that are sent by email, that are deleted from the email register, are recorded in the backup, aren't they?

AC: Oh look, I'm not an IT person, I'd have to check with our IT.

BA: The Club has an obligation to keep permanently records relevant to the Club. The minutes sent electronically for proofing are records relevant to the Club, they must be made available and they will be made available. If you refuse to make them available today,

AC: I don't know if I have them.

BA: Well, we don't believe that.

AC: Well, you already called me a liar in one of the other emails.

BA: No, no. If you read the letters, I actually said that we accept you do not have electronic copies of the signed minutes. I still do not accept that you do not have electronic copies of the copies that were sent to the committee members for proofing. If you don't have copies of those, it shows that you've failed in your duty to keep permanent records of matters

AC: (interrupts) Drafts

BA; relevant

AC: (interjects) Drafts

BA: They are permanent records.

AC: No they're not, this is the permanent records.

AB: When we've referred back to things when we bring up at committee meetings, we always refer to the draft copies to start with and then you send an amended copy.

AC: Oh no, no we don't.

AB: Okay, so we only use the draft copies when we bring up at next meetings?

AC: Yes, and then at the meeting if you say oh look, I disagree with this, and then we, you will see in here that things are amended?

AB: Yes.

AC: And we type down from that meeting, after they are signed, I come down and put them in here.

AB: Yes, well that's where I was talking to Graham the other day for about 40 minutes that were in the minutes, and they're not concise and Graham said well I'd have to go back and check through the full details.

AC: What's not concise?

AB: Well, they're quite just single paragraphs, it doesn't say what happened in some of the discussions. Because if you remember, for instance when we had the Neville Stewart situation, you printed out what everyone's comments were.

AC: Yes.

AB: And Graham was quite concerned that what his comments were, not something he would want the members to read in the official comment. So they would still be in the draft copy, but not in the official ones, where it just says a discussion was held.

AC: Mm.

AB: So, I just ask for equality, what the other committee members have.

AC: But what they have is this.

AB: But they've got extra stuff that I don't have.

AC: They've got a draft.

BA: Fine. Why can't Mr Burke have that? The other committee members have it, why can't Mr Burke have it?

AC: Well I don't know if I have it. If Mr Burke would like to contact the other committee members to see if they still have it.

AB: That's not my job. You work for me as a committee member.

AC: Okay, I'm going to make a phone call. I don't work for you.

BA: He is a committee member, you work for the committee. You're an employee. Your duty of obligation is to him, as well as the rest of the committee members.

BA: Clancy left the counter. Recording stopped.

BA: While the recording was off Clancy asked me to speak to his solicitors on his telephone in his room. I said give me his solicitors phone number and I will talk to him on my mobile. He then returned to his room. Clancy returned and gave me his solicitors phone number. I asked him if he had spoken to (??) general council of RQ and he said he did not know. He then returned to his room.

BA: Clancy asked if I had spoken to his solicitor. I said no. I asked him if he had spoken to (??) general council of RQ. He said yes. He says that she says there is no legal basis for me to look at the minutes. I said I'm not looking at the minutes in my personal capacity, I am looking at the minutes as Mr Burke's solicitor which I am entitled to. The discussion then continued after I dictated that summary of the discussion to that stage. Please go on Mr Clancy.

BA: You're denying my client the right to have his legal representative here to inspect the minutes that he is entitled to look at, is that correct?

AC: It is not correct.

BA: Okay. If that is not correct, on what basis are you denying my client his right to have his solicitor present when he inspects the minutes that you have admitted he is entitled to look at.

AC: Um. All I've asked is for you to call my solicitor.

BA: Are you denying me, my client Mr Burke, the right to have his solicitor present when he inspects the minutes as he is entitled to:=?

AC: All I have asked is that if you could call my solicitor and then once you've talked to him, we'll go from there.

BA: I don't understand that. If you want to walk away by ignoring the question, that's your prerogative.

AC: No, I'm not ignoring the question, I have asked you if you could call my solicitor.

BA: And I have asked you to tell me, are you denying my client to have his legal representative present when he inspects the minutes that he is entitled to look at?

AC: No, no I'm not.

BA: And you're saying you're not.

AC: No.

BA: Great. Then please give him the minutes so that he can inspect them.

AC: Okay, as soon as you talk to my solicitor.

BA: So as soon as I talk to your solicitor, you will give him the minutes for him to inspect. Fine, thanks. And I will remain present. Thank you.

BA: I then left the room to speak to his solicitor.

BA: Yes, I rang your solicitor, but I didn't speak to him.

AC: Okay, well I might just give him a quick call then.

BA: Well the question is this, before you go, have you instructed him to not make the minutes available? Have you instructed him to not make the minutes available?

BA: Clancy walked away. While I was outside I rang Charo, general council for Racing Queensland.

I asked her if she had told Clancy that I was not entitled to see the minutes. She said that she could not give and did not give Clancy legal advice.

She said that she would not let me look at her minutes but that because Mr Burke would give me copies of the minutes, were copies made available. Then as in "good faith" they should make it available.

I expressed to her my opinion that under the rule of law, everyone is entitled to legal representation.

I rang Howard Moses at the Queensland Law Society to discuss the ethical issues.

He says that a solicitor is bound by his instructions from his clients in relation to TTC.

He says that their solicitors have a duty to the administration of justice and that it is true that the rule of law requires and entitles all individuals to legal representation at all times to assist in the administration of justice.

Telephone to Brett Bolton on number given to me by Clancy.

Left message with a female asking him to ring me back, leaving my mobile.

Bolton rang me back.

BA: Well there are two reasons Mr Clancy. Firstly, you said that once I spoke to your solicitor you would make the minutes available.

AC: And I'm about to go and get them for you.

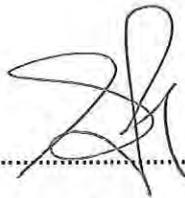
BA: Great, go and get them, bring them straight back, we don't have any more time to waste.

AC: Okay. Would you like to sit down? And can I ask that you not treat

BA: I spoke to Bolton who said that I was entitled to inspect the minutes with Mr Burke.

This is attachment marked "AB 99 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....
Anthony John Burke



.....
Barry Edward Atkins, Solicitor Witness

@LAW

AB 99

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 20 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

List of issues for mediation:-

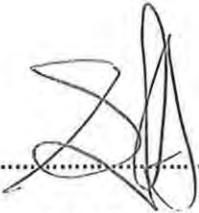
1. Absence of A Burke's name in Weetwood 2011 Raceday programme , as a committee member;
2. Failure to present Burke Family perpetual trophy to winner Toowoomba Cup 2011;
3. Jewels of Range Sponsorship agreement:-
 - a. Breach of 2009/2010 terms;
 - b. Failure of TTC to decide to terminate Agreement in accordance with Rules and Agreement;
4. Correction of Public Notice of casual vacancy on Committee;
5. A Clancy's behaviour in the :-
 - a. Past; and
 - b. Future;
6. Defamation action threat by B Frappell;
7. Access to Committee records including correspondence either tabled or not.

Barry Atkins
Solicitor & Attorney

cc:
fax:

This is attachment marked "AB 100"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB100



HopgoodGanim
LAWYERS

23 June 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke - Proposed Mediation

We refer to previous correspondence regarding mediation and, in particular, to your facsimile transmission of 20 June 2011.

Our client has carefully considered the pros and cons of mediation with your client but has decided that it would serve little, if any, useful purpose.

Our client has not taken this decision lightly. It considers though that your client has been responsible for the ongoing (and worsening) disputation between our respective clients since the court hearing on 20 April 2011, and that the relationship between your client and his fellow Committee Members has broken down irretrievably. We are instructed to point out that the overwhelming majority of Committee Members consider their relationship with your client to be beyond salvage.

Any lingering doubt our client had about the correctness of its decision has been dispelled by the proposal in your facsimile transmission of 20 June 2011 that our client be solely responsible for the costs of the mediation, including your costs.

We are instructed that this represents our client's final position on the mediation issue.

Yours faithfully

HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

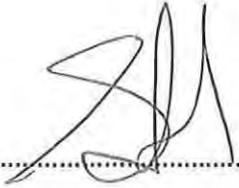
E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

This is attachment marked "AB 101"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB101

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 24 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke sale to Toowoomba Turf Club Inc.
Property: TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

1: Re Toowoomba Cup - perpetual trophy donated by Burke family accepted by TTC August 2009 - not presented 2011 - no decision of TTC to not present.

We refer to our letter dated 23 May 2011. Our clients instructs that TTC have until Monday 27 June 2011 to advise us that the Toowoomba Cup will be presented within 2 weeks by Mr. Burke and members of his family with the media being invited, failing which Mr. Burke will take the TTC to the Supreme Court seeking Orders and costs on an indemnity basis.

2: Re Mediation

We note TTC refuses to mediate despite our client being willing to do so. Our client would have borne his own legal costs at the mediation had TTC requested. We note Mr. Burke's request for his legal representative's costs of the mediation to be met by TTC was not a reason for rejection of our client's offer by TTC.

3: Re Arbitration

Mr. Burke has been speaking to Mr. Gee. Mr. Burke is willing to have the matters in dispute with TTC arbitrated on reasonable terms acceptable to him. Is TTC willing to have the matters in dispute with TTC arbitrated? Please advise urgently if TTC is willing as that willingness may obviate the Application to the Supreme Court, but no representation is made to that effect and we reserve our client's rights to take appropriate Court action without further notice to you. We note you hold instructions to accept service of any Court proceedings instituted by our clients.

4. Re: Racing Queensland ['RQ'] – instruction and directive to TTC

We are advised that RQ have made it clear to TTC that RQ expects TTC to take steps to resolve the matters in dispute with our client to prevent damage to the image of the industry. RQ have consistently told TTC to not waste money on the costs of litigation.

Of course because the letter of 28 February from RQ to TTC was intentionally withheld from the Committee, all members of the TTC committee are unaware of this directive.

5. Re: Agenda for TTC Committee meeting 30/6/11.

We can only presume that TTC has acted without your advice in placing an item on the agenda of 'no confidence' in Mr. Burke. Of course it is typical of the hypocrisy demonstrated by certain members of TTC that they mouth platitudes of encouraging Mr. Burke to 'move on' but then escalate the conflict, again with no regard to the TTC constitution or the concept of natural justice.

The purported motion of 'no confidence' in Mr. Burke is ultra vires the TTC constitution. If the motion proceeds our client will take appropriate action without notice to TTC.

You must appreciate that such action against Mr. Burke is a breach of the obligations incumbent on TTC to afford him natural justice. He has not been given notice in writing of any allegations against him. If the motion is discussed at the meeting on 30 June 2011 then Mr. Burke will take appropriate action against TTC.

6. Re: A Clancy's possession of a tape recording of an incident at TTC on or about 10 February.

We note Mr. Clancy ['Clancy'] failed to table the tape of the incident on 10 February at the 26 May 2011 Committee Meeting as required by our client, in his capacity as a Committee member. Our client again demands Clancy table this tape at the 30 June meeting.

7. Re: Assault by Clancy on Mr. Burke 26 May 2011.

Our client did make a formal complaint to the Police about the attack on him by Clancy, in company of others, at night. We note your written advice that TTC welcomes a full investigation into the attack by the police.

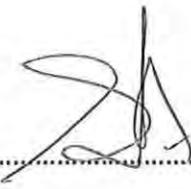
Please advise the name of the security guard who was the independent witness to the assault so we can provide that to the police. We will let the police know of your client's committee members willingness to be interviewed in relation to the assault.

Please obtain a complete copy of the transcript of the Hearing from RQ urgently and make that available to us. We undertake to provide a copy to the police.

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 102"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

Racing Queensland

AB 102

Integrity Department

Mr Orchard

I wish to make a formal complaint against the Deputy Chairman of the Toowoomba Turf Club Inc.

Mr Graham Healy has breached the Queensland Racing Limited policy on the Formation, Management and Licensing of Clubs.

On the website pdf of Racing Queensland below is the breach.

http://www.queenslandracing.com.au/documents/pdf/Policies/Amended%20policy%20on%20the%20formation%20and%20management%20of%20clubs_Final%202008.pdf

On 30/4/2011 I sent Mr Graham Healy an email in trying to alert him as the Deputy Chairman, of issues I had about the rules of the TTC not being followed. He agreed in confidence on 30/4/2011 in a 40 minute conversation, at the Weetwood Room at the TTC, with Tom Warren (life member) present he would look into my issues and keep it confidential.

In one of the five emails I sent to him was a statement regarding my wife. (Email attached)

In that email it said "I have not told anyone this and trust you to keep it in confidence"

I Trusted Mr Healy would not share this information, but while attending the Stewards Hearing of June 7, 2011 which Mr Wayne King chaired and found Aaron Clancy guilty of Rule 175A, Mr Frappell in giving evidence said and produced this email, and said Graham Healy had given him a copy. This can be verified as you have copy of this hearing and a transcript to look at.

I was questioned by Mr Frappell, when I said I was in bed talking to my wife about the committee meeting incident regarding Aaron Clancy and parties, and this is when he said and pulled out the copy. Mr King asked me if a question about my wife, of which I replied.

My confidential information has been now used and spread amongst the committee and many others now, re my wife leaving me.

I see this as a breach as per points 1 and 2 of the RQL policy on the formation, management and licensing of clubs area of the PDF file on your site.

I also see it as a breach of the OFT at the website <http://www.fairtrading.qld.gov.au/management-committee.htm>

Thanking you

Anthony Burke

June 25, 2011.

Toowoomba Turf Club Committee

Club Management

Queensland Racing will oversee the financial management and performance of all Queensland race clubs to ensure they are properly managed.

Safe Working Environment

Queensland Racing requires race clubs to take all reasonable steps to provide a safe working environment for their officials, other staff and licensees by fostering a culture of high ethical standards and support for whistleblower's and by not tolerating unlawful discrimination, harassment or unsafe work practices.

Disciplinary Action

Queensland Racing will take disciplinary action against a club that contravenes the Act, Associations Incorporations Act 1981, Corporations Act 2001 (Cth), the Rules of Racing, the Financial Management Procedures Manual for Queensland Thoroughbred Race Clubs, Queensland Racing's policies or directives or legislation providing for a safe working environment.

Official misconduct – generally means conduct that involves:

1. A breach of trust placed in a person by reason of his or her employment (e.g. to breach the confidentiality of matters of a personal nature);
2. Misuse by any person of information or material acquired in connection with his or her employment, either for the benefit of the person or another person (e.g. Disclosing confidential or privileged information to an unauthorised other person);and
3. Which constitutes or could constitute a criminal offence or a disciplinary breach that provides reasonable grounds for termination of employment

From: Anthony Burke

Date: 30/04/2011 8:07:23 PM

To: Graham Healy

Subject: Fw: JJ Atkins

Hi Graham

This is not bcc or cc to anyone but just as agreed tonight between you and me. I think my angst in this request to be tabled at the meeting created the issue was has evolved. Maybe I was too heated, looks that way.

Thanks for at least listening to me tonight.

This is not noted in the minutes as requested. So I am wondering why it was with held.

Did not want to say in front of Tom, but my wife has left me over this and gone to Brisbane as she struggles to understand why I am treated this way and does not feel safe.

I have not told anyone this and trust you to keep it in confidence. That is why I had to talk to someone there tonight to try and get answers.

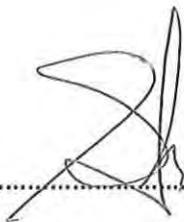
So the club has most probably achieved more than hoped for in destroying me.

Anthony

This is attachment marked "AB¹⁰³"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by 'J' and 'B'. The signature is written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, consisting of a large, stylized 'B' followed by 'E' and 'A'. The signature is written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

Racing Queensland Limited

Integrity Department

Mr Orchard,

AB 103

I wish to lodge an official complaint against the Chairman of the TTC, Mr Robert Frappell and the Chief of Management Mr Aaron Clancy.

The club has an issue, re the below which constitutes a criminal offence where the Supreme Court on April 20, 2011, was presented with an affidavit from Aaron Clancy that states (copy of affidavit attached) and refers to point 12 (a) (b) (c)

12 (a) In January 2011, I was in the process of formulating new sponsorship proposals for prospective sponsors of the respondent. In the course of doing so, I noted the provisions of rule 8c 8 of the rules.

12 (b) I then informed the respondents chairman, Mr Frappell, that Mr Burke may have breached the rules by changing the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife, while still remaining on the committee

12(c) I also informed Mr Frappell that, as Mr Burke had decided to apply for individual membership, he needed to complete and lodge an application for individual membership, to be supported by two other members of the respondent, and that he had not done so.

12(d) After investigating the matter further, the respondent informed Mr Burke, by the letter referred to in paragraph 24 of his affidavit, that he could no longer remain on the committee because he had not observed the rules and invited him to complete the necessary paperwork to become an individual member.

In the affidavit above it says Bob Frappell was only aware when Aaron brought it to his attention after formulating new sponsorship agreements.

In the official signed minutes of April 7, 2011 (before Aaron did his affidavit) the Toowoomba Turf club Chairman, Bob Frappell explains to Dr John Morgan a complete contradiction of his knowledge of my membership as mentioned by Aaron Clancy at points 12 (b) 12 (c) in his Supreme Court affidavit. In the April 7 minutes Bob Frappell was explaining to Dr John Morgan why I was not a member it says Bob Frappell was aware of the issue back in September meeting. Affidavit from Aaron Clancy contradicts that at 12(b) and 12 (c)
This is blatant lie to Mr John Morgan and contradicts the affidavit.

Excerpt from April 7 Minutes

B Frappell provides an overview of the A Burke situation to Dr J Morgan:
At a Committee Meeting in September 2010, B Frappell was sitting across the table from A Burke when it was voted to remove the joining fee. Subsequently, A Burke said he would make his wife the corporate member and B Frappell did not know he was just a corporate member. Clearly 8c of the constitution states that if you are a corporate member, you cannot be a normal member and vice versa. TTC took legal advice to whether he was legally elected onto the committee. Hopgood Gamin replied to the TTC with the advice that A Burke was not a legal member. B Frappell said the Club does not have the capacity to negotiate this, as A Burke breached rules and also did not fill out a membership application form.

I would like you to investigate the details as presented as it may be a criminal breach by Mr Aaron Clancy and Mr Frappell in what appears to be an arranged affidavit between the two of them.

I seek protection under the whistleblowers act in reporting this to RQL.

Anthony Burke

126 Fabricating evidence

(1) Any person who, with intent to mislead any tribunal in any judicial Proceeding--

- (a) fabricates evidence by any means other than perjury or Counselling or procuring the commission of perjury; or
- (b) knowingly makes use of such fabricated evidence;

Is guilty of a crime, and is liable to imprisonment for 7 years.

132 Conspiring to defeat justice

(1) Any person who conspires with another to obstruct, prevent, pervert, or Defeat, the course of justice is guilty of a crime, and is liable to Imprisonment for 7 years.

140 Attempting to pervert justice

a person who attempts to obstruct, prevent, pervert, or defeat the course of Justice is guilty of a crime.

Maximum penalty--7 years imprisonment.

193 False verified statements

(1) A person who makes a verified statement that the person knows is false in a Material particular when the person is required by law to make the statement in The form of a verified statement commits a crime.

Maximum penalty--7 years imprisonment.

194 False declarations

(1) A person who makes a declaration that the person knows is false in a Material particular, whether or not the person is permitted or required by law To make the declaration, before a person authorised by law to take or receive Declarations, commits a misdemeanour.

Maximum penalty--3 years imprisonment.

(2) In this section--

Declaration includes a statement and an affidavit.

AR.7. A Principal Racing Authority shall

(ii) Any licensed person or official whose conduct or negligence in the Performance of his duties has led, or have led, to a breach of the Rules.

AR.175. The Committee of any Club or the Stewards may penalise;

(g) Any person who gives at any inquiry or appeal any evidence which in their opinion is false or misleading in any particular.

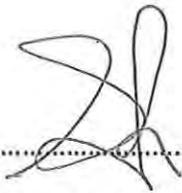
(gg) Any person who makes any false or misleading statement or declaration in respect of any matter in Connection with the administration or control of racing

(l) Any person who attempts to commit, or conspires with any other person to commit, or any person who Connives at or is a party to another committing any breach of the Rules

(q) Any person who in their opinion is guilty of any misconduct, improper conduct or unseemly

This is attachment marked "AB 104"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' and 'B' intertwined.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be 'Barry' followed by a flourish.

.....
Barry Edward Atkins, Solicitor Witness



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

AB 104
Committee Meeting 30th June 2011

The Committee of the Toowoomba Turf Club Inc. held in the Weetwood Room, Clifford Park Racecourse, on Thursday 30th June 2011

*Please note, the Flying Minute for the motion of 'The numbered final draft of the minutes and board papers shall not be removed from the meeting area at any time, either prior to the meeting, during the meeting or after the meeting'. Has been voted on in the affirmative by all who voted. This will take immediate effect and will be ratified at the Committee Meeting on the 30th July 2011.

AGENDA

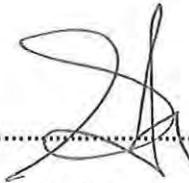
1. Motion of No Confidence in Anthony Burke
2. Apologies
3. Confirmation of Minutes
4. Chairman Introduction
5. Business Arising from Minutes
6. Inwards & Outwards Correspondence
7. Business Arising from Correspondence.
8. Financial Report
9. Parks, Gardens, Works and Maintenance Report
10. Liquor & Catering Report
11. Training Applications
12. Membership Applications
13. General Business

"Light years ahead of the rest"

This is attachment marked "AB 105 "

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

AB105

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 27 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11149
Your Ref: B. Bolton
Re: Toowoomba Turf Club Inc. - MOTION OF NO CONFIDENCE IN A BURKE

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client has instructed us to apply to the Supreme Court for urgent injunctive relief seeking an Order that the TTC Committee be prohibited from considering the motion of no confidence in Mr. Burke on 30 June 2011.

The application will also seek Orders governing the requirements to be observed by TTC if the committee proceeds to consider the motion of no confidence in Mr. Burke in the future.

Justice Lyons has approved our request and has allowed the matter to be listed for this Thursday 30 June 2011.

We have instructed Town Agents to file the Application this afternoon.

We have drafted an affidavit of Mr. Burke. We expect to serve that on you as soon as it has been executed.

Our client instructs us to afford your client the opportunity to save the costs of the Hearing for urgent injunctive relief on Thursday 30 June 2011 by asking if TTC will agree to delay consideration of the motion on 30 June 2011 so as to provide our client procedural fairness by taking steps which will give Mr. Burke his rights based on principals of natural justice.

Please advise by 10 a.m. tomorrow if your client gives an undertaking that the motion of no confidence in Mr. Burke will not be considered by TTC committee until a full hearing of our client's Application has been completed.

Our client relies on Sections 71 and 133 of the Associations Incorporations Act.

In the event TTC does not give the undertaking requested then if Mr. Burke is successful in his Application we shall seek costs against TTC on an indemnity basis, as previously advised at the rate of \$450.00 per hour [plus GST] for the Principal of this Firm.

Barry Atkins
Solicitor & Attorney



TRANSACTION REPORT

MON/27/JUN/2011 04:14 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	27/JUN	04:13PM	30240002	0:00:24	1	MEMORY OK	SG3 3842

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 27 June 2011
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Fax No: 07 3024 0002
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Re: Toowoomba Turf Club Inc. - MOTION OF NO CONFIDENCE IN A BURKE

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

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Please advise by 10 a.m. tomorrow if your client gives an undertaking that the motion of no confidence in Mr. Burke will not be considered by TTC committee until a full hearing of our client's Application has been completed.

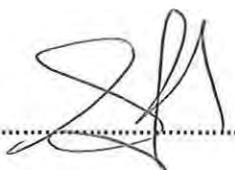
Our client relies on Sections 71 and 133 of the Associations Incorporations Act.

In the event TTC does not give the undertaking requested then if Mr. Burke is successful in his Application we shall seek costs against TTC on an indemnity basis, as previously advised at the rate of \$450.00 per hour (plus GST) for the Principal of this Firm

This is attachment marked "AB 106"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BEA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 106

27 June 2011

@ Law
Parkview Chambers
123 Margaret Street
TOOWOOMBA QLD 4350

By facsimile: 4632 9529



Racing Queensland Limited
A.B.N. 62 142 786 874
Racemount Rd Douglas QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Atkins,

RE: Anthony Burke

I refer to our telephone conversation of even date in relation to certain proposed resolutions to be considered by the Committee of the Toowoomba Turf Club.

From our conversation, I understand that an agenda has been published which suggests that at a Committee meeting on Thursday the Committee will consider two resolutions along the following lines:

- A resolution that defamation proceedings be commenced against Anthony Burke; and
- A resolution of no confidence in Mr Burke.

You have asked that RQL intervene to prevent defamation proceedings being commenced or a motion of no confidence being considered and to do so through the issue of some form of Direction. You suggest that RQL has such a power as it oversees the Club in so far as it can take disciplinary proceedings against the Club.

In respect of any proposed resolution to commence defamation proceedings, I am not satisfied that there is anything inherently contrary to the Rules or Policies in the Club considering whether to pursue such proceedings on behalf of a Committee member. I note that you suggest that the Committee does not have sufficient information available to consider the matter. However, I understand that the Club has been receiving advice from Hopgood Gamin in respect of these issues and I expect that they would have some form of advice specifically on the issue of any proposed defamation proceeding which Committee members will presumably have available to them. In these circumstances, it is not appropriate for RQL to take steps in respect of this issue.

In respect of the proposed motion of no confidence, again, I am not satisfied that there is anything in the Rules or Policies which would necessarily prevent the Committee considering such a resolution. And again I do not consider it appropriate for RQL to become involved in the issue.

Moreover, considering the nature of the issues you have raised, I do not believe that there is an appropriate mechanism by which RQL could prevent the Toowoomba Turf Club from considering the proposed resolutions.

Accordingly, RQL will not take steps in an attempt to prevent the Toowoomba Turf Club Committee from considering the matters you have suggested will be considered on Thursday.

Yours sincerely,

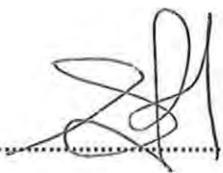
A handwritten signature in cursive script, appearing to read 'A.J. Orchard'.

A.J.Orchard
Director of Integrity Operations

This is attachment marked "AB 107"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

AB107

Carol

16 + 9pp

25 Total

Date: 28 June 2011
To: Racing Queensland Facsimile: 32696404
Re: Anthony Burke and Toowoomba Turf Club Inc.
Your Ref: Mr. A.J. Orchard

Total number of pages: 16 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

Dear Mr. Orchard,

Thank you for your time on the telephone yesterday, and your prompt a written reply .

Because I was unable to write to you, setting out my clients concerns about the Toowoomba Turf Club's failure to comply with the Association Incorporation Act and the currently employed racing secretaries misleading of the committee, with respect, your reply does not address the substantive issues.

Regarding: motion of no confidence

As you are aware, Mr. Burke, brought an application to the Supreme Court of Queensland in seeking orders that he is a committee member of TTC despite the attempt by the current chairman in a letter dated 15 February 2011 to try and terminate he is club and committee memberships.

Mr. Burke was successful in that application and the judge stated that the TTC had denied Mr. Burke, natural Justice.

The TTC have again denied my client natural Justice and the failed to afford him procedural fairness in the moving of the motion of no confidence without giving Mr. Burke a written statement of the grounds for the motion and the giving Mr. Burke the opportunity to answer any allegations in writing.

This is the substantive issue, which both my client and I believe compels Racing QLD to urgently take action directing the Toowoomba Turf Club do not proceed with the motion of no confidence unless and until it complies with its obligations to afford Mr. Burke procedural fairness and natural justice.

Sections 71 and 133 of the Association Incorporation Act require TTC to afford Mr. Burke procedural fairness and natural justice. The notice of motion received by Mr. Burke on 24 June 2011 clearly fails to do this.

Your stated policy is that you will take disciplinary action against the club which fails to comply with the Associations Incorporation Act. With respect, our client demands that you take action.

We enclose copies of:-

1. originating application filed in the Supreme Court returnable on 30 June 2011;

AB

Therefore the actual situation is that:-

1. no decision of the Committee has been made to proceed with the defamation action;
2. no decision of the Committee has been made to delegate authority to Frappell;
3. Frappell has told Hopgood to institute defamation proceedings against Anthony;
4. The Committee has not heard the tape;
5. The Committee has not been advised what the Court action will cost.
6. Frappell is using the threat as another bullying tactic against Anthony.

Clancy and Frappell have continuously misled the Committee ever since they intentionally withheld RQ's letter to the Committee of 28 February 2011.

Frappell has lied to the public at least twice :-

1. Stating the decision to reject RQ's proposal was 'unanimous';
2. Stating that other committee members were also suing Anthony for defamation.

Clancy has lied to the public by saying Anthony was 'reinstated' as a Committee member.

A perpetual trophy donated by the Burke family was not presented to the winner of the Toowoomba Cup, -an act of malice.

Clancy will not remedy the false and misleading public notice calling for nominations for a casual vacancy on the Committee. Clancy has not tabled the nominations nor written to the applicants advising there is no vacancy.

RQ cannot allow TTC to be run in this manner where there is continual misleading of the Committee and failure to act in accordance with the Associations Incorporation Act.

This is not a matter between a Club and a member. This is deceit on a large scale which threatens the existence of TTC.

Once the public are made aware of TTC's actions they will have no faith in it. The negative impact on the racing industry must be avoided and RQ must take strong action urgently to prevent TTC being seen for the farce it is.

Mr. Burke and I are willing to meet with you as soon as possible. You cannot allow Clancy and Frappell to get away with their malicious personal vendetta against Anthony. TTC are not even warning Clancy about his actions which led to him being found guilty of a breach of Rule 175A.

Please note that Anthony is taking action to get TTC to act properly in accordance with good governance and RQ's policies as well as the Associations Incorporation Act. RQ's policy about misconduct refers to the Associations Incorporation Act.

It is not fair to Anthony that he has to personally fund Court action to try and get TTC to comply with the Associations Incorporation Act and RQ's policies. Surely that is RQ's responsibility.

Barry Atkins 
Solicitor & Attorney

2. affidavit of Mr. Burke sworn 27 June 2011, to be filed 28 June 2011;
3. letter from this law firm to the solicitors for TTC asking that TTC give an undertaking to not consider the motion of no confidence on 30 June 2011 and further until Mr. Burke's application is heard by the Supreme Court.

It is clear from a letter we received today from TTC's lawyers advising that the motion will not proceed on 30 June 2011, but that a Special Committee meeting is to be held that:-

- a. the motion is retaliation against Anthony because Anthony complained to RQ about Clancy's [and others] actions on 26 May 2011;
- b. the advice of the Motion last Friday was intended to harm Anthony by effecting his state of mind over the weekend;
- c. TTC continue to intimidate Anthony without any cause;
- d. TTC have breached their obligations under the code of practice under the Workplace Health and Safety Act

Regarding: defamation proceedings against Anthony Burke by Bob Frappell

Again, because of our inability to write to you, setting out the substantive issues you have, with respect, not appreciated the substantive issues which revolve around the currently employed racing secretary and the current chairman, misleading the committee.

The committee of TTC has passed a motion approving the funding of the defamation action by the chairman against my client. We officially complained to you that the terms of that motion constitutes champerty, because the entire award of damages (if awarded) is to be paid to TTC.

With respect, Racing QLD cannot allow an illegal action, which is void against public policy to be used by TTC to punish a club member.

In your letter of 27 June you state your belief that you expect that TTC 'has been receiving advice from Hopgood Ganim'.

Based on the minutes we have read that is not true, other than a general letter of advice at the March 2011 meeting.

More importantly two members of the Committee have advised Mr. Burke this week that there has been no notice of the possible costs for the defamation action. It seems Hopgood Ganim have not complied with the Solicitors Rules regarding advice about costs.

Indeed it is obvious that Clancy and Frappell have intentionally misled the Committee by failing to table letters from Hopgood Ganim about costs or bills. There have been no invoices or letters from Hopgood Ganim about fees tabled at any Committee meetings.

This deceit extends to Clancy failing to act on a Committee Member's [Mr. Burke's] requirement that he table any letters from Hopgood Ganim. We attach a copy of our letter to Clancy dated 23 May 2011 which required he table letters etc. but he has failed to table ANY.

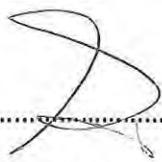
This is another breach of the Associations Incorporation Act.

We also attach a copy of our letter dated 20 May which deals with Clancy's failure to table the tape he made of the incident at TTC on 10 February 2011. He has still failed to table it.



This is attachment marked "AB108 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....
Anthony John Burke



.....
Barry Edward Atkins, Solicitor Witness

AB 108



**RACING
QUEENSLAND**

29 June 2011

Racing Queensland Limited
A B N. 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Anthony Burke
Email: ajsrburke@optusnet.com.au

Dear Mr Burke,

I refer to your letter of complaint sent 25 June 2011 in regards to Mr Frappell & Mr Clancy.

In your letter you outline your concerns in regards to an alleged criminal breach in relation to a Supreme Court matter involving the aforementioned persons.

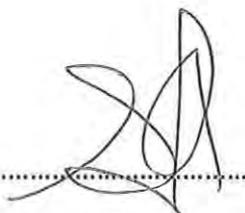
Racing Queensland Limited is not in a position to pursue such allegations on your behalf. If you wish it pursue that matter further, you may consider contacting the Queensland Office of Fair Trading in respect of the operation of an Incorporated Association such as the Toowoomba Turf Club.

Yours Sincerely

A J Orchard
Director of Integrity Operations

This is attachment marked "AB 109"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several overlapping loops and a vertical stroke, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'B' followed by a few horizontal strokes, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 109



29 June 2011

Anthony Burke
Email: ajsrburke@optusnet.com.au

Racing Queensland Limited
A.B.N. 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3669 9777
F 07 3269 6404
E Info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Burke,

I refer to your letter of complaint sent 25 June 2011 in regards to Mr Graham Healey

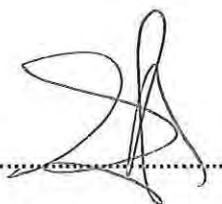
Whilst I sympathise with your situation in respect of having personal information shared with Mr Healey distributed as evidence, Racing Queensland Limited has no powers to become involved in such matters between a club and its members.

Yours Sincerely

A J Orchard
Director Integrity Operations

This is attachment marked "AB 110"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a vertical line and a horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be 'Barry' followed by a long horizontal stroke.

.....
Barry Edward Atkins, Solicitor Witness

TRANSACTION REPORT

THU/30/JUN/2011 11:47 AM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	30/JUN	11:43AM	32341411	0:03:29	25	MEMORY OK	SG3 3994

@LAW

AB 110

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 28 June 2011
To: Racing Queensland Facsimile: 32696404
Re: Anthony Burke and Toowoomba Turf Club Inc.
Your Ref: Mr. A.J. Orchard

Carrel
16 + 9 pp
25 Total

Total number of pages ¹⁶ including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

Dear Mr. Orchard,

Thank you for your time on the telephone yesterday, and your prompt a written reply .

Because I was unable to write to you, setting out my clients concerns about the Toowoomba Turf Club's failure to comply with the Association Incorporation Act and the currently employed racing secretaries misleading of the committee, with respect, your reply does not address the substantive issues.

Regarding: motion of no confidence

As you are aware, Mr. Burke. brought an application to the Supreme Court of Queensland in seeking orders that he is a committee member of TTC despite the attempt by the current chairman in a letter dated 15 February 2011 to try and terminate he is club and committee memberships.

Mr. Burke was successful in that application and the judge stated that the TTC had denied Mr. Burke, natural Justice.

The TTC have again denied my client natural Justice and the failed to afford him procedural fairness in the moving of the motion of no confidence without giving Mr. Burke a written statement of the grounds for the motion and the giving Mr. Burke the opportunity to answer any allegations in writing.

This is the substantive issue, which both my client and I believe compels Racing QLD to urgently take action directing the Toowoomba Turf Club do not proceed with the motion of no confidence unless and until it complies with its obligations to afford Mr. Burke procedural fairness and natural justice.

Sections 71 and 133 of the Association Incorporation Act require TTC to afford Mr. Burke procedural fairness and natural justice. The notice of motion received by Mr. Burke on 24 June 2011 clearly fails to do this.

Your stated policy is that you will take disciplinary action against the club which fails to comply with the Associations Incorporation Act. With respect, our client demands that you take action.

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

AB110

FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Mr. M Kelly
Facsimile: 32341411
Our Ref: BA:11030
Re: Anthony Burke and Toowoomba Turf Club Inc.
Total number of pages: 2 including cover sheet
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

We enclose copy Agenda received today by Mr. Burke about a "no Confidence" motion to be considered by the TTC Committee.

There is no provision in the Rules of TTC to consider such a motion.

TTC's solicitors have stated in writing that there is no effect on Mr. Burke's rights if it is passed.

The procedure is a denial of natural Justice to my client and a failure to afford him procedural fairness.

It is simply another attempt to intimidate him by TTC without following their Rules, while denying him Natural Justice, and no doubt will be used against Mr. Burke in a public forum to infer that he is the problem when that absolutely is not the case.

Mr. Burke has done nothing at all wrong.

All he has done is try and ensure TTC complies with good governance and the Rules and law applicable.

Racing Queensland decline to take any action to assist Mr. Burke.



Barry Atkins
Solicitor & Attorney



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 48 34 60 68 Fax (07) 48 33 12 58

Special Committee Meeting 7th July 2011

The Committee of the Toowoomba Turf Club Inc. to be held in the Weetwood Room, Clifford Park Racecourse, on Thursday 7th July 2011

AGENDA

1. Meeting with Trainers regarding their overdue accounts
2. Motion of No Confidence in Anthony Burke-*'That, by reason of conduct recently engaged in by or on behalf of Anthony Burke, this Committee has no confidence in Mr. Burke's ability to work effectively with his fellow Committee Members or to promote the best interest of the Club, and calls upon him to resign forthwith as a member of the Committee.'*
3. Weetwood debrief solutions

"Light years ahead of the rest"

TRANSACTION REPORT

FRI/01/JUL/2011 04:09 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	01/JUL	04:08PM	32341411	0:00:22	2	MEMORY OK	SG3 4051

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Mr. M Kelly
Facsimile: 32341411
Our Ref: BA:11030
Re: Anthony Burke and Toowoomba Turf Club Inc.

Total number of pages: 2 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

We enclose copy Agenda received today by Mr. Burke about a "no Confidence" motion to be considered by the TTC Committee.

There is no provision in the Rules of TTC to consider such a motion.

TTC's solicitors have stated in writing that there is no effect on Mr. Burke's rights if it is passed.

The procedure is a denial of natural Justice to my client and a failure to afford him procedural fairness.

It is simply another attempt to intimidate him by TTC without following their Rules, while denying him Natural Justice, and no doubt will be used against Mr. Burke in a public forum to infer that he is the problem when that absolutely is not the case.

Mr. Burke has done nothing at all wrong.

All he has done is try and ensure TTC complies with good governance and the Rules and law applicable.

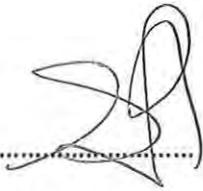
Racing Queensland decline to take any action to assist Mr. Burke.



Barry Atkins
Solicitor & Attorney

This is attachment marked "AB ///"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the bottom.

.....
Anthony John Burke

A handwritten signature in black ink, appearing as a series of connected, somewhat horizontal strokes.

.....
Barry Edward Atkins, Solicitor Witness

Principal:
Barry Atkins B.A., LLB.(Hons)

AB 111

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Racing Queensland
Facsimile: 3269 6404
Our Ref: BA:11030
Re: Anthony Burke and Toowoomba Turf Club Inc.

Total number of pages: 6 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Orchard,

We enclose copies:-

1. Letter from TTC's lawyers stating that the passing of a no confidence motion by the TTC Committee has no effect on our client;
2. Agenda for a Special Committee Meeting to be held 7/7/11 to consider the no confidence motion;
3. Defamatory newsletter published by TTC to all TTC members with statements made by Clancy.

The Rules of TTC have no provision for a no confidence motion. It is ultra vires their Constitution.

The Associations Incorporations Act, Sections 71 and 133 require TTC to afford Mr. Burke procedural fairness and natural justice.

The failure of TTC to:-

1. Reduce to writing the allegations against Mr. Burke;
2. Allow Mr. Burke adequate time to respond in writing;
3. Allow Mr. Burke and his legal representative to speak to the Motion

Are all examples of TTC's failure to afford Mr. Burke procedural fairness and natural justice.

It is exactly the same behaviour exhibited by TTC's chairman in his letter of 15/2/11 which the Judge said denied Mr. Burke natural justice.

We have filed an Application to be heard but urgently seek your assistance to prevent TTC proceeding with the motion on 7/7/11 and at all to prevent our client's and TTC's funds being wasted on litigation, as well as bring the racing industry into disrepute.

AB

The actions of TTC:-

1. In bringing this motion; and
2. The defamation by the secretary Clancy

are clearly part of an ongoing conspiracy to defame Mr. Burke and damage his personal and business reputation.

They are further steps in a campaign of harassment, intimidation and bullying which commenced late last year and includes :-

1. when TTC refused Mr. Burke access to the minutes of TTC committee meetings;
2. went onto a physical confrontation initiated by Frappell in concert with other committee members on 10 February 2011 in the carpark at TTC;
3. Frappell sent a letter which had no validity trying to get rid of Anthony on 15/2/11;
4. Clancy and Frappell intentionally misleading the Committee by withholding your letter to TTC of 28/2/11
5. Forced Mr. Burke to incur substantial costs which resulted in the Supreme Court declaring Mr. Burke was both a member of the Club and a Committee Member, at which time the Judge stated that TTC had denied Mr. Burke natural justice;
6. Clancy filing a false Affidavit in Court;
7. Clancy producing a false document to the Court under subpoena;
8. Clancy and Frappell attacking Mr. Burke at a Committee meeting on 27 May 2011.
9. Continual misleading of the Committee by failing to table letters about costs from Hopgood Ganim, despite Mr. Burke requiring by letter on 19/5/11 Clancy table those items;
10. Refusal by TTC to allow Anthony to inspect the membership register, in breach of the Rules of TTC;

These actions are in breach of:-

RQ's policies;

TTC's Rules;

The Associations Incorporations Act; and

The Workplace Health and Safety Act.

Our client intends lodging a complaint under the The Workplace Health and Safety Act.

He may also make a claim for worker's compensation subject to legal and medical advice.

Mr. Burke complained to you about the incident on 10/2/11. We presume you were waiting for the outcome of the Crime and Misconduct Commission inquiry into the complaint lodged by RQ.

Our client is no longer willing to wait for RQ to take action to protect him from this campaign of bullying. He requests you no longer wait for the result from the CMC but immediately take action conducting a hearing into the behaviour of all members of the Committee who participated in the incident on 10/2/11 and charge those primarily responsible under Rule 175Q of your Rules.

Our client, and we personally join with him in complete agreement, also requires RQ to take steps to stop TTC from attacking him; to protect him; to stop TTC wasting Club members money and to prevent them proceeding with the motion of no confidence.

We ask RQ to discipline Clancy over the defamation and require he publish an apology and retraction. Mr. Burke has at all times acted in accordance with the Rules of TTC and the Associations Incorporations Act, simply trying to get TTC to have good governance.

We note we alerted RQ to the potential for problems we foresaw at the May meeting, and we asked RQ general Counsel to chair the meeting and for Mr. Orchard to attend as well. You declined to do so.

The current situation is intolerable and, with respect, RQ must urgently take action to stop Clancy and Frappell from continuing to act on their personal vendetta against Anthony. They do so using Club Member's money, in breach of most, if not all of their obligations under all legislation.

In summary we ask you **URGENTLY**:-

1. Discipline Clancy for the defamation;
2. Stop TTC proceeding with the no confidence motion;
3. conduct an hearing into the incident of 10/2/11 and accordingly charge those in breach of the Rules;
4. force full disclosure of all documents regarding legal costs incurred by TTC [did you know TTC are paying for Clancy's legal costs arising from the assault on Anthony and have refused to even caution him officially despite Clancy being found guilty by RQ?];
5. appoint an administrator pro tem to intervene in all matters to do with TTC so as to allow Anthony to fulfil the role members of the Club elected him to do.



Barry Atkins
Solicitor & Attorney



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

Special Committee Meeting 7th July 2011

The Committee of the Toowoomba Turf Club Inc. to be held in the Weetwood Room, Clifford Park Racecourse, on Thursday 7th July 2011

AGENDA

1. Meeting with Trainers regarding their overdue accounts
2. Motion of No Confidence in Anthony Burke-*'That, by reason of conduct recently engaged in by or on behalf of Anthony Burke, this Committee has no confidence in Mr. Burke's ability to work effectively with his fellow Committee Members or to promote the best interest of the Club, and calls upon him to resign forthwith as a member of the Committee.'*
3. Weetwood debrief solutions

"Light years ahead of the rest"

TRANSACTION REPORT

FRI/01/JUL/2011 05:21 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	01/JUL	05:20PM	32696404	0:01:06	6	MEMORY OK	SG3 4057

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Racing Queensland
Facsimile: 3269 6404
Our Ref: BA:11030
Re: Anthony Burke and Toowoomba Turf Club Inc.
Total number of pages: 6 including cover sheet
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Orchard,

We enclose copies:-

1. Letter from TTC's lawyers stating that the passing of a no confidence motion by the TTC Committee has no effect on our client;
2. Agenda for a Special Committee Meeting to be held 7/7/11 to consider the no confidence motion;
3. Defamatory newsletter published by TTC to all TTC members with statements made by Clancy.

The Rules of TTC have no provision for a no confidence motion. It is ultra vires their Constitution.

The Associations Incorporations Act, Sections 71 and 133 require TTC to afford Mr. Burke procedural fairness and natural justice.

The failure of TTC to:-

1. Reduce to writing the allegations against Mr. Burke;
2. Allow Mr. Burke adequate time to respond in writing;
3. Allow Mr. Burke and his legal representative to speak to the Motion

Are all examples of TTC's failure to afford Mr. Burke procedural fairness and natural justice.

It is exactly the same behaviour exhibited by TTC's chairman in his letter of 15/2/11 which the Judge said denied Mr. Burke natural justice.

We have filed an Application to be heard but urgently seek your assistance to prevent TTC proceeding with the motion on 7/7/11 and at all to prevent our client's and TTC's funds being

TRANSACTION REPORT

FRI/01/JUL/2011 05:23 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM. TIME	PAGE	TYPE/NOTE	FILE
001	01/JUL	05:21PM	32341411	0:01:07	6	MEMORY OK	SG3 4058

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

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Total number of pages: 6 including cover sheet
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

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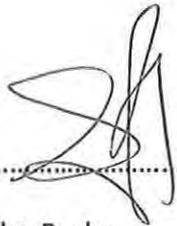
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It is exactly the same behaviour exhibited by TTC's chairman in his letter of 15/2/11 which the Judge said denied Mr. Burke natural justice.

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This is attachment marked "AB 112"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by 'J' and 'B'.

.....
Anthony John Burke

A handwritten signature in black ink, appearing to be 'B. Atkins'.

.....
Barry Edward Atkins, Solicitor Witness

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: your costs to Toowoomba Turf Club Inc.["TTC"]

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We act for Mr. A Burke , a Committee member of TTC.

Your Firm has been retained by TTC on a number of matters including:-

1. Mr. Burke and Mr. Frappell [defamation] ;
2. Mr. Burke and Mr. Clancy [Peace and Good Behaviour Act Application];
3. Mr. Burke and motion of no confidence;
4. TTC and various misleading statements issued by Mr. Clancy;
5. TTC responding to Mr. Burke's application for Orders that he is a member and a committee member of TTC;
6. TTC and Jewels of the Range – sponsorship agreement dispute;
7. The Burke family – Toowoomba Cup perpetual trophy.

Mr. Burke is an agent for TTC under the Associations Incorporations Act. He is also absolutely entitled to make the demand in this letter as a committee member given that Mr. Clancy has failed and refused to table copies of any communications from your Firm about costs, as required by Mr. Burke in a letter dated on or about 19 May 2011.

TTC is a 'third party payer' in relation to matters 1 and 2 above under the Legal Professions Act 2007. [S 301]

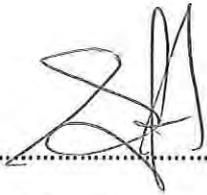
Under S 317(1)(b) you are hereby required to provide within 3 days to Mr. Burke , through this law Firm of a report on the costs to date of all of the above matters, [and all other matters involving Mr. Burke] including estimates if no account for fees has been rendered. Mr. Burke undertakes to table the report at the next Committee Meeting.

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB 113"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness



HopgoodGanim
LAWYERS

4 July 2011

Urgent

AB 113

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Mr Atkins

Toowoomba Turf Club Inc & Anthony Burke

We refer to your facsimile of 1 July 2011 transmitted at 4.02pm.

We are instructed to inform you that our client undertakes not to proceed with the proposed motion of no confidence in your client at this Thursday evening's Special Committee Meeting.

We are also instructed to inform you that the Committee will not be moving or proposing any further motions of no confidence in your client. The Committee members' motive for initially deciding to proceed with a no confidence motion was their desire to give your client the opportunity to resign from the Committee without the issue of your client's continued presence on the Committee being taken to the Members as a whole. However, it is clear that your client will seek to frustrate the Club's attempt to resolve the issue without taking it to the Club members. Your client will have to wear the consequences of that.

In the circumstances, there is no need for your client to relist his application for further hearing, and unnecessarily add to the significant legal costs already incurred by the parties to date.

Yours faithfully



HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

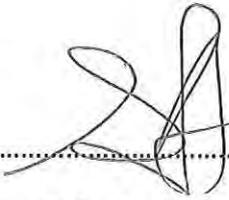
E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

This is attachment marked "AB 114"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'BA', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 114



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

Special Committee Meeting 7th July 2011

The Committee of the Toowoomba Turf Club Inc. to be held in the Weetwood Room, Clifford Park Racecourse, on Thursday 7th July 2011

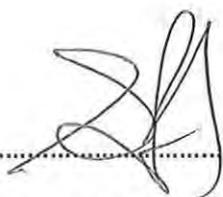
AGENDA

1. Meeting with Trainers regarding their overdue accounts
2. Motion of No Confidence in Anthony Burke-*'That, by reason of conduct recently engaged in by or on behalf of Anthony Burke, this Committee has no confidence in Mr. Burke's ability to work effectively with his fellow Committee Members or to promote the best interest of the Club, and calls upon him to resign forthwith as a member of the Committee'*.
3. Weetwood debrief solutions

"Light years ahead of the rest"

This is attachment marked "AB 115"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 115

6 July 2011

Mr Barry Atkins
@ Law
Parkview Chambers
123 Margaret Street
TOOWOOMBA QLD 4350

By facsimile: 4632 9529



Racing Queensland Limited
A.B.N 62 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3369 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Atkins,

RE: ANTHONY BURKE & TTC

I refer to your facsimile transmission of 1 July 2011.

I note that you seek to have RQL:

1. take action in respect of the alleged behaviour of all members of the Committee who "participated in the incident on 10/2/11" and charge those primarily responsible under Rule 175Q;
2. take action to stop TTC from attacking Mr Burke, to protect him, to stop TTC wasting money and to prevent the TTC proceeding with the motion of no confidence;
3. discipline Aaron Clancy over alleged defamation;
4. "force" full disclosure of legal costs incurred by TTC ;and
5. appoint an administrator pro tem to intervene in all matters to do with TTC.

With respect to the first matter, I note that at the relevant time RQL advised the TTC that Mr Burke was to be allowed access to records (to which he was entitled) free of any harassment or pre-conditions. RQL was not satisfied that there would be sufficient evidence upon which to make a finding that any party had breached the Rules and accordingly, no action was commenced. RQL's position in that regard has not changed.

With respect to the other matters, you should note that RQL has advised TTC and your client that the dispute between the Club and your client should be resolved between them either through mediation or such other process available in the Club's Rules or the general law, in such a way as to avoid the image or interests of racing being further damaged.

I understand that since that time the TTC has sought to have its Committee consider a motion of no-confidence in your client and that you sought Supreme Court relief to prevent that occurring. RQL has yet to be advised of the outcome of that proceeding.

It is expected that the costs incurred by TTC in respect of these matters will be disclosed in accordance with requirements imposed upon the TTC in its capacity as an incorporated association and as a licensed race club. I hope it will not be necessary for RQL to take additional steps in this regard.

I remain of the view that it is appropriate for the parties to resolve the dispute through lawful means in such a manner as to cause the least possible damage to the interest or image of racing. Should it be found however that steps taken in this dispute are contrary to legal obligations, RQL will of course take such action as appropriate to prevent that occurring and to limit the damage from such conduct.

Yours sincerely,



A.J.Orchard
Director of Integrity Operations



RACING
QUEENSLAND

Racing Queensland Limited
A.B.N. 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

FACSIMILE TRANSMISSION

ATTENTION: Barry Atkins
FROM: Racing Queensland Ltd
FAX NO: 4632 9529
DATE: 6 July 2011
PAGES NO: 3

If you do not receive all pages, please contact the sender on (07) 3869 9728

Please find as follows correspondence from Mr Orchard in regards to Anthony Burke & TTC.

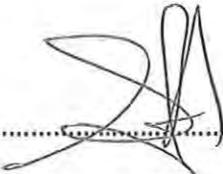
End Facsimile ...

This facsimile may contain CONFIDENTIAL INFORMATION and is intended only for the use of the named addressee(s). If you are not the addressee, you are notified that any transmission, distribution or photocopying of this facsimile is strictly prohibited. The confidentiality of this facsimile is not waived, lost or destroyed by reasons of a mistaken delivery to you.

If you are not the intended recipient, please notify us immediately by telephone and return the original facsimile to us at the above address by mail. We will reimburse you for the postage. Thank you.

This is attachment marked "AB 116"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB 116

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 8 July 2011 To: Racing Qld
Facsimile: 3869 6404 Your Ref: Mr. A. J Orchard
Re: Anthony Burke complaints about Toowoomba Turf Club Inc.

Total number of pages: 1 including cover sheet

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

Thank you for your fax on 6 July 2011.

I will write to you next week about the incident on 10 February 2011.

With respect to "the other matters" we believe these are Workplace Health and safety issues which RQ is obliged to take action on the discipline TTC as their actions are in breach of RQ's policy, the legislation [including the Code of Conduct about these issues] and RQ's own policies that RQ will take disciplinary action against breaches of policies and legislation.

I will not take these issues further with you as Mr. Burke instructs he will write direct to S. Murray who he believes has the responsibility under RQ's policies.

* You must appreciate these issues are not a 'dispute between the Club and my client'. These are serious matters of proper governance that Mr. Burke has brought to your attention the many breaches of legislation and policies and Rules of TTC that continue to take place.

They are matters that are of importance to the racing industry and we hope RQ will play a role to discipline TTC about their failures to comply with good governance procedures and legislative requirements.

With respect you can start with the TTC Committee being misled by the employed racing secretary [Mr. Clancy] who has failed and refused to table to the Committee letters about costs from their lawyers despite Mr. Burke requiring Mr. Clancy doing so.

Most recently, I wrote on instructions from Mr. Burke to TTC's lawyers requiring they provide an update on costs on all matters in accordance with Section 117(1)(b) of the Legal Profession Act 2007, given TTC is a third party payer under Section 301 of the same Act.

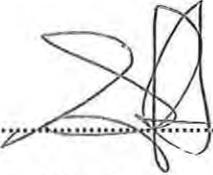
Those lawyers have failed to provide the costs update they are obliged to provide. Mr. Burke continues to act in the interests of the Club by trying to ensure Committee members are made aware of the legal costs TTC is wasting. Please help the members of TTC get this information or discipline TTC and Mr. Clancy for misleading the Committee.



Barry Atkins
Solicitor & Attorney

This is attachment marked "AB/17"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 11 July 2011
To: Racing Qld Fax No: 07 3269 6404
Our Ref: BA:11030 Your Ref: A.J. Orchard
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sir,

We refer to your letter dated 6 July 2011

In February 2011 you wrote to TTC advising them that they were to allow Mr. Burke access to inspect the Minutes of Committee Meetings without intimidation, harassment or preconditions.

TTC failed to act in accordance with your statement to them. In fact the Chairman and other Committee Members ambushed Mr. Burke and verbally attacked him, following him to his car when he simply wanted to escape what he believed was an attack by bullies.

Mr. Burke wrote to you straight away complaining of the attack. His letter is equivalent to a contemporaneous diary note and is admissible as evidence of the truth of the contents thereof in a Court. It, alone, is sufficient evidence to make a finding that any party had breached the Rules. This is particularly so when the standard of proof is 'on the balance of probabilities'

In addition there is a tape recording made by the employed racing secretary Mr. Clancy. You can require that tape be heard at the Hearing. This will clearly show the trauma inflicted on Mr. Burke and the extremes the Chairman and others went to. They were obliged to let Mr. Burke leave the premises without following him to his car.

* With respect, had RQ taken action in February all of the subsequent problems caused solely by the Chairman and the racing secretary would have been avoided because bullies thrive on what they perceive as 'success'.

They succeeded in intimidating Mr. Burke. RQ took no action.

They then escalated their invalid and unwarranted attempt to get rid of Mr. Burke by writing him the letter of 15 February which the Judge stated was a clear denial of natural justice. They continue to escalate their attacks on Mr. Burke without any cause whatsoever – including, in breach of the TTC Rules – refusing to present a perpetual trophy donated by the Burke Family, and accepted by TTC.

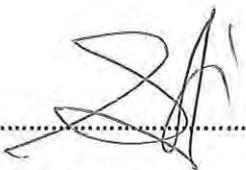
* These are not simply 'disputes between TTC and Mr. Burke' but important governance issues that RQ is obliged to investigate and act on. RQ cannot allow TTC to treat Mr. Burke that way.

The actions of the Chairman and others were clearly in breach of Rule 175Q. We expect that RQ will conduct a Hearing into the incident on 10 February 2011 on TTC premises to determine what charges should be laid against which people. Please confirm you will do so.

Barry Atkins *BA Atkins* Solicitor & Attorney

This is attachment marked "AB 1/8 "

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness



HopgoodGanim
LAWYERS

11 July 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

AB118

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke - Various matters

We refer to your three facsimile transmissions of 8 July 2011. We will respond to each facsimile separately.

Your facsimile transmitted at 2.30pm

1. Your client, along with other Committee Members, was sent a copy of the Agenda for the Special Committee Meeting held on 7 July 2011. Consistently with our client's undertaking, the only item on the agenda not dealt with at that meeting was the proposed motion of no confidence in your client.
2. You have demanded that copies of the Minutes for the last three Committee Meetings be sent to you "without delay". Once again, your client has instructed you to raise matters already raised and addressed (in detail) in previous correspondence. We respectfully refer you to our correspondence of 9 May 2011 and 10 May 2011. If your client is claiming that his "medical condition" renders him physically and/or emotionally incapable of attending the Club's premises to inspect the Minutes, our client would need to be satisfied as to the veracity of that claim by the production of appropriate medical evidence.
3. Section 317(1)(b) (we presume that the reference to "section 117(1)(b)" in your facsimile under reply was in error) of the *Legal Profession Act 2007 (LPA)* does not apply in the present circumstances for two reasons. First, the Club is arguably not under any "legal obligation" of the type referred to in section 301 of the LPA. Secondly, the Club can only act through the Management Committee. The Club's Rules make it clear that the Management Committee acts through a majority. We will only be obliged to provide the progress reports referred to in section 317 of the LPA when a majority of the Committee resolves to direct us to do so. Your client is, of course, at liberty to move a motion to this effect at the next Committee Meeting.

Your facsimile transmitted at 3.27pm

1. In our correspondence of 29 June 2011, we informed you that your client's Application was premature and misconceived for the reasons set out therein. That remains our view.

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

Mr Barry Atkins
Solicitor & Attorney
@Law

11 July 2011



2. Accordingly, our client is under no obligation (legal or otherwise) to pay your client's costs of the proceedings.
3. Therefore, your client's "offer" is rejected.

Your facsimile transmitted at 3.31pm

1. We note your client's assertion that he has been defamed in the newsletter recently sent to Club Members and that he has instructed you to "take action against Mr Clancy for defamation".
2. We have received instructions to act for Mr Clancy in relation to any such action.
3. We presume your client has taken offence to the section of the newsletter which refers to your client's recent communication to Club Members. We have reviewed that part of the newsletter. It is incapable in our view of giving rise to any defamatory imputations of and concerning your client. Further and in any event, any defamatory material contained in it is clearly defensible under sections 26, 30, 31 and 33 of the *Defamation Act 2005*.
4. There is no need for you to write to us or to Mr Clancy as foreshadowed in your facsimile. If your client's threat to "take action" against Mr Clancy is genuine, your client should commence proceedings without further ado. We have instructions to accept service of those proceedings on behalf of Mr Clancy.
5. You and your client should however note that, if such proceedings are commenced, we anticipate receiving instructions to apply to have the Claim and Statement of Claim struck out with indemnity costs against your client, on the basis of the matters referred to in Point 3 above.

Yours faithfully

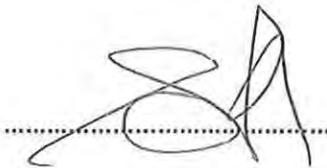
A handwritten signature in black ink, appearing to read 'Brett Bolton', written over the typed name.

HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

This is attachment marked "AB 119"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of a large, stylized 'A' and 'B' intertwined, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a cursive 'BA' followed by a horizontal line, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

From: Anthony Burke
Date: 22/05/2012 10:14:17 PM
To: [jewels of the range](#)
Subject: Fw: WHS Complaint to Shara Murray

AB 119

-----Original Message-----

From: Anthony Burke
Date: 13/07/2011 5:47:19 PM
To: Shara Murray
Cc: rbentley@racingqueensland.com.au
Subject: WHS Complaint to Shara Murray

Ms Murray and Mr Bentley,

Please find as per the RQL policies on your website, issues that have been broken from the Toowoomba Turf Club.
Can you please forward to Mr Tuttle.

Anthony Burke
Toowoomba
0423022880

To Racing Queensland Limited
Legal Department
Attention Ms Shara Murray,

July 12, 2011.

Dear Ms Murray

I wish to lodge an official complaint against the Chairman Mr Robert Frappell and the secretary Mr Aaron Clancy of the Toowoomba Turf Club Inc under RQL Policy Section 81 (p) Awareness of Duties Policy, including Harassment, Bullying and Unlawful Discrimination in the Racing Industry.

I would also like to lodge a complaint in line with Section 81 (p) Manual of Section against Robert Frappell, Aaron Clancy, Graham Healy, Allan Volz, John Scott, and Peter Turnbull and Jim Cosgrove.

Under WHS, as a committee member, I am covered under the act;

What is workplace harassment?

1. A person is subjected to workplace harassment if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer, a co-worker or group of co-workers of the person that:
 - a. is unwelcome and unsolicited
 - b. the person considers to be offensive, intimidating, humiliating or threatening
 - c. a reasonable person would consider to be offensive, humiliating, intimidating, or threatening.

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This policy was adopted by RQL on July 1 2010.

Policy Statement;

Points of interest in the above are;

A critical component of RQL approach to integrity is the implementation of a comprehensive set of rules of racing which apply to ALL relevant industry participants and which address all matters related to, or in connection with racing.

- Licensing and conduct of industry participants.
- Objections and complaints (**I have advised RQL many times of breaches and not acted on**)
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Complaints Management Systems;

The Racing Act 2002 authorises RQL to make policies for the sound management of the industry.

- RQL aims to ensure a safe, harmonious and productive industry. To achieve this aim, this policy incorporates the management of complaints in relating to harassment

and bullying and general industry complaints. **(February 10 2011 incident alerted RQL to bullying and harassment is continued from then to now in this report)**

Section 81 (i) Policy on the Formation, Management and Licensing of Clubs;

- Mismanagement of race clubs and instances of harassment, discrimination, misconduct can cause great harm to the individuals involved, and damage the image of the industry.
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- **Official Misconduct** generally means conduct that involves;
Behaviour that is dishonest or not impartial in the exercise of powers or authority (e.g. **BF receiving benefits from slasher sale \$100(no motion or vote in the minutes), employing daughter in-law without disclosing to committee (no mention in minutes), Drinks and bar that committee use and do not disclose in the minutes although in November 2010 meeting it was said to be disclosed on an individual's spend at each committee meeting).** The agreed funding of a personal legal action of BF against me AB for defamation has not been disclosed in costs to the minutes.
A breach in trust placed in a person by reason of his employment (e.g. **Graham Healy breached confidentiality of a person (me)AB of a personal nature with**

email sent to him. Misuse by any person of any information or material acquired in connection with his employment, either for the benefit of the person or another person (e.g. disclosing confidential or privileged information to an unauthorised person, which Graham Healy did with my email sent as above to Bob Frappell, Aaron Clancy and other committee members and presented at the RQL hearing on Aaron Clancy guilty 175a verdict.

- **Whistleblower** is a person who discloses information about official misconduct, maladministration, negligent or improper management of public funds, reprisal in the public interest to an authority that is able to investigate and remedy the matter.

Section 81 (p) Awareness of Duties Policy, including Harassment, Bullying and Unlawful Discrimination in the Racing Industry

- A whistleblowers policy which gives guidance and support to employees who encounter or disclose improper conduct. **(I have done this in relation to 10 February 2011 incident and subsequent incidents including AC found guilty under 175a).**
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Manual of Section 81 (p)

- Part 1.1 Purpose of this manual is to: provide standards of conduct for observation by all licensees, race club officials and other participants in the Qld Racing industry.
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Bullying is also known as mobbing or workplace harassment. Examples of bullying, but not limited to: **(b) repeated threats of dismissal or severe punishment for no reason (this has occurred from February 14 2011 to the June 26 2011 committee meeting and Special committee meeting on July 7 2011).** **(e) Sabotaging a person's work, for example, by deliberately withholding or supplying incorrect information, hiding**

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- **Part 7.1 Race Clubs;** these policies must cover all race committee members, employees and club members.
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 - deliberately fail to act in the best interests of the incorporated association
 - abuse their powers as committee members
 - Fail to avoid conflict of interests
 - Fail to exercise due care, skill and diligence.

The committee of the TTC have failed to follow the above as mentioned in this report.

If a management committee does not fulfill its reporting requirements, we (OFT) may issue a show cause notice asking the incorporated association to provide reasons why its registration should not be cancelled.

- The management committee is responsible for managing the affairs of an incorporated association and has several responsibilities under law.
- ensure the incorporated association complies with its rules on calling and holding meetings
- **be aware of the duties of the Secretary and ensure they are properly carried out**
- use reasonable care and skill in the performance of their duties
- act in good faith

- advise the committee of any conflict that may arise between their own interests and the interests of the incorporated association (e.g. advise if any incorporated association activities might result in a financial gain to themselves)
- ensure any documents addressed to the incorporated association are brought to the attention of the committee as soon as practicable after receipt
- **Ensure documents provided to Fair Trading or submitted to members do not contain or omit anything that make it false or misleading.**

The members of the management committee have failed in the underlined points above and the final bold point has happened in false press releases and the latest newsletter sent to the members defaming me.

It seems a huge amount of information, but it shows there is more than just a situation between a club and a member.

It breaches RQL policies, Association Incorporations Act, and many other laws that RQL operate under.

I would like to alert you to the criminal code below;

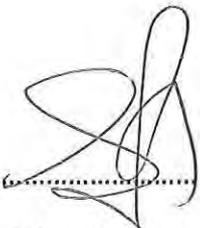
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I await your response, in what is a serious matter that needs to be dealt with by RQL.

Anthony Burke
Toowoomba Turf Club Committee Member

This is attachment marked "AB/20"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long vertical stroke, positioned above a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing as a stylized 'BA' followed by a horizontal line, positioned above a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

202: Bullying

AB 120



14 July 2011

Mr Anthony Burke

By E-mail: ajsrburke@optusnet.com.au

Racing Queensland Limited
A.B.N 62 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

Dear Mr Burke

RE: WORKPLACE HARRASMENT COMPLAINT

I refer to your letter dated 12 July 2011, which was received by this office on 14 July 2011, concerning the above matter.

A response will be made in due course.

Should you wish to discuss this matter further, please do not hesitate to contact myself on (07) 3869 9712.

Yours faithfully

Shara Murray
Senior Corporate Counsel

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Legal Department
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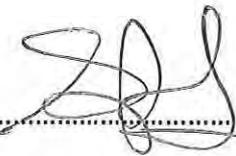
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Toowoomba Turf Club Committee Member

This is attachment marked "AB 121"

Specified in the list of attachments in the Statutory Declaration

of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 14 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sirs,

We refer to your letter today enclosing the material TTC proposes to send to Club Members tomorrow. Notwithstanding that you refer to our 'without prejudice' telephone discussion yesterday, we assume your letter was sent on an open basis. Please advise if that is not correct.

TTC is prohibited from sending the material. The Motion to the Special meeting is a reprisal. Indeed we say the actions on 10 February 2011 by the Committee Members and subsequent actions are reprisals.

If TTC sends the material to the members our client will have no alternative other than to proceed with all legal avenues available to him.

Our client relies the provisions of both :-

1. Whistleblowers Protection Act; and
2. Workplace Health and Safety Act.

Notwithstanding we are not obliged to assist you by directing you to the relevant legislation we set out below the Sections applicable.

WHISTLEBLOWERS PROTECTION ACT 1994

S9(4) Under section 20, anybody may disclose a "reprisal" taken against anybody for making a public interest disclosure.

What is the special protection given for public interest disclosures (Pt 5)?

11.(1) Under Part 5, Division 2, a person is declared not to be liable, civilly, criminally or under an administrative process, for making a public interest disclosure.

(2) Under Part 5, Divisions 3 to 5, causing or attempting or conspiring to cause "detriment" to any person because of a public interest disclosure is declared to be a "reprisal" and unlawful, both under the civil law of tort

and the criminal law.

What type of information can be disclosed?

14.(1) The types of information that may be disclosed by a public interest disclosure, and who may make the disclosure, are specified in sections 15 to 20.

(2) A person has information about conduct or danger specified in sections 15 to 20 if the person honestly believes on reasonable grounds that the person has information that tends to show the conduct or danger.

(3) If information is about an event, it may be about something that has or may have happened, is or may be happening, or will or may happen.

(4) If the information is about someone else's conduct, the information may be about conduct in which the other person has or may have engaged, is or may be engaging, or is or may be intending to engage.

(5) The information need not be in a form that would make it admissible evidence in a court proceeding. Anybody may disclose reprisal

20. Anybody may make a public interest disclosure about someone else's conduct if—

(a) the person has information about the conduct; and

(b) the conduct is a reprisal.

Every public sector entity is an appropriate entity for certain things

26.(1) Any public sector entity is an appropriate entity to receive a public interest disclosure—

(a) about its own conduct or the conduct of any of its officers; or

(b) made to it about anything it has a power to investigate or remedy; or

(c) made to it by anybody who is entitled to make the public interest

disclosure and honestly believes it is an appropriate entity to receive the disclosure under paragraph (a) or (b);

S37

(7) This section does not affect the making of a public interest disclosure by anybody under section 19 or 20.25

25 Section 19 (Anybody may disclose danger to person with disability or to

environment from particular contraventions)

Section 20 (Anybody may disclose reprisal)

†Division 4—Criminal prosecution about reprisal

· Reprisal is an indictable offence

42.(1) A public officer who takes a reprisal commits an offence.

Maximum penalty—167 penalty units or 2 years imprisonment

(2) The offence is an indictable offence.

(3) If a public officer commits the offence, sections 7 and 827 of the Criminal Code apply even though a person other than a public officer may also be taken to have committed the offence because of the application.

· Damages entitlement for reprisal

43.(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.

(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

(3) If the claim for the damages goes to trial in the Supreme Court or a District Court, it must be decided by a Judge sitting without a jury

Schedule 5

(i) a commission, authority, office, corporation or instrumentality established under an Act or under State or local government authorisation for a public, State or local government purpose;

“detriment” includes—

(a) personal injury or prejudice to safety; and

(b) property damage or loss; and

(c) intimidation or harassment

· Reprisal and grounds for reprisal

41.(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, anybody has made, or may make, a public interest disclosure.

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

Right to apply for Supreme Court injunction

48.(1) This section applies only to a person who cannot apply to the Industrial Commission for an injunction about a reprisal under section 47.

(2) An application for an injunction about a reprisal may be made to the Supreme Court by.....

Grounds for injunction

49. The Industrial Commission or Supreme Court may grant an injunction, in terms it considers appropriate, if it is satisfied that a person has engaged, is engaging or is proposing to engage, in conduct (the “reprisal conduct”) amounting to—

(a) the taking of a reprisal; or

(b) aiding, abetting, counselling or procuring a person to take a reprisal; or

(c) inducing or attempting to induce, whether by threats, promises or otherwise, a person to take a reprisal; or

(d) being in any way, directly or indirectly, knowingly concerned in, or party to, the taking of a reprisal.

Order may require specified action

50. If the Industrial Commission or Supreme Court is satisfied that a person has engaged or is engaging in reprisal conduct, it may grant an injunction requiring the person to take specified action to remedy any detriment caused by the conduct.

Evidence

51.(1) The Industrial Commission or Supreme Court may grant an injunction restraining a person from engaging in reprisal conduct—

(a) whether or not it considers that the person intends to engage again, or to continue to engage, in the conduct; or

(b) whether or not the person has previously engaged in the conduct; or

(c) whether or not there is an imminent danger of substantial damage to anyone if the person engages in the conduct.

(2) The Industrial Commission or Supreme Court may grant an injunction requiring a person to do something—

(a) whether or not it considers that the person intends to fail again, or to continue to fail, to do the thing; or

(b) whether or not the person has previously failed to do the thing; or

(c) whether or not there is an imminent danger of substantial damage to anybody if the person fails to do the thing.

Interim injunction

52. An interim injunction may be granted pending the final decision on the application.

Confidentiality of applications

53.(1) For an application before it, the Industrial Commission or Supreme Court may direct that—

(a) a report of the whole or part of the proceeding for the application must not be published; or

(b) evidence given, or anything filed, tendered or exhibited in the application must be withheld from release or search, or released or searched only on a specified condition.

(2) The direction may be given if the Industrial Commission or Supreme Court considers that—

(a) disclosure of the report, evidence or thing would not be in the public interest; or

(b) persons other than parties to the application do not have a sufficient legitimate interest in being informed of the report,

evidence or thing.

(3) An application for an injunction may be heard in chambers.

(4) An application for an injunction may be heard ex parte if the

Industrial Commission or Supreme Court considers an ex parte hearing is necessary in the circumstances.

(5) This section does not limit the power of the Industrial Commission or Supreme Court.

We set out below relevant sections of the Code against Harrasment:-

Prevention of Workplace Harassment Code of Practice 2004

Workplace Health and Safety Queensland
Department of Justice and Attorney-General

1.1. Meaning of 'workplace harassment'

1. A person is subjected to 'workplace harassment' if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer or a co-worker or group of co-workers of the person that:

- (a) is unwelcome and unsolicited
- (b) the person considers to be offensive, intimidating, humiliating or threatening
- (c) a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways

- maliciously excluding and isolating a person from workplace activities
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

1.3. What is 'repeated' behaviour?

'Repeated' refers to the constant nature of the behaviour, not the specific type of harassing behaviour. Behaviour is considered 'repeated' if an established pattern can be identified. It may involve a series of diverse incidents – for example, verbal abuse, sabotaging a person's work and unreasonable threats of dismissal

There are a range of psychological and physical illnesses and injuries that an individual who continues to be exposed to workplace harassment may experience. The effects of workplace harassment on a person may include:

- high levels of distress, impaired ability to make decisions and poor concentration
- loss of self-confidence and self-esteem and feelings of social isolation at work

panic attacks, anxiety disorders, depression, social phobia (withdrawal from usual social interaction) and deteriorating relationships with family and friends
reduced output and performance, incapacity to work, loss of employment
sleep disturbances, such as, insomnia or severe tiredness.

We set out below the applicable Sections of:-

Workplace Health and Safety Act 1995

10 Who is an *employer*

(1) A person is an *employer* if—

(a) the person conducts a business or undertaking; and
(b) in the conduct of the business or undertaking, the person engages someone else to do work, other than under a contract for services, for or at the direction of the person.

(2) For subsection (1)(b), a person engages someone else to do work whether the person engaged works for gain or reward or on a voluntary basis.

11 Who is a *worker*

(1) A person is a *worker* if the person does work, other than under a contract for services, for or at the direction of an employer.

Example of subsection (1)—

A subcontractor works under a contract for services and is not a worker for this Act.

(2) A person may be a *worker* even though the person is not paid for work done by the person.

23 Obligations for workplace health and safety

(1) The following persons have obligations under division 2 to ensure workplace health and safety—

- persons who conduct a business or undertaking, whether as employers, self-employed persons or otherwise
- persons in control of workplaces

24 Discharge of obligations

(1) A person on whom a workplace health and safety obligation is imposed must discharge the obligation.

Maximum penalty—

(a) if the breach causes multiple deaths—2000 penalty units or 3 years imprisonment; or

(b) if the breach causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or

(c) if the breach causes bodily harm—750 penalty units or 1 year's imprisonment; or

(d) if the breach involves exposure to a substance likely to cause death or grievous bodily harm—750 penalty units or 1 year's imprisonment; or

(e) otherwise—500 penalty units or 6 months

imprisonment.

28 Obligations of persons conducting business or undertaking

(1) A person (the *relevant person*) who conducts a business or undertaking has an obligation to ensure the workplace health and safety of the person, each of the person's workers and any other persons is not affected by the conduct of the relevant person's business or undertaking.

(2) The obligation is discharged if the person, each of the person's workers and any other persons are not exposed to risks to their health and safety arising out of the conduct of the relevant person's business or undertaking.

(3) The obligation applies—

(a) whether or not the relevant person conducts the business or undertaking as an employer, self-employed person or otherwise; and

(b) whether or not the business or undertaking is conducted for gain or reward; and

(c) whether or not a person works on a voluntary basis.

174 Discrimination or victimisation

(1) An employer must not dismiss a worker, or otherwise act to the detriment of a worker in the worker's employment, for the dominant or substantial reason that the worker—

[s 175]

Workplace Health and Safety Act 1995

Part 13 Offences

Reprint 9E effective 6 June 2011 Page 177

(a) is, or has performed a function as, a workplace health and safety representative, a workplace health and safety officer or a member of a workplace health and safety committee; or

(b) has made a complaint about an issue, or in any other way has raised an issue, concerning workers' exposure to the risk of illness or injury; or

(c) has contacted or given help to an authorised representative or an inspector.

Maximum penalty—40 penalty units.

Examples of acting to the detriment of a worker—

1 demotion of the worker

2 unwarranted transfer of the worker

3 reducing the worker's terms and conditions of employment

(2) If an employer contravenes subsection (1) by dismissing a worker, the worker is taken to have been unfairly dismissed under the *Industrial Relations Act 1999*, chapter 3, part 2, and subject to that part, has the remedies under that part.

Barry Atkins Solicitor & Attorney



TRANSACTION REPORT

THU/14/JUL/2011 04:10 PM

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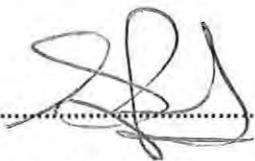
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This is attachment marked "AB 122"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 122

19 July 2011

«FIRSTNAME» «SURNAME»
«ADDRESS1»
«ADDRESS2»

Dear «FIRSTNAME»,

On Monday you received a document from the Committee asking you to vote me off the committee. The reason is for me reporting their failures to follow the Rules to Governing Bodies. I did so because since October last year none of the committee has listened to my request to follow the Rules.

I have sent this to you as a reply to the committee's decision to silence me for standing up for ALL Members and the future of the Good Corporate Governance of the Toowoomba Turf Club.

At the upcoming elections I urge you to vote against those committee members who have failed to follow the Rules and breached the Racing Act and the Associations Incorporations Act.

FACT: I, Anthony Burke have not broken or breached any Rules of the Toowoomba Turf Club, Racing Act 2002, Association Incorporated Act (AIA) and Racing Queensland Policies.

FACT: The current committee has breached the Rules of the Toowoomba Turf Club, Racing Act 2002, Association Incorporated Act (AIA) and Racing Queensland Policies.

I am happy to talk to anyone about the breaches and also personally show you the portfolio I have presented to RQL as well as the Ministers Office for Racing. Call me on my mobile 0423022880 to organise a time to show you the paper work personally. If you wish me to visit you to see this paperwork, I will do my best.

My "Charter" as an elected committee person is to follow the Rules and act for the Members of the TTC.

Vote for me to represent you and hold the committee accountable under the Rules, laws and good corporate governance.

Anthony Burke

Factual Campaign against Me since October 2010;

- **FACT:** Bob Frappell has failed to ensure financial statements are tables as Rules require.
- **FACT:** Bob Frappell has failed to ensure the committee authorises payments as required by the Rules.
- **FACT:** Aaron Clancy has misled the committee as he failed to table 16 documents to the committee meeting between October 2010 and February 2011 in accordance with the Rules.
- **FACT:** Peter Turnbull has failed to bring all expenditure to be approved or ratified at the management committee meetings. He has failed to table financial statements as required by the Rules.
- **FACT:** Aaron Clancy was found Guilty of Breaching Rule 175a of Racing Act after he assaulted me.
- **FACT:** Graham Healy ignored my request to get the Committee to place Aaron Clancy's conviction under Rule 175a breach on his work records and to counsel him to protect the members and future committee.
- **FACT:** The committee has offered to fund Aaron Clancy with member's funds if I take him to court.
- **FACT:** I did make a complaint to members of the government and RQL re an incident on 10/2/2011 as I wanted to seek help so not to damage the TTC image.
- **FACT:** Bob Frappell sent me a letter to cancel my individual and committee membership without a vote from the committee.

- **FACT:** The Supreme Court stated that the TTC failed to give me natural justice.
- **FACT:** Racing Queensland advised each committee member the course of action to follow and it was not tabled and ignored, thus wasting club member's money.
- **FACT:** The TTC failed to present the membership registry (re AIA S124 falsification) correctly to the Supreme Court on subpoena.
- **FACT:** The affidavit Aaron Clancy presented to the Supreme Court is different to Bob Frappell explanation to Dr John Morgan re my membership at the April Minutes of the TTC.
- **FACT:** Aaron Clancy and Bob Frappell cancelled without a vote by the committee, the Sponsorship of the Winners Diamond Set Rings for the Winning Trainer and Jockey of the Weetwood Hcp & Toowoomba Cup.
- **FACT:** The TTC, without a Committee decision, chose not to present the Toowoomba Cup in 2011 to Robert Heathcote and Larry Cassidy, as my family donated the perpetual trophy in 2009.
- **FACT:** The perpetual Toowoomba Cup Trophy was accepted from the Burke Family at August 2009 Committee Meeting unanimously.
- **FACT:** The TTC, without a vote by the committee, removed from the winners posts the signs owned by Jewels of the Range Jewellers.
- **FACT:** The TTC, without a vote by the committee, painted out in black paint the 400 metres sign of Jewels of the Range.
- **FACT:** The TTC, without a vote by the committee, removed my name as a committee member from the Weetwood and race programs and the clubs website.
- **FACT:** I have offered to mediate and arbitrate to save members money.
- **FACT:** The TTC have refused in writing all mediation with me.
- **FACT:** The TTC have failed to have the clubs expenditure supported by adequate documentation and filed in chronological order.
- **FACT:** Under AIA, **Section 12 5. TTC have failed to** (a) Approve or ratify association's expenditure and (b) ensure the approval or ratification is recorded in the management committee minute book
- **FACT:** Under AIA, Aaron Clancy has failed to ensure documents presented to the members do not contain or omit anything that makes it false and misleading. (**press release re my membership, press release re Supreme Court hearing, press release re Aaron Clancy hearing, Newsletter to members in June, ABC radio and this motion to remove me**)
- **FACT:** Graham Healy in April at the Weetwood Room with Tom Warren as a witness promised me he would look at my complaints re the non presented documents to the committee meeting. He did not but went to Bob Frappell.
- **FACT:** Graham Healy breached QRL policy and AIA by giving personal confidential information I emailed him to Bob Frappell and Aaron Clancy.
- **FACT:** Under AIA S122 (1) (b) In April Bob Frappell told the committee he would give them \$100 for the clubs old slasher for parts after it being taken to his place in February. No Motion, No Vote and No quote from Sim's Metal for scrap which would have been more money.
- **FACT:** Bob Frappell failed to disclose a conflict of interest under the TTC internal catering.
- **FACT:** Under AIA S59c (1) (a) (b) Aaron Clancy denied me the financial statements to read.
- **FACT:** At the TTC committee meeting in May 2011, a motion to alter the recording of the minutes, and abbreviate them and shred any draft copies and not keep recorded minutes.
- **FACT:** The TTC for the first time in history hired a security guard from member's funds for my first meeting back in May, and he was a positive in his statement to verify Aaron Clancy's assault against me.
- **FACT:** Bob Frappell and Jim Cosgrove did follow me when I had the agenda, down the stairs, thru the car park and out onto Hursley Road before the May 2011 meeting.
- **FACT:** Since returning I have been not allowed to view minutes or members registry without a member of the executive present which is against the Rules.
- **FACT:** I have been denied access to the sponsor's registry.
- **FACT:** The Committee tried to move a vote of no confidence in me twice in June 2011 forcing me to make application again at the Supreme Court. TTC gave in because they knew they were in the wrong (again).

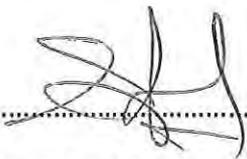
- **FACT:** The committee has an open Bar account and it is not disclosed what is spent in the minutes as per the November 2010 minutes
- **FACT:** Because the committee could not get rid of me legally they now have made this action, when there are no valid grounds against me.
- **FACT:** The committee is running a campaign against me because I have Business Ethics and follow the Rules. I was obliged to bring the breaches by TTC of the Rules to the attention of the Regulatory Body – Racing Queensland.
- **FACT:** TTC are in the wrong and Frappell knows this because he offered me \$10,000 of Club Members money to resign.

Thanks

Anthony Burke Toowoomba Turf Club Management Committee Member who follows the Rules.

This is attachment marked "AB/23"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 123

Barry Atkins

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Friday, 20 July 2012 3:05 PM
To: Wade Birch
Cc: complaints@racingqueensland.com.au
Subject: CMC

Importance: High

A1

RQL Integrity Department
Mr Wade Birch,
Dear Mr Birch,

Due to the lack of action by yourself as the temporary head of the Integrity Department of RQL, I will be submitting a report to the CMC today. This is due to the lack of good corporate governance that I have been subjected to as an industry participant who alerted RQL to a breach of the laws.

You have not adhered to the Policies of the RQL in regards to complaint handling and it appears to me to be a cover up by yourself in your role at RQL. I will also be making an appointment with my local member Mr Tim Nichols when he returns from his trade meetings overseas, to express the full details of this cover up and lack of action and breaches of Rules of Racing and relevant legislation.

I also hold you vicariously liable for costs in treating me unfairly under the RQL policies.

Anthony Burke

0423022880

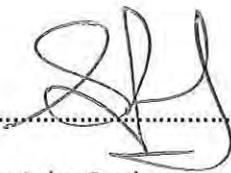
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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

The Chronicle

AB 124

Turf club to end committee rift

Glen McCullough | 20th Jul 2011 2:00 AM



Long-serving Toowoomba Turf Club committee member Anthony Burke will have his future with the club decided at a special members' meeting next month.

BEV LACEY

A WIDENING split between Toowoomba Turf Club (TTC) committee member Anthony Burke and his fellow board members is set to come to a head next month.

A special TTC meeting has been called for August 3 when Burke's future with the club is planned to be put to a vote of members.

The move to have members vote on whether Burke should be retained or removed from the club's committee follows ongoing unrest within the 10-member panel since last September's annual club election.

Members of the management committee – Peter Turnbull, Allan Gee, Jim Cosgrove, Allen Volz, John Scott, Dr John Morgan and Norm Pankhurst – have issued a statement to members detailing their decision to call for Burke's removal.

The special meeting has been called under section 36 of the club's constitution which relates to the removal from office of committee members.

In April this year, Burke was successful in a Supreme Court of Queensland action against TTC.

Burke sought a ruling from the court after his membership and committee position was deemed invalid by the club.

The club's statement to members lists a series of events dating back to

February 10 involving Burke which the committee says prompted it to seek his removal.

TTC chairman Bob Frappell said a deteriorating relationship between Burke and his nine co-committee members must be resolved to help ensure the club's future stability.

"We are absolutely frustrated by what is taking place," Frappell said yesterday.

"Nine of us are trying to get on with the job of running the club to the best of our ability while one committee member is causing us problems.

"Most of our concerns with Anthony Burke stem from frivolous complaints concerning the club and individuals which have been proven baseless.

"We can no longer work with him.

"We have tried unsuccessfully to resolve these issues with Anthony Burke but we feel we have no other choice now but to take this action.

"He has the opportunity to respond to the statement to members in writing and put his side of the argument across at the special meeting.

"But it will be left to the members now to make their decision on where this goes to next."

Burke has defended his position, insisting there are no valid reasons for the committee's action in trying to have him removed from his position.

"They are trying to shoot the messenger," Burke said yesterday.

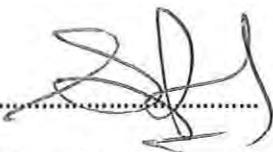
"The TTC committee members are trying to remove me because I complained to Racing Queensland about TTC's failure to comply with its legal obligations."

The Chronicle



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This is attachment marked "AB ¹²⁵"
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.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 125

25/7/2011

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Racing Queensland to investigate Toowoomba infighting

Brad Waters
Wednesday, 20 July 2011

A major rift has exploded within the Toowoomba Turf Club ranks after Racing Queensland Limited launched an investigation "into allegations concerning the TTC made by a committee member".

RQL announced it had received a referral from the Queensland Government Office of Racing, prompting it to launch a probe to determine "whether there is any basis for those allegations".

The Toowoomba Chronicle reported committee member Anthony Burke complained to Queensland racing authorities about the TTC's alleged procedural irregularities.

The nine remaining members of the TTC have called a special meeting of the club to allow members to vote on Burke's position on the board.

"They are trying to shoot the messenger," Burke told the newspaper.

"The TTC committee members are trying to remove me because I complained to Racing Queensland about TTC's failure to comply with its legal obligations."

TTC chairman Bob Frappell said the board "could no longer work with" Burke with the latest issue bringing to a head a long-running battle among the club's board.

"We are absolutely frustrated by what is taking place," Frappell said yesterday.

"Nine of us are trying to get on with the job of running the club to the best of our ability while one committee member is causing us problems.

"Most of our concerns with Anthony Burke stem from frivolous complaints concerning the club and individuals which have been proven baseless."

The TTC members will vote on Burke's future on August 3.

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- Where the early money's gone, Canterbury, February 29
- 20 acceptors for 2012 Australian Guineas
- NSW seven day race meeting updates (1/3 to 7/3)
- Market movers - Wednesday, February 29, 2012
- Fields and form online - Silver Slipper Stakes day 2012

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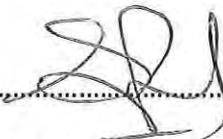
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- LATEST RACING FORM ONLINE**
Tuesday, 16 July 2013
- Geelong Synthetic - Final Fields
 - Good 3 Finalised 16/7 - 7:45am - Rider Replacement - R2 N10
 - Port Macquarie - Final Fields
 - Slow 6
 - Townsville - Final Fields
 - Good 3 Pen: 4.20 Finalised 16/7 - 7:45am
 - Wagga Wagga - Final Fields
 - Heavy 9
 - Wednesday, 17 July 2013
 - Balaklava - Final Fields
 - Dead 5 Updated 16/7 - 3:30pm
 - Belmont - Final Fields
 - Dead 4 (Official Changes at 16/07/2013 06:25:03 PM)
 - Domben - Final Fields
 - Dead 5 Updated 16/7 - 4:00pm

This is attachment marked "AB ¹²⁶"
Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

AB126

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 22 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.
Re: Disclosure of confidential information
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

During a broadcast this morning, Mr Pat O'Shea of radio station 4DDB FM read out my without prejudice letter to you dated 15 July 2011.

Mr O'Shea advised Mr Atkins that he obtained a copy of the letter because the letter had been sent by the Toowoomba Turf Club to all its members.

The Toowoomba Turf Club has breached its obligations to keep the without prejudice letter in confidence.

The Toowoomba Turf Club had no right to disclose the without prejudice letter written by this law firm on our client's instructions.

Our without prejudice letter was "communicated for a limited purpose and so a without prejudice offer exhibits the indicia of confidential information at general law." (*WALPES v PERMANENT CUSTODIANS LTD [2005] NSWSC 111 AT 81 PER WINDIER J.*) quoted in chapter twelve of DALPONT – 2010 edition of *LAWYERS' PROFESSIONAL RESPONSIBILITY*.

We reserve our client's rights to take action in relation to this breach of confidence, including to claim damages.

Our client has instructed us to require of you that you advise whether or not you informed your client when you gave them a copy of our without prejudice letter, of their obligations to keep the contents of that letter confidential.

You will be aware that the public policy in relation to the confidentiality and inadmissibility into evidence of without prejudice communications dictates that without prejudice communications cannot be revealed.

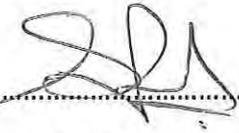
The public policy is predicated on the basis that without the confidentiality of those negotiations, disputants would be absolutely discouraged from negotiating freely because of the fear that failing agreement, what they said may later be used against them.

Unless you advise us that you informed your clients in clear terms of their duty to not disclose the content of our without prejudice letter to you, our client intends to make a formal complaint against your firm.

We require your letter to be received by close of business today.

Barry Atkins
Solicitor & Attorney

This is attachment marked "AB ¹²⁷"
Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB127



From: Anthony Burke
Date: 22/07/2011 10:21:26 AM
To: bazlawyer@atlaw.net.au
Subject: Fw: RE: Emailing: TTC refusal to mediate



From jo

-----Original Message-----

From: Jamie Orchard
Date: 24/06/2011 8:31:16 AM
To: 'Anthony Burke'
Subject: RE: Emailing: TTC refusal to mediate

Dear Anthony,

As you know, RQL is keen to have the on-going dispute between yourself and the club resolved in such a way as to avoid any further damage to the image or interests of racing. To this end, we have made it clear to the club that we want the issue resolved as quickly as possible either through some form of mediation or through such other avenues as are available through the Constitution of the club or other lawful avenues.

I offer that same advice to you. While the avenue of mediation seems to have been closed, I urge you to seek resolution of the matter through any alternative avenues offered in the Constitution of the club or in the general law. Whichever method is determined, it should ideally be such as to avoid any unnecessary harm to the interests or image of the industry.

I do not believe that RQL's involvement in what is essentially a dispute between a club and a committee member will assist in resolving this matter. I am not satisfied at this stage that the club or any officer thereof is in breach of any Rule or Policy and there is therefore no proper basis upon which RQL could properly launch an investigation.

I wish you all the best in resolving this matter as promptly as possible.

Regards,

Jamie Orchard

Director of Integrity Operations



RACING
QUEENSLAND

PO Box 63, Sandgate QLD 4017

P +61 7 3869 9742

F +61 7 3269 8268

M 0417 791 596

E jorchard@racingqueensland.com.au

W www.racingqueensland.com.au

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Thursday, 23 June 2011 12:55 PM
To: Jamie Orchard; Shara Murray
Subject: Emalling: TTC refusal to mediate
Importance: High

Racing Queensland
Integrity Department,
Mr Orchard
Dear Jamie

Please find the correspondence from the TTC on mediation.

I did what RQ suggested and offered to finish all action and gave them a list of what I required by way of apologies. This was sent to them Monday afternoon with response required by Thursday 23, 3pm, so we can move on for the better interest of the club.

This letter via HopgoodGamin is the response.

My only option is to go back to the Supreme Court on matters.

As this will have a major negative effect on the Racing Industry image and all correspondence asking for help from RQ, will have to be used to fully show my case, I would like to know if RQ would like to meet with my Lawyer and myself to discuss how we can limit the damage to both RQ and the racing Industry.

The portfolio I have compiled shows many breaches in good corporate governance, and also in line with the criminal code which in a meeting we can outline to you.

This is now bigger then ever and I request your help in handling this matter correctly.

Yours sincerely

Anthony Burke
Toowoomba Turf Club Committee
0423022880

I would like to draw your attention to the following **Office of Fair Trading Incorporation Act** that governs Incorporated Associations such as the TTC.

Accountability of the management committee

One of the advantages of being incorporated is that personal liability is limited. However, management committee members still have a duty to the incorporated association. This means they may be held accountable if they:

1. Deliberately fail to act in the best interests of the incorporated association
2. Abuse their powers as committee members
3. Fail to avoid conflict of interests
4. Fail to exercise due care, skill and diligence.
5. If a management committee does not fulfil its reporting requirements, we may issue a show cause notice asking the incorporated association to provide reasons why its registration should not be cancelled.

Responsibilities of management committee members

The management committee is responsible for managing the affairs of an incorporated association and has several responsibilities under law.

An incorporated association management committee must:

- Be aware of the duties of the Secretary and ensure they are properly carried out
- Use reasonable care and skill in the performance of their duties
- Act in good faith
- Advise the committee of any conflict that may arise between their own interests and the interests of the incorporated association (e.g. Advise if any incorporated association activities might result in a financial gain to themselves)
- Ensure any documents addressed to the incorporated association are brought to the attention of the committee as soon as practicable after receipt
- Ensure documents provided to Fair Trading or submitted to members do not contain or omit anything that make it false or misleading.



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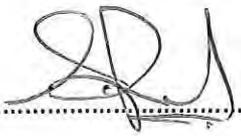
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It is your responsibility to ensure that this email does not contain and is not affected by computer viruses, defect or interference by third parties or replication problems (including incompatibility with your computer system).

Unless expressly attributed, the views expressed in this email do not necessarily represent the views of Racing Queensland Limited.

This is attachment marked "AB¹²⁸"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 128

From: Anthony Burke
Date: 26/07/2011 7:00:44 PM
To: wking@racingqueensland.com.au
Cc: Shara Murray
Bcc: bazlawyer@atlaw.net.au
Subject: Fw: Sponsors renewals

Mr King

More evidence of info being withheld to damage me.

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 30/04/2011 7:59:39 PM
To: Graham Healy
Subject: Fw: Sponsors renewals

Graham

Not sure if you got this one given to you either, to show I was active even on leave as trying to still contribute. Having read the inwards correspondence from minutes it is also not noted but thought it was important for the committee

Anthony

-----Original Message-----

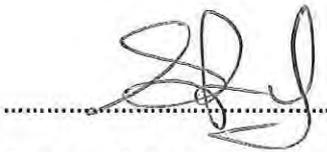
From: Anthony Burke
Date: 9/12/2010 10:47:16 AM
To: tash@toowoombaturfclub.com; Kate Middleton; aaron@toowoombaturfclub.com; bob@flexi.net.au
Subject: Sponsors renewals

Hi Kate and Tash,

Just had marked in my diary to send renewal for the garden sponsor signage invoices that are due to be sent out for 2011. Also had marked to invite them to join the committee for a drink and meal in thanks for continued support. As not on this sub committee this year can you pass onto relevant committee person so it can be added eventually to our sponsor registry when it gets done.

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of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, appearing to be 'AJB', written over a horizontal dotted line.

Anthony John Burke

A handwritten signature in black ink, appearing to be 'B. Atkins', written over a horizontal dotted line.

Barry Edward Atkins, Solicitor Witness

AB 129

From: Anthony Burke
Date: 26/07/2011 6:59:57 PM
To: wking@racingqueensland.com.au
Subject: Fw: JJ Atkins

Mr King

This is where I tried to get Mr Healy to help and he betrayed me, and released this private information that Mr Frappell and Mr Clancy brought up at the hearing 175a guilty result.

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 30/04/2011 8:07:23 PM
To: Graham Healy
Subject: Fw: JJ Atkins

Hi Graham

This is not bcc or cc to anyone but just as agreed tonight between you and me. I think my angst in this request to be tabled at the meeting created the issue that has evolved. Maybe I was too heated, looks that way.

Thanks for at least listening to me tonight.

This is not noted in the minutes as requested. So I am wondering why it was withheld.

Did not want to say in front of Tom, but my wife has left me over this and gone to Brisbane as she struggles to understand why I am treated this way and does not feel safe.

I have not told anyone this and trust you to keep it in confidence. That is why I had to talk to someone there tonight to try and get answers.

So the club has most probably achieved more than hoped for in destroying me.

Anthony

-----Original Message-----

From: Anthony Burke
Date: 22/12/2010 5:00:10 PM
To: aaron@toowoombaturfclub.com;
Subject: JJ Atkins

Good Afternoon Aaron,

At 4pm today a customer asked me why as a committee person, I had not invited Neville Stewart to the JJ Atkins.

I naturally asked why he asked this question. He said on the letsgoracing website it had a letter from an un named person stating that fact and that the editor seemed to indicate he was agreeable.

I replied that our CEO, Aaron would have ensured all Life Members of the TTC would have been invited and that the web site letter must be wrong as it would be poor business practice to not invite Life Members regardless of the feelings and past issues between the current Chairman Mr Frappell and the rest of the Executive Peter Turnbull and Graham Healy to exclude them if acting in an unbiased business like manner.

I phoned the Chairman Mr Frappell at 4.06pm today December 22, to check the facts as I went in support of the above people and said that he was most probably invited but declined.

I now know this is correct that he was not invited as Mr Frappell stated "why should I have invited him? I invited the previous chairman Col" I expressed my displeasure at the lack of good business principles in this matter and that I had supported him to the person. I hung up.

I wish to make notice to the members in the minutes that while on leave I disagree with this very poor business decision and it reiterates my decision that I can not trust the current Chairman to be apolitical and unbiased in decisions in regards to the Toowoomba Turf Club.

Mr Stewart gave 21 years of his life to the club and the death of his oldest son, only to be demeaned and insulted by having this now in public viewing on a web site.

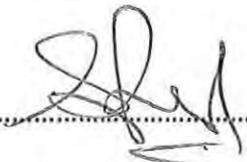
Many past sponsors and businesses will now see the real "NEW" committee and make judgements of what respect we give to valued past and present supporters of the Toowoomba Turf Club.

This shows poor business practice in building relationships beyond personal vendettas. I would like to know which of our life members were invited.

Anthony Burke
Committee
Toowoomba Turf Club

This is attachment marked "AB" ¹³⁰

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 130

From: Anthony Burke
Date: 26/07/2011 7:03:11 PM
To: wking@racingqueensland.com.au
Subject: Fw: RE: Jewels of the Range

Mr King
More help denied and isolating me

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 30/04/2011 8:44:50 PM
To: Graham Healy
Subject: Fw: RE: Jewels of the Range

Graham

I also did not see this letter tabled as below in the minutes for inward correspondence.

You will also see I am happy to have a meeting but needed some questions clarified such as not receiving the 10 members passes for our business contract for 2010. Aaron was cranky I did not praise him but thanked previous secretary's and Chairman's in my release but it was not to hurt his feelings.

I stated purely he advised me it held no bottom line advantage to the club and was a business decision from the TTC.
Never criticised Aaron at all or the current committee.

I have had a few emails with Alan Gee who swears I never wanted to meet as this is what he has been told, so maybe he also did not see this.
That is why the February 10 issue blew me aware and scared the crap out of me as had no expectation

Anthony

PS will not send you any more as do not want to bombard you, but I am happy if you want to get the people you think are logical and can make balanced decisions with all the details I have forwarded that are not presented in the minutes for the whole committee to see.

If you want that get together as discussed let me know.

-----Original Message-----

From: Aaron Clancy
Date: 1/02/2011 4:41:40 PM
To: Anthony Burke
Subject: RE: Jewels of the Range

Hello Anthony,

To be honest Anthony, you proceeded to put an email with my name attached to it on a website. Therefore all detailed communication to yourself will be via face to face or over the phone. Yesterday during our phone conversation I answered many of your questions and more than happy to talk with you regarding ones you feel were unanswered.

Just to reiterate from our phone conversation, all current sponsorship agreements in place with the Toowoomba Turf Club, will not be renewed in their current form.

I believe our new Sponsorship Offering will provide Jewels of the Range with the value that you are seeking.

If you would like a meeting to discuss our new proposal please give me a buzz..

Regards, Aaron

Aaron Clancy

Chief of Management

Hursley Rd, Toowoomba QLD 4350

P.O Box 6037 Toowoomba West QLD 4350

M: 0400 334 854

P: 07 4634 6066

F: 07 4633 1256

E: aaron@toowoombaturfclub.com

W: www.toowoombaturfclub.com

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Tuesday, 1 February 2011 12:43 PM
To: Aaron Clancy
Subject: Jewels of the Range
Importance: High

Chief of Management

Mr Aaron Clancy,

Hi Aaron,

Thank you for the call yesterday to discuss our business questions.

I look forward to meeting with you re the new proposals, after we receive the answers to the questions that we have sent in the last correspondence. It is imperative we get this to enable us to make a qualified decision on your new proposal, as it shows transparency and good business ethics. We can then also give qualified feedback to other businesses who are interested to see how our discussions proceed with the TTC.

I tired to phone back today but Jo said you were out.

Can you please also send a letter outlining what you said on the phone to me yesterday Monday 31/1/2011, that the TTC has decided to end the current agreement as it holds no bottom line advantage to the club and it's members and it is a commercial business decision. As you mentioned the rings add Prestige and History to the winning trainer and jockey but no advantage to the TTC.

As we are having our board meeting on February 10, to discuss our sponsor/advertising budget for the year, we would appreciate the request above to be received by us no later than February 7, 2011. As you seemed to have the information all in hand yesterday we appreciate your promptness in tending to this urgent business matter.

Yours in business

Anthony Burke

Director

Jewels of the Range

0423022880

46379955

February 1, 2011.

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131

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of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 131

From: Anthony Burke
Date: 26/07/2011 6:49:11 PM
To: wking@racingqueensland.com.au
Cc: bazlawyer@atlaw.net.au; Shara Murray
Subject: Committee members ganging up on me

Hi Mr King

After my assault from Aaron Clancy I sent the following email as per police and my doctor advice.
Instead of assurance I was again victimised in an orchestrated email from 4 committee men on 30/5/11 and 1/6/11
It is further evidence of the treatment where I am to blame for Aaron Clancy actions. I would think I should have been afforded different efforts from the committee.
This after Mr Healy told me that the committee wanted to rip my head off and he states what he does in his statement

Anthony Burke

Email I sent below on 29/5/11

Dear Sirs

After the incident on Thursday night, I will have to seek legal advise on my personal safety assurance from my lawyer, the police and Racing Queensland authorities.

I would like to attend to do my job free of harassment and intimidation as previously advised to the TTC by the Racing Queensland integrity department.

At this stage though I do not feel safe and I feel insecure that my safety can be guaranteed.

I will be in contact before the date when I have considered all advice.

Anthony Burke
Elected Committee Member
2010-2012

Dear Mr Burke

I have received your email 29/5/11 9.07am.

Suggesting that I am a threat to your personal safety has deeply upset me. My integrity is obviously being questioned by you.

For your information, I have been a General Manager of a large Toowoomba based company for 26 years. I have many Dealings each year with people of high ranking from large companies throughout Australia, as well as internationally, and never Once has my integrity been questioned throughout that time.

I have been elected by the members of the Toowoomba Turf Club and I believe I work diligently for the good of the members
And the Turf Club.

My goal is to work together as a team for the betterment of the Toowoomba Turf Club.

John Scott

Mr Burke,

I refer to the e-mail you have sent to all committee members indicating your intention not to attend a special committee meeting on 9th June and the reasons why.

As a committeeman, I feel personally aggrieved at the notion that somehow your safety and security cannot be guaranteed at that meeting.

I also believe this to be a personal slur on my reputation as a good citizen, respected broadcaster, former Member of State Parliament and Deputy Chairman of the Toowoomba Turf Club.

I will be seeking legal advice as to the steps that need to be taken to rectify this matter.

Graham Healy

Mr Burke

I refer to the e-mail below addressed to me and other members of the Toowoomba Turf Club Management Committee.

On more than one occasion recently, you have attempted to denigrate my name and professional reputation with members of the Toowoomba Turf Club, Racing Queensland Limited and the general public with your frivolous accusations.

I see this e-mail as another attempt to do the same and have taken offence to its content. To this point, I have been nothing less than professional and courteous to you in all my dealings with you and am at a loss to understand why you have chosen to go down this path.

You now leave me no option but to seek legal advice on the way you have continually tried to defame me and my reputation and will follow that advice aggressively.

Peter Turnbull

T 0746 308092

M 0412 580997

E peterturnbull4@bigpond.com

Dear Mr Burke

I am at a loss to understand the tone of your email of May 28 and insensed
That you would feel threatened by me or any other member of the Committee.

My reputation and integrity have never previously been questioned in such a
Way and I am left with no option other than to seek legal advice.

My decision to seek re-election to the Committee was based on my interest in
Seeing the Club regaining the status and success it once enjoyed.

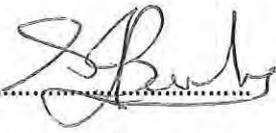
I believe your actions are disruptive and contrary to the best interests of
The Committee and Club.

Sincerely

Allen Volz

132
This is attachment marked "AB"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



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Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 132

From: Anthony Burke
Date: 26/07/2011 7:10:23 PM
To: wking@racingqueensland.com.au
Cc: Shara Murray
Bcc: bazlawyer@atlaw.net.au
Subject: Fw: In confidence and not for sharing with anyone

Mr King

The supreme court was lied to by Aaron Clancy when he gave a different story to April minutes attached where Bob Frappell's explanation to Dr John Morgan as why he should no longer support me.

Page 3 section 6.

Page 7 section 12.12 shows a sponsorship agreement with a community radio station that is owned by David Silver and Pat O'Shea and no amount is discussed or approved in the minutes or a note of conflict for members who read it. This same station broadcast the Without Prejudice offer we made on 15/7/11 to the general public to further bully and intimidate me.

David Silver also entered my shop and upset my staff member on 14/7/11 and recorded with his phone a conversation I was having with a member.

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 5/05/2011 9:57:17 AM
To: bazlawyer@atlaw.net.au
Subject: In confidence and not for sharing with anyone

Barry

The club has an issue, re the below which constitutes a criminal offence where the Supreme Court was presented with an affidavit from Aaron Clancy that states and refers to point 12 (a) (b) (c) (d)

12 (a) In January 2011, I was in the process of formulating new sponsorship proposals for prospective sponsors of the respondent. In the course of doing so, I noted the provisions of rule 8c 8 of the rules.

12 (b) I then informed the respondents chairman, Mr Frappell, that Mr Burke may have breached the rules by changing the nominee on the corporate membership of Jewels of the Range Pty Ltd from himself to his wife, while still remaining on the committee

12(c) I also informed Mr Frappell that, as Mr Burke had decided to apply for individual membership, he needed to complete and lodge an application for individual membership, to be supported by two other members of the respondent, and that he had not done so.

12(d) After investigating the matter further, the respondent informed Mr Burke, by the letter referred to in paragraph 24 of his affidavit, that he could no longer remain on the committee because he had not observed the rules and invited him to complete the necessary paperwork to become an individual member.

In the minutes as mentioned in explaining to Dr John Morgan it says Bob Frappell was aware of the issue back in September meeting.
It was actually the August meeting. This is blatant lie to Mr John Morgan and contradicts the below.

In the affidavit above it says Bob Frappell was only aware when Aaron brought it to his attention after formulating new sponsorship agreements.



Minutes of the Committee Meeting 7th April 2011

The Minutes of the Committee of the Toowoomba Turf Club Inc. held in the Weetwood Room, Clifford Park Racecourse, on Thursday 7th April 2011

PRESENT: Bob Frappell (Chairman), Graham Healy (Deputy Chairman), John Scott, Allen Volz, Allan Gee, Jim Cosgrove, Norm Pankhurst, Aaron Clancy (Secretary), Brandon Long (Communications Officer)

Meeting commences at 7.06pm

1. Apologies

P Turnbull
Dr J Morgan will be late

2. Confirmation of Minutes

*G Healy moved that the minutes as amended are a true and accurate record, seconded by A Gee
Carried, unanimous*

3. Chairman's Introduction

B Frappell would like to note on the record that there was no vote from the Committee on life members' invitations to Weetwood. The matter was discussed with almost all of the Committee and they agreed with Bob's thoughts. He said it has always been the Chairman's prerogative as to who to invite. B Frappell takes full responsibility for not inviting former chairman Neville Stewart. A Clancy suggested to B Frappell that the Club should invite life members to the Dalrello Deck for Weetwood day free of charge for meals and drinks, and that is what was done.

4. Business arising from minutes

B Frappell outlined two major issues concerning the Club's partnership with Lion Nathan:

1. Literage
2. Providing XXXX with exclusive use of the Grand Marquee for Weetwood puts the Club in a difficult position. It should be looked at carefully. We should talk to Lion Nathan about modifying the sponsorship proposal which will allow the Club to use the Grand Marquee for the general public on Weetwood Day, as the Platinum Marquee has performed poorly for three years in a row. B Frappell is organising a meeting with XXXX.

A new printer has been installed in the office and the staff praises its usability and efficiency.

The Stathi Katsidis statue has been erected and the Committee Members think it is an impressive monument.



5. Inwards & outwards correspondence

Inwards Correspondence:

- 18th March- Faxes from A Burke's solicitor. These faxes were covering old ground.
- 21st March- Fax from A Burke's solicitor stating that if we don't put A Burke's name in the race book(Weetwood Day) this could be cause for a defamation case against the Turf Club
- 23rd March- Email from Paul Brenan outlining the cost for us to purchase the machinery
- 23rd March- Email from RQL outlining the time frames and the outcomes of us taking over the maintenance of the Cushion Track
- 23rd March- Email from RQL outlining what they require if we agree to drop all legal proceedings.
- 25th March- Further faxes from A Burke's solicitor outlining the reasons that A Burke is a member of the Club.
- 26th March- Fax from A Burke's solicitor stating that he can only be removed from the Committee under rule 36
- 28th March- Fax from A Burke's solicitor stating that A Burke is a Committee Member and that we should provide him with notice of our upcoming meetings.
- 28th March- 2 Faxes from A Burke's solicitor asking that I send A Burke all the email addresses of the Committee so he can fulfill his role of Committee Member.
Fax stating that A Clancy needs to hand over the recording of the incident that occurred at the TTC. They have stated that A Clancy needs to seek personal legal advice.
Fax from A Burke's solicitor asking A Clancy if Hopgood Ganim represent him personally, as A Clancy has not handed over the recording. A Clancy has also breached the rules that the Secretary is governed by.
- 28th March- Email from A Burke stating that A Clancy will need to inform him of the upcoming Committee Meeting
- 30th March- Letter from Ian Macfarlane advising us that he has been written to from a Mrs. Haynes who had flood damage in her home at the back of the Turf Club.
- 31st March- Email from RQL advising us of the rules/policy for expenditure for Racing Clubs.
- 31st March- Email from Paul Brenan advising us that the Hopeful Plate will remain on the Saturday.
- 31st March- Invoice from RQL for 114k for maintenance from Sept 2010 to end of Feb 2011
- 5th April- Email from Wayne Milner advising us that with our proposal for the sinking fund he would like to see it increased in the first couple of years.

Out Wards Correspondence

- 22nd March- Sinking Fund proposal sent to Wayne Milner
- 21st March- Hopgood reply to A Burke's Solicitor stating our position has not changed.
- 22nd March- Hoopgood respond to A Burkes Solicitor reiterating the Clubs position that A Burke is not a member.
- 23rd March- Hopgood advise A Burke's Solicitor that as they have presented no new information, that they will not be responding to any more faxes as this is costing the TTC money and A Burke should take the appropriate course of action if he feels that he has been wronged.
- 24th March- Advice from Hopgood stating that the correspondence we have received from RQL does not state in writing that the track is a grant.
- 25th March- Hopgood respond to RQL outlining what the TTC requires in regards to taking over the maintenance of the Cushion Track.
- 29th March- Email from A Clancy to A Burke advising him that all correspondence from him and his lawyer should go through to our solicitor.
- 30th March- Letter to A Burke's Solicitor, once again outlining the position of the Club.



Other Correspondence

Email from Wayne Milner to Letsgohorseracing outlining facts regarding the decision of the TTC not to enter into a partnership.
18th March- Media Release from Racing QLD regarding the decision of the TTC not to go into a partnership with RQL.

*It was moved by A Gee and seconded by A Volz that the correspondence has been tabled and accepted.
Carried, unanimous*

Dr J Morgan enters meeting at 7.52pm

6. Business arising from correspondence

The majority of correspondence concerns Hopgood Ganim's advice and A Burke's solicitors' advice. A Clancy said that on the 28th March, Burke's solicitor said A Clancy should seek legal advice for two reasons:
1. The fact that A Clancy would not hand over the sound recording of the situation involving A Burke
2. A Clancy has not informed A Burke of upcoming meetings so therefore has breached the rules of the Club.

Hopgood Ganim is representing A Clancy now.

In regards to the sinking fund, B Frappell said Racing Queensland cannot force the Club to do it. It is up to the Committee of the TTC and RQ can only advise the Club. B Frappell said Wayne Milner from RQ has been good to talk to about the fund.

B Frappell provides an overview of the A Burke situation to Dr J Morgan:

At a Committee Meeting in September 2010, B Frappell was sitting across the table from A Burke when it was voted to remove the joining fee. Subsequently, A Burke said he would make his wife the corporate member and B Frappell did not know he was just a corporate member. Clearly 8c of the constitution states that if you are a corporate member, you cannot be a normal member and vice versa. TTC took legal advice to whether he was legally elected onto the committee. Hopgood Ganim replied to the TTC with the advice that A Burke was not a legal member. B Frappell said the Club does not have the capacity to negotiate this, as A Burke breached rules and also did not fill out a membership application form.

Recently, B Frappell has been speaking to Hopgood Ganim about holding a bi-election. They advised B Frappell to hold a bi-election for A Burke's position, as the Club would be neglecting its duty if it did not hold a bi-election to replace a Committee member as soon as possible. B Frappell asked them if the uncertainty surrounding the A Burke matter might postpone election, to which Hopgood Ganim replied "no". B Frappell said it will take about three to four weeks to hold a bi-election, so the Club should be planning to hold an election in May as it cannot wait.

*It was moved by J Cosgrove and seconded by A Volz that the Club holds a bi-election as soon as possible to fill the casual vacancy created by Anthony Burke's non-constitutional election.
Carried, unanimous*



Financial Report- Please see financial report attached.

A Gee will deputise for P Turnbull tonight

Committee Members agreed that the Club will not make a decent profit on food, but the catering reputation has improved.

A Gee noted that Catering Manager Jason Leicht had hired a mobile food warmer trolley for Weetwood 2011 and that the Club needs to buy one as it can be used on a regular basis.

It was moved by A Gee and seconded by G Healy to approve the purchase of a mobile food warmer trolley for the cost of \$5000.

Carried, unanimous

B Frappell approached a debt collection lawyer following the Club's ongoing issues with trainer's accounts, functions and other matters.

It was moved by G Healy and seconded by A Gee for the approval for legal practitioner Neil McGinley to act on the club's behalf to settle its debts and to send him a letter of appointment.

Carried, unanimous

8. Parks, Gardens, Works and Maintenance

J Cosgrove gives works report.

It was moved by J Scott and seconded by J Cosgrove that the Club approves for payment the cost of repairing the tar behind the betting ring.

Carried, unanimous

J Cosgrove said Dubbo Dunnys wrecked the TTC front fence on Weetwood Day. The cost will deducted from their account.

J Cosgrove has outlined a plan for the TOTE in breezeway to be moved in to the catering room to allow for more room in this area.

It was moved by A Volz and seconded by J Scott to approve the relocation of the old tote under the Weetwood Room to the catering office to make more space and that the old tote building be demolished.

Carried, unanimous

With the slasher, B Frappell took it to assess its reparability, B Frappell has been found it to be uneconomical to repair as the gearbox is smashed. B Frappell said he will buy it off the Club for \$100 to use personally for parts.

It was agreed.

9. Liquor & Catering Report not available



10 & 11. Training Applications and Membership Applications

The below applications for Membership are as follows:

Paul Rice, Michelle Price, Alana Aspinall, Michael Nolan, Jeffrey Paul Cahill, Garry Barrett

Up for Training approval is:

Trevor wheeler

It was moved by J Cosgrove and seconded by N Pankhurst that members and trainers applications be approved Carried, unanimous

Some trainers have not been paying for their horses and have been given warnings that they must pay.

The Club will see Karen Maund to discuss payment of her account and to attain a completed trainer's application so she has permission to train, or she cannot return to the track on Monday morning. Outstanding payments must be made by Friday 15th April.

It was generally agreed.

12. General business

12.1 Progress of the arrangements post rejection of RQL offer

There have been rumours that we will lose race dates; this is not true as all dates are finalized for the 2011/2012 financial year.

12.2 The accounting treatment of the Grant

The Club will seek advice from its auditors on how to account for the grant.

12.3 The sinking fund

The TTC has the right to accept or reject a sinking fund and set its own level of contribution.

12.4 Trevor Woodham Job rejection/Employing a replacement/time frame

An offer was made to Trevor Woodham to stay at Clifford Park as curator for TTC instead of RQ, which he turned down.

The Club will have to employ full time track curators. The position vacancy has been advertised externally.

12.5 The equipment replacement and cost

The Club is purchasing the following from RQ:

Tyre rollers	\$4000 each
40ft container	\$3,123
2x Trackmasters	\$36,950
1x Power harrow	\$24,640
Cleg hammer	\$6734
2x John Deere tractors Vanderfield Pty Ltd	\$176,000

At 7.05% interest rate

The Club will consider doing a sponsorship deal with Vanderfield Pty Ltd, whereby they will pay the interest.

The Club will need approval from RQ to buy this equipment

Moved J Cosgrove, seconded A Gee to purchase the above equipment from RQL and Vanderfields Pty Ltd, carried



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

Cushion Track Australia have advised us that they gave a seven year warranty to RQL as they have a good relationship with them. The normal warranty is three years.

It was moved by A Volz and seconded by A Gee that the Club asks for a copy of the warranty being offered by Cushion Track Australia in its entirety.

Carried, unanimous

12.6 The latest bill from RQL for track Maintenance

We have received an invoice in the vicinity of \$114,000 from RQL for six months maintenance charges. We will send our correspondence to Hopgood Ganim to see where we stand.

12.7 Weetwood discussion and plans for a debrief

A Weetwood debrief will be held next Thursday

G Healy wants a debrief with police and liquor licensing as well

12.8 The track tickets checking results

Mick Jeynes and Bruno have taken over from Rick as track work auditor

B Frappell proposes a substantial change to charging out track tickets.

Our new policy is as follows:

Trainers to submit completed track ticket form to the office in the first week of each month.

The form must state all horses using the track for the previous month, there are no exceptions.

The TTC will send an invoice in the 2nd week of the month. If your track ticket form has not been submitted then we will invoice you for the horses that we have recorded for you that month.

Once invoiced you will have to the 15th of the following month to pay.

If you cannot reach this deadline and cannot pay the TTC, you will be required to contact us during this month to explain your circumstances.

Failure to pay, and failure to contact the TTC, you will be issued with a breach notice and your 'Permission to Train' here at the Toowoomba Turf Club will be reviewed by the Committee.

It was moved by G Healy and seconded by N Pankhurst to approve the policy moving forward

Carried, unanimous

12.9 Trainers meeting and outcome

Very positive outcome. Trainers were happy that they will now have six weeks to pay their track tickets.

12.10 Rubber mats for horse stalls, can we order another 100?

It was moved by J Scott and seconded by J Cosgrove that the Club orders another 100 rubber mats for the tie up stalls.

Carried, unanimous

"Light years ahead of the rest"



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

12.11 Toowoomba Cup

A Clancy emailed Paul Brennan inquiring into whether it is possible to move the Toowoomba Cup to the Saturday following Weetwood on Thursday, as done in previous years. A Clancy said if the Club wants the Cup on Saturday, he will have to do up a proposal to present to RQ. He asked to hear the thoughts of Committee Members on this matter:

The majority of the Committee was happy for A Clancy to present a proposal to RQL

12.12 4DDB proposal

G Healy, B Frappell and A Volz excuse themselves from the meeting at 10.31pm due to a perceived conflict of interest, so remaining Committee Members can discuss proposal.

It was moved by J Cosgrove and seconded by J Scott that the Club accepts the 4DDB sponsorship proposal for 12 months with a 3 months probation period

3 abstentions, carried

It was moved by N Pankhurst and seconded by A Volz that J Cosgrove be acting vice chairman and acts on the executive until the next meeting on 26 May 2011.

Carried, unanimous

Meeting concludes at 10.56pm

"Light years ahead of the rest"

This is attachment marked "AB¹³³"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB133



HopgoodGanim
LAWYERS

26 July 2011

Without prejudice

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Mr Atkins

**Toowoomba Turf Club Inc, Mr & Mrs Anthony Burke and Jewels of the Range Pty Ltd
- Various matters**

We refer to your "without prejudice" facsimile transmission received at 3.26pm yesterday.

We are instructed that our client will resolve all matters in dispute with your clients on the following terms:

1. The execution by all relevant parties of a Deed of Settlement (**the Deed**).
2. The "relevant parties" to the Deed are to be as follows:
 - TTC;
 - Mr and Mrs Burke;
 - Jewels of the Range Pty Ltd;
 - Mr Frappell;
 - Mr Clancy.
3. The Deed (which we will prepare) is to contain the standard "release and discharge" clauses, the intent being that performance of the terms of settlement will end once and for all the relevant parties' claims against each other with respect to or arising from the "**Disputes**" (see below).
4. The Deed is to be finalised and executed by all parties by 1.00pm Thursday, 29 July 2011 (in order to give our client sufficient time to notify members of the cancellation of next week's meeting).

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

T +61 7 3024 0000
F +61 7 3024 0300

PO Box 7822, Waterfront Place Qld 4001 Australia

E contactus@hopgoodganim.com.au

www.hopgoodganim.com.au

Mr Barry Atkins
Solicitor & Attorney
@Law

26 July 2011



5. The "Disputes" include, without limitation, the following:
- The former Sponsorship Agreement between TTC and your client company;
 - Your clients' complaints to Racing Queensland Limited, the Office of Queensland Racing and other regulatory bodies (all of which are to be withdrawn by your clients);
 - The withdrawal by Mr Burke of the proceedings he has apparently instituted against Mr Clancy under the *Peace & Good Behaviour Act*;
 - The withdrawal by Mr Burke of the complaint he has apparently made to the police against Mr Clancy regarding an alleged assault;
 - The discontinuance by Mr Frappell of the defamation proceedings commenced against Mr Burke in the District Court at Toowoomba on 22 July 2011 (please note in that regard that, given your failure to inform us whether you had instructions to accept service of those proceedings on Mr Burke's behalf, we have engaged process servers to serve Mr Burke personally, and we expect service to occur some time this week);
 - The discontinuance by Mr Burke of the proceedings commenced in the Supreme Court of Queensland last month;
 - The "Perpetual Trophy" issue (including, without limitation, Mr and Mrs Burke's complaints about the non-presentation of the trophy to the winning connections of this year's Toowoomba Cup);
 - Mr Burke's complaints about incorrect press releases, newspaper advertisements, media statements, the omission of his name from the Weetwood Race Day program etc;
 - Mr Burke's allegations of defamation against Mr Frappell, other Committee Members and Mr Clancy;
 - Any claim for damages, compensation or other relief Mr Burke claims to have with respect to or arising from the matters referred to in your correspondence of 14 July 2011 and the Medical Certificate from Dr Shorey.
6. In exchange for Mr Burke's written letter of resignation (which is to take effect immediately) from the Committee under Rule 36(d), TTC will pay the sum of \$10,000.00 (inclusive of GST) (**the Settlement Sum**).
7. The Deed will provide that payment of the Settlement Sum is subject to and conditional upon TTC obtaining prior approval from Racing Queensland Limited of such payment.
8. The Settlement Sum will be paid into your firm's trust account. Your clients are then at liberty to direct you to distribute those monies in such manner as they think fit.
9. The terms of settlement are to be kept confidential (subject to the usual exceptions eg. if Members ask questions at the AGM about the matter when TTC's financial statements are viewed), although TTC and Mr Burke will issue a joint statement to Members recording Mr Burke's resignation from the Committee and the TTC's wishing him well for the future.

Mr Barry Atkins
Solicitor & Attorney
@Law

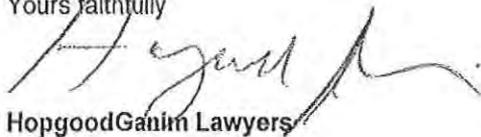
26 July 2011



-
10. Your clients are to cease their publications on racing websites or blogs (whether under their own names, false names or anonymously) of statements which are critical of the TTC or any of its Committee Members and officers. Your clients are also to instruct you to cease publishing such statements on their behalf.

Please obtain your clients' instructions as a matter of urgency and let us know whether all matters can be resolved on this basis.

Yours faithfully



HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

This is attachment marked "AB

134
"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 134

From: Anthony Burke
Date: 26/07/2011 6:51:30 PM
To: wking@racingqueensland.com.au
Bcc: bazlawyer@atlaw.net.au
Subject: Fw: Toowoomba Turf Club Confidential Information

Mr King

I have been attacked over this letter to try and correct matters

Anthony Burke

-----Original Message-----

From: Anthony Burke
Date: 18/05/2011 5:55:30 PM
To: Graham Healy; reception@jnmorganmedical.com; peterturnbull4@bigpond.com; A; allan_gee@bigpond.com; johnscott@mansell.com.au; badenvally@harboursat.com.au
Subject: Toowoomba Turf Club Confidential Information

Dear Sirs

Please find the letter dated 18 February not noted as presented in the inward correspondence of the March meeting.

I have given Graham copies of other correspondence not presented to you as committee members in December. He said he will respond as Acting Chairman. I also have more correspondence that I will present at a time soon to you.

I would like to draw your attention to the following Office of Fair Trading Incorporation Act that governs Incorporated Associations such as the TTC.

Please read and assess how you personally relate to issues that have occurred to me. Place your self in my position and ask your self when you look in the mirror how you would assess these details.

- As a committee member who has given countless hours and time for the TTC
- As a business that has sponsored the TTC for many years from Cash/Trophies/Fashion of the Field Vouchers.
- As a family that donated a Perpetual Trophy for the Toowoomba Cup (and that has been confirmed that was not presented in 2011)

Anyone wishing to view the full list of non disclosed document can do so by calling me on my mobile or email.

I also wish to inform you I am sending a personal letter to all members re the Supreme Court Decision, as the Secretary has advised me that the Press Release from the TTC will not be retracted and the falsehoods corrected. I am not sure if a Flying minute was done in regard to this as it is not noted in minutes. If no flying minute it must of been the decision of the Secretary without your delegation of authority to do so. This notice is in courtesy so you can make educated informed comments.

There is a way to save the TTC spending further members funds if you act in line with following details.

Anthony Burke
Committee Member TTC 2010-2012
0423022880

Accountability of the management committee

One of the advantages of being incorporated is that personal liability is limited. However, management committee members still have a duty to the incorporated association. This means they may be held accountable if they:

- **Deliberately fail to act in the best interests of the incorporated association**
- **Abuse their powers as committee members**
- **Fail to avoid conflict of interests**
- **Fail to exercise due care, skill and diligence.**

If a management committee does not fulfil its reporting requirements, we may issue a show cause notice asking the incorporated association to provide reasons why its registration should not be cancelled.

Responsibilities of management committee members

The management committee is responsible for managing the affairs of an incorporated association and has several responsibilities under law.

An incorporated association management committee must:

- **Be aware of the duties of the Secretary and ensure they are properly carried out**
- **Use reasonable care and skill in the performance of their duties**
- **Act in good faith**
- **Advise the committee of any conflict that may arise between their own interests and the interests of the incorporated association (e.g. Advise if any incorporated association activities might result in a financial gain to themselves)**
- **Ensure any documents addressed to the incorporated association are brought to the attention of the committee as soon as practicable after receipt**
- **Ensure documents provided to Fair Trading or submitted to members do not contain or omit anything that make it false or misleading.**

MEDIA RELEASE

Burke puts out Challenge to the Toowoomba Turf Club Committee

To the Committee of the Toowoomba Turf Club,

Robert Frappell, Graham Healy, Dr John Morgan, Norm Pankhurst, Alan Gee, John Scott, Peter Turnbull, Allan Volz, Jim Cosgrove.

You have spent enormous amounts of members funds in trying to remove me from the committee, where my only fault is asking you to abide by the rules that RQL issue the licence which the Toowoomba Turf Club operate within. All you do as a group of NINE grown men is continue to attack me as a single person.

An investigation of the Toowoomba Turf Club is under way, yet you still proceed to spend more money on removing me. In September is the Annual General Meeting where if you remove me now, I can re run and with the support of postal voters, will be re elected to the committee of the Toowoomba Turf Club again. Your attempt to remove me with proxy votes will have a short term affect by removing me for one month before being re elected at the AGM.

This is a further waste of member's funds which have not been spent in the best interests of encouraging racing in the Darling Downs.

My challenge I put to you, the NINE committee members who make my life hell, by your continued actions, is to stop spending member's funds and show that you are all men and place your values and ethics out there for the public and the members to see.

My challenge is this:

- Cancel the meeting and the vote by proxy on August 3, 2011.
- At the September AGM, I will step down and put my name up for re election for the members to vote by mail, although I have 1 year to run on my term.
- At the September AGM, I challenge you to all put your names up for re election so the members will have the opportunity to vote in TEN new committee members if they feel inclined to do so.
- Do you have the faith in your ability and the intestinal fortitude to do so? Or are you afraid how you will be judged.
- I do have the faith in my actions and I will put my name up at the AGM to be judged.

Allow the full membership of 389 members to judge us all on our actions.

Please contact the secretary on the below email so he can forward your opinions to the relevant committee members.

aaron@toowoombaturfclub.com

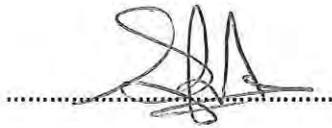
Anthony Burke

Toowoomba Turf Club Elected Member 2010-2012

July 29, 2011.

135
This is attachment marked "AB"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



Anthony John Burke



Barry Edward Atkins, Solicitor Witness

@LAW

AB135

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

27 July 2011

Our Ref: BA:11030

Racing Queensland
By delivery

Dear Mr. King,

Re: Anthony Burke and TOOWOOMBA TURF CLUB INC.["TTC"]
Re: Submissions and evidence to assist the investigation

I attach copies of letters between @ Law, Mr. A Burke's ['ab'] Solicitors and Hopgood Ganim, solicitors for TTC.

I set out below a summary of the various items of correspondence using abbreviations of "hg" for Hopgood Ganim and '@l' for @ Law. All dates are in 2011. All communications have been by facsimilie. "2" means sent to and 'fr' means from. For simplicity I have put my law firm first – either sending or receiving.

To assist your investigation I have tried to put the correspondence in the context of the Prevention of Workplace harassment Code of Practice 2004 which defines 'workplace harassment' as repeated behaviour that Anthony [and a reasonable person] considers 'offensive, humiliating, intimidating or threatening'. Anthony is covered under Section 11(2) of the Workplace Health and Safety Act.

It includes 'incorrect information'; 'hiding documents'; 'maliciously excluding and isolating a person from workplace activities'; 'persistent and unjustified criticism'; humiliating a person'; 'spreading gossip or false malicious rumours with an intent to cause the person harm'.

Many of the incidents also overlap breaches of the Rules of TTC and breaches of Racing Queensland's Policies , as well as breaches of the Associations Incorporations Act.

My comments are below the dated summary, without a date.

2/3 @l 2 hg – offer to have meeting ...to try and resolve the issue [of defamation] and 'resolve the other issues'

3/3 @l fr hg – Frappell ['bf'] 'unwilling to meet '

11/3 @l 2 hg - denial by ab that TTC 'ever decided to retain hg to act against ab; and a conflict of interest in acting for Frappell['f']

No evidence in any minutes of any decision for TTC to retain hg.

No evidence in any minutes that TTC authorised Clancy ['ac'] to instruct hg

28/3 @l 2 ac – asking if hg act for him re. failure of c to table tape recording of incident 10/2 at March TTC committee meeting and failure to give ab notice of March meeting

29/3 @l 2 hg – ab gave notice of motion to be moved at next committee meeting that TTC obtain independent legal advice about failure to give ab notice of meeting. Ab required that hg “bring to the attention of each individual Committee member a copy of this letter which raises a most important issue of proper governance of the TTC”

Letter not brought to attention of committee members - maliciously excluding and isolating a person from workplace activities

18/4 @l 2 hg – not consent to receive emails [relevant to 15 July – see below]

28/4 @l 3 hg – TTC issue false press statement; lied - ab not ‘re-instated’; ab’s membership ‘deemed invalid’ – not true - defamatory

‘spreading gossip or false malicious rumours with an intent to cause the person harm’/ incorrect information’

3/5 @l 2 hg – ask TTC how intend to rectify false and misleading statement in Weetwood day Race Programme which excluded ab’s name as committee member

maliciously excluding and isolating a person from workplace activities’

3/5 @l 2 hg – alleges bf had no authority from TTC Committee to write letter to ab 15/2 trying to get rid of ab fr committee and club

No authority in any minutes to f to write letter

6/5 @l 2 hg – ac refuses to give ab copies of minutes

hiding documents’

9/5 @l 2 hg – requiring copies of minutes for ab

Refused - hiding documents’

9/5 @l fr hg – admits minutes are sent by email to each committee member – but refuses to send copy to ab

maliciously excluding and isolating a person from workplace activities

16/5 @l fr hg - TTC rejects allegation that TTC breached Sponsorship agreement.

No decision ever made by TTC Committee to terminate ab’s company sponsorship

Sponsorship agreement never terminated in writing as agreement required

TTC deny ab access to sponsorship register

I doubt any other sponsorship was ‘not renewed’

humiliating a person – assertion that ab’s sponsorship is valueless

rings not given to winners in 2011

17/5 @ 1 2 hg – TTC publish false advertisement in newspaper asking for nominations for casual vacancy on committee

TTC refuse to publish equivalent sized advertisement apologising for false advertisement

Nominations never tabled at Committee meetings

Letters to nominators never tabled at subsequent Committee meetings

'spreading gossip or false malicious rumours with an intent to cause the person harm'/ incorrect information'

17/5 @ 1 2 hg – ask ac to give to TTC the tape recording of incident 10/2

Misleading of committee by ac. - hiding documents

17/5 @ 1 2 hg – chairman bf misled public – request correction – duty to tell truth

Not done

17/5 @ 1 2 hg – noting TTC refuse ab to inspect financial records and sponsorship register and minutes. Note TTC 'obstruct [ab] from fulfilling his role as a committee member. [ab] has duties to the TTC which TTC committee continuously prevent [ab] from carrying out by refusal to allow ab to inspect all records of TTC free from harassment and without conditions'

maliciously excluding and isolating a person from workplace activities

16/5 @ 1 fr hg – TTC "has no obligations to provide ab with copies of the other documents requested and will not be doing so"

maliciously excluding and isolating a person from workplace activities

18/5 @ 1 2 RQ – motion moved and seconded to put RQ's proposal to vote of members not voted on

23/5 @ 1 2 ac – require he table sponsorship register at May committee meeting

Not done - maliciously excluding and isolating a person from workplace activities

23/5 @ 1 2 ac – require ac table at committee meeting due 26/5 copies of all material 2 and fr. Hg "relating to legal costs, fees and expenses including cost agreement, estimate of costs, invoices and payments made"

Never done – no approval of expenditure by TTC in breach of its Rules - hiding documents'

17/5 @ 1 fr hg – states "any recording he [ac] possesses would be held on behalf of the Club"

Tape never tabled - hiding documents'

20/5 @ 1 2 ac – require he table tape recording at meeting 26/5; allege he misled committee by with holding tape

Tape never tabled

23/5 @ 1 2 hg – complaint by ab that TTC failed to present perpetual trophy - humiliating a person

23/5 @l 2 hg – ab offended by statement ab acting ‘ on behalf of another person’;personal attack on ab shameful and spiteful; consistent with vindictive attitude including misleading committee by with holding letter fr RQ to TTC 18/2;

persistent and unjustified criticism’; humiliating a person’;’spreading gossip or false malicious rumours with an intent to cause the person harm’.

23/5 @l 2 hg – minutes do not reveal that TTC ever made a decision to delegate authority to ac to make unilateral decisions – ac “continuously acted without the express authority of the TTC”; lies told about decision of TTC to fund bf’s defamation action against ab

True – ac never had authority; funding of bf’s defamation action not passed in accordance with Rules of TTC

24/5 @l 2 hg – require audio recordings of last 6 committee meetings be made available

Not done - hiding documents’

26/5 @l 2 ac – noting ab required ac table 4 items at committee meeting 26 May

Not done – hiding documents’

26/5 @l fr hg – denying ab have legal representative attend meeting

maliciously excluding and isolating a person from workplace activities

1/6 @l 2 hg – TTC refuse ab access to inspect membership register in breach of TTC Rules and by imposing conditions other committee members have to be present

intimidating or threatening

2/6 @l 2 hg – TTC breaching obligations to maintain records; no decision of TTC properly made to exclude barry atkins from being present with ab at meeting. Request dates on which executive committee has met. Note ‘club decided any contact between ab and ac should be avoided.

hiding documents’/ incorrect information’/ offensive, humiliating

1/6 @l 2 hg – complaining of imposition of requirement that member executive committee be present when ab inspects membership register
, intimidating or threatening/hiding documents

6/6 @l 2 hg – prohibition on ab having solicitor present when inspecting membership register
, ‘unreasonable’ and ‘isolates’ ab

Membership register produced to Supreme Court under subpoena false

8/6 @l 2 hg complains that either executive committee has not met or has breached Rule 30.10 which requires executive committee to report to the next meeting; required this letter be tabled

Not tabled; no reports to committee by executive committee.

maliciously excluding and isolating a person from workplace activities

7/6 @l fr hg - refuse to all B atkins to accompany ab. Refuse to advise ab of dates of executive committee meetings – alleging executive committee “operated in accordance with rules”
Not true – no reports to committee

maliciously excluding and isolating a person from workplace activities

14/6 @l 2 hg – offer to mediate

Rejected - maliciously excluding and isolating a person from workplace activities

20/6 @l 2 hg – offer to mediate

Rejected - maliciously excluding and isolating a person from workplace activities

24/6 – offer to arbitrate

14/6 @l 2 hg – offer to mediate; complaint about motion of ‘no confidence’ proposed to be moved at next TTC committee meeting – motion ultra vires Constitution

Rejected - maliciously excluding and isolating a person from workplace activities

Motion of no confidence [which has no effect - see below] offensive, humiliating; maliciously excluding and isolating a person from workplace activities; intimidating or threatening; persistent and unjustified criticism’; humiliating a person’; spreading gossip or false malicious rumours with an intent to cause the person harm’

23/6 @l fr hg – rejecting mediation

29/6 @l fr hg – motion of no confidence “would not deprive (or effect in any other way) [ab] of any right

Proves action of no confidence was intended to excluding and isolating a person from workplace activities; intimidating or threatening; persistent and unjustified criticism’; humiliating a person’; spreading gossip or false malicious rumours with an intent to cause the person harm’

1/7 @l 2 hg – require summary of costs to date on all matters

8/7 @l 2 hg – noted hg refuse to give ab summary of costs requested by ab under Section 317(1)(b) of Legal profession Act

hiding documents

8/7 @l 2 hg – ac defamed ab in Club newsletter

offensive, humiliating

11/7 @l fr hg – refuse to give costs summary; - refers to ab’s medical condition as rendering him ‘physically and/or emotionally incapable’

offensive, humiliating

14/7 @l 2 hg – offer to negotiate

Rejected

14/7 @l 2 hg – request for leave of absence by ab, enclosing medical certificate

14/7 @l 2 hg – advising ab relied on Workplace Health and safety; provided copy 2004 code; advising TTC prohibited from sending material to members

15/7 @l 2 hg – without prejudice offer to settle, sent by TTc to members and given to journalists by bf

persistent and unjustified criticism'; humiliating a person'; spreading gossip or false malicious rumours with an intent to cause the person harm'

14/7@l fr hg – material to be sent to members – refuse to provide copies attachments by fax despite advice not accept email [entitled under legislation]

Hiding documents

22/7 @l 2 hg – complaint of release of without prejudice letter of 15/7 to members is a breach of confidence

22/7 @l fr hg attaching email from bf- bf says he expects ab to lie and claim bf 'abused him'

persistent and unjustified criticism'; humiliating a person'; spreading gossip or false malicious rumours with an intent to cause the person harm'

22/7 @l 2 hg – complain meeting cut short to prevent ab attending [and meeting day changed to make it difficult for ab to attend]

maliciously excluding and isolating a person from workplace activities

25/7 @l 2 hg – complaint that bf released copy without prejudice letter dated 15/7

persistent and unjustified criticism'; humiliating a person'; spreading gossip or false malicious rumours with an intent to cause the person harm'

Yours faithfully

Barry Atkins
Solicitor & Attorney

encls.

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
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TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 2 March 2011
To: Hopgood Ganim Lawyers
Fax No: 3024 0002
Our Ref: BA:11030
Your Ref: Mr Brett Bolton
Re: Anthony Burke and B Frappell

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

“WITHOUT PREJUDICE”

We act for Mr A Burke who has sent us your letter to him dated 28/2/11.

Please note our involvement and write to us in the future.

Please advise if you are retained by Mr B Frappell or by the Toowoomba Turf Club.

Would your client be willing to have a ‘without prejudice’ meeting next Tuesday at the Toowoomba Turf Club offices to try and resolve the issue?

It is appropriate that we also try to resolve other issues which we have written to your client about last week in his position as Chairman of the Toowoomba Turf Club.

Please advise.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

3 March 2011

Mr Barry Atkins
Solicitor & Attorney
By facsimile: 4632 9529

Our Ref: 1102913 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Bob Frappell & Anthony Burke - Defamation

We refer to your facsimile transmission yesterday.

Our correspondence of 28 February 2011 to your client clearly stated that we acted for Mr Frappell. Our description of him as Chairman of the TTC was to identify the position he holds within the organisation, not the capacity in which we act for him.

Our client is unwilling to meet with your client as proposed. Our correspondence to your client clearly states our client's position. There is little to negotiate. Your client can either provide the requested retraction, apology, undertaking and publication details, or face the prospect of defending any defamation action commenced by our client.

The "other issues" to which you refer in your facsimile (we presume this is a reference to your correspondence of 17 February 2011 to the TTC) have nothing to do with the issues raised in our correspondence to your client of 28 February 2011, and our client is surprised that your client would attempt to link the two.

We await your client's response to our correspondence of 28 February 2011.

Yours faithfully

HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
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E b.bolton@hopgoodganim.com.au

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FACSIMILE TRANSMISSION

Date: 11 March 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0300
Our Ref: BA:11030
Your Ref: 1102913 – Brett Bolton
Re: Anthony Burke

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Our client has instructed us that he requires you cease acting for the Toowoomba Turf Club for a number of reasons including:-

1. that there is a conflict of interest in you accepting a retainer to act for the Toowoomba Turf Club in the circumstances outlined below.

Your firm had, prior to you purporting to accept a retainer to act for the Toowoomba Turf Club, accepted a retainer to act for Mr Bob Frappell, the Chairman of the Toowoomba Turf Club in relation to allegations of defamation made by my client against Mr Frappell.

You have, in my respectful but absolutely strong submission, a conflict of interest sufficiently serious to not only warrant your decision to cease acting because of the conflict, but sufficiently serious to prevent you from acting for the Toowoomba Turf Club when you are already acting for the Chairman of the Toowoomba Turf Club in a matter against my client on behalf of the Chairman of the Toowoomba Turf Club.

There are other serious matters that we would raise in the appropriate forum if you do not act in accordance with our client's requirement that, due to the serious conflict of interest, you immediately cease acting for the Toowoomba Turf Club.

On the basis that you have a serious conflict of interest with the Toowoomba Turf Club and that you are compelled to cease acting, I have been obliged, on specific instructions from my client, to write directly to the Toowoomba Turf Club. I have done that this afternoon.

The new issues that I have written to the Toowoomba Turf Club about include:-

1. That my corporate client paid the corporate membership fee of \$110.00 in or about July 2010 which payment was for the period 1 July 2010 through to 30 June 2011;
2. that our client has never made an application for individual membership;
3. that the putative change of nominee was never effectively processed by the Toowoomba Turf Club;

4. that our client requires to inspect the minutes of the committee meetings.

We, at this stage, subject to clarification on inspection of the minutes, do not accept that the Toowoomba Turf Club ever decided to retain Hopgood Ganim to act against our client.

While we do not accept there is any prohibition on us writing to the Toowoomba Turf Club:

1. in circumstances where there is no evidence that you have been properly retained by the Toowoomba Turf Club; and
2. where you have a serious conflict in accepting a retainer from the Chairman to act for him personally against my client; and
3. where the matters raised in my letter this afternoon to the Toowoomba Turf Club comprise new issues we are not prevented from writing directly to the Toowoomba Turf Club; and
4. that we are compelled to act on our client's instructions; but to ensure there is no suggestion that we have acted inappropriately, we enclose a copy of that letter to the Toowoomba Turf Club dated this afternoon.

The evidence of whether the Toowoomba Turf Club resolved to retain your law firm to act against our client will be identified in the copies of the minutes which we are inspecting on Tuesday at 12 noon.

Even if the Toowoomba Turf Club properly resolved to retain your law firm, our client maintains there is such a serious conflict of interest with potentially significant ramifications that he cannot and will not allow you to try and continue acting for the Toowoomba Turf Club.

Barry Atkins
Solicitor & Attorney

FACSIMILE TRANSMISSION

Date: 28 March 2011
To: Toowoomba Turf Club
Fax No: 4633 1256
Our Ref: BA:11030
Your Ref: Mr A Clancy
Re: Anthony Burke, Committee member - TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

You have written to our client stating:-

"As you are aware, HopgoodGanim Lawyers are representing Toowoomba Turf Club in respect of matters involving yourself and the Club. Accordingly, can you please ensure that all future correspondence from both yourself and your lawyer to either the Club or myself are sent to HopgoodGanim and not to the Club's offices."

We have written direct to you on matters that involve you personally.

We have encouraged you to take independent legal advice.

Are you saying that Hopgood Ganim represent you personally in relation to the two matters written to you about :-

1. Failure to make available a copy of the tape recording of 10/2/11;
2. Failure to give Notice of Committee Meeting in March to our client who is a current Committee member.

If so, once you or they confirm they are retained by you to act in relation to these two matters, we will write to your Solicitors.

Barry Atkins
Solicitor & Attorney



Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 29 March 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11030
Your Ref: 1102647 - Liz Cameron
Re: Re: Anthony Burke -TOOWOOMBA TURF CLUB
FAILURE BY CLANCY , TO GIVE NOTICE OF COMMITTEE MEETING

If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We have this afternoon, on instructions from our client, written directly to Mr. Clancy, secretary TTC complaining about his failure to give our client notice of the recent committee meeting.

Although this is a new matter, not directly involving your client, [who we presume will have instructed the racing secretary to issue Notices of all meetings in accordance with the Rules and proper meeting procedures] , as a professional courtesy to you, we enclose a copy of that letter..

Our client was elected a member of the committee of the TTC at the AGM last year.

Our client has not been removed from the committee in accordance with the rules [36].

Our client remains a committee member and is entitled to attend committee meetings.

Our client will attend the next committee meeting. He demands to be given Notice of that meeting. Please advise us urgently when that next meeting is to be held.

Our client is very concerned that at the most recent meeting of the TTC Committee a decision was made to reject an offer from Racing Queensland.

Because he was not given Notice as required then probably the meeting and the decision are both invalid. He gives notice to your client of his intention to move a motion at the next Committee meeting that the TTC obtain independent legal advice about the ramifications of the failure to give him Notice of that meeting , which effectively prevented him attending that meeting.

Our client requires that you bring to the attention of each individual Committee member a copy of this letter which raises a most important issue of proper governance of the TTC.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Tel: 07 4639 3038
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FACSIMILE TRANSMISSION

Date: 18 April 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke - - TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

We do not consent to email communications.

Please do not write to our Agents other than when serving documents on them as our Town Agents.

We understand our Agents advised you of this requirement before you sent the email of 15/8/11 to them with a copy to us.

We express our disappointment at the lack of professional courtesy from you and needless increased costs to our client.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
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FACSIMILE TRANSMISSION

Date: 28 April 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11030
Your Ref: MR. B Bolton
Re: Anthony Burke - TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Your clients have issued a false and misleading press statement.

They have intentionally distorted the truth.

They have lied.

They have defamed my client.

My client was not 're-instated'.

The TTC denied my client natural justice, as opined by Justice Daubney.

"THE Toowoomba Turf Club has returned to a full management committee following yesterday's decision by the Supreme Court of Queensland to reinstate Anthony Burke onto the TTC committee.

Anthony Burke sought a ruling from the court yesterday after his membership and committee position was reviewed and deemed invalid in January last year.

The judge ruled that Anthony Burke could continue his role on the TTC management committee.

The TTC did not oppose Mr Burke's application and no costs were awarded.

TTC Race Secretary Aaron Clancy said that the Club was not in a position to overrule the constitution and that the avenue Mr Burke took was the right option for a ruling to be made.

"The TTC is now back to a full management committee and they will continue to work tirelessly to bring the club back to profitability and are currently on track to do so in this financial year," Mr Clancy said."

My client demands and apology and retraction as well as details of all parties that received the press release.

This is a Concerns notice under the Defamation Act.

The defamation complained of is that your client alleges he was 're-instated'.

This is not true and damages my client's reputation.

The orders made were declarations that Mr Burke is a Member and a Committee Member. There was no Order that he be 're-instated'.

My client's positions were not 'deemed invalid'.

The Chairman of the TTC wrote a meaningless letter without any actual Authority. It was a nullity. The Rules of the TTC were not followed.

We are greatly disappointed that the TTC has chosen to risk being taken back to Court, after they have lied to the public.

Our client is not listed on the web site as he must be straight away.

Barry Atkins
Solicitor & Attorney

cc:
fax:

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 3 May 2011
To: Hopgood Ganim Lawyers Fax No: 3024 0002
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke and TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your facsimile today. We reserve both Mr. Atkins' and our client's rights in relation to the contents thereof.

We are instructed to ask your client how it intends to rectify the false and misleading statement made by TTC in the race day programme of 'Weetwood' 2011 when our clients name was not listed on the inside front cover as a committee member.

We have sent the Order for filing and will send you a copy.

We are quite surprised that you write of the 'spirit.... of that ruling'.

Your client is bound by the Declarations made. The Declarations were not 'is NOW' or 'is AGAIN' but that he IS a member of the TTC and IS a Committee Member.

Our client was not 'reinstated' as asserted by your client's press release.

No other interpretation is possible as our client was NOT reinstated.

Our client again asks that you confirm to us that your client will correct it's false and misleading statement that he was 'reinstated'.

Our client has reviewed the Minutes of the Committee meetings previously wrongfully withheld from him. They prove that the Chairman of the TTC had no authority to write the letter which purported to advise our client that he was not a member of the TTC or it's Committee. That letter was a nullity written without authority and in breach of the Rules of TTC.

Please give us your client's response to our question in paragraph 2 of this letter within 24 hours.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street

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Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 6 May 2011
To: Hopgood Ganim Lawyers
Fax No: 30240002
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Your client's racing secretary refuses to provide to our client copies of the Committee Minutes from December 2010 to date.

Mr Clancy has required our client to attend, at great personal inconvenience, at your client's office, to peruse the Minutes.

He has done so, but requested your client supply an electronic copy.

Your client refused to do so, stating that there was no electronic copy of the Minutes. We doubt that to be true, but accept that assertion as we do not wish to be accused of calling your client's secretary a liar.

What we do say, however, is that the relevant legislation and decision of the Committee entitles our client to receive a copy of the Minutes electronically.

Your client can scan the Minutes and send our client a copy to his email address:-

ajsrburke@optusnet.com.au

Your client refused to allow our client to take a photocopy of the Minutes.

This is totally unacceptable and in clear breach of all relevant legislation policies and your client's obligations.

Please ensure that a complete copy of all minutes is sent to our client by email by close of business Monday 9/5/11.

If this is not done we shall make a formal complaint to Racing Queensland about your client's blatant denial of our clients rights, duties, obligations and entitlements as a Committee Member.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 9 May 2011
To: Hopgood Ganim Lawyers
Fax No: 3024 0002
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your letter received today by facsimile which clarifies your client's procedures.

We withdraw our statement that we doubted the truth of your client's assertion as it is now clear that your client does not have an electronic copy of the signed Minutes of Committee meetings, but to be fair that doubt was specified to be about Minutes, not signed Minutes.

Your client clearly has electronic copies of the Minutes prepared and previously sent to Committee members, as stated in your letter today, "(sometimes by email)".

Please ensure your client:-

1. sends to client by email by 4 pm Tuesday 10 May 2011 copies of the Minutes previously prepared and sent to Committee members by email. Other Committee Members have received those copies electronically and our client demands that he be treated the same as his other Committee Members;

2. makes a copy of all Minutes signed by the current Chairman [or deputy chairman] since August 2010 and has them available for my client to collect by 12 noon tomorrow Tuesday 10 May 2011 from your client's office.

Once your client does this, thereby "adhering to its legal obligations", then there will be no need for our client to make a formal complaint to Racing Queensland that your client is preventing him having copies of all Minutes he is entitled to as a Committee Member.

You will have observed that Rule 37 relates to a "financial member". Your client must be aware that a Committee Member is entitled to have copies of all Minutes to enable that person to fulfil their duties and obligations

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

9 May 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke

Thank you for your facsimile transmission of 6 May 2011.

We note that your client has requested that our client provide him with an electronic copy of the signed Management Committee minutes from December 2010 to date (Minutes). We also note that your client has already inspected the Minutes. Presumably, he is abreast of their contents.

Our client as always remains committed to adhering to its legal obligations and will make electronic copies of the Minutes available to your client if it has a statutory obligation to do so. However, we believe that no such obligation exists.

Rule 37 of Toowoomba Turf Club Inc's (TTC) Rules provides for "*all questions, matters, resolutions and other proceedings of every Management Committee and general meeting to be entered in a book to be open for inspection at all reasonable times by any financial member who previously applies to the secretary for that inspection*". TTC is obliged to allow your client to inspect the Minutes. It has complied with that obligation. Rule 37 does not entitle your client to do anything more than inspect the minutes (as he has done).

We are instructed that no electronic copy of the signed Minutes exists. Your client is (or should be) aware of the procedures regarding minutes. We will outline those procedures for your benefit. They are:

1. After each committee meeting, Minutes of that meeting are prepared and sent (sometimes by email) to each committee member for proof reading before the next meeting.
2. At that next meeting, if there are any changes to the Minutes, those changes are noted and signed off by the Chairman. The Minutes are not official until they are signed by the Chairman.
3. The signed Minutes are kept in a folder in the office of TTC's race secretary and are available for inspection by members if they request. No one has an emailed version of the signed Minutes.

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Mr Barry Atkins
Solicitor & Attorney
@Law

9 May 2011



In addition, we are not aware of any statutory obligation under the Associations Incorporation Act 1981 (Qld) (Act) which requires our client to maintain signed electronic copies of the Minutes or to provide any member with electronic copies of signed Management Committee minutes. Section 57B of the Act only applies to general meetings and is of no relevance to the present scenario. As a result, we do not understand the legal basis for your allegation that our client has breached "relevant legislation policies (sic) and (its) obligations." Unless you can identify the precise legislative provisions relied upon for the allegation, our client will not be making electronic copies of the Minutes for the sole purpose of emailing them to your client as you have demanded.

If, despite the foregoing, you proceed with your foreshadowed "formal complaint" to Racing Queensland Limited, we require you to also include this correspondence with that complaint.

Finally, as you now know to be true Mr Clancy's statement to your client that no electronic copy of the Minutes exists, we invite you to do the honourable thing and withdraw your implicit allegation that Mr Clancy is a "liar".

Yours faithfully

A handwritten signature in black ink, appearing to read 'Brett Bolton', written over the typed name.

HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au



HopgoodGanim
LAWYERS

16 May 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc - Jewels of the Range Pty Ltd

We refer to your facsimile transmission of 13 May 2011.

Our client rejects:

1. the allegation that it breached the former Sponsorship Agreement; and
2. the offer of settlement,

contained in your facsimile.

As stated in previous correspondence, we have instructions to accept service of any proceedings instituted by your client.

Yours faithfully



HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
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4744692_1.DOC

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Tel: 07 4639 3038
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FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: V. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

You may not be aware that your clients published a false advertisement in The Toowoomba Chronicle.

The advertisement in the Public Notices section on 21 April 2011 called for nominations to fill a casual committee member position

As you know there is no casual vacancy on the committee because the Court declared our client is a committee member.

Please confirm within 48 hours that your clients will publish an equivalent sized public notice in the Public Notices section of The Toowoomba Chronicle, apologising for the false advertisement and confirming that Mr Burke was on 21 April 2011 declared by the Supreme Court to be a committee member.

Yours faithfully

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: V. Bolton
Re: Anthony Burke and Mr A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Please advise within 48 hours whether your client Mr Clancy agrees to provide to The Toowoomba Turf Club committee meeting on 30 May 2011:

1. the original tape recording made on 10 February 2011 in the Toowoomba Turf Club car park; and
2. a typed transcript of that tape.

Our client is willing to pay a secretarial service of his choosing the cost of transcribing the tape.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 30240002
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client's inspection of the Minutes reveals that the Chairman has misled the public.

He was quoted in the Chronicle stating that the vote to reject the offer from RQ was "unanimous."

That is not true as the Minutes reveal the vote was 8:1 in favour.

Although Mr. Frappell is overseas we consider it imperative that the truth be told to the public and that the falsehood be corrected forthwith.

Your client does not need the Chairman to be present to arrange the correction to be published in the Chronicle.

Our client considers it his duty to ensure, in the interests of the Club, the Committee, the Club Members and the industry, that the truth is told on all issues impacting on the Club, the Club Members, the Committee and the industry.

Your client, equally, has a duty to ensure that the truth is told on all issues impacting on the Club, the Club Members, the Committee and the industry.

Please confirm by 5 pm tomorrow that the Club will cause to be published in the Chronicle, by 25 May 2011, a retraction and a correction of the falsehood.

Barry Atkins
Solicitor & Attorney

@LAW

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Barry Atkins B.A., LLB.(Hons)

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Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0041
Our Ref: BA:11030
Your Ref: B Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your fax refusing our client's request to inspect financial records and Club records [Sponsorship Register].

Our client and Mr Atkins will attend at your client's office at 9 am tomorrow morning to inspect the Minutes.

Your client continues to refuse to supply our client with copies of the minutes and the 'draft minutes'.

We note your client continues to obstruct our client from fulfilling his role as a Committee member. Our client has duties to the TTC which your client is continuously preventing him from carrying out by their refusal to allow our client to inspect all records of the TTC free from harassment and without conditions.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

16 May 2011

Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke

We refer to your facsimile transmission of Friday afternoon.

We note that your client has now inspected all the official Minutes of Committee Meetings he wished to inspect. We also note that our client permitted you to accompany your client during that inspection, despite being under no obligation to do so.

Our client has discharged its obligations under its Rules and the *Associations Incorporation Act 1981* (the Act) insofar as inspection of Minutes is concerned. Our client has no obligation to provide your client with copies of the other documents requested in your facsimile, and will not be doing so.

Further, we note that you have not, despite two previous invitations, specified the provision/s in the Act or our client's Rules which provides your client with the alleged "entitlement" to receive the requested copies. With all due respect to the advice you told us during our telephone conversation on Friday morning you had received from the Queensland Law Society, we do not believe that the "rule of law" provides any basis for the obligations you assert our client has, or the entitlements you assert your client enjoys.

Our client's position has been made abundantly clear in previous correspondence. No further correspondence with you in relation to these matters will be entered into.

Yours faithfully

HopgoodGanim Lawyers

Contact: Brett Bolton
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F 07 3024 0002
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FACSIMILE TRANSMISSION

Date: 18 May 2011
To: Racing Queensland
Fax No: 3269 9043
Our Ref: BA:11030
Your Ref: Ms S Murray
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Shara,

We enclose a letter sent to TTC's lawyers correcting an error in our letter to Hopgood Ganim earlier today.

We can verify to you . following the further inspection of the Minutes that:-

1. The letter from Mr J Orchard to TTC of about 18/2/11 has not been tabled to the Committee;
2. The vote to reject the RQ proposal was 8:1 not 'unanimous' as stated by the Chairman;
3. The motion moved and seconded to put the RQ proposal to the Club Members was not voted on.

There are other matters of consistent failure by TTC to comply with its obligations under the Associations Incorporation Act of grave concern to our client that we will provide you with material about next week

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: Sponsorship Register

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

Mr. Burke requires you table the current Sponsorship Register at the Committee Meeting due 26 May 2011.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 23 May 2011
Date: 23 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: legal costs of TTC fighting Mr. A Burke
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

Our client requires that you table at the Committee Meeting due 26/5/11 copies of all material relating to the legal costs of the TTC fighting Mr. Burke over various legal matters.

In relation to each and every of those legal matters our client, in his capacity as Committee member TTC, in accordance with his duties as a Committee member TTC, requires you table copies of all material from and to Hopgood Ganim relating to legal costs, fees and expenses, including . but not limited to:-

1. Original signed Cost Agreement between TTC and Hopgood Ganim;
2. Written Estimate of costs given to TTC by Hopgood Ganim;
3. Copies of all invoices received by TTC from Hopgood Ganim;
4. Details of all payments made by TTC to Hopgood Ganim.

Barry Atkins
Solicitor & Attorney



HopgoodGanim

LAWYERS

17 May 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102913 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Anthony Burke & Aaron Clancy

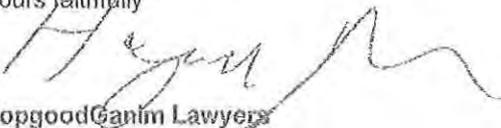
We refer to your facsimile transmitted at 12.49pm in which you assert, erroneously, that we act for Mr Clancy in relation to any tape recording made on 10 February 2011.

As advised in our correspondence of 29 March 2011, we do not act for the Club in relation to your client's request for a copy or transcript of any such recording.

Given that, we would have thought it obvious that we do not act for Mr Clancy either, given that any recording he possesses would be held on behalf of the Club.

We would expect that, if a majority of the Committee validly directed Mr Clancy to provide any tape recording and/or transcript to all Committee Members, he would do so.

Yours faithfully



HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
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FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Mr. A Clancy c/- Toowoomba Turf Club **PRIVATE**
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: tape recording of events in the offices and car park of the TTC

To be read only by Mr. A Clancy personally.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A Burke.

You currently have in your possession a tape recording of events in the offices and car park of the Toowoomba Turf Club ["TTC"] in February 2011.

You hold that item on behalf of the TTC.

Our client requires you to table the tape at the committee meeting on 26 May.

You, the employed racing secretary of TTC, have misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to Racing Queensland about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to the Office of Fair Trading about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

As our client has 'required' you, in your capacity as employed racing secretary of TTC to do something -- table the tape at the next Committee Meeting on 26 May 2011 -- we need to inform you that you have a right to seek independent legal advice.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: the Burke family and Toowoomba Turf Club Inc.

If you do not receive all 1 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We act for the Burke family who donated a perpetual trophy to TTC for the Toowoomba Cup. TTC accepted this offer of a perpetual trophy in 2009.

TTC did not give the trophy to the winning connections of this years Toowoomba Club.

No motion has been passed by TTC to cease awarding this perpetual trophy, as far as Mr. Burke can ascertain from reading the Minutes which your client immorally refuses to give Mr Burke a copy of.

Only Mr. Clancy and/or Mr. Frappell could have made the decision to not give the trophy this year. Please advise whether it was one or both and if one, which one.

Such action was done without authority of the TTC.

This latest attack on my client, Mr. Burke, and now directly on his family demonstrates the mala fides of Mr. Clancy and Mr. Frappell towards Mr. Burke.

Our client [the Burke Family] instructs us to ask you to advise what action your client will take to rectify this insulting, malicious, vindictive attack on my client and his family in circumstances where the attack was done by the current Chairman and/or the current employed racing secretary without any authority of the TTC.

Our client [the Burke family] have instructed us to send a copy of this letter to Racing Queensland with a request that Racing Queensland investigate the circumstances which gave rise to TTC failing to award a perpetual trophy.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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123 Margaret Street
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FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We refer to your letter to us dated 18 May 2011.

Our client instructs us to advise you that:-

1. He takes great offence at the statement at the top of page 4 that he is somehow doing what he has done is 'on behalf of another person';
2. He requires an apology and retraction from your client.

Frankly we are surprised given the professional standing of your Firm that you would act on your client's instructions to make that statement as the personal snide allegation is unprofessional.

That statement about my client acting 'on behalf of another person' made by you proves the falsity of your assertion at the start of that paragraph [last on page 3] that your client 'has attempted to conduct itself in an amicable way with your client.'

The personal attack on my client's integrity is shameful and spiteful.

It is consistent with your clients vindictive attitude approach and actions to our client including:-

1. The current Chairman writing a letter trying to get rid of Mr. Burke [14/2/11] without authority from the Committee or at all;
2. The racing secretary and the current chairman intentionally misleading the Committee by withholding the letter from Racing Queensland dated 18 February to TTC from the Committee

In relation to this we note the statement at the bottom of page 2 and the top of page 3 of your letter dated 18 May 2011, tries to defend the indefensible, with words to the effect, that as the Committee was aware of the dispute about my clients membership status the letter did not have to be tabled.

It is not for the currently employed racing secretary and the current chairman to veto the rights of Committee Members to receive copies of all correspondence. Clearly those two people have intentionally withheld that letter and that is just not allowed.

3. Your clients false and misleading press statement that Mr. Burke was 'reinstated' as a Committee member when your client knew, or ought to have known that such a statement was false;
4. Your client's refusal to correct the false and misleading press release;
5. Your clients refusal to remedy the false and misleading Public Notice advertising for nominations for a casual vacancy position on the Committee;
6. Your clients failure to award the perpetual trophy to the winners of the Toowoomba Club in 2011 without any decision by the Committee;

None of these actions could fairly be called 'amicable'.

Nor has your client 'attempted to conduct itself in [a]..... business like way with your client?' because:-

7. Your client tried to end the Jewels of the Range [Mr. Burke's Company] sponsorship Agreement with TTC without authority from the Committee at all;
8. Your clients directive to Channel 7 to not collect the two \$100 gift vouchers donated by Jewels of the Range for Fashions on the Field 2011.
9. Your clients refusal to re-erect the Jewels of the Range signs at the winning post in 2011 despite admitting that those signs were a condition of the Sponsorship Agreement of 2009 – 2010 and not erected last year;
10. Your client's continued refusal to give Mr. Burke , a Committee member. copies of the Minutes ;
11. Your client's continued refusal to give Mr. Burke , a Committee member copies of the 'draft' electronic Minutes that every other Committee Member was given.

Our client does not have faith that the current chairman will be impartial in his conduct of the Committee Meeting due 26 May 2011.

For that reason:-

- a. I will be present as is my client's rights under the Rule of Law to have access to legal advice and representation;
- b. We have asked Ms. Shara Murray general Counsel of Racing Queensland a to chair the meeting;
- c. We have asked Mr. Orchard from Racing Queensland to attend the meeting.

A copy of this letter will be sent to Racing Queensland in support of our request that their representatives attend the meeting due 26 May 2011.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
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Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke complaint to Toowoomba Turf Club Inc. about Mr. A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client has instructed us to make a formal complaint to both your client, TTC, and Racing Queensland about the conduct and actions of Mr. A Clancy, your client's employed racing secretary.

You advised us in writing, at the outset of the communications between our Firms, in response to our question to you, that you received instructions from Mr. A Clancy.

Our client has reviewed the Minutes of the Committee Meetings since October 2010 to and including April 2011.

Nowhere in those Minutes does it record a decision of the Committee to authorise Mr. Clancy to instruct you regarding matters in dispute between our client and TTC.

Nowhere in those Minutes does it record a decision of the Committee to delegate authority to Mr. Clancy to make unilateral decisions about the conduct of the disputes [several in number] between our client and your client.

It is now clear that Mr. Clancy has continuously acted without express authority of the TTC.

His authority as an employee does not and could not extend to making decisions, to instruct your law firm, about matters in dispute between the parties.

We particularly refer to your recent advice to us that your client [TTC] rejected our open offer of settlement regarding the dispute over the Sponsorship Agreement between your client and our client, Jewels of the Range.

The rejection of that offer, on instructions from Mr. A Clancy exposes TTC to a costs order against them on an indemnity basis if our client is successful.

Our client believes that Mr. A. Clancy did not seek a decision from the Committee before rejecting that offer, but acted unilaterally without actual authority from TTC.

Barry Atkins
Solicitor & Attorney

Our client also complains about Mr. Clancy not telling the truth in the Minutes.

The Minutes of the meeting on 17 March state, regarding a motion to pay the legal expenses of the current chairman in his defamation action against our client:-

“The below motion was carried at a previous meeting as all Committee members could not attend this motion was raised again.”

The original motion passed by the Committee at the February meeting was moved, seconded at a meeting when there was a quorum present. The Minutes of February do not reveal if a vote was taken, but the Minutes of 17 March state that the motion was carried at the meeting in February.

It is not true to state that the reason the issue was considered again at the next Committee meeting was because “all Committee members could not attend”. The previous meeting had a quorum. The motion was not ‘carried over’ to the next meeting.

The meeting of 17 March did not act in accordance with the Rules and Standing Orders applicable to reconsidering a motion previously dealt with at a Committee Meeting

While on the issue of actual authority we note that the current chairman did not have any actual authority to write the letter to Mr. Burke on 14 February 2011. Our client makes this formal complain to your client and Racing Queensland about the current chairman acting without authority to take action which ended up costing the Club, no doubt, tens of thousands of dollars.

All of the substantial costs paid by TTC to you to defend that letter was a direct result of the current chairman acting without authority. We also note that it was not until the door of Court that you informed us that your client was not opposing the Application.

Thousands of dollars would have been saved had you informed us of your clients position much earlier.

Knowing he did not have authority to write that letter, our client suggests, that that was motivation to withhold the letter from Racing Queensland to TTC on 18 February because the letter from Racing Queensland warned the TTC about wasting money on litigating the issue about Club and Committee Membership with Mr. A Burke.

We also note that there was no good reason for your client to fail to simply ask our client to sign an Application Form for individual personal membership, because when the letter of 14 February from Mr. Frappell to our client is correctly analysed that was the sole ground for the ‘decision’ reached to give Mr. Burke what His Honour, Mr. Justice Daubney, called “the choppy chop”

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 24 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke Committee Member of Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client requires your client make available to him copies of the audio recordings of the last 6 Committee meetings.

This will enable him to put the written Minutes in perspective, as he has noted from his examination of them that there is a lot less detail than was in the previous Minutes in previous years.

Our client is willing to pay the reasonable copying charges, which we opine would not be very much as we are not asking for them to be transcribed.

It is important that these copies be made straight away.

Please advise if there is any problem making them for Mr. Burke to collect at 9 a.m. on Thursday 26 May 2011.

Barry Atkins
Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 26 May 2011
To: Toowoomba Turf Club
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A Clancy
Re: Committee meeting 26/5/11
If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for Mr. A Burke, a committee member.

Our client complains that you have failed to issue the agenda for tonights meeting in accordance with the Rules of TTC.

We note we have previously written to you advising our client requires you to table at the meeting today:-

1. The tape recording you hold on behalf of the TTC of the incident at TTC on 10/2/11;
2. All material received from and sent to Hopgood Ganim regarding costs on :-
 - a. Mr. Frappell's defamation action against Mr. Burke;
 - b. the dispute about Sponsorship with Jewels of the Range;
 - c. the dispute over club and committee membership including the Court Hearing;
 - d. disputes since the Court Hearing.
3. tape recordings of the last 6 committee meetings;
4. The Sponsorship Register.

Our client also requires you to table the Membership Register.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

26 May 2011

Urgent

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc – Committee Meeting

We refer to your facsimile of 23 May 2011 transmitted at 1.31pm that day.

In that facsimile, you informed us of your intention to be present at tonight's Committee Meeting.

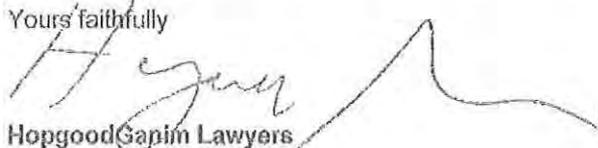
Of course, you have no right to be present at any Committee Meeting.

We are instructed to inform you that the Management Committee has considered whether or not to permit you to attend tonight's meeting and has voted **not** to give you that permission.

Accordingly, you should not present yourself at the Club's premises tonight as you will not be permitted entry to the meeting.

We shall expect you to observe and respect the Committee's decision in this regard.

Yours faithfully



HopgoodGanim Lawyers

Contact: Brett Bolton
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4776911_1.DOC

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P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 1 June 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We enclose copies:-

1. Email from Mr. A. Burke to TTC requesting to inspect the "Membership register" [and other things] ;
2. Email from TTC to Mr. A Burke advising "Due to recent events the Executive Committee would like to be available while you view the Membership Register." [and other comments].

Therefore your client has denied one of its members who is also a Committee Member the right to inspect the Membership register unless the Executive Committee is present.

This is completely unacceptable for the following reasons:-

1. Rule 15.3 of TTC Rules states – "The Register shall be open for inspection at all reasonable times by any Member who previously applies to the Secretary for such inspection."

Our client has complied with the Rule. He requires TTC comply with the Rule. It is a 'reasonable time' between 30 May being when our client first applied to inspect and 3 June 2011 which is when we will attend TTC to inspect the Membership Register at about 9 am.

2. There is no "Executive Committee" of TTC.
3. The imposition of this requirement of TTC constitutes intimidation and harassment.

Our client is entitled to exercise his rights as a Member of TTC free of the continued intimidation and harassment that TTC has subjected him to.

We reserve our client's rights to take any further action appropriate and to seek costs against your client on an indemnity basis calculated at \$450.00 per hour plus GST for the Principal of this Law Firm if the dispute about this matter goes to Court.

Barry Atkins

Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 2 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Re: Anthony Burke and Toowoomba Turf Club Inc.

Your Ref: 1102847 Mr B. Bolton
Our Ref: BA:11030

If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

We have received instructions to respond to your fax, using the same numbering system you have used, as follows:-

1. Noted.
2. Noted. We are of the opinion that by adopting the terms of that motion TTC is acting in breach of its obligation to maintain records of TTC.
3. Noted.
4. Noted but we do not admit that the procedures are "well known to our client".
5. Noted.
6. Noted.
7. Rule 15 is clear.

Our client has complied with Rule 15 and given reasonable notice of his intention to inspect the membership register, as is his right under Rule 15.3.

There is nothing in Rule 15.3 that entitles the executive committee to be involved, and it is entirely unnecessary. It is an unreasonable imposition on Mr Burke.

Please advise how and when "the club has decided that any contact between your client and Mr Clancy should be avoided where possible".

There does not need to be any contact between Mr Burke and Mr Clancy tomorrow morning at about 9.00 am when our client will be attending TTC to inspect the membership register in accordance with his rights under the Rules, particularly Rule 15.3.

It is a simple matter for TTC to have the membership register on the counter available for Mr Burke to inspect as is his right.

We note the unfounded allegations in the last paragraph of your letter dated 2 June.

Our client is neither harassing nor intimidating 'the club in general'. Our client is simply exercising his rights, in relation to the membership register, as a member, as provided under the Rules.

Your assertions are without foundation and do not reflect the truth.

8. Please advise when and how "the majority of the committee [saw] no reason for [me] to be present with [my] client". I do not accept (without proof from you) that any decision has been properly made by TTC.

You seem, with respect, to have misconstrued communications between our two law firms, or indeed between this law firm and your client directly when appropriate, as expressing my "views concerning Mr Clancy and Mr Frappell".

I have acted appropriately at all times in all forms of communications with your firm and with TTC and with its currently employed racing secretary and any of the committee members with whom I have had contact in person or verbally.

You, with respect, seem to have misjudged my actions when acting as my client's solicitor, as I have not expressed my personal opinion in those communications.

I will not take this matter further at this stage but reserve my rights to do so should you repeat an allegation that I am expressing my personal views about your client and its employees and its committee members, in communications on behalf of my client.

Please advise me when and how a decision was made by TTC that "the club believes that the best interests of its officers and employees dictates that [I] not be permitted to accompany [my] client to any inspection of club records.

We do not accept (without proof from you) that any proper decision was made by TTC in relation to this.

Mr Atkins will accompany Mr Burke when Mr Burke attends at the TTC tomorrow morning at about 9.00 am to inspect the membership register as is Mr Burke's right.

Mr Atkins hereby gives his personal and professional undertaking, without admitting there is any right in TTC to prevent him inspecting the membership register with his client, that he will not look at the membership register while Mr Burke inspects it.

This undertaking is limited to the inspection tomorrow morning and is not to be construed as an undertaking in relation to any other inspection of any other records and with the express statement that neither Mr Atkins nor Mr Burke believes that TTC has the power to prevent Mr Atkins providing legal advice to Mr Burke; and further that TTC has not properly made a decision to deny Mr Burke's right to legal representation when inspecting records. It is done simply and solely to facilitate the orderly inspection of the membership register tomorrow at about 9.00 am as is Mr Burke's right in accordance with the Rules.

9. Noted. Please advise by 5.00 pm tomorrow, Friday 3 June 2011, the dates on which the executive committee has met.
10. Finally, we reject your unfounded assertion that my letters of 1 June are "hectoring". Hectoring is defined as 'blustering', 'bullying'.

As you should well know, I am duty bound to act on instructions from my client in accordance with my duties to him as his Solicitor. This I have done without transgressing any requirements on me in my professional capacity. Please withdraw your statement that the two letters on 1 June 2011 are bullying your client. If you fail to do so by 5.00 pm on Friday 3 June 2011 I reserve my rights to take further action.

We ask that you refrain from insulting our client by falsely alleging that he is engaged in a "campaign of harassment and intimidation of the club in general".

Nothing could be further from the truth.

All my client has done is to exercise his rights as a member.

We look forward to your response within the timeframe stated.

We continue to reserve our client's rights to take such action as is appropriate without further notice to you. If that action involves an Application to the Court, in which our client is successful, we shall also seek an Order of the Court that TTC pay our client's costs on an indemnity basis.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 1 June 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We enclose copies:-

1. Email from Mr. A. Burke to TTC requesting to inspect the "Membership register" [and other things] ;
2. Email from TTC to Mr. A Burke advising "Due to recent events the Executive Committee would like to be available while you view the Membership Register." [and other comments].

Therefore your client has denied one of its members who is also a Committee Member the right to inspect the Membership register unless the Executive Committee is present.

This is completely unacceptable for the following reasons:-

1. Rule 15.3 of TTC Rules states – "The Register shall be open for inspection at all reasonable times by any Member who previously applies to the Secretary for such inspection."

Our client has complied with the Rule. He requires TTC comply with the Rule. It is a 'reasonable time' between 30 May being when our client first applied to inspect and 3 June 2011 which is when we will attend TTC to inspect the Membership Register at about 9 am.

2. There is no "Executive Committee" of TTC.
3. The imposition of this requirement of TTC constitutes intimidation and harassment.

Our client is entitled to exercise his rights as a Member of TTC free of the continued intimidation and harassment that TTC has subjected him to.

We reserve our client's rights to take any further action appropriate and to seek costs against your client on an indemnity basis calculated at \$450.00 per hour plus GST for the Principal of this Law Firm if the dispute about this matter goes to Court.

Barry Atkins

Solicitor & Attorney

Date: 6 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke sale to Toowoomba Turf Club Inc.
Property: TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

1. My client is not waging a 'campaign' against TTC. He has only acted appropriately in accordance with his duties obligations and rights under the Rules of TTC;
2. The Supreme Court declared Mr. Burke to be a member of TTC;
3. Under Rule 15 TTC is obliged to keep a membership Register;
4. Mr. Burke, as a member, is entitled to inspect the Register;
5. Mr. Burke is certainly entitled to inspect the Register to find out if TTC has complied with the Supreme Court Order;
6. Mr. Burke is not obliged to consent to the imposition of an unreasonable requirement that he is only allowed to inspect the membership register in the presence of a member of the executive committee;
7. Without derogating from the true legal position, Mr. Burke instructs that he has, 'in the interests of moving on' advised the executive committee that he wishes to inspect the membership register this Wednesday between 9 am and 12.30 pm with a member of the executive committee present;
8. If the executive committee do not arrange for 1 of their number to be present during this period [or do not specify a time suitable to one of their number within that time period], then Mr. Burke reserves his rights to go back to the Supreme Court for consequential Orders arising from the previous Order;
9. Mr. Atkins is Mr. Burke's legal representative. He also was Mr. Burke's legal representative when the Supreme Court made the Order. Mr. Burke is entitled to have his legal representative present to verify that TTC has complied with the Order. Mr. Burke is not legally qualified. It is

unreasonable of TTC to prevent Mr. Burke having his legal representative present at the inspection of the membership register:

10. The prohibition by your client of our client having his Solicitor present when the inspection is a direct result of the Supreme Court Order is unreasonable. It continues your clients concerted actions to isolate Mr. Burke and to deny him access to those resources, both that he is entitled to avail himself of in a fair and just society, and also to enable him to carry out his elected role as a committee member;

11. The presence of Mr. Atkins at the inspection of the membership register by Mr. Burke, in these circumstances, is entirely appropriate.

12. We advise that Mr. Burke instructed Mr. Atkins last Thursday night [without either Mr. Burke or Mr. Atkins having read your letter received by facsimile at 5.55 pm] that Mr. Burke would not require his attendance last Friday;

We expect TTC executive committee will comply with the time frame proposed by Mr. Burke.

Given his agreement to approach the executive committee, when he is not obliged to, we expect TTC will respect this concession and facilitate the inspection as set out above without any further ado as failure to do so will entitle Mr. Burke to go back to Court in relation to the Declarations made as part of the Order of the Supreme Court.

You have not yet advised us the dates on which the executive committee has met in the current term.

Our client wants a copy of the video/ failed audio recording of the meeting 26/5/11 to try and have a technical expert find out why the audio did not work. This failure by TTC to properly ensure the meeting was recorded, in circumstances where Mr. Burke was prevented from recording the meeting himself smacks of ineptitude. Mr. Burke will collect a copy on Wednesday 8 June 2011. Please make sure it is available.

Barry Atkins
Solicitor & Attorney

cc:
fax:

FACSIMILE TRANSMISSION

Date: 8 June 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sirs,

Thank you for your letter received by facsimile yesterday at 5.24 p.m.

We note your assertion that the "Executive [sic] Committee [was established] and that it has operated in accordance with the Rules." [emphasis added].

With respect, this cannot possible be true, unless either:-

1. There have been no meetings of the executive Committee; or
2. The executive Committee has not issued any instructions to the Secretary and servants of the Club.

Rule 30.10 provides for the establishment of the executive Committee.

Rule 30.10 allows the executive Committee to:-

- a. "issue instruction to the Secretary and servants of the Club";
- b. "in matters of urgency connected with the management of the affairs of the Club";
- c. "during the Intervals between Meetings of the Committee."

Obviously there have been no meetings of the executive Committee by which the executive Committee issued any instructions to the Secretary because

Rule 30.10 requires ["shall"] the executive Committee to "report...to the next Meeting of the Committee.

Our client has read all the minutes since November 2010 and nowhere is there a report from the executive Committee to the Committee.

Therefore either :-

1. The instructions you have received are not truthful; or
2. The executive Committee has failed to comply with Rule 30.10.

Our client specifically instructs us to advise you, and our client requires this letter be tabled at the next Committee Meeting, that he is tired of paying @ Law to identify how TTC is failing to

comply with the Rules of TTC and for @ Law to inform you how TTC is failing to comply with its Rules.

Surely it is a matter for TTC to ensure it complies with its Rules. It is a straight forward matter of good governance. Despite numerous protestations by you, [on instructions] that TTC is complying with the Rules, it is evident that TTC has failed to comply with the Rules many many times.

This current problem created by TTC's failure to comply with Rule 30.10 is just the latest in a long list of failures including the failure of the Chairman in his letter to our client of 15 February 2011 to comply with the Rules.

If the Chairman complied with the Rules then our client would not have been successful in obtaining the Supreme Court Order.

The Chairman is personally responsible for the huge cost to members of TTC of the litigation this year, as he wrote the letter of 15 February 2011 to our client [which was done without the authority of the Committee].

Because TTC have failed to comply with their obligations under the Rules, it is incumbent on our client, in his position as a Committee Member, to try and assist TTC to understand the Rules and to act in accordance with them.

As a member of the Committee, in accordance with his duties and obligations imposed by law, our client demands answers to these questions:-

1. Have there have been meetings of the executive Committee?
2. And if so, on what dates?
3. And if so, where are the minutes of those executive Committee meetings?
4. And if so, why has the executive Committee failed to report to the Committee?
5. Has the executive Committee issued any instructions to the Secretary and servants of the Club?
6. And if so, on what dates?
7. And if so, where are the records of those executive Committee instructions?
8. And if so, why has the executive Committee failed to report to the Committee?

TTC has an obligation to provide the answers to these questions straight away. It is not a matter that our client should raise at the next meeting of the Management Committee. He is entitled to know the answers to these questions. If there have been no meetings and no instructions issued then there is nothing to raise at the next Meeting.

TTC is obliged to provide Mr. Burke, as a Committee Member, with the answers to these legitimate questions. The executive Committee is not a 'secret society'.

If TTC fails to do so the only alternative conclusions open are:-

1. there have been no meetings of the executive Committee; or
2. that there have been no instructions to the Secretary issued; or

3. the executive Committee is misleading the Committee by omission by failing to report to the Committee.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

7 June 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Mr Atkins

Toowoomba Turf Club Inc & Anthony Burke

Thank you for your facsimile transmitted at 5.17pm yesterday (the subject of which was curiously described as "Anthony Burke sale to Toowoomba Turf Club Inc").

Mr Burke can inspect the Membership Register tomorrow at 9:30 am. Unfortunately, none of the members of the Executive Committee are available tomorrow. Mr Alan Gee of our client is available until 10 am and will facilitate the inspection.

However, the Club will not permit Mr Atkins to accompany Mr Burke during the inspection. The Club's position in relation to this issue has been made abundantly clear in previous correspondence and remains unchanged, despite the self-serving reasons put forward in point 10 of your facsimile (all of which are, of course, rejected).

Your client is perfectly capable of inspecting the register and reporting the results of that inspection to you in sufficient detail to enable you to advise him whether our client has, as you put it, "complied" with the Order of 20 April 2011.

Our client is under no obligation to inform you of the dates of meetings of the Executive Committee. Your client should be satisfied with knowing that the Rules expressly provide for the establishment of an Executive Committee and that it has operated in accordance with the Rules. If your client has any legitimate concerns about the formation and/or operations of the Executive Committee, he should raise those concerns at the next Management Committee meeting, as would any other Committee Member.

Finally, our client declines your client's request for a copy of the recording (the audio component of which, as you pointed out, failed) of the meeting of 26 May 2011. Again, if your client has any concerns about the circumstances in which the audio component failed to record, he should raise the matter for discussion at the next meeting of the Management Committee.

Yours faithfully


HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
T 07 3024 0302
F 07 3024 0002

Level 8 Waterfront Place, 1 Eagle Street
Brisbane Qld 4000 Australia

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PO Box 7822, Waterfront Place Qld 4001 Australia E contactus@hopgoodganim.com.au

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HopgoodGanim
LAWYERS

7 June 2011

Mr Barry Atkins
Solicitor & Attorney
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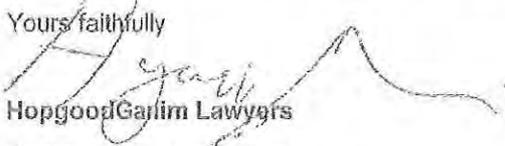
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Our client is under no obligation to inform you of the dates of meetings of the Executive Committee. Your client should be satisfied with knowing that the Rules expressly provide for the establishment of an Executive Committee and that it has operated in accordance with the Rules. If your client has any legitimate concerns about the formation and/or operations of the Executive Committee, he should raise those concerns at the next Management Committee meeting, as would any other Committee Member.

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Yours faithfully


HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
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F 07 3024 0002

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FACSIMILE TRANSMISSION

Date: 14 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Please advise if your client is willing to participate in formal mediation with our client?

If so, please advise the terms on which your clients will agree that the mediation would proceed.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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TOOWOOMBA QLD 4350

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FACSIMILE TRANSMISSION

Date: 20 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our clients instruct they are willing to mediate with your clients on terms acceptable to the Burkes.

We will prepare a list of issues. Our clients consider it is in the best interests of TTC and the Burkes so try and resolve the issues in dispute as soon as possible, without resort to litigation, to minimise costs.

Please advise if TTC will fund the mediation including the cost of the mediator and the parties legal representatives.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 24 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke sale to Toowoomba Turf Club Inc.
Property: TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

1: Re Toowoomba Cup - perpetual trophy donated by Burke family accepted by TTC August 2009 - not presented 2011 - no decision of TTC to not present.

We refer to our letter dated 23 May 2011. Our clients instructs that TTC have until Monday 27 June 2011 to advise us that the Toowoomba Cup will be presented within 2 weeks by Mr. Burke and members of his family with the media being invited, failing which Mr. Burke will take the TTC to the Supreme Court seeking Orders and costs on an indemnity basis.

2: Re Mediation

We note TTC refuses to mediate despite our client being willing to do so. Our client would have borne his own legal costs at the mediation had TTC requested. We note Mr. Burke's request for his legal representative's costs of the mediation to be met by TTC was not a reason for rejection of our client's offer by TTC.

3: Re Arbitration

Mr. Burke has been speaking to Mr. Gee. Mr. Burke is willing to have the matters in dispute with TTC arbitrated on reasonable terms acceptable to him. Is TTC willing to have the matters in dispute with TTC arbitrated? Please advise urgently if TTC is willing as that willingness may obviate the Application to the Supreme Court, but no representation is made to that effect and we reserve our client's rights to take appropriate Court action without further notice to you. We note you hold instructions to accept service of any Court proceedings instituted by our clients.

4. Re: Racing Queensland ['RQ'] – instruction and directive to TTC

We are advised that RQ have made it clear to TTC that RQ expects TTC to take steps to resolve the matters in dispute with our client to prevent damage to the image of the industry. RQ have consistently told TTC to not waste money on the costs of litigation.

Of course because the letter of 28 February from RQ to TTC was intentionally withheld from the Committee, all members of the TTC committee are unaware of this directive.

5. Re: Agenda for TTC Committee meeting 30/6/11.

We can only presume that TTC has acted without your advice in placing an item on the agenda of 'no confidence' in Mr. Burke. Of course it is typical of the hypocrisy demonstrated by certain members of TTC that they mouth platitudes of encouraging Mr. Burke to 'move on' but then escalate the conflict, again with no regard to the TTC constitution or the concept of natural justice.

The purported motion of 'no confidence' in Mr. Burke is ultra vires the TTC constitution. If the motion proceeds our client will take appropriate action without notice to TTC.

You must appreciate that such action against Mr. Burke is a breach of the obligations incumbent on TTC to afford him natural justice. He has not been given notice in writing of any allegations against him. If the motion is discussed at the meeting on 30 June 2011 then Mr. Burke will take appropriate action against TTC.

6. Re: A Clancy's possession of a tape recording of an incident at TTC on or about 10 February.

We note Mr. Clancy ['Clancy'] failed to table the tape of the incident on 10 February at the 26 May 2011 Committee Meeting as required by our client, in his capacity as a Committee member. Our client again demands Clancy table this tape at the 30 June meeting.

7. Re: Assault by Clancy on Mr. Burke 26 May 2011.

Our client did make a formal complaint to the Police about the attack on him by Clancy, in company of others, at night. We note your written advice that TTC welcomes a full investigation into the attack by the police.

Please advise the name of the security guard who was the independent witness to the assault so we can provide that to the police. We will let the police know of your client's committee members willingness to be interviewed in relation to the assault.

Please obtain a complete copy of the transcript of the Hearing from RQ urgently and make that available to us. We undertake to provide a copy to the police.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

23 June 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke - Proposed Mediation

We refer to previous correspondence regarding mediation and, in particular, to your facsimile transmission of 20 June 2011.

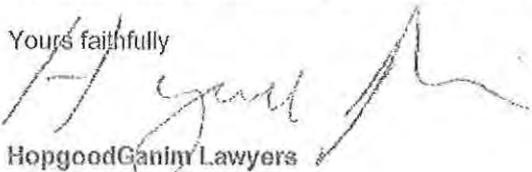
Our client has carefully considered the pros and cons of mediation with your client but has decided that it would serve little, if any, useful purpose.

Our client has not taken this decision lightly. It considers though that your client has been responsible for the ongoing (and worsening) disputation between our respective clients since the court hearing on 20 April 2011, and that the relationship between your client and his fellow Committee Members has broken down irretrievably. We are instructed to point out that the overwhelming majority of Committee Members consider their relationship with your client to be beyond salvage.

Any lingering doubt our client had about the correctness of its decision has been dispelled by the proposal in your facsimile transmission of 20 June 2011 that our client be solely responsible for the costs of the mediation, including your costs.

We are instructed that this represents our client's final position on the mediation issue.

Yours faithfully


HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

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Brisbane Qld 4000 Australia

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PO Box 7822, Waterfront Place Qld 4001 Australia E contactus@hopgoodganim.com.au www.hopgoodganim.com.au

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HopgoodGanim
LAWYERS

29 June 2011

Mr Barry Atkins
Solicitor and Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Mr Atkins

Toowoomba Turf Club Inc - ats - Anthony John Burke - Originating Application No 5546 of 2011

We refer to our facsimile transmission yesterday.

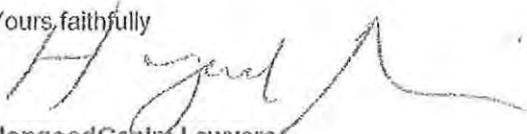
Please confirm that your client is no longer seeking any of the orders referred to in paragraphs 1 to 3 of the Application.

The Application seems premature at best and misconceived at worst. In the first of your facsimiles sent on Monday, you stated that your client was relying on Sections 71 and 133 of the *Associations Incorporation Act 1981* (the Act). There is no decision or adjudication of the Club. Moreover, any motion whereby the committee resolved that it had no confidence in your client continuing as a committee member, would not deprive (or affect in any other way) your client of any right conferred on him by either the Club's Rules, the Act or at law. If your client intends to seek any of the orders referred to in his Application tomorrow, we invite you to identify, immediately, the basis on which he asserts the Court has jurisdiction to hear the Application tomorrow.

Please note that, if tomorrow's Application proceeds, this letter will be produced to the Court on the issue of costs.

Finally, we note for the record that neither we nor our client have received copies of your client's supporting Affidavit material.

Yours faithfully



HopgoodGanim Lawyers

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FACSIMILE TRANSMISSION

Date: 1 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: your costs to Toowoomba Turf Club Inc.["TTC"]

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We act for Mr. A Burke , a Committee member of TTC.

Your Firm has been retained by TTC on a number of matters including:-

1. Mr. Burke and Mr. Frappell [defamation] ;
2. Mr. Burke and Mr. Clancy [Peace and Good Behaviour Act Application];
3. Mr. Burke and motion of no confidence;
4. TTC and various misleading statements issued by Mr. Clancy;
5. TTC responding to Mr. Burke's application for Orders that he is a member and a committee member of TTC;
6. TTC and Jewels of the Range – sponsorship agreement dispute;
7. The Burke family – Toowoomba Cup perpetual trophy.

Mr. Burke is an agent for TTC under the Associations Incorporations Act. He is also absolutely entitled to make the demand in this letter as a committee member given that Mr. Clancy has failed and refused to table copies of any communications from your Firm about costs, as required by Mr. Burke in a letter dated on or about 19 May 2011.

TTC is a 'third party payer' in relation to matters 1 and 2 above under the Legal Professions Act 2007. [S 301]

Under S 317(1)(b) you are hereby required to provide within 3 days to Mr. Burke , through this law Firm of a report on the costs to date of all of the above matters, [and all other matters involving Mr. Burke] including estimates if no account for fees has been rendered. Mr. Burke undertakes to table the report at the next Committee Meeting.

Barry Atkins
Solicitor & Attorney

@LAW

Principal:
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FACSIMILE TRANSMISSION

Date: 8 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Effective immediately all future communications from TTC are to be sent to this Law Firm.

We have received these instructions as our client has a medical condition for which he has a certificate from his Doctor for a 2 month period.

Please ensure that TTC Committee Members and TTC Officers are advised without delay.

Please arrange for a copy of the Agenda for the meeting last night to be sent to us.

Please arrange for a copy of the minutes for the last three meetings to be sent to us without delay.

We note you have not complied with Section 117(1)(b) of the Legal Profession Act 2007 as you have not given Mr. Burke, a Committee Member of TTC in circumstances where TTC is a third party payer under Section 301 a summary of costs to date of request at all let alone by the date requested [6/7/11].

On behalf of our client we reserve the right to take such further action in relation to this as is appropriate.

Barry Atkins
Solicitor & Attorney

cc:
fax:

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 8 July 2011
To: Hoggood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke – defamation by A Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Mr. Burke has instructed us to take action against Mr. Clancy for defamation.

Mr. Clancy defamed Mr. Burke in the newsletter Mr. Clancy sent to all TTC members.

Please advise by Tuesday 12 July 2011 if your Firm is been retained by Mr. Clancy in relation to this new matter so we may write to you rather than direct to Mr. Clancy.

Barry Atkins
Solicitor & Attorney

cc:
fax:



HopgoodGanim
LAWYERS

11 July 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: I102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke - Various matters

We refer to your three facsimile transmissions of 8 July 2011. We will respond to each facsimile separately.

Your facsimile transmitted at 2.30pm

1. Your client, along with other Committee Members, was sent a copy of the Agenda for the Special Committee Meeting held on 7 July 2011. Consistently with our client's undertaking, the only item on the agenda not dealt with at that meeting was the proposed motion of no confidence in your client.
2. You have demanded that copies of the Minutes for the last three Committee Meetings be sent to you "without delay". Once again, your client has instructed you to raise matters already raised and addressed (in detail) in previous correspondence. We respectfully refer you to our correspondence of 9 May 2011 and 10 May 2011. If your client is claiming that his "medical condition" renders him physically and/or emotionally incapable of attending the Club's premises to inspect the Minutes, our client would need to be satisfied as to the veracity of that claim by the production of appropriate medical evidence.
3. Section 317(1)(b) (we presume that the reference to "section 117(1)(b)" in your facsimile under reply was in error) of the *Legal Profession Act 2007* (LPA) does not apply in the present circumstances for two reasons. First, the Club is arguably not under any "legal obligation" of the type referred to in section 301 of the LPA. Secondly, the Club can only act through the Management Committee. The Club's Rules make it clear that the Management Committee acts through a majority. We will only be obliged to provide the progress reports referred to in section 317 of the LPA when a majority of the Committee resolves to direct us to do so. Your client is, of course, at liberty to move a motion to this effect at the next Committee Meeting.

Your facsimile transmitted at 3.27pm

1. In our correspondence of 29 June 2011, we informed you that your client's Application was premature and misconceived for the reasons set out therein. That remains our view.

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Mr Barry Atkins
Solicitor & Attorney
@Law

11 July 2011



2. Accordingly, our client is under no obligation (legal or otherwise) to pay your client's costs of the proceedings.
3. Therefore, your client's "offer" is rejected.

Your facsimile transmitted at 3.31pm

1. We note your client's assertion that he has been defamed in the newsletter recently sent to Club Members and that he has instructed you to "take action against Mr Clancy for defamation".
2. We have received instructions to act for Mr Clancy in relation to any such action.
3. We presume your client has taken offence to the section of the newsletter which refers to your client's recent communication to Club Members. We have reviewed that part of the newsletter. It is incapable in our view of giving rise to any defamatory imputations of and concerning your client. Further and in any event, any defamatory material contained in it is clearly defensible under sections 26, 30, 31 and 33 of the *Defamation Act 2005*.
4. There is no need for you to write to us or to Mr Clancy as foreshadowed in your facsimile. If your client's threat to "take action" against Mr Clancy is genuine, your client should commence proceedings without further ado. We have instructions to accept service of those proceedings on behalf of Mr Clancy.
5. You and your client should however note that, if such proceedings are commenced, we anticipate receiving instructions to apply to have the Claim and Statement of Claim struck out with indemnity costs against your client, on the basis of the matters referred to in Point 3 above.

Yours faithfully

HopgoodGanim Lawyers

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@LAW

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FACSIMILE TRANSMISSION

Date: 14 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sirs,

This is an open letter which we will rely on in the future as appropriate.

Mr. Burke offered to engage in a mediation with TTC. TTC rejected that offer.

Mr. Burke offered to have the matters in dispute arbitrated but TTC did not respond.

Mr. Burke now offers to negotiate the following matters in dispute:-

1. Burke Family Trophy non presentation to Toowoomba Cup winners 2011;
2. Jewells of the Range Sponsorship agreement which has not been terminated by decision of the TTC Committee;
3. omission from the Weetwood Race Day Program of Mr. Burke's name as a Committee Member;
4. the advertisement of the Casual Vacancy of a Committee Member in the Chronicle Newspaper Public Notices;
5. Incorrect press releases after Supreme Court and the Stewards Hearing and the ABC radio broadcast.
6. Mr. Burke's continued Membership of TTC;
7. Damages and legal costs including claim under Rule 42 for indemnity for all matters that have been in dispute;
8. Agreement on confidentiality of final agreement including jointly agreed press release.

Please advise if TTC is willing to negotiate on these matters and advise any other matters TTC wishes to negotiate on

Barry Atkins
Solicitor & Attorney

@LAW

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FACSIMILE TRANSMISSION

Date: 14 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all 3 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We enclose:-

1. Copy medical certificate for Mr. Burke; and
2. Request for leave of absence for 2 months [which incorporates notice of change of address for notices to Mr. Burke – all communication to Mr. Burke from TTC is to be faxed to 46329 529. He no longer wishes to receive information from TTC by email.

Barry Atkins
Solicitor & Attorney

FACSIMILE TRANSMISSION

Date: 14 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sirs,

We refer to your letter today enclosing the material TTC proposes to send to Club Members tomorrow. Notwithstanding that you refer to our 'without prejudice' telephone discussion yesterday, we assume your letter was sent on an open basis. Please advise if that is not correct.

TTC is prohibited from sending the material. The Motion to the Special meeting is a reprisal. Indeed we say the actions on 10 February 2011 by the Committee Members and subsequent actions are reprisals.

If TTC sends the material to the members our client will have no alternative other than to proceed with all legal avenues available to him.

Our client relies the provisions of both :-

1. Whistleblowers Protection Act; and
2. Workplace Health and Safety Act.

Notwithstanding we are not obliged to assist you by directing you to the relevant legislation we set out below the Sections applicable.

WHISTLEBLOWERS PROTECTION ACT 1994

S9(4) Under section 20, anybody may disclose a "reprisal" taken against anybody for making a public interest disclosure.

What is the special protection given for public interest disclosures (Pt 5)?

11.(1) Under Part 5, Division 2, a person is declared not to be liable, civilly, criminally or under an administrative process, for making a public interest disclosure.

(2) Under Part 5, Divisions 3 to 5, causing or attempting or conspiring to cause "detriment" to any person because of a public interest disclosure is declared to be a "reprisal" and unlawful, both under the civil law of tort

and the criminal law.

What type of information can be disclosed?

14.(1) The types of information that may be disclosed by a public interest disclosure, and who may make the disclosure, are specified in sections 15 to 20.

(2) A person has information about conduct or danger specified in sections 15 to 20 if the person honestly believes on reasonable grounds that the person has information that tends to show the conduct or danger.

(3) If information is about an event, it may be about something that has or may have happened, is or may be happening, or will or may happen.

(4) If the information is about someone else's conduct, the information may be about conduct in which the other person has or may have engaged, is or may be engaging, or is or may be intending to engage.

(5) The information need not be in a form that would make it admissible evidence in a court proceeding. Anybody may disclose reprisal

20. Anybody may make a public interest disclosure about someone else's conduct if—

(a) the person has information about the conduct; and

(b) the conduct is a reprisal.

Every public sector entity is an appropriate entity for certain things

26.(1) Any public sector entity is an appropriate entity to receive a public interest disclosure—

(a) about its own conduct or the conduct of any of its officers; or

(b) made to it about anything it has a power to investigate or remedy; or

(c) made to it by anybody who is entitled to make the public interest

disclosure and honestly believes it is an appropriate entity to receive the disclosure under paragraph (a) or (b);

S37

(7) This section does not affect the making of a public interest disclosure by anybody under section 19 or 20.25

25 Section 19 (Anybody may disclose danger to person with disability or to

environment from particular contraventions)

Section 20 (Anybody may disclose reprisal)

†Division 4—Criminal prosecution about reprisal

• Reprisal is an indictable offence

42.(1) A public officer who takes a reprisal commits an offence.

Maximum penalty—167 penalty units or 2 years imprisonment

(2) The offence is an indictable offence.

(3) If a public officer commits the offence, sections 7 and 827 of the Criminal Code apply even though a person other than a public officer may also be taken to have committed the offence because of the application.

• Damages entitlement for reprisal

43.(1) A reprisal is a tort and a person who takes a reprisal is liable in damages to anyone who suffers detriment as a result.

(2) Any appropriate remedy that may be granted by a court for a tort may be granted by a court for the taking of a reprisal.

(3) If the claim for the damages goes to trial in the Supreme Court or a District Court, it must be decided by a Judge sitting without a jury

Schedule 5

(i) a commission, authority, office, corporation or instrumentality established under an Act or under State or local government authorisation for a public, State or local government purpose;

“detriment” includes—

(a) personal injury or prejudice to safety; and

(b) property damage or loss; and

(c) intimidation or harassment

• Reprisal and grounds for reprisal

41.(1) A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that, anybody has made, or may make, a public interest disclosure.

(2) An attempt to cause detriment includes an attempt to induce a person to cause detriment.

(3) A contravention of subsection (1) is a reprisal or the taking of a reprisal.

Right to apply for Supreme Court injunction

48.(1) This section applies only to a person who cannot apply to the Industrial Commission for an injunction about a reprisal under section 47.

(2) An application for an injunction about a reprisal may be made to the Supreme Court by.....

Grounds for injunction

49. The Industrial Commission or Supreme Court may grant an injunction, in terms it considers appropriate, if it is satisfied that a person has engaged, is engaging or is proposing to engage, in conduct (the "reprisal conduct") amounting to—

(a) the taking of a reprisal; or

(b) aiding, abetting, counselling or procuring a person to take a reprisal; or

(c) inducing or attempting to induce, whether by threats, promises or otherwise, a person to take a reprisal; or

(d) being in any way, directly or indirectly, knowingly concerned in, or party to, the taking of a reprisal.

Order may require specified action

50. If the Industrial Commission or Supreme Court is satisfied that a person has engaged or is engaging in reprisal conduct, it may grant an injunction requiring the person to take specified action to remedy any detriment caused by the conduct.

Evidence

51.(1) The Industrial Commission or Supreme Court may grant an injunction restraining a person from engaging in reprisal conduct—

(a) whether or not it considers that the person intends to engage again, or to continue to engage, in the conduct; or

(b) whether or not the person has previously engaged in the conduct; or

(c) whether or not there is an imminent danger of substantial damage to anyone if the person engages in the conduct.

(2) The Industrial Commission or Supreme Court may grant an injunction requiring a person to do something—

(a) whether or not it considers that the person intends to fail again, or to continue to fail, to do the thing; or

(b) whether or not the person has previously failed to do the thing; or

(c) whether or not there is an imminent danger of substantial damage to anybody if the person fails to do the thing.

Interim injunction

52. An interim injunction may be granted pending the final decision on the application.

Confidentiality of applications

53.(1) For an application before it, the Industrial Commission or Supreme Court may direct that—

(a) a report of the whole or part of the proceeding for the application must not be published; or

(b) evidence given, or anything filed, tendered or exhibited in the application must be withheld from release or search, or released or searched only on a specified condition.

(2) The direction may be given if the Industrial Commission or Supreme Court considers that—

(a) disclosure of the report, evidence or thing would not be in the public interest; or

(b) persons other than parties to the application do not have a sufficient legitimate interest in being informed of the report,

evidence or thing.

(3) An application for an injunction may be heard in chambers.

(4) An application for an injunction may be heard ex parte if the Industrial Commission or Supreme Court considers an ex parte hearing is necessary in the circumstances.

(5) This section does not limit the power of the Industrial Commission or Supreme Court.

We set out below relevant sections of the Code against Harassment:-

Prevention of Workplace Harassment Code of Practice 2004

Workplace Health and Safety Queensland
Department of Justice and Attorney-General

1.1. Meaning of 'workplace harassment'

1. A person is subjected to 'workplace harassment' if the person is subjected to repeated behaviour, other than behaviour amounting to sexual harassment, by a person, including the person's employer or a co-worker or group of co-workers of the person that:

- (a) is unwelcome and unsolicited
- (b) the person considers to be offensive, intimidating, humiliating or threatening
- (c) a reasonable person would consider to be offensive, humiliating, intimidating or threatening.

incorrect information, hiding documents or equipment, not passing on messages and getting a person into trouble in other ways

- maliciously excluding and isolating a person from workplace activities
- persistent and unjustified criticisms, often about petty, irrelevant or insignificant matters
- humiliating a person through gestures, sarcasm, criticism and insults, often in front of customers, management or other workers
- spreading gossip or false, malicious rumours about a person with an intent to cause the person harm.

1.3. What is 'repeated' behaviour?

'Repeated' refers to the constant nature of the behaviour, not the specific type of harassing behaviour. Behaviour is considered 'repeated' if an established pattern can be identified. It may involve a series of diverse incidents – for example, verbal abuse, sabotaging a person's work and unreasonable threats of dismissal

There are a range of psychological and physical illnesses and injuries that an individual who continues to be exposed to workplace harassment may experience. The effects of workplace harassment on a person may include:

- high levels of distress, impaired ability to make decisions and poor concentration
- loss of self-confidence and self-esteem and feelings of social isolation at work

panic attacks, anxiety disorders, depression, social phobia (withdrawal from usual social interaction) and deteriorating relationships with family and friends
reduced output and performance, incapacity to work, loss of employment
sleep disturbances, such as, insomnia or severe tiredness.

We set out below the applicable Sections of:-

Workplace Health and Safety Act 1995

10 Who is an employer

(1) A person is an *employer* if—

(a) the person conducts a business or undertaking; and
(b) in the conduct of the business or undertaking, the person engages someone else to do work, other than under a contract for services, for or at the direction of the person.

(2) For subsection (1)(b), a person engages someone else to do work whether the person engaged works for gain or reward or on a voluntary basis.

11 Who is a worker

(1) A person is a *worker* if the person does work, other than under a contract for services, for or at the direction of an employer.

Example of subsection (1)—

A subcontractor works under a contract for services and is not a worker for this Act.

(2) A person may be a *worker* even though the person is not paid for work done by the person.

23 Obligations for workplace health and safety

(1) The following persons have obligations under division 2 to ensure workplace health and safety—

- * persons who conduct a business or undertaking, whether as employers, self-employed persons or otherwise
- * persons in control of workplaces

24 Discharge of obligations

(1) A person on whom a workplace health and safety obligation is imposed must discharge the obligation.

Maximum penalty—

- (a) if the breach causes multiple deaths—2000 penalty units or 3 years imprisonment; or
- (b) if the breach causes death or grievous bodily harm—1000 penalty units or 2 years imprisonment; or
- (c) if the breach causes bodily harm—750 penalty units or 1 year's imprisonment; or
- (d) if the breach involves exposure to a substance likely to cause death or grievous bodily harm—750 penalty units or 1 year's imprisonment; or
- (e) otherwise—500 penalty units or 6 months

imprisonment.

28 Obligations of persons conducting business or undertaking

(1) A person (the *relevant person*) who conducts a business or undertaking has an obligation to ensure the workplace health and safety of the person, each of the person's workers and any other persons is not affected by the conduct of the relevant person's business or undertaking.

(2) The obligation is discharged if the person, each of the person's workers and any other persons are not exposed to risks to their health and safety arising out of the conduct of the relevant person's business or undertaking.

(3) The obligation applies—

(a) whether or not the relevant person conducts the business or undertaking as an employer, self-employed person or otherwise; and

(b) whether or not the business or undertaking is conducted for gain or reward; and

(c) whether or not a person works on a voluntary basis.

174 Discrimination or victimisation

(1) An employer must not dismiss a worker, or otherwise act to the detriment of a worker in the worker's employment, for the dominant or substantial reason that the worker—

[s 175]

Workplace Health and Safety Act 1995

Part 13 Offences

Reprint 9E effective 6 June 2011 Page 177

(a) is, or has performed a function as, a workplace health and safety representative, a workplace health and safety officer or a member of a workplace health and safety committee; or

(b) has made a complaint about an issue, or in any other way has raised an issue, concerning workers' exposure to the risk of illness or injury; or

(c) has contacted or given help to an authorised representative or an inspector.

Maximum penalty—40 penalty units.

Examples of acting to the detriment of a worker—

1 demotion of the worker

2 unwarranted transfer of the worker

3 reducing the worker's terms and conditions of employment

(2) If an employer contravenes subsection (1) by dismissing a worker, the worker is taken to have been unfairly dismissed under the *Industrial Relations Act 1999*, chapter 3, part 2, and subject to that part, has the remedies under that part.

Barry Atkins Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 15 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc. – Various Matters

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

WITHOUT PREJUDICE

Our client instructs he will settle all of the disputes on the following terms:-

1. Payment of \$20000 within two weeks;
2. Presentation of the trophy for 2011 and in perpetuity;
3. No further action will be taken by him in relation to all the matters in dispute;
4. The defamation action is to cease;
5. The letter to the members is not to be sent and the proposed special meeting does not proceed
6. Our client resigns from the committee on medical grounds forthwith and a joint press release issued;
7. Terms of settlement to be confidential

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

14 July 2011

Without prejudice

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke - Various issues

We refer to our without prejudice telephone conversation yesterday afternoon and confirm that our client's Committee has resolved to call a Special General Meeting of all Club Members to have your client removed as a Committee Member under rule 36(e).

We attach copies of the following documents for your information:

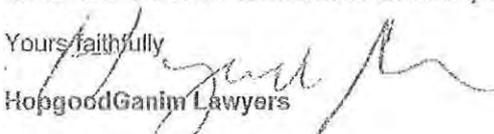
1. Notice of Meeting;
2. Explanatory Memorandum; and
3. Statement to Members (minus the annexures).

Because of your insistence on receiving communications from us by facsimile, it is inconvenient (because of their bulk) to transmit the annexures to the Statement by facsimile. We have your email address and, if you will agree to receive the annexures by email, we will scan and email them to you. You will in any event be familiar with the contents of the annexures.

We are instructed that the attached documents (and the annexures) will be sent out to all Club Members (including your client) tomorrow, if the matter is not resolved to our client's satisfaction in the meantime.

As the Explanatory Memorandum makes clear, your client is invited to prepare and provide a written response to the Racing Secretary to the matters referred to in the Statement and to show cause why he should not be removed from the Management Committee. Any such response will be communicated to the Members as soon as possible after its receipt.

Yours faithfully


HopgoodGanim Lawyers

Contact: Brett Bolton
Special Counsel
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E b.bolton@hopgoodganim.com.au

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FACSIMILE TRANSMISSION

Date: 22 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.
Re: Disclosure of confidential information
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

During a broadcast this morning, Mr Pat O'Shea of radio station 4DDB FM read out my without prejudice letter to you dated 15 July 2011.

Mr O'Shea advised Mr Atkins that he obtained a copy of the letter because the letter had been sent by the Toowoomba Turf Club to all its members.

The Toowoomba Turf Club has breached its obligations to keep the without prejudice letter in confidence.

The Toowoomba Turf Club had no right to disclose the without prejudice letter written by this law firm on our client's instructions.

Our without prejudice letter was "communicated for a limited purpose and so a without prejudice offer exhibits the indicia of confidential information at general law." (*WALPES v PERMANENT CUSTODIANS LTD [2005] NSWSC 111 AT 81 PER WINDIER J.*) quoted in chapter twelve of DALPONT – 2010 edition of *LAWYERS' PROFESSIONAL RESPONSIBILITY*.

We reserve our client's rights to take action in relation to this breach of confidence, including to claim damages.

Our client has instructed us to require of you that you advise whether or not you informed your client when you gave them a copy of our without prejudice letter, of their obligations to keep the contents of that letter confidential.

You will be aware that the public policy in relation to the confidentiality and inadmissibility into evidence of without prejudice communications dictates that without prejudice communications cannot be revealed.

The public policy is predicated on the basis that without the confidentiality of those negotiations, disputants would be absolutely discouraged from negotiating freely because of the fear that failing agreement, what they said may later be used against them.

Unless you advise us that you informed your clients in clear terms of their duty to not disclose the content of our without prejudice letter to you, our client intends to make a formal complaint against your firm.

We require your letter to be received by close of business today.

Barry Atkins
Solicitor & Attorney



HopgoodGanim
LAWYERS

22 July 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

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Dear Mr Atkins

Toowoomba Turf Club Inc & Anthony Burke

We refer to previous correspondence.

Your client attended last night's Committee Meeting late and had a conversation with Mr Frappell.

Our client expects you to receive instructions from your client to write to us today in relation to that conversation.

We are taking this opportunity to record Mr Frappell's version of that conversation. A copy of Mr Frappell's version is set out in the attached email transmission which Mr Frappell forwarded us this morning.

Yours faithfully

HopgoodGanim Lawyers

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-----Original Message-----

From: Bob Frappell [mailto:bobfrappell@bigpond.com]
Sent: Friday, 22 July 2011 6:32 AM
To: Brett Bolton
Subject: Bukre again

We held the meeting last night and all went well.
The meeting closed at around 8.20pm
We all then stood up individually discussing some business in small groups or socializing as you do.
Burke entered the room at around 8.25.
The exchange went like this:

Burke Sorry I'm late Mr Chairman
Me Meeting's all over
Burke Must have been a short meeting
Me Yes
Burke Ill look at the minutes then
Me Aaron's collected them for destruction as per the rules
Burke Where is he
Me (I looked around)I have no idea
Burke I'll go look for him
Burke then left the room and did not return

I then went to look for aaron and found him, Graham Healy and Alan Gee on the verandah outside having a smoke.
They apparently saw the exchange .
There are 2 witnesses Alan Vols and Norm Pankhurst that saw and heard the exchange between me and Burke and I have asked them to have very clear memories of exactly what was said and by whom.

I expect Burke to say I refused him an opportunity to examine the minutes and abused him in some way. He will also accuse us of knowing he was coming at 8.25 and closing the meeting.
The reason it was shorter than usual meeting was because we had no financial report as the Auditor has the books for the compulsory end of Financial year Audit and there were only 4 or 5 items of business apart from the normal agenda and even the normal agenda was very simple this month.
Bob

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

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FACSIMILE TRANSMISSION

Date: 22 July 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.
Re: Attempt to prevent committee member Anthony Burke attending a committee meeting

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Our client received notice of the committee meeting which was held last night.

He advised your client's employed racing secretary that he would attend the meeting but would be unable to arrive until between 8pm and 8.30 pm.

At 4.47 pm our client sent an SMS to two of the committee members (Mr Gee and Mr Morgan) telling them that he would be attending the meeting but would be late and arriving between 8pm and 8.30pm.

Firstly, we believe that your client changed the usual day of the committee meetings from Monday to Thursday to inconvenience our client, knowing that our client conducts a retail business which requires late night trading on Thursday.

Secondly, your client intentionally stopped the meeting much, much earlier than usual to prevent our client attending the meeting.

When our client arrived at 8.15 pm he was informed by your client that the meeting had finished seven minutes earlier.

Meetings of the Toowoomba Turf Club committee have never, ever finished shortly after one hour after the start of the meeting.

It is clear that your clients did so, intending to prevent our client attending the meeting.

We believe that they did so hoping to take advantage (artificially) of the Rules of the Toowoomba Turf Club, particularly Rule 35.

We note that without valid reason your client refused to grant our client leave of absence from committee meetings despite the provision of a medical certificate.

This open letter will be used to defend any attempt by your client to allege that our client has forfeited his seat.

Your client's actions demonstrate their malice towards Mr Anthony Burke.

Barry Atkins
Solicitor & Attorney

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 25 July 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

Dear Sirs,

I refer to your letter dated 22 July which contains statements that are not true. Our client did not waive the privilege that attached to my 'without Prejudice' letter to you on 15 July 22011.

There were no 'without prejudice negotiations'. On instructions I made a 'without Prejudice' offer on Friday 15 July that was rejected by you, on instructions from your client.

The final 'FACT' in my client's response to members was that – a Fact. The open offer from Mr. Frappell to pay my client \$10,000.00 in exchange for his resignation was, as I expressed it, tantamount to a bribe. There was no reference to any of the various matters in dispute but simply an offer to pay [Club Member's] money for Mr. Burke's resignation.

The SMS sent on behalf of Mr. Frappell was a FACT my client was entitled to reveal to TTC members.

In all the circumstances any 'without prejudice' offer from TTC to settle all the disputes would have had to come from you as TTC's legal representatives. It did not and he had no way of knowing that which you now seem to be saying – that it was a 'without prejudice' offer.

We had previously made an open offer to settle my company client's claim for damages from your client's breach of the Sponsorship Agreement for \$20,000 and to bear their own costs [made 13 May 2011 – rejected by you on instructions 17 May 2011]. Of course, we maintain that TTC has never delegated authority to Mr. Clancy to instruct you on that matter which should, by rights, have been referred to TTC's insurers.

Your client's actions, on the other hand, are absolutely disgraceful. It is a matter of public policy as well as legal principles that 'without prejudice' communications can never be revealed.

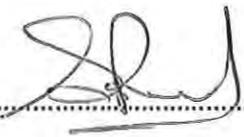
Even once they were, as in this case, Mr. Frappell should never have provided a copy of the letter to journalists. Mr. P O'Shea as the letter and contents were confidential. Mr. Frappell has proved, once again, that he has no regard for the correct and lawful process to be followed.

The disclosure of Mr. Burke's medical condition was the lowest act I have personally ever come across. The fact the medical condition is a direct result/ consequence of some of your client's executive members and employed officers failure to comply with the Code of Conduct [2004] [Workplace Health and Safety Act] on workplace 'bullying' just makes it so very much worse. We reserve our client's rights against your Firm and your client.

Barry Atkins
Solicitor and Attorney

This is attachment marked "AB¹³⁶"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 136



RACING QUEENSLAND

Statement of: Anthony John BURKE

Occupation: Business Proprietor

Taken by: Wayne John KING

Date: 28 July 2011

STATES:

1. This statement made by me accurately sets out my evidence and is true to the best of my knowledge and belief.
2. I am married man, aged 44 years, a business proprietor by occupation and I reside in Toowoomba.
3. I am a Committee Member of the Toowoomba Turf Club (TTC). I was first appointed to the Committee in March 2009. In accordance with the rules I stepped down and re-nominated in September 2010. On this occasion I was re-elected for a two period expiring in September 2012.
4. The committee meets on a monthly basis and from the time of my re-election I attended the monthly meetings on a regular basis up until December 2010 when I sought and was granted leave of absence from the committee because of my suffering ill health. During this period of my being a committee member I served under Presidents Neville STEWART, Colin ZELLER and finally Bob FRAPPELL. Up until this stage I had no issues with any member of the committee and was contributing to it. In fact, I received, as did the other committee members, an e-mail from President Frappell stating that he had never been part of a better Committee.
5. Prior to becoming a committee I had an interest in thoroughbred racing and breeding and my company, Jewels of the Range, became a sponsor in 2006. The sponsorship was ranked by the TTC as a platinum sponsorship whereby

the company donated \$2,400.00 per annum and it consisted of signage located on the Winning Post, ten (10) members passes for each meeting throughout the year, there was also a race day book with the emblem of our company on the front page with that day being referred to as Jewels of the Range race day. On top of this we also had five (5) races named after our company at meetings throughout the year. The TTC also presented our company with a set of crystal glasses embossed with "TTC Sponsor" with the Jewels of the Range logo and name plus a bottle of champagne. Any member of the sponsorship group also had free room hire for the Dalrello deck on a one-off basis for entertainment purposes. I also received full membership from the TTC.

6. In about 2008 when the last Weetwood/Toowoomba Cups were run on the grass track our company upgraded our sponsorship when the then secretary, Gavin McEVOY, wished to make the events more prestigious and after discussions with my company it was decided that we would present a solid gold, diamond set winner's rings to both the winning jockey trainer of both races i.e. four rings to the value of \$12,000.00. These rings came in beautiful mahogany, gold-etched ring boxes which were presented on four individual stands which were also made by our company and these stands were valued at \$600.00 for the four of them. I designed these rings, own the patent of the design, and this was the first time in Australian Racing history that such a presentation was made.
7. In response to this up-graded sponsorship by our company the TTC allowed us to place a company sign located at the 400 metre section of the straight and this was done.
8. At the August 2009 committee meeting, my family donated a perpetual trophy for the Toowoomba Cup which was in the form of a high grade silver metal on a black base joined to a solid timber base with engraving plaques on the base. This was accepted by the committee. This was a Burke family donation and not related to our company sponsorship. This trophy was to signify the commencement of the cushion track.

9. Whilst I was absent on sick leave from the committee it was my desire to remain in contact with what was taking place as per the conditions of my leave of absence which had been tabled and unanimously accepted at the December 2010 committee meeting. I was to receive copies of the minutes and any updates that might take place.
10. During the period of my leave I became aware that matters were taking place of some significance impacting on Toowoomba racing that I was not being kept up to date on or even being informed about. (E.g. on 05.12.10 I was told by a customer at a staff dinner that the races had been cancelled in Toowoomba on that day that I had not been told about; the RQL Chairman had put out a release about the viability of the TTC that I was not informed about).
11. As a result of what I was hearing and not being informed I sent an e-mail to the secretary, Aaron CLANCY, and asked him to forward the previous minutes of the committee meetings and the agenda for the next meeting so that I could keep in touch and be aware of what was taking place in accord with the arrangement when I went on sick leave. I did not receive any response to my request.
12. At one stage I was on the sponsorship committee of the committee but when Mr Frappell came on board I was re-allocated to the garden committee. I had no concerns with this arrangement. On 09.12.10 I sent a second e-mail to Mr Clancy and cc'd Mr Frappell into the message relating to the period I was on the sponsorship sub-committee relating to notes I had in my diary which related to sponsors that needed invoices sent to them in relation to the their sponsorships for the upcoming year. I did not receive any response to this e-mail.
13. On 16.12.10 I sent a further e-mail to the TTC office with an apology from myself for my not attending the J J Atkins dedication. I did not receive a response to this e-mail.
14. On the same date I sent an e-mail to Aaron Clancy seeking a copy of the financials on a press release and also asking for a copy of the previous committee meeting's minutes as I had requested in the 06.12.10 e-mail. On

this occasion I was aware that there was a story circulating that RQL was planning legal action against the TTC and I wanted to know the details of this proposed action. I had seen this matter on the website of RQL and also the racing website letsgohorseracing.com.au. I did not receive any response to my e-mail request.

15. On 22.12.10 a customer came to my shop and had a go at me that no life members of the TTC had been invited to the J J Atkins dedication. I told this person that I was on leave and that I doubted that such invitations had not been sent out. I was concerned about what I was being told and I telephoned Bob Frappell to speak with him about this issue.
16. Mr Frappell told me that what I had been told was correct and that he had not invited the life members which included the past president, Neville Stewart. He then volunteered a statement which was to the effect, "Why would I invite that prick?" I was taken aback by his response and I told him that I did not believe that he would stoop so low just because he did not like Neville Stewart and I hung up.
17. As a result of this conversation I sent an e-mail on the 22.12.10 to Aaron Clancy and cc'd in the RQL Chairman, Bob Bentley. This was related to life members not being invited to the dedication. I also noted I wished my dissatisfaction to be noted in the minutes of the next meeting for the members to see. I received no response to this e-mail and I later discovered that my request to have my feelings inserted in the minutes had not been done.
18. In 2011 I prepared the sponsorship rings for the upcoming Weetwood/Toowoomba Cup meetings as I was aware that I would not be attending committee meetings until March 2011. On 21.01.11 I sent an e-mail to Aaron Clancy from Jewels of the Range re concerns the TTC had not filled the obligations of the sponsorship contract. The ten (10) member's passes had not been received by the company and I had not heard what was happening with the sponsorship ring presentations at the upcoming events for 2011. I received a response from Aaron saying that none of the current sponsors

would be renewed in their current form. I did not understand what he was saying.

19. On 25.01.11 I sent a letter from Jewels of the Range expressing disappointment that it had taken five (5) days for any contact because it had taken this long for him to respond to my e-mail. I also requested in that letter a response to why our sponsorship contract was not being fulfilled from the previous year. I later became aware that there the sponsorship issues, while they had been discussed this was not reflected in the e-mail from Aaron Clancy relating to the sponsorship.
20. On 28.01.11 I then received an e-mail from Bob Frappell in which he outlined to me that all sponsorship arrangements had been honoured by the past and present committee and that any arrangements would expire in February 2011. He suggested an immediate meeting between our company and the TTC executive to discuss our sponsorship as we had already received \$17,000.00 worth of benefits since February 2010.
21. Our sponsorship is an ongoing one and while it is capable of being terminated by the committee it does not automatically expire. It can be terminated by either party in writing. This has never been done and as far as our company is aware the sponsorship is still current.
22. On 29.01.11 I sent an e-mail to Aaron Clancy and Bob Frappell thanking the chairperson for the response to my letter of the 25.01.11 and I expressed a view that I was looking forward to the answers to the questions I had posed in that letter and was looking forward to a positive discussion by 07.02.11.
23. On 01.02.11 I sent Aaron Clancy an e-mail that I was looking forward to the new sponsorship proposal. I did not receive any response to this e-mail.
24. On 01.02.11 I received an e-mail from Mr Clancy and the tone of the e-mail was that he was personally angry that our company did a press release referring to the justracing.com.au website where it referred to the TTC rejecting the rings our company had previously supplied as outlined in this statement. Mr Clancy outlined in this e-mail that it was a business decision

because there was no bottom line advantage to the club with the rings. He was not happy about our press release. I did not respond to this e-mail. As a result of the TTC e-mail I formed the view that our sponsorship would be in some new form and that I would hear from them.

25. On 03.02.11 I e-mailed Aaron Clancy could he advise when the March committee meeting was to be held as I was to return to committee duties in that month after the sick leave period. I also told him that I would be in to his office to read the past minutes of the meetings to bring me up to date before the March meeting. I did not receive any response to my e-mail.
26. On 09.02.11 I phoned Aaron Clancy to tell him that I was coming to his office on that day to read the minutes and to request an update from him as to what had been happening in my absence. I made this contact as I had not heard back from him in response to my e-mail. He refused me permission to read the minutes or the financials as the Chairperson, Frappell, had told him not to allow me to do so.
27. I asked him for a reason as to why the Chairperson had made this ruling and Clancy told me that Frappell had just told him that I was not allowed access to the material that I wanted to read and had a right to as a committee member. I referred him to Rule 37 of the TTC Rules which related the duty of the Secretary to provide all relevant information to a financial member which I was and I added that I would be at his office on the 10.02.11 to read the material that I had requested. He told me that he did not have time to read that Rule and he then hung up on me.
28. On 10.02.11 I met with RQL Integrity Offices in relation to a matter arising from a previous committee meeting and after that at 11.15.a.m. I attended his office to read the material. I walked into the TTC Office and I spoke with an employee of the TTC who I did not know at the time but now know to be called Brandon. He asked what I was after and I told him who I was and that I was here to read the minutes with Aaron Clancy.
29. At this time I saw a Mr Norm PANKHURST and TTC members in the doorway to Aaron Clancy's office and I acknowledged him and said hello to

him. The next thing I know Mr. Allan GEE, another committee member, came out of the office next door to Aaron Clancy's and then a Mr Jim COSGROVE, also a committee member and Bob Frappell appeared and then Clancy and Pankhurst moved towards the counter where I was standing. I noticed that his walk was not of an ordinary nature but they appeared to me to rush out of where they were to the side of the counter where I was standing. I also saw that the others that I have named also moved in the same direction.

30. I was concerned about what appeared to be taking place and I just felt, for some reason not known to me, that I was being ambushed. I had no idea why the five (5) of them would have any reason to be there on that day or at that time and to approach me in the manner that were about to do so.
31. By this stage Frappell was standing next to me and he said words to the effect, "We are going upstairs for a meeting and we need to talk to you." I was concerned about his approach as I had not been pre-warned or asked to attend any meeting with them on that morning or at any other time and here I felt that I was about to be forced upstairs physically to be part of a meeting that I had no knowledge of or any desire to attend.
32. I turned to Clancy who was still on the other side of the counter with Gee while the others were now all on my side of the counter and in close proximity to me. So much so that I felt that they were intruding into my comfort zone and I was not happy about the situation. The only other persons present at this time were the employee Brandon and a female who I recall may have been named Julie Anne who had her head down looking at her desk.
33. I made a general comment to all present that I was there to collect my ring boxes and to read the minutes only and I made it clear that I had no intention of attending any meeting with them on that day. I told them where the ring boxes were located in their safe and Gee and Clancy went to where the safe was and I followed them while they looked in the safe and found that the ring boxes were not where they were when I had last seen them at the previous Weetwood/Toowoomba Cup Meeting.

34. I then thanked Clancy and Gee for looking for them and if I am not allowed to read the minutes then I am going. Frappell said, "Come upstairs and you can read the minutes after that." He did not say this in his normal tone but was extremely aggressive in his manner of speech to me. I have seen him in both normal and aggressive modes at committee meetings and on this occasion when he spoke with me he was well and truly in his aggressive mode.
35. I refused his demand and then walked outside towards where my car was parked in the car park near the stairs inside the race course. I noticed that the whole group that I have outlined followed me outside led by Frappell. At this stage I was up the stairs outside the office and I turned and addressed Frappell by saying to him, "You are not going to bully me." Pankhurst then stepped forward, placed his hand on my shoulder and said, "Trust me, I will make sure he does not bully you."
36. By this time Cosgrove had walked up the stairs and passed me, Frappell and Pankhurst followed me to the top of the stairs followed by Clancy and Gee. I said to the group, "I am going." Pankhurst yelled something out to me that I did not hear and Frappell told him to shut up and then Frappell yelled something to me about I should read some rule but I did not hear what he was referring to as I was in flight to get away from the group as I really had some concerns about their aggressive, intimidating manner on this occasion. I had absolutely no idea why they were behaving in the manner that they were on this day. I was taken aback by it and was extremely concerned about it.
37. I left the area and went to the Police Station in Neil Street with the intention of reporting their behaviour but before I did I telephoned Mr Jamie ORCHARD, the RQL Director of Integrity, who I knew was at the RQL Office at Toowoomba and advised him of what had taken place. He advised me that he would speak with Clancy and the others. As a result I did not complain to the police about the incident.
38. The next day I received an e-mail from Mr Orchard which Clancy had been cc'd into outlining my rights to see the minutes free of any harassment or conditions which was not the situation at the TTC office the morning before.

39. On 14.02.11 I received an e-mail from Clancy with an attachment being a letter from Frappell terminating my TTC membership and my committee membership.
40. As a result of this letter I sought legal advice which subsequently resulted in my taking successful action in the Supreme Court on 20.04.11 which resulted in the court declaring that I was a TTC member and a committee member of the TTC refuting what Frappell had outlined in his correspondence of 14.02.11 to me.
41. I have subsequently viewed the minutes of the committee meeting preceding the Frappell letter of 14.02.11 and there is no entry in those minutes relating to my membership. I believe that the termination decision was a unilateral decision of Frappell alone and without the knowledge of the TTC committee.
42. On 16.02.11 I sent an e-mail to Mr Jamie Orchard and Bob Bentley of RQL complaining of my treatment by the members of the TTC I have named in relation to their behaviour on 10.02.11 at the TTC. I also sent a copy of this e-mail to my local Member of Parliament, Mr Mike HORAN, Kerry SHINE MLA, Tim MULHERAN MLA (as the Racing Minister), Ray HOPPER MLA and Ray STEVENS MLA (as Opposition Racing Minister). I sought the help of each of the addressees to rectify the treatment I had received from the named TTC members without the necessity of my taking the matter to the Police. I was of the view that it would be more appropriate to have the matter dealt with inside the Racing Industry so that no damage might be made to the Industry or the Club.
43. I did not hear from any of the persons I had sent the e-mail to. Then on 28.02.11 I received an e-mail with an attachment from lawyers representing Frappell in which he was alleging that his character and reputation had been injured as a result of the contents of my 16.02.11 e-mail and they were seeking an apology and a retraction from me in relation to my comments.
44. I became aware for the first time as a result of the contents of this attachment that there was an audio recording of the events that had taken place on the morning of the 10.02.11 at the TTC office when I had been threatened,

harassed and intimidated by the group of members as I have outlined in this statement. This correspondence revealed that the recording had been made by the TTC Secretary, Clancy and that it did not support my allegations of what had taken place. To this date I have not heard that recording and I have made a number of requests to hear the recording or to read a transcript (that I offered to pay to have completed) of it but all of my requests have been denied. I have also made a request for that recording or a transcript of it to be tabled at committee meetings but at the meetings of March, April, May and June it has neither been presented or even raised in those minutes.

45. I also became aware for the first time via this correspondence that Ray STEVENS MLA had forwarded my "Without Prejudice" e-mail of 16.02.11 to Bob Frappell's personal e-mail account which resulted in his taking the defamation action that he was now proposing.
46. I have been advised by my lawyer that he is in possession of correspondence from the TTC's legal representatives that the recording that Clancy possesses would be held on behalf of the club.
47. I referred this material to my lawyer, Mr Barry ATKINS of Toowoomba, who responded on my behalf to the 28.02.11 correspondence offering a meeting to resolve the defamation issue and all the other issues. On 03.03.11 I was advised that Frappell would not take part in such a meeting.
48. On 28.03.11 through my lawyer I wrote to Clancy complaining about the failure to table the recording of the 10.02.11 incident that they claim to hold and the failure to provide notice to me about the committee meeting to be held in March 2011.
49. On 29.03.11 through my lawyer I gave notice to the TTC of a motion to be moved at the April meeting of the committee that TTC obtain independent legal advice about the failure to give me notice of the March committee meeting. This letter also required that this letter be brought to the attention of each individual committee member because it raised a most important issue of proper governance of the TTC.

50. Towards the end of March 2011 and prior to the Weetwood I sent an e-mail (which the date is not provided in) to all the TTC committee members except Frappell in which I asked for the impasse between the club and me be resolved in regard to my membership, sponsorship, my name being included in the race book program on Weetwood/Toowoomba Cup Day, the refitting of the Winning Post sign and the 400 metre sign which had been blacked out prior to Trials conducted on 01.03.11. I was aware of that date as I had watched the re-play of the trials on TVN that night and saw that they had been blacked out. I did not receive any response to this e-mail.
51. The Supreme Court decision of 20.04.11 resolved the situation in my favour as a member of the TTC committee and the TTC membership.
52. After this decision came down the TTC released a publicity press statement in which they provided to the public false information in that the decision of the court had been to re-instate my membership as my previous membership had been deemed invalid. This was not the decision of the Supreme Court and the information was false. I was aggrieved by this action on their behalf and my lawyer then wrote to the TTC requesting that they retract the statement.
53. They responded via their lawyers refusing to do so stating that they were "acting in the spirit of the Judge's decision."
54. I later sent a letter to the TTC members setting out that the TTC statement was false and misleading and I attached a copy of a letter from my barrister setting out the correct ruling.
55. Prior to the Weetwood/Toowoomba Cup held on 30.03.11 through my lawyer I warned the TTC that to not print my name in the race day book as a committee member would be defamatory. TTC through their lawyers responded that such defamation was not known in law.
56. On 03.05.11 through my lawyers I asked TTC how they intended to rectify the false and misleading statement in the Weetwood/Toowoomba Cup Program where my name had been excluded from the list of committee members on the inside front cover. I had become aware of this discrepancy on Weetwood Day

when I was shown a race book with my name absent from that area of the book.

57. I received correspondence from their lawyers advising that no action would be taken in regard to my issue.

58. There is a third matter which has caused me concern following my success in the Supreme Court and that is that an advertisement for a casual committee position with the TTC had appeared in the Toowoomba Chronicle on 13.04.11 with a deadline for any application being 20.04.11. This was the date of the Supreme Court action by me. The casual vacancy never existed because at all times I was still a member of that committee without ever having been lawfully removed from it.

59. This event caused me considerable stress and humiliation and had a detrimental effect on my health.

60. On 17.05.11 through my lawyers I requested the TTC publish an equivalent size advertisement advising that there was no casual vacancy as had been advertised by them. They refused to do so.

61. After the court decision I attended a race meeting at the TTC with Mr Tom WARREN, a life member of the club and a friend of mine, on [redacted] and I saw committee member Graham HEALY and I spoke with him and he said to me (in the presence of Warren) that he had a problem with me and that he blamed me for the disharmony within the committee and did not agree with the course of action that I had taken. He said that the next committee meeting the other committee members wanted to "rip my head off" and that it was going to be a fiery meeting. On hearing this I told him I would bring a police officer with me in the interests of my safety. He said, "Don't bring a copper."

62. I had general conversation with him about what had taken place and what I perceived to be lack of corporate governance by the committee and generally what had happened to me and was he aware of the contents of all the e-mails that I had sent to the committee during my absence. I outlined to him what the content of some of them were and he told me to send them direct to him as he

had not seen nor heard of any of them including the Toowoomba Cup Trophy coming from my family and not being presented.

63. On 05.05.11 I went to the office of the TTC and spoke with Aaron Clancy and requested to be provided with photocopies or e-mails of the minutes that had been recorded at meetings in my absence. At first he was not willing but after I outlined to him the rulings of the Supreme Court in my favour and the fact that I contacted Jamie Orchard of RQL from the TTC office via phone and outlined to him the difficulty I was having with Clancy with regard to the minutes being made available, Clancy relented and allowed me to read the minutes that I had not read before and I made notes from them in relation to matters that caused me some concern.
64. It was on this occasion that I discovered that 16 items that I had sent to the committee via Clancy while I had been absent and which I have referred to in this statement had not been tabled at the various committee meetings as they should have been. I am of the view that by his not doing so he has misled the other committee members and the TTC members and I base this on Australia Rule of Racing 175 (k) and (l) and the Associations Incorporation Act Section
65. In the February 2011 minutes point 12.8 Bob Frappell informs the committee that we may have reasons to sue Anthony Burke for defamation matter against me and he was waiting on advice from HG (I was aware that these initials referred to the TTCV lawyers HopgoodGanim).
66. In the same minutes at the same point he asked the committee to fund a defamation case that he was proposing to take against me in relation to the 16.02.11 letter he had received from Ray Stevens MLA which was the e-mail that I had sent to him on the same date and referred to in this statement. The minutes indicate that the committee agreed to fund this action by Frappell against me. I believe that this is a breach of Section 81(t) of the RQL Policy on Spending of non-proprietary clubs.
67. I could find no mention of the appointment of the lawyers HopgoodGanim in the minutes and I believe for them to represent the TTC that should be a topic in the minutes that should have been voted on and approved. HopgoodGanim

also have a legal obligation to provide an estimate or quote to the committee on any action that they make take on behalf of the TTC. No such quote is apparent in the minutes. The treasurer of the TTC is Peter TURNBULL who is also a member of the committee and he has a responsibility to bring such matters relating to expenditure to be approved or ratified at each committee meeting. He has not done so on this occasion and at subsequent committee meetings and by not doing so, in my view, he has breached the rules of the TTC – 38, 39.7 and 39.8 as he has failed to table financial statements. I also believe that this was a breach of RQL Policy 81(o) and (t)

68. On 26.05.11 an RQL Stewards Inquiry found Aaron Clancy guilty of a breach of ARR175(a) arising from a complaint I made about an incident that had occurred within the precincts of the TTC and he received a reprimand. I had written via e-mail to Graham Healy as the Deputy Chairman of the committee and a person who had not been involved in the incident and in that e-mail I requested that a motion be moved at the June 2011 meeting that Clancy be officially reprimanded by the committee as a result of his conviction, that the breach be recorded on his employment record and that the TTC employ a counsellor to counsel Clancy so that the incident was not repeated. None of this appeared in the minutes and I did not get any response to my request. I viewed this as a continuation of a conspiracy to exclude me from my rightful position as a committee member. I believe that this action was a breach of RQL Rule 81(i) and (p).

69. I saw in the March 2011 minutes there was a discussion to vote on the funding of Frappell –v- Burke, the private defamation matter, and Frappell left the room at 7.10.p.m. while it was discussed with the meeting chaired by Healy. There was no mention of costs at the meeting yet a vote was taken 8-0 to fund Frappell against me and should it be successful then all monies would be paid to the club. I believe that this is a breach of RQL Policy 81(t). I believe that it is also a breach of TTC Rules Standing Orders 13, 14 and 16. I am concerned also that this decision by the committee constitutes champerty which is void as against public policy.

70. The financials in February, March and April minutes do not show any cash or any finances in the bank but has a note reading "See Attached" and there is nothing attached to the official signed documents of the chairman retained in the office of the TTC. I believe that this is a breach of RQL Policy 81(o) and a breach of the TTC Rule 37.
71. I believe that Aaron Clancy has breached Rule 15 of TTC Rules and Section 124 of AIA because he produced to the Supreme Court on 20.04.11 the Membership Register of the TTC which was false because there was no reference in it of me being a member number 265. I believe that this entry had been unlawfully deleted by the person in charge of the Register which is the Secretary of the TTC Club, Clancy.
72. I believe that a portion affidavit presented by Clancy to the Supreme Court in the action I took against the TTC is not consistent with the contents of the April 2011 minutes of the TTC with reference to how and when Frappell and Clancy became aware of the alleged irregularity of my membership. I believe that this is a breach of RQL Policy 81(p) 6.4.
73. With reference the winner's diamond set gold rings sponsored by Jewels of the Range being cancelled as was outlined to me by Clancy I subsequently identified by my reading of the minutes that no decision was made to that effect. I believe that this is a breach of TTC Rule 2 (2) and (3).
74. Since 2006 Jewels of the Range has donated \$200.00 in gift vouchers for the Toowoomba Cup Fashion of the Field and the Melbourne Cup Fashion of the Field. Prior to the 2011 Weetwood/Toowoomba Cup Day I was contacted by Mike GODSELL, CEO of Channel 7 in Toowoomba seeking the vouchers for this amount of money and I agreed and had them ready for the day with my signage which is normally displayed with the other Channel 7 sponsors. He did not come to collect the vouchers or the signage and when I inquired why from him he told me that he had been told by Aaron Clancy that he was not allowed to use our vouchers or to display our signs. Godsell told me that he was embarrassed by this arrangement of the TTC. I believe that this was a

continuation of the harassment of the harassment and intimidation by the TTC in an attempt to force me off the committee.

75. I became aware that our perpetual trophy that I have referred to in this statement was not presented on the Cup Day and Mr Godsell told me that this had not taken place on the instructions of the TTC. I do not know why this did not take place. On the first committee meeting back in May 2011 I inquired why this had not taken place and I was told by Allan GEE that it was not presented because I was no longer a sponsor. Again, this in my view was a continuation of the bullying and harassment by the TTC against me. I believe that this was a breach of TTC Rule 2.3. I have since received correspondence from their lawyers in which the reason for not presenting this trophy was that the trophy had been misplaced and that it was an oversight. This is in conflict with what Gee told me at the meeting and it will be interesting to see what might be recorded in the minutes and if it is in conflict with what the legal letter outlined.

76. As a result of my now having read all the minutes that were recorded in my absence there has not been any mention or motion made in relation to Jewels of the Range signage being removed from the winning post and the 400 metre mark yet they have been removed and our company has not received an explanation why. This in my view is a continuation of the bullying and harassment that I have alleged against me and our company.

77. I have inquired as to where the ring presentation stands may be from Clancy and have been told that he has no idea where they are. I took this again as a part of the harassment and intimidation against me as they have always been available for the last three years.

78. When I started attending race meetings in April 2011 I noticed that a number of new sponsors were being promoted in signage on the track and in race names. I sent an e-mail of 11.05.11 to Clancy inquiring about the minutes and the financials in regards to the new sponsors as I was told that no new sponsors would be brought on board unless they paid cash with this detail being set out in the January minutes. Clancy responded that I could ask that at

the next committee meeting. I was not allowed to look at the sponsorship registry or the financial registry on 12.05.11 by Clancy when I attended to read the minutes. Again, in my view this is a continuation of the harassment and intimidation that I have been subjected to.

79. In the minutes of February 2011 it is recorded that the TTC slasher broke down and the cost of replacement was \$4,500.00 and it was critical to replace it before the Weetwood/Toowoomba cup and the groundsmen had taken it to Frappell's home to see if it could be repaired by him. He told the committee that he would only charge them for the parts needed to repair it. He asked if there was any objection from the committee and there was none. In the April 2011 minutes there is reference to the slasher again and Frappell advised the committee that it could not be prepared and that he would buy it from the TTC for \$100.00. No motion is recorded and no vote took place. I have no idea what happened to the slasher and if the purchase by him was above board. No verification re the inability to repair was set out, no second quote received in relation to its repair is recorded, no quote for scrap metal was received and no trade-in quote had been obtained. I believe that this is a breach of AIA 122(1)(b).
80. As a result of an incident that occurred at the first committee meeting I attended on my return which was the May meeting I made a complaint to RQL and that matter was dealt with resulting in Aaron Clancy receiving a reprimand for improper behaviour. As a result of what took place that night I received medical advice not to attend the next meeting in June 2011. I advised Clancy and the full committee of this advice and that I would be making a decision whether or not I would be attending. As a result of my advice I subsequently received e-mails from members Turnbull, Healy, Volz and Scott of an intimidatory and harassing nature threatening to sue me. As a result I informed Clancy that I would not be attending and I did not attend.
81. The next day, the day after the June meeting, I received an e-mail from the TTC employee, Brandon LONG, informing me of a meeting where a vote of no confidence would be taken against me by my fellow committee members. I forwarded that to my lawyer and he then filed an application in the Supreme

Court on 03 July 2011 to prohibit them considering the motion of no confidence. As a result they advised via their lawyers that they would not proceed with the motion at the 07 July meeting and my application was adjourned.

82. I had received an e-mail containing the June agenda for the meeting where Item 1 was a motion of no confidence in Anthony Burke. This prompted the Supreme Court application. On 30 June 2011 I received an agenda for a special meeting with myself as Item 1 – Motion of No Confidence in Anthony Burke.

83. Then through my lawyer we gave three days' notice of the Intention to Relist the application that had been adjourned. I did not proceed because the TTC through their lawyers advised they would not proceed to consider the motion of no confidence. In that same letter TTC lawyers advised that they would take it to a special meeting where I would suffer the full consequences of my actions.

84. At this stage my health is failing me because of the constant bullying and harassment and I sought through my lawyers a leave of absence from the committee for the two month period specified in my medical certificate which was supplied to the TTC. The date of the request for the leave was 14 July. On the same date my lawyers provided TTC lawyers with copies of the Workplace, Health and Safety Act and the 2004 Code of Practice on Prevention of Workplace Harassment and they refused to grant me leave of absence.

85. The next thing that occurred was that Dr John MORGAN, a committee member, telephoned me via my mobile and he told me words to the effect, "Bob wants to settle this and wants you to resign." I told him that I had offered to mediate via my lawyer on a number of occasions and that I was happy to look at any offer from the club and for them to put it in writing to my lawyers setting out any conditions. Morgan said, "Bob wants an answer by tomorrow lunch time." That concluded this conversation.

86. The next day I received a second call from Morgan at about 11.30.a.m. and he asked if I had made a decision arising from his call of the previous day and I told him that I had not yet received any thing in writing from them through my lawyers. I told him to give me another hour and I would speak with my wife about it. He told me that all the letters to the members would be going out that afternoon about the special meeting and he needed an answer. At 12.44.p.m. on 15.07.11 I received a text message from him on my mobile (0423.022.880) which stated, "Anthony, Bob says if you e-mail your resignation to the office he will guarantee ten grand – Kindest Regards John."
87. I immediately called John Morgan and asked him what was going on and he said that that was Bob's top offer for me to resign. I said to him that it had to be done through my lawyer and that he could not just make offers like that because there were a lot of conditions involved. I said to him, "Do you expect me to trust him after what all what I have been through. Would you trust him?" He said, "No." I then told him that my lawyer was gone for the afternoon and that if the club was serious about settling that day that they would have to send something through to a lawyer for me.
88. I said to him that my legal bills were in excess of 60 to 70 thousand dollars and I had been informed that Bob had told Jamie Orchard of RQL that he, Bob, was indicated to RQL that the TTC was prepared to pay my legal bills to settle. I told him that I would be happy to settle this and accept 35 thousand dollars but that it would have to be done through my lawyer with the exact reasons for my resignation being illness. I had some confidential medical conversation with John and that concluded the conversation.
89. I got hold of my lawyer and told him what had occurred and what I had been offered and I arranged to have correspondence from him sent to the TTC lawyers. I am aware that my lawyer had a discussion with TTC lawyers about compensation and had correspondence sent to them. Later that day I received another call from Dr Morgan and he said that Bob would not pay more than 10,000 and I told him that I had discussed with my lawyer that I would settle for 20 to 25,000. John said he would try his best but that he was positive that Bob would only pay 10,000. That concluded the conversation. Later that day

I called John back and let him know that my formal offer of settlement was being sent via my lawyer to the TTC lawyer and that related to the minimum amount that I was prepared to accept. The amount was the same as I had offered to settle in May 2011. My offer was later rejected.

90. I had great concerns about the offer made to me from Bob Frappell via Dr John Morgan that if I accepted the amount of 10,000 that it was a bribe made to me to resign from the TTC committee.
91. In view of the state of my health I instructed my lawyers to offer to settle all of the matters in dispute and I would retire from the committee and I would accept \$10,000.00 compensation for damages for the breach of sponsorship.
92. My lawyers received a reply from TTC lawyers which offered to pay the amount but imposed inappropriate conditions including a withdrawal of complaint to RQL and the Minister's Office. I also had to forego the Toowoomba Cup Presentation and my potential claim for damages for the health condition caused by the harassment, intimidation and bullying since all these events commenced. That correspondence has not been responded to.
93. In my response to the TTC allegations sent by me to the members I disclosed the open offer via SMS to pay me \$10,000.00 to resign. Subsequently, Bob Frappell sent a copy of the "Without Prejudice" offer of settlement from my lawyers of 15.07.11 to all club members and to at least two journalists. The letter from my lawyers which said I would resign I would for genuine medical health reasons were later read out on a radio station.
94. The covering letter from the TTC defamed me and materially represented the truth. This was an outrageous action taken by the TTC and was a blatant continuation of the harassment and intimidation that I have complained of. The Special Meeting called by the TTC with me being the only agenda Item is another blatant attack on me because I complained to RQL about all these events.
95. After RQL announced the investigation arising from my complaint and presumably advised the TTC of the investigation which would include the

funding of Frappell's defamation action against me, Frappell instructed lawyers to file the statement of claim in the Toowoomba Magistrates Court and this was served on me on 27.07.11. I believe this shows complete disregard by Frappell for the role of the regulatory body (RQL) and complete disregard for the member's funds.

96. I was to attend the last committee meeting held on 21.07.11 and I advised Clancy via e-mail that I would be late and would be arriving between 8 and 8.30.p.m. because of work commitments. Meetings normally start at 7.p.m. and finish at 10.30.p.m. and in my experience they have never finished before that time. However, on this occasion when I arrived at 8.15.p.m. the meeting had concluded and I was told by Frappell that it had concluded 7 minutes before my arrival. I asked to read the minutes and was refused by Frappell because he said he did not know where they were. I then asked if any person present had taken any notes that I might read and Frappell answered in the negative on all present behalf and every person there ignored me including Brandon LONG the minute taker. I then asked where Aaron was and I was told that he did not know. I then left.
97. The final issue I need to raise is that in the November minutes of 2010 Bob Frappell with the other members said that each committee member would have an open bar (free food and liquor) at each race meeting and at each subsequent meeting we would evaluate each member was spending in this regard and if it was revealed that a member was spending too much it would be brought to that person's attention. In all the minutes I have read from financials to catering there has been no disclosure of individual or total spending in this regard. This, in my view, is a neglect of the member's funds.
98. I have prepared a document which has been submitted to the Minister's Office of Racing in which I set out my opinion of what breaches have been committed by the full committee of the TTC under the chairmanship of Bob Frappell whose responsibility it is to ensure compliance and corporate governance. I will forward a copy of that document to RQL for their information to assist in this investigation.

99. I have also provided to the RQL Investigator through my lawyer a summary and copies of correspondence that demonstrate breaches of the code of practice on workplace harassment under the Workplace, Health and Safety Act.

100. TTC operates under a licence issued by RQL which requires compliance with legislation. The numerous breaches I say I have identified have been brought to the attention of RQL and the Minister's Office primarily initially because I tried to protect the club by attempting to have the committee comply with their obligations under the Association Incorporation Act and other governing laws.

101. I have provided to the RQL Investigator correspondence relating to each of the complaints that are outlined in this statement.

SIGNED:

A J BURKE

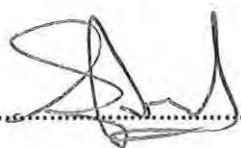
WITNESS:

W J KING

This is attachment marked "AB

137

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB137

From: Anthony Burke
Date: 29/07/2011 7:38:34 PM
To: wking@racingqueensland.com.au
Cc: bazlawyer@atlaw.net.au
Subject: Additions from yesterday we omitted and forgot to go back and add in

Hi Wayne

Item 6 in portfolio we submitted re RQL letter dated 18/2/2011 from JO advising committee members to at least follow the rules etc- not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
Will do as per number format

- 10 & 11 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 12 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 13 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 14 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
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- 24 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 25 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 28 - 37 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 39 & 41 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 44 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 45 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes that Ray Stevens gave the info to BF
- 50 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 51 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes
- 52 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes that a release of this was approved or

discussed

58 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes any applications received or any letters to applicants re mistake in advertising

61 date was 30/4/2011

66 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes as too the costs to the club members from HG

74 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes to reject the sponsorship

75 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes to not present the toowoomba cup perpetual trophy

78 not recorded or tabled in the inwards correspondence in minutes or anywhere in the minutes in regards to financial input or contracts

91 date was 25th July 2011

96 copy of email below

TTC have breached also

RQL Part 78 chapter 3 control bodies

(3) a control body's policies ensure there is a guidance for persons involved in the code of racing and transparent decision-making relating to matters dealt with by policies.

81 (i) & (o) & (p) specifically part 3 part 4 part 5 part 6.2 part 6.3 part 6.4 part 6.5 part 7.1 and part 8 & (t)

I believe the RQL breaches could enforce RQL Part 4 Clubs rule 104 (1) (a) & (b) and with the direction of the ministers office appoint an administrator so that (ii) and 2 (b) (c)

Harassment and improper email re a question in an email had been ignored RQL section 81(p) areas 6.2 (b) (c) (d) (g) (h) Part 8

From: Aaron Clancy

Date: 20/07/2011 8:41:27 AM

To: Anthony Burke

Cc: reception@jnmorganmedical.com; Allan_gee@bigpond.com;

bob@flexi.net.au

Subject: RE: minutes

Hello Mr. Burke,

Obviously you don't remember the motion that was tabled at the last Committee Meeting you attended, your solicitor also has a copy of this motion.

I don't appreciate the tone of your email, considering, it is your inability to retain information from Committee Meetings that has frustrated yourself.

Please see motion below:

P Turnbull suggested new procedures should be put in place to streamline Committee minutes and improve security of these very important board documents, outlining the following:

Office to prepare first draft after the meeting

Send to chairman for initial checking

After initial corrections send to the other members of the executive for checking

Further draft to be prepared

Numbered final draft to be available for Committee members 2 hours prior to Committee meeting.

The draft copies to be collected and destroyed by the COM at the conclusion of the Committee meeting

Regards, Aaron

Number 96 copy below

Early finished meeting breaching in my opinion ARR 175 (k) (l) and RQL section 81 (p) 6.2 (b) (c) (e) 6.4 (a) (ii) (iii) (b)



From: Anthony Burke
Date: 16/07/2011 5:20:19 PM
To: aaron@toowoombaturfclub.com
Bcc: bazlawyer@atlaw.net.au
Subject: Re: Committee Meeting

I will be there as soon as I finish with customer as have a few design customers coming in to the shop.
So will be late, maybe 8 to 8.30pm

Anthony

-----Original Message-----

From: Aaron Clancy

Date: 8/07/2011 12:42:20 PM

To: Aaron Clancy; johnscott@mansell.com.au; peterturnbull4@bigpond.com; HEALY@t130.aone.net.au; Allan_gee@bigpond.com; badenvalley@harboursat.com.au; Anthony Burke; reception@jnmorganmedical.com

Cc: bob@flexi.net.au

Subject: Committee Meeting

Hello Committee,

The Chairman has requested your attendance at a Full Committee Meeting to be held in the Weetwood Room on Thursday 21st July 2011. A BBQ will be provided from 6.00pm, meeting will commence at 7.00pm.

This is attachment marked "AB" ¹³⁸

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB138

From: Anthony Burke
Date: 31/07/2011 8:09:25 PM
To: Bob Frappell
Cc: Graham Healy; johnscott@mansell.com.au;
 reception@jnmorganmedical.com; A; allan_gee@bigpond.com;
 badenvalley@harboursat.com.au
Bcc: bazlawyer@atlaw.net.au; wking@racingqueensland.com.au;
 Shara Murray
Subject: Re: Fw: Challenge to Committee

Hi Bob

Forgot to tell you that I will not be there on Wednesday night due to medical conditions directly related to my treatment over the last 7 months.

It has been so severe my health, that I have had to close a shop, and take my doctors direction as per medical certificate the TTC committee ignored.

Thank you for achieving this.

It proves what you have done to me has been consistent and repeated and has been unwelcomed and unsolicited.

Your treatment of me has been offensive, intimidating and humiliating and threatening.

Any reasonable person would agree with me.

I have been subject to repeated threats of dismissal, or severe punishment for no reason.

I have been constantly ridiculed and put down as well as my work as a committee member has been sabotaged by deliberately withholding and hiding documents I have sent thru thus getting me in trouble.

From the subtle intimidation to the more aggressive tactics you have succeeded in your plan.

Enjoy Wednesday night.

-----Original Message-----

From: Bob Frappell
Date: 31/07/2011 9:40:26 AM
To: Anthony Burke
Subject: Re: Fw: Challenge to Committee

Mr Burke,

Aaron Clancey DID forward your email (Challenge to Committee) to all Committee members as requested out of courtesy. You did not ask for a response from Aaron you simply asked him to forward to all Committee members.

The special meeting of the members called will proceed as planned.

Bob Frappell

On 30/07/2011 4:04 PM, Anthony Burke wrote:
I have not seen Aaron respond to my email, so I
sending directly to you to respond if you can.
Please fax to Norm.
Anthony Burke

-----Original Message-----

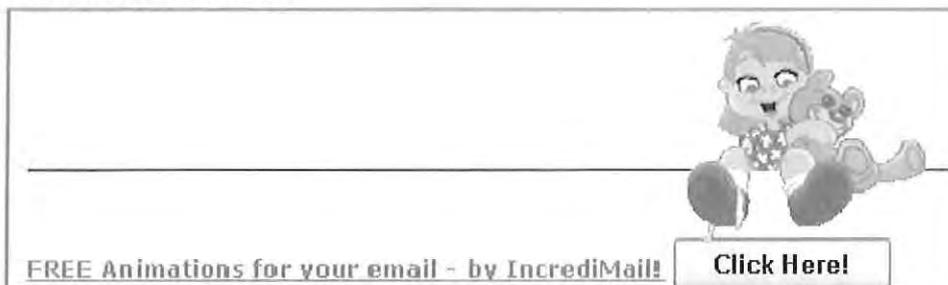
From: Anthony Burke
Date: 29/07/2011 2:32:13 PM
To: aaron@toowoombaturfclub.com
Subject: Challenge to Committee

Dear Aaron

Can you please forward to all committee members.
Can you also have this as inwards correspondence for
members to be able to view at the request.
I hope the races go well tomorrow.

Thanks

Anthony Burke
Committee Member

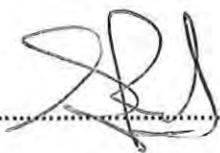


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This is attachment marked "AB

139

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....
Anthony John Burke



.....
Barry Edward Atkins, Solicitor Witness

AB 139



RACING QUEENSLAND

Racing Queensland Limited
A.B.N. 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

FACSIMILE TRANSMISSION

ATTENTION: Barry Akins
FROM: Racing Queensland Ltd
FAX NO: 4632 9529
DATE: 1 August 2011
PAGES NO: 2

If you do not receive all pages, please contact the sender on (07) 3869 9728

Please find as follows correspondence from Mr Orchard.

End Facsimile ...

This facsimile may contain CONFIDENTIAL INFORMATION and is intended only for the use of the named addressee(s). If you are not the addressee, you are notified that any transmission, distribution or photocopying of this facsimile is strictly prohibited. The confidentiality of this facsimile is not waived, lost or destroyed by reasons of a mistaken delivery to you.

If you are not the intended recipient, please notify us immediately by telephone and return the original facsimile to us at the above address by mail. We will reimburse you for the postage. Thank you.

1 August 2011



Mr Barry Atkins
 @ Law
 Parkview Chambers
 123 Margaret Street
 TOOWOOMBA QLD 4350

Racing Queensland Limited
 A.B.N 52 142 786 874
 Racecourse Rd Deagon QLD 4017
 PO Box 63 Sandgate QLD 4017
 T 07 3869 9777
 F 07 3269 6404
 E info@racingqueensland.com.au
 W www.racingqueensland.com.au

By facsimile: 4632 9529

Dear Mr Atkins,

RE: MEETING AT TTC 3 AUGUST 2011

I refer to your email of 29 July and 1 August 2011 seeking a Control Body direction be issued to the Toowoomba Turf Club pursuant to Section 33(2) of the Racing Act 2002 to prevent that club holding a meeting on 3 August 2011.

The power to issue Control Body directions is vested in RQL but is a power that is very rarely used, being reserved for the most serious of cases.

In the present case, instead of seeking a direction from the Board, I have written to the Chairman of the Club requesting that the meeting be postponed until after the completion of the investigation. I expect to hear tomorrow whether the Club agrees to this request that which time I will advise you accordingly.

Yours sincerely,

A.J.Orchard
 Director of Integrity Operations

2/8
 Meet @ AB
 1 hr

34(2)

This is attachment marked "AB ¹⁴⁰"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

AB140

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

27 July 2011

Our Ref: BA:11030

Racing Queensland
By delivery

1/8/11

*Dear Shava Murray,
As you are dealing
with Anthony Burke's
complaint about bullying
I give you
this summary
Regards [Signature]*

Dear Mr. King,

Re: Anthony Burke and TOOWOOMBA TURF CLUB INC. ["TTC"]
Re: Submissions and evidence to assist the investigation

I attach copies of letters between @ Law, Mr. A Burke's ['ab'] Solicitors and Hopgood Ganim, solicitors for TTC.

I set out below a summary of the various items of correspondence using abbreviations of "hg" for Hopgood Ganim and '@l' for @ Law. All dates are in 2011. All communications have been by facsimilie. "2" means sent to and 'fr' means from. For simplicity I have put my law firm first - either sending or receiving.

To assist your investigation I have tried to put the correspondence in the context of the Prevention of Workplace harassment Code of Practice 2004 which defines 'workplace harassment' as repeated behaviour that Anthony [and a reasonable person] considers 'offensive, humiliating, intimidating or threatening'. Anthony is covered under Section 11(2) of the Workplace Health and Safety Act.

It includes 'incorrect information'; 'hiding documents'; 'maliciously excluding and isolating a person from workplace activities'; 'persistent and unjustified criticism'; humiliating a person'; 'spreading gossip or false malicious rumours with an intent to cause the person harm'.

Many of the incidents also overlap breaches of the Rules of TTC and breaches of Racing Queensland's Policies , as well as breaches of the Associations Incorporations Act.

My comments are below the dated summary, without a date.

2/3 @l 2 hg - offer to have meeting ...to try and resolve the issue [of defamation] and 'resolve the other issues'

3/3 @l fr hg - Frappell ['bf'] 'unwilling to meet '

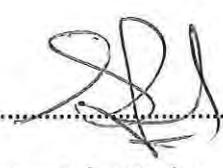
11/3 @l 2 hg - denial by ab that TTC 'ever decided to retain hg to act against ab; and a conflict of interest in acting for Frappell['f']

No evidence in any minutes of any decision for TTC to retain hg.

No evidence in any minutes that TTC authorised Clancy ['ac'] to instruct hg

This is attachment marked "AB" ¹⁴¹

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB141

Barry Atkins

From: Anthony Burke [ajsrburke@optusnet.com.au]
Sent: Thursday, 2 August 2012 11:28 PM
To: aaron@toowoombaturfclub.com
Subject: Committee minutes
Importance: High

Dear Sir

Sorry for delay into your question of what I wished to view.

Next week I have time on Wednesday 8th August 2012 from 11am to 2.30pm and Thursday 9th August 2012 from 9.30am to 1pm.

I would like to look at the following.

- Financial Journal showing that Bob Frappell has repaid the money as per the Barristers report, and AR 112.
- Financial documents showing how much money was paid to Hopgood Gamin by the TTC in the action against me.
- The minutes from when my resignation as a committee member were tabled.
- The minutes from where I advised you Kent Woodford was not elected in accordance with the TTC rules.
- The minutes and the Asset register re the returning of the slasher from Bob Frappell farm to the TTC and what has now happened to the slasher.
- The minutes of the meeting after the Barristers report was presented listing the breaches and the discussions the committee made in correcting them.
- The minutes of the meeting discussing the Barristers report and the breach of 59c of the AIA by the secretary Aaron Clancy and action taken by the committee to prevent any more breaches from the secretary as this is the 2nd in his employment along with the AR175 breach in 2011.
- The financials and the minutes showing what the rumored money from RQL was given for and used for.
- A general read of the minutes from November 2011 to July 2012 as an over view to see where the club is travelling.
- The sponsors registry to see how much CASH sponsors the club has as well as any contra sponsors.

Thanks

Anthony Burke

Member of the Toowoomba Turf Club.

PS look forward to the read.

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This is attachment marked "AB" ¹⁴²

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB142

Barry Atkins

From: Sales [sales@atlaw.net.au]
Sent: Tuesday, 2 August 2011 1:20 PM
To: 'Perrett, Carol'
Subject: TTC and A Burke
Attachments: sharpfax@twmba.com.au_20110802_105834.tif; 11030_burk_fax_from_RQ_20110801_170620.tif; 11030%20Burk%20Fax%20from%20HG%20Lawyers_20110729_130442[1].TIF; Fax OPS_v82.doc; Fax OPS_v83.doc; sharpfax@twmba.com.au_20110801_162911.tif; Fax OPS_v81.doc

Importance: High

Dear Minister, Mike Kelly and Carol Perrett,

Mr. Burke asks you to direct RQL to issue a Control Body direction to TTC under Section 33(2) of the Racing Act 2002 to:-

1. Cancel the meeting due 3/8/11; and
2. dismiss the Toowoomba Turf Club Committee and appoint an administrator under Section 19 Racing Act 2002.

We attach evidence that is irrefutable that TTC are acting with mala fides towards Mr. Burke by refusing to:-

1. Allow Mr. Burke to have an Attorney attend the meeting to speak on his behalf, thereby denying Mr. Burke natural justice; and
2. Have an impartial Chairman at the meeting.

The evidence is:-

1. Associations Incorporation Act 1981 ['AIA'] Section 47 which provides for an 'additional provision' to be part of the TTC Rules where the TTC Rules do not provide for a matter; and
2. Model Rules 37 and 40 of Associations Incorporation Act 1981.

The TTC Rules do not allow for proxies. The TTC have issued advice to its members that they are allowed to vote on 3/8/11 by proxy. TTC must be relying on Section 47 AIA which states:-

47 Matters not provided for in rules provided for in model rules

(1) If a matter is not provided for under an incorporated association's own rules but the matter is provided for under a provision of the model rules (the *additional provision*), the association's own rules are taken to include the additional provision.

(2) This section does not affect the ability of an incorporated association to amend its rules under this Act.

(3) Subsection (1) does not apply to an incorporated association as far as its own rules provide that the subsection does not apply to the association.

to use the Model Rule 37 which states:-

37 Procedure at general meeting

(1) A member may take part and vote in a general meeting in person, by proxy, by attorney or by using any technology that

reasonably allows the member to hear and take part in discussions as they happen.

(2) A member who participates in a meeting as mentioned in subrule (1) is taken to be present at the meeting.

(3) At each general meeting—

(a) the president is to preside as chairperson; and

(b) if there is no president or if the president is not present within 15 minutes after the time fixed for the meeting or is unwilling to act, the members present must elect 1 of their number to be chairperson of the meeting; and

(c) the chairperson must conduct the meeting in a proper and orderly way.

You will note the entitlement of a member to be present at a meeting “by attorney”. Attached ‘Fax OPS v83 is our request to TTC to allow Mr. Burke to have Mr. Atkins attend the meeting as his attorney as Mr. Burke is unable to personally attend based on medical advice.

Attached ‘sharp@twmba.com.au 20110802 105834’ is TTC’s lawyers response refusing to allow Mr. Burke to have an attorney attend the meeting. This is a denial of natural justice of the most basic right of an individual to attend to present his case. The statement that Mr. Burke can appoint a proxy to attend is invalid because as set out below the rights of a proxy are only to vote.

40 Proxies

(1) An instrument appointing a proxy must be in writing and be in the following or similar form—

[*Name of association*]:

I, of , being

a member of the association, appoint

of

as my proxy to vote for me on my behalf at the (annual) general meeting of the association, to be held on the day of

20

and at any adjournment of the meeting.

Signed this day of 20 .

Signature

(2) The instrument appointing a proxy must—

(a) if the appointor is an individual—be signed by the appointor or the appointor’s attorney properly authorised in writing; or

(b) if the appointor is a corporation—

(i) be under seal; or

(ii) be signed by a properly authorised officer or attorney of the corporation.

(3) A proxy may be a member of the association or another person.

(4) The instrument appointing a proxy is taken to confer authority to demand or join in demanding a secret ballot.

(5) Each instrument appointing a proxy must be given to the secretary before the start of the meeting or adjourned meeting at which the person named in the instrument proposes to vote.

(6) Unless otherwise instructed by the appointor, the proxy may vote as the proxy considers appropriate.

(7) If a member wants a proxy to vote for or against a resolution, the instrument appointing the proxy must be in the following or similar form—

[*Name of association*]:

I, of , being
a member of the association, appoint
of
as my proxy to vote for me on my behalf at the (annual) general
meeting of the association, to be held on the day of
20
and at any adjournment of the meeting.
Signed this day of 20 .
Signature
This form is to be used *in favour of/*against [*strike out whichever
is not wanted*] the following resolutions—

Secondly Mr. Atkins is not willing to attend just as a proxy.

Thirdly Mr. Burke is exercising his rights under the Model Rules by appointing an 'attorney'.

Lastly the TTC Rules do not allow for proxies , so the TTC must be relying on Model Rule 37 and AIA S to allow proxies. If the TTC did not rely on those legislative provisions then the entire meeting would be invalid because the Notice advised members they could appoint a proxy, and if proxies were not allowed the misleading of members effectively denies them the right to vote.

Further evidence of the mala fides of TTC will come later this afternoon, I am sure, when TTC reject the request from RQL contained in the attached '11030 burk fax from RQ' to postpone the meeting until after the investigation is completed. No right thinking committee member of TTC would allow the meeting to proceed until the investigation was completed unless they were acting with mala fides and simply determined to get rid of Mr. Burke as a Committee Member – which of course is what they are doing.

Attached are copies [Fax OPS v82, 11030%20Burk%20 etc] of my fax to TTC's lawyers stating why Mr/ Healy is not appropriate as a Chairman of the Meeting and TTC lawyers fax to me advising Mr. Frappell will not chair the meeting but Mr. Healy will. It is an important aspect to Mr. Burke receiving natural justice that the Chairman of the Meeting be impartial. We asked for an independent Chairman and TTC's refusal to agree is , again, evidence that TTC is denying Mr. Burke natural justice.

In support of Mr. Burke's request to the Minister that the ENTIRE committee [including himself] be dismissed I attach Fax OPSv81 by which Mr. Burke offered to resign and submit himself for re-election if all other 9 Committee members did likewise. Attached 'sharpfax@twmba.com.au20110801 162911' is TTC lawyer's response rejecting Mr. Burke's proposal.

It is in the interests of the very future of the Toowoomba Turf Club that the entire current committee be dismissed and an administrator appointed. Elections are to be held in September and the administrator can work with the members of the new committee to ensure good corporate governance.

If the Minister is unable to take this action then the only alternative will be for Mr. Burke to go back to the Supreme Court after the meeting, which I presume will vote against him, to have the decision overturned on the same grounds as the TTC lost in the first case, that Mr. Burker has been denied natural justice because TTC refuse to allow his attorney to attend the meeting as is Mr. Burke's entitlement under the legislation. There is not enough time to have a matter listed in the Supreme Court before the meeting tomorrow.

The inevitable bad publicity that will result from the Application to the Supreme Court will be detrimental to the image of the racing industry, cost TTC another \$50,000.00 - \$100,00 [as I'm positive TTC will be ordered to pay Mr. Burke's costs on] on top of the \$50,000 - \$100,000 that they have already spent [and refused and failed to disclose to the members].

The TTC is in a very parlous state due to the actions of the current Committee. Two facts show this:-

1. Out of 389 members only 200 have renewed their membership since 1 July. Those that have resigned have clearly 'had a gutful' of the carrying on and not renewed in protest;
2. An employee of TTC has waited over one month to be paid \$1,000.00 owed. The current Committee have spent so much on legal fees [which they have failed and refused to disclose to the members, despite Mr.

Burke's formal request that the information be tabled] they are trading without the ability to pay their debts as and when due.

If the Minister does not direct RQL to take the action requested by Mr. Burke the whole sorry saga will drag on and on. It must be stopped and Mr. Burke is quite willing to forfeit his committee membership, along with the other 9 committee members also being dismissed, in the interests of the future viability of the Toowoomba Turf Club. Nobody – not TTC, not the industry, not RQL cannot afford for this meeting to go ahead tomorrow in light of the new evidence in this email.

I am available on 0416 14 3038 to discuss any any aspect of this email that, due to time constraints, I have not made clear to the Minister.

Barry Edward Atkins (B.A., LLB(Hons.))

Solicitor & Attorney

@LAW

Tel: 07 4639 3038

Fax: 07 4632 9529

Email: bazlawyer@atlaw.net.au

Web: www.atlaw.net.au

Park View Chambers

123 Margaret Street

(P.O. Box 605)

Toowoomba Qld 4350

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001	02/AUG	01:28PM	46384056	0:00:48	5	MEMORY OK	SG3 5496

AB/42

Barry Atkins

From: Sales [sales@atlaw.net.au]
Sent: Tuesday, 2 August 2011 1:20 PM
To: 'Perrett, Carol'
Subject: TTC and A Burke
Attachments: sharpfax@twmba.com.au_20110802_105834.tif; 11030_burk_fax_from_RQ_20110801_170620.tif; 11030%20Burk%20Fax%20from%20HG%20Lawyers_20110729_130442[1].TIF; Fax OPS_v82.doc; Fax OPS_v83.doc; sharpfax@twmba.com.au_20110801_162911.tif; Fax OPS_v81.doc

Importance: High

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1. Allow Mr. Burke to have an Attorney attend the meeting to speak on his behalf, thereby denying Mr. Burke natural justice; and
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The evidence is:-

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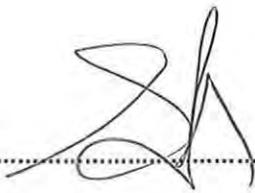
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to use the Model Rule 37 which states:-

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Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

Barry Atkins

AB143

From: Barry Atkins [bazlawyer@atlaw.net.au]
Sent: Tuesday, 2 August 2011 1:17 PM
To: 'jorchard@racingqueensland.com.au'
Subject: TTC and Burke
Importance: High

Dear Mr. Orchard,

Thank you for your fax yesterday advising that you have asked TTC to postpone the meeting of 3/8/11 to after the investigation is completed.

If, as I expect, TTC decline to do so, that is evidence of the mala fides of the Committee Members and elevates the issue to a most serious case.

In that situation will you then seek a direction of the Board to issue a Control Body direction to TTC to postpone the meeting until after the investigation is completed?

Such a course does not prevent TTC having the meeting, and therefore RQL will not be seen as unreasonably interfering with the TTC's ability to conduct its affairs in accordance with its Rules, but preserve s the 'status quo' until the facts and truth of Mr. Burke's allegations are revealed by the investigation.

By directing TTC to refrain from the meeting for a period, the entire future viability of TTC is protected. To allow the meeting to proceed inevitably puts TTC at risk of collapsing or becoming 'bankrupt' due to the cost of continued litigation. I note your letter of 28/2/11 [which has not been tabled at any TTC Committee Meeting since then] urged TTC to avoid wasting club members funds on litigation.

The TTC is in a very parlous state due to the actions of the current Committee. Two facts show this:-

1. Out of 389 members only 200 have renewed their membership since 1 July. Those that have resigned have clearly 'had a gutful' of the carrying on and not renewed in protest;
2. An employee of TTC has waited over one month to be paid \$1,000.00 owed. The current Committee have spent so much on legal fees [which they have failed and refused to disclose to the members, despite Mr. Burke's formal request that the information be tabled] they are trading insolvently.

Barry Edward Atkins (B.A., LLB(Hons.))
Solicitor & Attorney
@LAW
Tel: 07 4639 3038
Fax: 07 4632 9529
Email: bazlawyer@atlaw.net.au
Web: www.atlaw.net.au

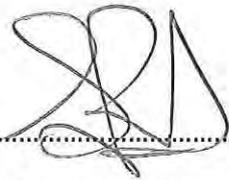
Park View Chambers
123 Margaret Street
(P.O. Box 605)
Toowoomba Qld 4350

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This is attachment marked "AB ¹⁴⁴"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness



TOOWOOMBA TURF CLUB INC.
Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350
Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

AB144

Dear Members,

I am writing to you today on behalf of the Committee of the Toowoomba Turf Club to provide you with a Notice of a Special General Meeting. You will also find attached relevant documents that explain and outline the reasons for the Committee to call upon you to vote at this Special General Meeting. I will ask that if you do have any questions relating to this meeting to contact myself, where I will be more than happy to answer your quires.

I look forward to seeing you here at Clifford Park for our Twilight Meetings and also at the Special General Meeting.

Regards,

Aaron

Aaron Clancy
TTC Race Secretary



Notice of Special General Meeting

Notice is given that a Special General Meeting of Members of Toowoomba Turf Club Inc (TTC) will be held at the offices of TTC, Hursley Road, Toowoomba, on Wednesday 3 August 2011 at 6.30pm. Please arrive at 6.00pm for a prompt 6.30pm start.

NOTE: The Special General Meeting is strictly for Members only. **Proof of ID will be required for admittance.**

Business

1. To receive apologies.
2. To consider and, if thought fit, pass the following Ordinary Resolution proposed by Committee Member Peter Turnbull in accordance with rule 36 of the Rules:

"That, in accordance with rule 36(e) of the Rules of TTC, Mr Anthony John Burke be removed as a Member of the Committee of the Toowoomba Turf Club Inc with such removal to take effect immediately following the passing of this resolution."
3. To consider any other business as may be lawfully put forward in accordance with the Rules of TTC.

Voting exclusion statement

TTC will disregard any votes cast on this Resolution by:

- any Member whose annual subscription is in arrears at the date of the Meeting.

However, TTC need not disregard a vote if:

- it is cast by a person as proxy for a person who is entitled to vote, in accordance with the directions on the proxy form; or
- it is cast by the person chairing the Meeting as proxy for a person who is entitled to vote, in accordance with the direction on the proxy form to vote as the proxy decides.

By direction of the Management Committee.

Aaron Clancy
Racing Secretary
July 2011



Explanatory Memorandum

1. Introduction

This Explanatory Memorandum is provided to Members of **Toowoomba Turf Club Inc. (TTC)** to explain the Ordinary Resolution to be put to Members at the Special General Meeting to be held at Toowoomba Turf Club, Hursley Road, Toowoomba on Wednesday 3 August 2011 commencing at 6.30pm.

Terms used in this Explanatory Memorandum are defined in Section 2.

The Notice of Meeting sets out the details of the Ordinary Resolution to be put to Members which comprises the following:

Ordinary Resolutions

That, in accordance with rule 36(e) of the Rules of TTC, Mr Anthony John Burke be removed as a Member of the Committee of the Toowoomba Turf Club Inc with such removal to take effect immediately following the passing of this resolution.

2. Interpretation

Act means The Associations Incorporation Act 1981.

Member means a member of TTC whose annual subscription is **not** in arrears at the date of the Meeting;

TTC means Toowoomba Turf Club Inc

3. Attachments

3.1 Proxy form

3.2 Statement to Members from Peter Turnbull, Allan Gee, Jim Cosgrove, Allen Volz, John Scott, Dr John Morgan and Norm Pankhurst (together with relevant documents annexed to the Statement).

NOTE: Mr Burke has been notified of the Ordinary Resolution, given copies of the attached Statement to Members (and relevant documents) and invited to prepare and provide to TTC a written response to the matters referred to in the Statement to Members and show cause why he should not be removed from the Management Committee. Any such response received from Mr Burke will be communicated to Members as soon as possible after it has been received. It is recommended that Members read the accompanying Statement to Members and any response received from Mr Burke in full before making any decision in relation to the Ordinary Resolution.

Any inquiries in relation to the Ordinary Resolution or the Explanatory Memorandum should be directed to Aaron Clancy (Racing Secretary):

Toowoomba Turf Club
Hursley Road, Toowoomba QLD 4350
(07) 4634 6066



Statement to Members

Dear fellow TTC Members

We are a group of Members of the Management Committee comprising Peter Turnbull, Allan Gee, Jim Cosgrove, Allen Volz, John Scott, Dr John Morgan and Norm Pankhurst. It has been, and continues to be, a privilege to serve on the Committee.

With the guidance of Chairman Bob Frappell, the Committee has made considerable progress in turning around TTC's fortunes through hard work and loyalty to each other. We believe TTC has a bright future and that, with the support of all Members, TTC will continue to grow and improve. Our passion is to continue to guide and lead TTC to the next stage of its development and achieve the goals and objects set out in the Constitution of the Club.

Management Committee Members of all Clubs have obligations and responsibilities arising from relevant legislation, the Constitution/Rules of their Club, accepted policies and guidelines and accepted community standards. To enable such Members to discharge these obligations and responsibilities, it is essential that each individual Committee Member strives to maintain a harmonious, productive and business-like relationship with fellow Management Committee Members and the Club Manager, and that all Members conduct themselves with appropriate decorum (in a manner which is consistent with their collective and individual roles), at all times.

Unfortunately, we do not believe that one of our fellow Committee Members, Mr Anthony Burke, has committed himself to work with the rest of us to achieve our collective goals. Over the past several months, Mr Burke has demonstrated a refusal to work harmoniously with his fellow Committee Members in the best interests of TTC, and has made no secret of his desire to remove Mr Frappell from his position as Chairman of the Committee and rid the Club of its current Racing Secretary, Aaron Clancy.

Despite invitations extended to him by the Committee to put aside any perceived injustices he feels and make a constructive contribution to the workings of the Committee and the Club as a whole, Mr Burke has ignored these "olive branches" and continues (both personally and through his legal adviser) to harass and intimidate his fellow Committee Members and Mr Clancy, and distract them from the roles they were elected or employed to perform.

As a result, one of us, Mr Turnbull, will be moving a resolution at a Special General Meeting of TTC that Mr Burke be removed from the Committee under rule 36(e). He does so with the full support of the rest of us, and we will be voting in favour of the resolution at the meeting.

The purpose of this statement is to explain to you, our Members, our reasons for doing this and to outline some of the recent actions taken by Mr Burke (and his lawyer) on his behalf which have resulted in our decision to go down this path.

Reasons for resolution

1. Complaints to regulatory bodies

Mr Burke has made a number of allegations to regulatory bodies and other parties about the conduct of the Management Committee (or individual members of it) and Mr Clancy. He has also threatened, without justification, to make formal complaints to such bodies about Mr Frappell, Mr Clancy and other Committee Members.

(a) Alleged incident on 10 February 2011

In February 2011, Mr Burke made the following accusations (in writing) to the Chairman and Integrity Officer of Racing Queensland Limited (RQL), a number of Members of Parliament (including the then State Leader of the Opposition and Local Members), the Toowoomba Chronicle and the police:

- (1) That, during an incident which occurred at the Club on 10 February 2011, Messrs Frappell, Gee, Cosgrove, Pankhurst and Clancy had:
 - Acted like bullies and intimidated him;
 - Been part of a "mob" which mounted a violent, aggressive and pre-planned attack on him; and
 - Acted like a "pack of aggressive dogs" and attacked him.



Copies of Mr Burke's accusations are **attached** (see Annexure 1).

Mr Burke's accusations are (and always were) a figment of his imagination. He did not provide one shred of evidence to support them. Both RQL and the police declined to investigate the matter. However, despite being asked several times to withdraw and apologise for his accusations, Mr Burke has refused to do so, even though he knows that there is independent evidence which completely contradicts the accusations he made to RQL, the MPs, the newspaper and the police.

(b) **Allegation to RQL - May 2011**

On 31 May 2011, Mr Burke lodged a written complaint with RQL alleging that, during a Committee Meeting on 26 May 2011, he was "assaulted" by Mr Clancy and that he was intimidated and harassed by Mr Clancy, Mr Frappell and Mr Cosgrove. RQL appointed a Stewards panel to conduct an inquiry into Mr Burke's allegations. At the Stewards' Hearing on 7 June 2011, the Stewards ruled that Mr Frappell and Mr Cosgrove had no case to answer and dismissed Mr Burke's complaints against them.

The Stewards concluded that Mr Clancy had acted in a manner prejudicial to the interests of racing and issued him with a reprimand. All Mr Clancy did was follow Mr Burke out of the Weetwood Room and attempt to retrieve some Committee papers which Mr Burke had removed from the Weetwood Room before a Committee Meeting. Mr Clancy did this because he considered Mr Burke should not have removed Committee papers from the room. In our view, Mr Burke exaggerated the incident out of all proportion. We believe our view is confirmed by the fact that the Stewards merely reprimanded Mr Clancy for his actions. Significantly, a reprimand is the least serious of the penalties the Stewards could have imposed upon Mr Clancy.

However, despite the outcome of the Stewards' Hearing, Mr Burke caused his solicitor to write to the Club's solicitors **after** the Stewards' findings and make the following allegations:

- (1) On 8 June 2011, Mr Atkins (Mr Burke's solicitor) wrote to HopgoodGanim (the Club's solicitors) asserting that the Stewards had "severely reprimanded" Mr Clancy;
- (2) On 10 June 2011, Mr Atkins wrote to HopgoodGanim stating that he had advised Mr Burke of his right to take court action against Mr Clancy personally in relation to Mr Clancy's actions on 26 May 2011;
- (3) On 14 June 2011, Mr Atkins wrote again to HopgoodGanim referring to the "violent behaviour demonstrated by" Mr Clancy towards Mr Burke on 26 May 2011; accusing Mr Clancy of having "assaulted" and "damaged property of" Mr Burke, and concluding with the statement that Mr Burke would be "taking appropriate action in the civil courts";
- (4) On 17 June 2011, Mr Atkins wrote to HopgoodGanim and again accused Mr Clancy of having "violently attacked" Mr Burke, and also accused Mr Frappell of having been "present during that debacle" and doing "nothing to try and stop" Mr Clancy's behaviour.

Copies of Mr Atkins' correspondence are **attached** (see Annexure 2).

2. **Other harassment of the Committee**

- (a) On 29 March 2011, Mr Burke sent an email to other Committee Members in which he referred to the Committee's decision at its March meeting (which Mr Burke did not attend for reasons explained below) to reject RQL's proposal to take equity in TTC. Mr Burke's email asserted that, because the meeting was invalidly held, the decision was also invalid. Mr Burke gave notice of his intention to move a motion at the next Committee Meeting that the Club seek independent legal advice about the invalidity of the March meeting and the invalidity of the Committee's decision to reject RQL's proposal.

On 30 March 2011, Mr Burke posted an entry on the Just Racing website in which he questioned the validity of the Committee's decision to reject RQL's proposal and asserted that the people who failed to ensure that the Club followed its rules should resign or be sacked.



- (b) On 19 May 2011, Mr Burke sent an email to all Committee Members (except for Mr Frappell) warning them that they could be held personally accountable for not acting in TTC's best interests, abusing their powers and failing to appropriately supervise Mr Clancy in the performance of his duties. Mr Burke's email concluded with a reference to the power residing in the Office of Fair Trading to call upon TTC to show cause why its registration as an incorporated Association should not be cancelled.
- (c) Mr Burke instructed his solicitor Mr Atkins to leave voicemail messages on Mr Healy's mobile phone in May 2011. Further reference will be made to these voicemail messages below. However in our view, they amount to harassment of Mr Healy.

Copies of the emails from Mr Burke referred to above are attached as Annexure 3.

3. Harassment and intimidation of Mr Clancy

Either personally or through Mr Atkins, Mr Burke has waged an ongoing and unrelenting campaign of harassment and intimidation of Mr Clancy over the past several months. Some instances follow:

- (a) On 18 March 2011, Mr Atkins wrote to HopgoodGanim and accused Mr Clancy of issuing "a false and misleading invoice" to his client "in breach of rule 14". Mr Atkins also accused Mr Clancy of numerous other failures to comply with the Rules;
- (b) After Mr Frappell became aware of the written complaints which Mr Burke had lodged with RQL, the MPs, the Toowoomba Chronicle and the police referred to in paragraph 1(a) above, Mr Frappell's solicitors wrote to Mr Burke explaining in significant detail why Mr Burke's accusations were incorrect and calling upon him to withdraw (and apologise for) those accusations. The correspondence from Mr Frappell's solicitors informed Mr Burke that the incident had been witnessed by a number of independent parties all of whom confirmed Mr Frappell's version of the incident, and stated that a recording had been made by one of TTC's officers which contradicted Mr Burke's accusations. This correspondence prompted Mr Burke (either personally or via Mr Atkins) to write several times to Mr Clancy demanding that he provide a copy of the recording of the incident at the Club on 10 February 2011 to him. These demands were based on an erroneous view that Mr Clancy was obliged to provide the recording to Mr Burke. The demands continued, even after the Club's solicitors informed Mr Atkins that his (and Mr Burke's) demands were unjustified. Most disturbingly, Mr Burke's and Mr Atkins' communications contained threats that Mr Clancy would be personally liable for failing to comply with their demands. For example:
 - (1) On 28 March 2011, Mr Burke wrote to Mr Clancy and, after demanding a copy of the recording, suggested that Mr Clancy should take independent legal advice and threatened to "take further action" against Mr Clancy without notice unless the demand was complied with.
 - (2) On 28 March 2011, Mr Atkins wrote to Mr Clancy threatening to seek a court order against him requiring him to make the recording available, and also threatening to seek orders and indemnity costs against Mr Clancy personally.
 - (3) On 17 May 2011, Mr Atkins wrote to HopgoodGanim and demanded to be informed "within 48 hours" whether Mr Clancy would provide to the next Committee Meeting the original recording and a typed transcript of that recording.
 - (4) On 19 May 2011, Mr Atkins wrote to HopgoodGanim again demanding "within 48 hours" the original recording and a typed transcript of that recording.
 - (5) On 20 May 2011, Mr Atkins wrote to HopgoodGanim. Mr Atkins' correspondence referred to a number of matters. However, for present purposes, the relevant portion is the part where Mr Atkins refers to Mr Burke "making a formal complaint to the Office of Fair Trading" about Mr Clancy's "most serious misleading of the Committee" by failing to reveal the existence of the recording.



- (6) On 20 May 2011, Mr Atkins wrote to Mr Clancy directly and accused him of having misled the Committee by failing to table the recording at three successive Committee Meetings. In his correspondence, Mr Atkins confirmed that Mr Burke had made formal complaints to RQL and the Office of Fair Trading about Mr Clancy's "most serious misleading of the Committee".

Copies of these communications are **attached** as Annexure 4.

- (c) Mr Burke (either personally or through Mr Atkins) has also accused (without justification) Mr Clancy on several occasions of:
- (1) Failing to comply with his duties to individual Committee Members;
 - (2) Failing to give Mr Burke notice of Committee Meetings and threatening to bring that failure "to the attention of the appropriate authorities including the Committee, Racing Queensland and the courts";
 - (3) Accusing Mr Clancy of having no authority to instruct HopgoodGanim on the issues in dispute between Mr Burke and TTC;
 - (4) Accusing Mr Clancy of having breached certain legislation, policies and TTC's obligations when he failed to provide Mr Burke with a photocopy of Minutes of Meetings of the Management Committee.

A typical example of these allegations is contained in Mr Atkins' correspondence of 23 May 2011 to HopgoodGanim. In that correspondence, Mr Atkins asserts (wrongly and without any justification) that Mr Clancy had "continuously acted without express authority of the Club"; that Mr Clancy had rejected an offer of settlement from Mr Burke in relation to the dispute concerning the Sponsorship Agreement (referred to below); had acted without the Committee's actual authority and had exposed the Club to an indemnity costs order against it. A copy of Mr Atkins' correspondence of 23 May 2011 is **attached** (see Annexure 5).

4. RQL's correspondence of 18 February 2011

Mr Burke and Mr Atkins accused Mr Frappell and/or Mr Clancy on several occasions of having deliberately misled the Committee by withholding from it correspondence sent to TTC by RQL on 18 February 2011. Some instances follow:

- (a) On 18 May 2011, Mr Atkins wrote to HopgoodGanim accusing Mr Frappell and Mr Clancy of misleading the Committee by failing to table RQL's letter of 18 February 2011;
- (b) On 18 May 2011, Mr Atkins left two voicemail messages on Mr Healy's mobile phone. In these messages, Mr Atkins asserts the identification of "*several instances where the Committee has been misled by the omission of documents that should have been tabled at Committee Meetings*". Mr Atkins describes these as "*very very serious allegations*";
- (c) On 19 May 2011, Mr Burke left a voicemail message on Mr Healy's mobile phone. The contents of the voicemail message make it clear that Mr Burke's aim was to get Mr Frappell off the Committee;
- (d) On 19 May 2011, Mr Burke sent a mail out to all Club Members accusing TTC of having "withheld (RQL's letter of 18 February 2011) from the Committee";
- (e) On 20 May 2011, Mr Atkins wrote to HopgoodGanim asserting that, in his professional opinion and Mr Burke's personal opinion, Mr Clancy had misled the Committee and Mr Frappell had failed to fulfil his duties as Chairman. Mr Atkins' letter also refers to Mr Burke as having made formal complaints to RQL and the Office of Fair Trading;



- (f) On 20 May 2011, Mr Atkins left a voicemail message on Mr Healy's mobile phone. The message records Mr Atkins accusing Mr Frappell and Mr Clancy of having misled the Committee and says that there are "*some serious, very very serious problems*". The message records Mr Atkins asserting that there is a "*risk of the Club losing its licence to the Office of Fair Trading and, if that happened, it would be solely the result of the actions of Clancy and Frappell in breaching their obligations under the relevant legislation and misleading the Committee*". The message concludes with an exhortation from Mr Atkins that lines of communication be opened "*so that the other Committee Members can understand exactly how badly and how wrongly Frappell and Clancy have and are continuing to act*".

Copies of the correspondence and transcripts of the voicemail messages referred to above are **attached** as Annexure 6.

However, Mr Burke's and Mr Atkins' accusations are simply wrong. With the exception of Mr Pankhurst (an email address for whom RQL did not have) and, of course, Mr Burke, RQL's letter of 18 February 2011 was emailed to all Committee Members and to Mr Clancy on or about that date. **Attached** and marked Annexure 7 is a copy of an email dated 27 June 2011 from Mr Jamie Orchard, RQL's Director of Integrity Operations, to Mr Frappell which confirms this.

5. **Supreme Court Proceedings commenced by Mr Burke against TTC**

In April 2011, Mr Burke commenced proceedings in the Supreme Court of Queensland seeking declarations that he was a Member of TTC and a Member of the Management Committee.

The proceedings were commenced after TTC informed Mr Burke that, under the Rules, Mr Burke's entitlement to remain on the Management Committee had come to an end following his substitution of his wife for himself as the nominee of the Corporate Member, Jewels of the Range Pty Ltd, and that he had not followed the steps required by the Rules to become a Member of TTC in his own right.

Mr Burke disputed the Club's assertions and took the matter to the Supreme Court. The court ruled in favour of Mr Burke and declared that he was still a Member of TTC and a Member of the Management Committee. However the court accepted the Club's submissions that:

- (a) The situation in which Mr Burke found himself had been brought about in part by his failure to observe and comply with the requirements of the Rules;
- (b) TTC had no power or discretion under the Rules to ignore or sidestep the requirements of those Rules for Mr Burke's benefit; and
- (c) TTC was correct to assert that Mr Burke needed to seek the court's assistance to address the predicament which had been created in part by his own actions.

As a result, the court did **not** order TTC to pay Mr Burke's costs.

Following the court's ruling, the Club issued a media release saying that Mr Burke had been "reinstated to the Committee".

However, Mr Burke took strong exception to the press release and instructed Mr Atkins to write to HopgoodGanim accusing TTC of having:

- (d) Issued a "**false and misleading press statement**";
- (e) Having "**intentionally distorted the truth**" and of having "**lied to the public**"; and
- (f) Of having defamed Mr Burke.

A copy of Mr Atkins' correspondence of 28 April 2011 to HopgoodGanim is **attached** as Annexure 8.



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hursley Road, Toowoomba, QLD 4350 PO BOX 6037 Toowoomba West, QLD 4350

Phone (07) 46 34 60 66 Fax (07) 46 33 12 56

On 3 May 2011, TTC instructed HopgoodGanim to write to Mr Atkins responding to the claims in Mr Atkins' correspondence of 28 April 2011. A copy of HopgoodGanim's correspondence to Mr Atkins is **attached** and marked Annexure 9. HopgoodGanim's correspondence concluded by urging Mr Burke to work with his fellow Committee Members in the best interests of TTC. Similar invitations to put his perceived ills behind him and work with his fellow Committee Members by making a constructive contribution to the management and operations of TTC were subsequently extended to Mr Burke on several occasions, but to no avail.

Mr Burke (either personally or through Mr Atkins) continued to create discord and to assert rights and entitlements he did not have, either as a Member of the Club or as a Member of the Management Committee. Copies of some of the relevant communications are **attached** and marked Annexure 10.

The disputation continued (and, in our view, worsened) to the point where the overwhelming majority of the Committee decided that they could no longer work with Mr Burke on the Committee and informed him of their intention to move a motion of no confidence in him and calling upon him to resign as a Committee Member.

This prompted Mr Burke to commence another action in the Supreme Court seeking an urgent injunction restraining the Committee from proceeding with the proposed motion of no confidence. Although the Club's solicitors advised the Committee that Mr Burke's court action was premature and misconceived, the Committee decided not to proceed with the no confidence motion but resolved instead to ask the Members to vote on whether Mr Burke should be removed from the Committee.

6. Sponsorship Agreement

A separate dispute exists between Mr Burke and TTC over the Club's former Sponsorship Agreement with Mr Burke's company, Jewels of the Range Pty Ltd. TTC's position is that the Sponsorship Agreement came to an end in early February 2011. Mr Burke disputes this and has on several occasions caused Mr Atkins to write to the Club's solicitors threatening to sue TTC for damages for breach of the Sponsorship Agreement; demanding the reinstatement of signs around the race track; accusing TTC of acting maliciously and vindictively; threatening to claim indemnity costs against the Club, and demanding other benefits said to be part of the Sponsorship Agreement (eg. 10 passes to the races). These threats continued to be made, even though the Club's solicitors wrote to Mr Atkins on 21 March 2011 clearly outlining the reasons for the Club's position that the Sponsorship Agreement was at an end. That correspondence also quoted Mr Burke's own media release of 2 February 2011 in which he stated that "**Jewels of the Range has withdrawn their sponsorship to the Toowoomba Turf Club**". A copy of HopgoodGanim's correspondence of 21 March 2011 to Mr Atkins is **attached** and marked Annexure 11.

Conclusion

We urge you to seriously consider Mr Burke's actions and behaviour against the vision we and Mr Frappell have for the future of the Club. We strongly believe that Mr Burke's removal from the Committee will be instrumental to the success of the Club moving forward.

We therefore urge you to exercise your vote and to vote in favour of the resolution to remove Mr Burke from the Committee.

Dated this 15th day of July 2011

.....
Peter Turnbull

.....
Dr John Morgan

.....
Allan Gee

.....
Jim Cosgrove

.....
Allen Volz

.....
Norm Pankhurst

.....
John Scott

"Light years ahead of the rest"

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]

Sent: Wednesday, 16 February 2011 10:42 PM

To: Toowoomba South Electorate Office; Toowoomba North Electorate Office; Southport Electorate Office; Mermaid Beach Electorate Office; Condamine Electorate Office

Subject: Fw: Toowoomba Turf Club Siege Mentality and Bullying

Importance: High

Subject: Toowoomba Turf Club Siege Mentality and Bullying

Hon Mr Langbroek,
Hon Mr Kerry Shine,
Hon Mr Mike Horan,
Hon Mr Peter Lalor
Hon Mr Ray Stevens
Hon Mr Ray Hopper,

Dear Sirs,

Without Prejudice,

I wish to make you aware of an incident that occurred at The Toowoomba Turf Club on February 10, 2011, which is to me as a business person and as a committee person of the TTC, an intrusion of personal rights. The email below in RED outlines the incident as sent to Racing Queensland.

18/02/2011

- Racing Queensland have been pro active but the situation has now expanded to the Chairman Mr Frappell of the TTC now canceling my membership which I have sent on to Mr Orchard of Racing Queensland.

- The reason I feel compelled to advise you of this is to demonstrate my protest against bullying, intimidation and scare tactics in the worse form. Group mob mentality.
- In the report you will see below the seriousness of this issue at the TTC.

- Bob Frappell is the elected Chairman of the TTC by the Management Committee of Norm Pankhurst, Dr John Morgan, Mr Graham Healy, Mr Alan Volz, Mr Alan Gee, Mr Jim Cosgrove, Mr John Scott, and myself.

- The question I ask is when will a stop be put to this Behaviour of a high profile person such as Bob Frappell, as the Chairman of the Toowoomba Turf Club, who has the ability to incite a violent, aggressive PRE PLANNED attack on someone such as myself without notifying me in advance of their intent to approach me. It is unacceptable and that is why I wish to make public notice of this.

- This incident was done in front of office start and then proceeded to the office car park where ground staff witnessed the incident, to the degree that I recieved a phone call from a person asking what was going on, such was the seriousness of the attack from the mob. We have police officers, paramedics and people being cowardly attacked in public places and I am sure this situation goes against Government Legislation.

- Please feel free to call me or email me in regards to this matter. I look forward to your feedback with this issue.
- I am addressing this thru my lawyer Mr Barry Atkins.
- The letters joined to this email are what I believe incited this act on me.

- I will be unable to be contacted from Friday February 18 until Sunday February 27, 2011 due to a personal occasion I am attending.

Anthony Burke
 Director
 Jewels of the Range Jewellers
 Nurserydirectonline
 Elected Committee Member of the Toowoomba Turf Club

Copy of email sent to Racing Queensland re the incident. On February 10, 2011.

Mr Bentley and Mr Orchard,
Dear Sirs,

Today between 11.15am and 11.25 at the Toowoomba Turf Club I was both physically and mentally attacked by a pack of committee men, the Chief of Management and led by the Chairman Mr Bob Frappell.

After attending a meeting with Mr Orchard and Mr King at Toowoomba RQ office I went to the office of the TTC to collect the display presentation handmade timber and granite boxes that Jewels of the Range own and use to display the winners rings for the Weetwood and Toowoomba Cup winner. I also went there as per my email to you yesterday to read the minutes as is my right as per the constitution.

As I entered the door I saw Norm Pankhurst standing in the internal door opening of Aaron Clancy office. I was asked by a young guy sitting in the desk normally occupied by Tash if he could help. I said I was after Aaron to collect the boxes and read the minutes. I waved and said hi to Norm.

At that stage like a pack of aggressive dogs I was inundated by Bob Frappell, Alan Gee, Jim Cosgrove, Norm Pankhurst and Aaron Clancy.

Bob said we are going up to the Weetwood Room for a meeting. We need to talk to you. I proceeded to tell him why I was here as above. He insisted in a bully and aggressive tone that I was to come upstairs. I said no and why I was here. At this stage Aaron and Alan were in the safe looking for my companies items and said they were not there. I could feel the aggression building in Bob's voice saying come upstairs we need to talk.

I said thanks to Aaron and Alan but will get the items when they find them and I was going.

As I went out the door, Bob once again insisted on me going upstairs. I looked him in the eye as all of them surrounded me, except Aaron who stayed below the step, and told Bob that I was not going to be bullied into going upstairs or into any meeting with him and the others. Norm said to Trust Him, and he would not let them bully me. I said no and that I do not trust Bob or any of them.

At this stage I felt physically and mentally threatened for my well being and started to shake and feel sick as I pushed passed them to my car. As I walked away Norm said something before Bob told him to be quiet and yelled out as I got in my car something.

At this stage I locked my doors, reversed off and saw Jim Cosgrove giving me the biggest death stare and shaking his head.

I do fear for my well being, my health and my family and business associates after this attack by a group of bullies, and am unsure of where to go from here.

At 11.32am I phoned the RQ Toowoomba Office and told Mr Orchard what had happened briefly then went to the local police station to make a formal complaint.

I have not proceeded at this stage with the complaint as I feel it may be an internal matter that Racing Queensland may need to look into.

The conduct was unbecoming people elected to have the office that they hold. I know that if I had acted in that way I would have breached RULE 12 2b of improper conduct, riotous or objectionable Behaviour, but as they are the committee and will be there word against mine.

I would never like to see any person subjected to this aggressive, demanding dictatorship style of act.

At this time and the feeling of stress that I am now feeling I do not know how I will be able to enter my role as part of the committee in March.

Please advise whether I should fully submit this in my police report or not submit it so Racing Queensland can handle it internally.

I have tried to phone Dr John Morgan, Mr Graham Healy and Mr Alan Volz to see if they were invited to this set up to attack me on mass, but John and Graham have not returned my call and Alan has his phone off.

I await your response to this urgent matter.

Anthony Burke

Toowoomba Turf Club Committee
0423022880



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Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

Toowoomba Turf Club
January 20, 2011.
The Secretary,
Mr Aaron Clancy,

Re; 2011-2012 Weetwood and Toowoomba Cup Ring Corporate Sponsorship.

Dear Aaron,

As one of the directors of Jewels of the Range Pty Ltd, I would like to officially advise that we have not received the same level of corporate acknowledgement that has been greatly appreciated by us, from the two previous Toowoomba Chairman Mr N Stewart and Mr C Zeller.

Since the new committee was formed, neither of the directors of Jewels of the Range has been contacted in regards to what the Toowoomba Turf Club would be doing for the company for the agreed sponsorship agreement that we signed.

We have not received a phone call or invitation to meet with you, the chairman Mr Frappell or the Deputy chairman Mr Healy, but do thank Mr Healy for his financial support by shopping with us.

In the past we have had the following acknowledgements;

- Personal invitations to the Committee Room from the Sponsorship Chairman to join the Club Chairman and Deputy Chairman.
- A set of Champagne glasses with our logo and year of sponsor and a bottle of champagne.
- Personal phone calls from the Club Secretary and the Chairman to see if we are happy with the results from our sponsorship.
- Invitations to the Melbourne Cup and Corporate Sponsors.
- Invitations to Special Functions to interact with other corporate sponsors.
- A list of the races that have been named after Jewels of the Range
- 10 guest passes to use for the members area to entertain our clients and also to reward our staff.
- A front of Race Book named after the company and regular recognition in the race book when a race is named after the company.

February 18, 2011

Page 2

After 6 years of continued sponsorship and the supply of the Weetwood and Toowoomba Cup Rings which are the only ones of their kind in Australian Racing History, we feel disappointed with the current acknowledgement.

We have supported the club with sponsorship during the EI closure and the new track closure along with the 12 months of not having our signage replaced at the winning post and also the disappointment of the large Container with "Cushion" on it that was placed in an area that impeded the vision of our sign from all traffic on Hursley Road.

Mr Zeller and Mr Pankhurst did replace our signage after 12 months of not being on the finish line in August last year of which we are happy with.

When fellow business owners ask me why I no longer have races named after my company I am obligated to advise them of the above disappointments listed.

We have sponsored many organisations from Toowoomba Raiders Soccer Club Men's Youth Team, Toowoomba Raiders Ladies Youth Team, Toowoomba Raiders Ladies Reserve Grade Team, Garden City Soccer Club Juniors, Willowburn Sporting Club, Queensland Pure Bred Jersey Cow Annual Champion, Zonta Women's, Gatton Rural Ambassador and Gatton Rural Showgirl, City Bowls Club Yearly Friendship Tournament with Crows Nest, Triangle Retirement Homes annual Bowls Competition, Toowoomba Grammar School, Fairholme College, Weetwood Fashion Parade, Channel 7 Melbourne Cup Fashion Parade, Australian Standard bred Championship 2010 and many small schools for fetes and raffles.

On top of these, we as a family donated a perpetual trophy to the Toowoomba Turf Club to record the winners of the Toowoomba Cup winners since the inception of the Cushion Track.

All together our sponsorship of the Toowoomba Turf Club has surpassed \$40000. The list of all the other organisations showcase how much we value community involvement and in tough economic times and the struggle to gain corporate sponsors, I feel the Toowoomba Turf Club under the stewardship of the current chairman Mr Frappell show a distinct lack of knowledge of the corporate business world. None of the above organisations have treated Jewels of the Range as poorly as we have been since September 2010.

We had intended to further support the Toowoomba Turf Club with our other business, Nurserydirectonline.com.au but after the last 5 months have decided against it.

I have taken the time to compose this correspondence to hopefully help the club move forward and not ignore current sponsors anymore and also so no future sponsors are treated this way. As a business we do miss the positive interaction of the past Chairman Mr Zeller and Mr Stewart and their genuine interest in our business success.

Anthony Burke
Director
Jewels of the Range Pty Ltd

Shop 5 Range Shopping Centre
11 James Street, Toowoomba, Qld, 4350.
Shop 13 Ridge Shopping Centre
445-455 Hume Street, Toowoomba
PHONE/FAX 07 46379955 or 46356622

JEWELS OF THE RANGE

PRESS RELEASE

- THE MANAGING DIRECTOR OF JEWELS OF THE RANGE, ANTHONY BURKE WISHES TO ADVISE THAT ON MONDAY JANUARY 31, 2011 HE RECEIVED A PHONE CALL FROM CHIEF OF MANAGEMENT AARON CLANCY ADVISING THE BELOW DETAILS.
- Director Anthony Burke said "We have been advised that the TTC has decided to end the current sponsorship agreement that ends in February 2011, as it holds no bottom line advantage to the club and its members and it is a commercial business decision." Mr Clancy went on to say in the phone conversation that the four \$3000 diamond set one off winners rings for the winning trainer and jockey of both the Weetwood Hcp and Toowoomba Cup may add Prestige and History to the winning trainer and jockey but no advantage to the TTC.
- Director, Anthony Burke of Jewels of the Range, said he was disappointed that he was given no indication that the deal would not continue and already spent \$1000 and had the Computer Design and Sterling Silver Samples made in preparation for the 2011 event.
- Anthony Burke stated that he has had no contact from the new chairman Mr Bob Frappell since taking the chairmanship back in October 2010, in regards to his company's sponsorship of the rings for 2011. Burke states that it took a letter to Mr Aaron Clancy and Mr Bob Frappell on January 20, 2011 voicing his dissatisfaction with this lack of contact in regards to the future sponsorship.
- Mr Burke received an email today Tuesday February 1, 2011 from Toowoomba Turf Club Chief of Management Aaron Clancy which said to Mr Burke "that all detailed communication to you will be via face to face or over the phone, and all current sponsorship agreements in place with the Toowoomba Turf Club, will not be renewed in their current form."
- Mr. Burke, would like to thank the previous Chairman Neville Stewart, his committee, and Secretary Gavin McEvoy who initiated the historical rings that were the first of their kind in Australian Racing History and now hold pride of place with other prestigious trophies in the homes of Trainers Rex Lipp (twice), Mick Mair, Nick Olive, Norm Hilton and Kath Carroll, and Jockeys Tye England, Anthony Pattillo, Ken Pope, Chris Munce, Shane Scriven and the late Stathi Katsidis.

@LAW

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LL.B.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

Liability limited by a scheme approved under professional standards legislation

FACSIMILE TRANSMISSION

Date: 8 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sir,

Thank you for your letter at 4.23 p.m.

We are instructed :-

1. To note that our client's claim in our letter to you was "literally true";
2. To note Mr. Gee is not a member of the executive committee;
3. To note that our client has complied with your client's requirements;
4. To note that no opprobrium could possibly attach to our client for doing what your client insisted he do;
5. To note that the only reason the situation arose was because the Chairman failed to arrange a member of the executive committee to be present at an agreed time.

Your gratuitous comment about the "not being available to read facsimiles transmitted after 5.00p.m." is irrelevant.

We can only assume that you sent that letter yesterday in ignorance of the Hearing at Racing Queensland yesterday at which Mr. Clancy was charged with a breach of the Racing Rule 175A, found guilty and severely reprimanded.

What is TTC going to do about this?


Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 10 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and A Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Please advise whether or not you act for Mr. Clancy.

You advised us you did not but Minutes of TTC stated you did.

We are unclear on whether you do or not as this has not been clarified by you.

We will write direct to Mr. Clancy today if you do not act for him.

We act for Mr. Burke. We have advised our client of his right to take Court action against Mr. Clancy personally in relation to the actions of Mr. Clancy towards our client on 26 May 2011.

Mr. Clancy was found guilty of a charge laid against him arising from the Hearing conducted by RQ last Tuesday.

Please advise by 3.00pm today whether or not you act for Mr. Clancy.

The importance of the time deadline is that there are races scheduled for Toowoomba tomorrow.

Barry Atkins 
Solicitor & Attorney

cc:
fax:

W L A W

123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

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Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 14 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11125
Your Ref: B. Bolton
Re: Anthony Burke and A Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Your client failed to instruct you to respond by 3.00 pm last Friday despite the races being on last Saturday.

Our client is not willing to risk being subjected to the type of violent behaviour demonstrated by A Clancy on 26 May 2011 towards A Burke at the premises of TTC, on a race day in the future.

On 26 May 2011 A Clancy assaulted A Burke and damaged property of A Burke.

Our client instructs that he is not willing to allow A Clancy to delay A Burke taking appropriate action in the civil courts.

We are instructed, therefore, that unless you advise by 5 p.m. today that you act for A Clancy, we are to write direct to A Clancy.



Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 17 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your last letter which stated the obvious. Your response begs the question-

Will TTC participate in a mediation with our client?

Our client will not devote his resources to trying to assist TTC resolve the conflict by, amongst other things, identifying the matters in dispute, unless TTC has made a commitment to a formal mediation.

It is quite clearly not correct for TTC to assert that it had been urging Mr. Burke to 'move on' for several weeks, when during that period TTC's currently employed secretary violently attacked Mr. Burke, while trying to prevent Mr. Burke removing from the Committee room the agenda, which Mr. Burke was entitled to possess, and in Mr. Clancy did so without authority or direction of TTC Committee.

The current Chairman was present during that debacle and did nothing to try and stop Mr. Clancy's behaviour for which subsequently Mr. Clancy was found guilty of a breach of Rule 175A of the Rules of Racing.

Indeed, it is important to note that contrary to the Chairman's press release Mr. Frappell was not 'cleared' of any wrongdoing. The only truth is that he was not charged with a breach of the Rules of Racing.

That same press release, through ignorance or otherwise, falsely asserted there was a right of appeal for Mr. Clancy when there was none available to him.

That press release continues the misrepresentations made by TTC that Mr. Burke has complained of previously, but TTC fail to take responsibility for its actions.



Barry Atkins
Solicitor & Attorney

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]

Sent: Tuesday, 29 March 2011 5:42 PM

To: johnscott@mansell.com.au; peterturnbull4@bigpond.com; badenvalley@harboursat.com.au; reception@jnmorganmedical.com; A; Graham Healy; allan_gee@bigpond.com

Subject: Confidential and private TTC matters

Dear Sirs

I am disappointed that only one of your fellow committee members responded to my e-mail ;

These are important issues , which will not go away because they directly relate to the proper governance of the club by the committee; I am a committee member under our rules.

I have enclosed a copy of a court decision involving the Toowoomba Hockey Association , who like TTC, failed to follow its rules;

That the Courier mail report of that court decision, said the costs order against the Toowoomba Hockey Association was \$50,000;

I previously stated in my e-mail to all fellow committee members, that I am genuinely trying to prevent the club being forced to pay enormous legal costs;

That like the member in that court case, I have been denied Natural Justice as I have never had the opportunity to answer any allegations made against me, and the details of which have not been provided to me.

I have stated many times now thru my solicitor that I am willing to meet with the committee, to try and resolve the issues, provided my legal representative is present

I was not given notice of the recent committee meeting that was held, at which a decision to reject RQ's offer was made.

I am greatly concerned that because the meeting was invalidly held, that the decision may be invalid.

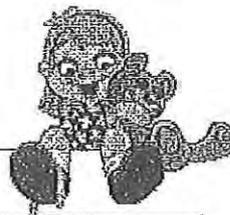
At the next committee meeting I intend to move a motion to seek independent legal advice about the invalidity or otherwise of the meeting and the decision to reject RQ's offer.

I can be contacted on 0423022880

Anthony Burke

Toowoomba Turf Club

Elected Committee Member 2010-2012



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WAS THE TTC DECISION TO REJECT RQ PARTNERSHIP OFFER INVALID?

'THE Toowoomba Turf Club has a big problem.

Every single member of TTC should feel gypped that their Committee has risked the decision to reject the RQ offer being invalid because the Committee meeting was not properly held.

I am an elected Committee member who remains a Committee Member (despite some scurrilous rumors to the contrary).

If I was no longer a Committee Member then the TTC would have to have a by-election and one has not been called.

Under Rule 36 a Committee Member can only be removed by a vote at a Special or General Meeting of all Club Members. No meeting has been called.

Although I am a current Committee Member I was not given Notice of the Committee Meeting which rejected the RQ offer.

That meeting, and the decision, is probably invalid. That is a matter all parties need to seriously consider and take independent legal advice about.

The people who failed to ensure the Club followed all proper Rules, including Notice of Meetings, should resign or be sacked by the members of the Club.

Proper governance of the TTC is essential to the future of the Club. The Club cannot afford to have people running it who do not obey the Rules.

Everyone involved in this industry knows all Rules must be strictly obeyed and that there are very serious sanctions and penalties if the Rules are not followed correctly.

That the TTC has put itself in this situation is cause for great concern to all members of the Toowoomba Turf Club.' - Anthony Burke, Elected Committee Member 2010-2012.

EDITOR'S NOTE: Racing Queensland needs to order an immediate legal ruling on the status of Anthony Burke as an elected committee member of the TTC. This could have a major bearing on whether the decision of the TTC not to enter into a partnership with RQL is legally valid. We will seek a response to the above e-mail, which arrived late on Tuesday, from TTC chairman Bob Frappell, after the Weetwood meeting on Thursday. In the meantime RQL should be moving to resolve this situation forthwith before it further damages the image of racing on the Downs.

Dear Sirs

Please find the letter dated 18 February not noted as presented in the inward correspondence of the March meeting.

I have given Graham copies of other correspondence not presented to you as committee members in December. He said he will respond as Acting Chairman.

I also have more correspondence that I will present at a time soon to you.

I would like to draw your attention to the following Office of Fair Trading Incorporation Act that governs Incorporated Associations such as the TTC.

Please read and assess how you personally relate to issues that have occurred to me. Place yourself in my position and ask your self when you look in the mirror how you would assess these details.

- As a committee member who has given countless hours and time for the TTC
- As a business that has sponsored the TTC for many years from Cash/Trophies/Fashion of the Field Vouchers.
- As a family that donated a Perpetual Trophy for the Toowoomba Cup (and that has been confirmed that was not presented in 2011)

Anyone wishing to view the full list of non disclosed document can do so by calling me on my mobile or email.

I also wish to inform you I am sending a personal letter to all members re the Supreme Court Decision, as the Secretary has advised me that the Press Release from the TTC will not be retracted and the falsehoods corrected. I am not sure if a Flying minute was done in regard to this as it is not noted in minutes. If no flying minute it must of been the decision of the Secretary without your delegation of authority to do so. This notice is in courtesy so you can make educated informed comments.

There is a way to save the TTC spending further members funds if you act in line with following details.

Anthony Burke
Committee Member TTC 2010-2012
0423022880

Accountability of the management committee

One of the advantages of being incorporated is that personal liability is limited. However,

23/05/2011

management committee members still have a duty to the incorporated association. This means they may be held accountable if they:

- Deliberately fail to act in the best interests of the incorporated association
- Abuse their powers as committee members
- Fail to avoid conflict of interests
- Fail to exercise due care, skill and diligence.

If a management committee does not fulfil its reporting requirements, we may issue a show cause notice asking the incorporated association to provide reasons why its registration should not be cancelled.

Responsibilities of management committee members

The management committee is responsible for managing the affairs of an incorporated association and has several responsibilities under law.

An incorporated association management committee must:

- Be aware of the duties of the Secretary and ensure they are properly carried out
- Use reasonable care and skill in the performance of their duties
- Act in good faith
- Advise the committee of any conflict that may arise between their own interests and the interests of the incorporated association (e.g. Advise if any incorporated association activities might result in a financial gain to themselves)
- Ensure any documents addressed to the incorporated association are brought to the attention of the committee as soon as practicable after receipt
- Ensure documents provided to Fair Trading or submitted to members do not contain or omit anything that make it false or misleading.

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
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P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038
Fax: 07 4632 9529

18 March 2011

Your Ref: 1102847 - Liz Cameron
Our Ref: BA: 11057

Hopgood Ganim Lawyers
P.O. Box 7822
WATERFRONT PLACE QLD 4001
By fax 3024 0041

Dear Colleagues,

Re: Jewells of the Range Corporate Membership of TTC

In relation to the dispute about my client's corporate membership, we note:-

1. Mr Aaron Clancy is the Chief Executive Officer and Secretary of your client;
2. you advised us that you received instructions from Mr Aaron Clancy;
3. our client's attention has been, for the first time, drawn to to Rule 8(13) of the Toowoomba Turf Club Rules, that the annual subscription charge is \$500.00 for Corporate Membership;
4. that your client, through its Chief Executive Officer, on 30 June 2010, issued a false and misleading invoice to our client, which Invoice was in breach of Rule 14;
5. that your client, through its Chief Executive Officer, has failed to comply with the TTC Rule 8(13) which specified an annual subscription charge of \$500.00 for Corporate membership;
6. that your client has failed to forward an amended or revised invoice for an amount for Corporate Membership in accordance with the Rules;
7. There is no provision in the Rules for a membership to "lapse" as set out at point number 2 in your letter dated 15 March 2011 asserting your client's position that the corporate membership "has lapsed".
8. Rule 12.1 of the Rules. "MEMBERSHIP MAY CEASE:-
 - a. If any member shall fail to pay his subscription within three months of its becoming due and payable at the discretion of the Committee."
9. Your client has failed to comply with the Rules;
10. Your client states it will comply with the Rules.
11. Our client requires your client to comply with the Rules.

We reserve our client's rights to take such further action including an application to the Court for Declarations or Orders without further notice to you, and to seek indemnity costs from your client, for their failure to comply with the Rules.



You do not provide a copy of the email you rely upon from Mr A Burke on behalf of our client to your client's Mr Clancy dated 6 July 2010.

I enclose copies of two emails dated 6 July 2010 from Mr Burke to Mr Clancy.

The one on which you rely can only be the email which concludes "thanks Anthony Burke" which in its second paragraph asserts that "with our sponsorship of the rings, the \$110.00 fee has not been payable but forms part of our sponsorship agreement".

That email also concludes that our client was "happy to pay it if there has been a change for this coming year".

That email appears to have been sent at 10.58 am.

Later that day, at 3.21 pm, our client sent another email to your client advising: _

"I will pay the \$110.00 so it does not lapse".

The facts of the matter are:-

1. Our client paid the requested amount for corporate membership to ensure that the corporate membership did not lapse and evinced a clear intention to maintain his corporate membership;
1. Our client has not received a subsequent invoice from TTC and therefore has not "failed to pay"
2. Our client denies that he "subsequently relied on the payment of \$110.00 to purportedly obtain an individual membership on his own behalf".
3. The amount of \$110.00 has **NOT** been refunded to our client by your client.
4. That cheque from your client is held on our file as our client has not accepted the purported refund.

In your letter under reply you also assert that "the sponsorship agreement between TTC and Jewells of the Range expired in February 2011. Our client disputes that interpretation of the sponsorship agreement between the parties and we have been instructed to write to you regarding the sponsorship matters on a separate file.

Yours faithfully,


Barry Atkins
Solicitor & Attorney

encls

W: www.toowoombaufcclub.com

From: Jewels of the range [mailto:jewelsoftherange@bigpond.com]
Sent: Tuesday, 6 July 2010 10:58 AM
To: Aaron Clancy; Ken Gordon
Subject: Membership

Hi Aaron,

Received your letter to members for our Corporate membership for A.I & SR Burke / Jewels of the Range.

With our sponsorship of the rings the \$110 fee has not been payable but forms part of our sponsorship agreement.

Just confirm this with Ken Gordon, but happy to pay it if there has been a change for this coming year.

Thanks

Anthony Burke

On another matter, heard on the radio TAB that Brisbane Racing Club have new rules for the Trainers there including a direct debit for the fees to be able to train due to non payment of many trainers. This may be a good initiative for the TTC as well.



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W: www.toowombaturfclub.com

From: jewels of the range [mailto:jewelsoftherange@bigpond.com]
Sent: Tuesday, 6 July 2010 3:21 PM
To: Aaron Clancy
Subject: RE: Membership

Hi Aaron

I will do the survey and return it as think it is great. Will not be too much positive in my answers though Will be honest constructive answers.

I will pay the \$110 so it does not lapse and we can work it out later when you have time to track down the T & A of our sponsorship. Not a problem, will send cheque today. I do not think Col will know as he has never had any thing to do with sponsors at any time while he has been on the committee. I will see if I can find my copy at home in my old hard drive the computer guys saved for me last month when it died. That will save you time.

Anthony

~~Original Message~~

From: [Aaron Clancy](mailto:Aaron.Clancy)
Date: 7/6/2010 2:58:13 PM
To: jewels of the range

3/9/2011

From: Anthony Burke [mailto:ajsrburke@optusnet.com.au]
Sent: Monday, 28 March 2011 1:44 PM
To: Aaron Clancy
Subject: Private and confidential TTC Committee Meetings
Importance: High

To: The Secretary
Toowoomba Turf Club

I, Anthony Burke am a duly elected Committee Member of the Toowoomba Turf Club ["TTC"].

I demand you advise me today :-

1. That you will notify me of all future Committee meetings with 7 days notice of the time , location and date of such meetings; and
2. That you do in fact so notify me with 7 days notice of the time , location and date of such Committee meetings.

I note that, despite some ill conceived and ill founded allegations disputing my continued role as a Committee Member , the only way I cease being a member of the Committee is once Rule 36 has been complied with , and a majority vote at a Special or General Meeting of Members has considered and passed [with the requisite numerical majority], a resolution to the effect that I cease being a Committee Member.

Until that happens, or there is an Order of an appropriate body having jurisdiction about this issue, I remain a Committee Member.

I will not allow an employee of the TTC to fail to fulfill his duty to ALL members of the Committee , including me, to notify Members of Committee meetings.

If you fail to advise me today that you will notify me of all future Committee Meetings then I will bring your failure to comply with your duties to the attention of all individual Committee members.

Anthony Burke
Elected committee member TTC 2010-2012
0423022880

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@LAW

Principal:
Barry Atkins B.A., LL.B.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 28 March 2011
To: Toowoomba Turf Club
Fax No: 46 33 1256
Our Ref: BA:11048
Your Ref: Mr. A Clancy
Re: Anthony Burke - INCIDENT AT TTC CAR PARK AND OFFICES ON 10/2/11

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

On instructions from my client, Mr A Burke, Committee Member TTC, I request access to the tape recording of the incident on 10 February 2011 on Tuesday 29/3/11 at 12 noon at the offices of TTC,

This is needed so my client can provide proper instructions to us.

This is not a matter in dispute between TTC and Mr A Burke and so I hope that you will facilitate this reasonable request within the time frame specified.

You are an employee of the TTC, of which my client is a Committee Member.

My client believes you were responsible for making a tape recording without his permission of conversations between my client and Mr B Frappell on 10/2/11.

As our client was one of those recorded, [without his permission], you have an obligation to make available the original tape or a verified transcript of it by noon tomorrow.

I respectfully suggest you take independent legal advice about your actions on that date and your response to this demand.

If you fail to make the tape available then I advise my client will take further action without notice to you.



Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
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FACSIMILE TRANSMISSION

Date: 17 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:1 1030
Your Ref: V. Bolton
Re: Anthony Burke and Mr A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

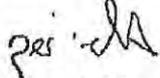
MESSAGE

Dear Sirs,

Please advise within 48 hours whether your client Mr Clancy agrees to provide to The Toowoomba Turf Club committee meeting on 30 May 2011:

1. the original tape recording made on 10 February 2011 in the Toowoomba Turf Club car park; and
2. a typed transcript of that tape.

Our client is willing to pay a secretarial service of his choosing the cost of transcribing the tape.


Barry Atkins
Solicitor & Attorney

@LAW

IMPRUVE 4

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 603
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 19 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Thank you for your facsimile yesterday.

We note you have admitted the letter from Racing Queensland Limited to your client of about 18 February 2011 regarding Mr Burke (and another) has not been tabled at any committee meeting.

We reserve our client's rights to take action in the future as appropriate in relation to this misleading of the committee by omission.

Despite your statement to the contrary, your firm does act for Mr Clancy.

We refer you to point 6 on page 3 of the Minutes of your client's April 2011 committee meeting.

Therefore we again ask you to advise your clients instructions within 48 hours whether Mr Clancy will make available the original tape recording and a typed transcript of that recording to the next committee meeting on 26 May 2011.

Your and your client's perception of reality is markedly different to that of us and our client.

There is a number of aspects to your letter that require a detailed reply which we will do next Monday when Mr Atkins returns from the law conference he is attending.

In short, however, our client particularly takes umbrage at your assertion that his actions since the Court decision have cost your client's members' money.

All letters from this firm that you have been "bombarded with" have been written on instructions and have been entirely appropriate because your client has:-

1. failed to supply a copy of the minutes and/or associated documents to my client despite the fact that it is obvious that obligation on your client to do so is inherent to the proper operation of your client by its committee members'
2. Despite your protestations to the contrary, the facts are that your client has:-
 - a. failed; and refused, to rectify the false and misleading statement of the listed committee members in the Weetwood Race Day programme; and

- b. failed, and refused, to rectify the false and misleading public notice regarding nominations for a casual vacancy on the committee; and
- c. misrepresented the Court's decision to the public

All of our letters have been directed to these matters.

You have never advised us the legal basis for your client to discriminate against our client compared to all the other committee members, by refusing to give him copies of the "draft" minutes which have been supplied to every other committee member.

There are other aspects of your letter, in addition to the matters listed above, which prove your client is not genuinely acting in the interests of the Toowoomba Turf Club, but indeed acting with *mala fides* towards our client. These will be addressed in future correspondence.

per - *BA*

Barry Atkins
Solicitor & Attorney

@LAW

Annexure 4

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club ["TTC"]
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your letter received by facsimile on 17 May 2011.

We agree with you that "any recording he [Mr. Clancy] possesses would be held on behalf of the Club".

Because you say in that letter you do not act for him, we have written directly to him.

Because the tape recording is in the possession of your client's employed racing secretary, we are writing to you about the Toowoomba Turf Club, on instructions, to advise you that in our client's personal opinion and in our professional opinion:-

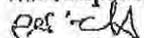
1. Mr Clancy, as your client's employee, has misled the committee of TTC by omission, in breach of his duties and obligations
2. the tape recording held by Mr. Clancy, on behalf TTC should have been tabled at the Club's committee meetings in February, March and April 2011;
3. your client's employed racing secretary failed to table the tape at the Club's committee meetings in February, March and April 2011;
4. your client's employed racing secretary withheld that item from the Committee;
5. your client's committee, during the time my client was wrongfully excluded from the committee meetings [February, March and April 2011], failed to fulfil its duties to ensure that the employed racing secretary tabled that tape, when the Chairman of the Committee knew of the existence of the tape;
6. your client's chairman, Mr. B Frappell, [for whom you also act in relation to the threat of defamation proceedings against our client], knowing of the existence of the tape, failed:-
 - a. to ensure the item was tabled at Committee Meetings in February, March and April 2011;
 - b. to advise the Committee of his conflict of interest regarding the tape in circumstances where you had had written, on Mr. Frappell's instructions, to Mr. Burke threatening defamation proceedings for which Mr. Frappell relied on the

tape, as it [allegedly] confirmed Mr. Frappell's version of events in the TTC Offices and car park;

7. our client's duty to the Club includes requiring Mr Clancy to table the tape at the committee meeting on 26 May. This is what we have written to Mr Clancy about, as well as the following:-

- a. The employed racing secretary has misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];
- b. A formal complaint is being made by a committee member of the Toowoomba Turf Club (Mr A. Burke) to Racing Queensland about :-
 - i. The most serious misleading of the committee by the employed racing secretary; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item [held by Mr. Clancy on behalf of the TTC]; and
 - iii. The current Chairman, Mr. B Frappell, failing to:-
 1. require the tabling of the item when he knew it existed; and
 2. in circumstances where he had a conflict of interest, failing to declare that conflict of interest to the Committee.
- c. A committee member, Mr A. Burke, is making a formal complaint to the Office of Fair Trading about:-
 - i. The misleading of the committee by the employed racing secretary by the omission to table the item at Committee Meetings in February, March and April 2011; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item; and
 - iii. The Chairman failing to require the tabling of the item when he knew it existed in circumstances where he had a conflict of interest; and
 - iv. The Chairman failing to declare a conflict of interest, when he knew the tape existed, in circumstances where he had a conflict of interest; and
 - v. The current Chairman failing his duty to the Club to ensure the item was tabled at a Committee Meeting when he knew it existed.

With respect, we disagree totally with your last paragraph because it is Mr Clancy's obligation and duty to table the item at the first Committee Meeting after the tape was made, not if, "a majority of the committee validly directs Mr Clancy to provide any tape recording and/or transcripts to all committee members."


Barry Atkins
Solicitor & Attorney

@LAW

ANNEXURE 7

Park View Chambers
123 Margaret Street

Principal:
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P.O. Box 605
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FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Mr. A. Clancy c/- Toowoomba Turf Club PRIVATE
Fax No: 46 331 256
Our Ref: BA:11030
Your Ref: Mr. A. Clancy
Re: tape recording of events in the offices and car park of the TTC

To be read only by Mr. A. Clancy personally.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Mr. Clancy,

We act for the Toowoomba Turf Club Committee member, Mr. A. Burke.

You currently have in your possession a tape recording of events in the offices and car park of the Toowoomba Turf Club ["TTC"] in February 2011.

You hold that item on behalf of the TTC.

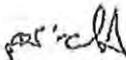
Our client requires you to table the tape at the committee meeting on 26 May.

You, the employed racing secretary of TTC, have misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to Racing Queensland about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

Our client, Mr A. Burke, a Committee Member of TTC, is making a formal complaint to the Office of Fair Trading about this most serious misleading of the committee by your omission, by failing to table the tape at three successive committee meetings [February, March and April 2011] when you are the employed racing secretary of the Toowoomba Turf Club.

As our client has 'required' you, in your capacity as employed racing secretary of TTC to do something – table the tape at the next Committee Meeting on 26 May 2011 – we need to inform you that you have a right to seek independent legal advice.


Barry Atkins
Solicitor & Attorney

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke complaint to Toowoomba Turf Club Inc, about Mr. A. Clancy

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client has instructed us to make a formal complaint to both your client, TTC, and Racing Queensland about the conduct and actions of Mr. A Clancy, your client's employed racing secretary.

You advised us in writing, at the outset of the communications between our Firms, in response to our question to you, that you received instructions from Mr. A Clancy.

Our client has reviewed the Minutes of the Committee Meetings since October 2010 to and including April 2011.

Nowhere in those Minutes does it record a decision of the Committee to authorise Mr. Clancy to instruct you regarding matters in dispute between our client and TTC.

Nowhere in those Minutes does it record a decision of the Committee to delegate authority to Mr. Clancy to make unilateral decisions about the conduct of the disputes [several in number] between our client and your client.

It is now clear that Mr. Clancy has continuously acted without express authority of the TTC.

His authority as an employee does not and could not extend to making decisions, to instruct your law firm, about matters in dispute between the parties.

We particularly refer to your recent advice to us that your client [TTC] rejected our open offer of settlement regarding the dispute over the Sponsorship Agreement between your client and our client, Jewels of the Range.

The rejection of that offer, on instructions from Mr. A Clancy exposes TTC to a costs order against them on an indemnity basis if our client is successful.

Our client believes that Mr. A. Clancy did not seek a decision from the Committee before rejecting that offer, but acted unilaterally without actual authority from TTC.

Barry Atkins 
Solicitor & Attorney

Annexure 6

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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FACSIMILE TRANSMISSION

Date: 18 May 2011
To: Hopgood Ganin
Fax No: 3024 0002
Our Ref: BA:11075
Your Ref: B Bolton
Re: Anthony Burke inspection of all books and records of Toowoomba Turf Club

4 pages in total

Dear Sir,

We confirm our client and Mr Atkins will attend at the offices of your client this morning to inspect all books of record kept by the TTC in accordance with its Rules, objects and Obligations under all relevant legislation.

We draw your client's attention to the following section of the Associations Incorporation Act ["AIA"].

"Part 7 Management committee

60 Management committee

(1) Subject to this Act, the business and operations of an incorporated association shall be controlled by a management committee.

(2) Every member of the management committee and any manager duly appointed by the management committee acting in the business or operations of the incorporated association shall be deemed to be the agent of the incorporated association for all purposes within its objects."

Our client is attending as a Committee Member of TTC and under this legislation he is an agent of the TTC for all purposes within the TTC's objects.

We will be inspecting the Sponsorship Register, in relation to which we enclose a copy of an undated letter from Mr Frappell to Mr Burke.

You will observe the December meeting of the Committee decided that it was 'very good business practice' to 'review the sponsorship arrangements'. Our client will be doing that this morning.

We will be inspecting the payments ledger and the receipts ledger. Our client agrees to meet with the treasurer next week with Mr Atkins to examine the books of accounts offered in your letter yesterday but those figures do not cover the period since Feb 2011 which are relevant to the issue of whether Mr Clancy has breached the AIA by misleading the Committee by omission of relevant material [which issue is dealt with in the AIA].

Our previous inspection of the Minutes reveal that Mr Clancy and Mr Frappell have misled the Committee by omitting in 'correspondence received' letters from this Firm dated 17/2/11 and a letter from Racing Queensland dated about 18/2/11.

At the February Committee meeting a motion was passed in words to the effect [we are unable to quote them verbatim as your client refuses to give us a copy of the Minutes], that all correspondence is to be presented to the Committee. At that Committee meeting Mr Frappell failed to table a copy of his letter to Mr Burke of 15 February.

We demand copies of the minutes including the correspondence be sent to Mr. Burke by email today in accordance with the following section of the AIA:-

"57B Inspection of minutes

(1) If asked by a member of an incorporated association, the association's secretary must, within 28 days after the request is made—

(a) make the minute book for a particular general meeting available for inspection by the member at a mutually agreed time and place; and

(b) give the member copies of the minutes of the meeting.

(2) The incorporated association may require the member to pay the reasonable costs of providing copies of the minutes."

Our client will pay the reasonable costs of the copies

Your clients continuing failure and refusal to comply with its obligations under the AIA to supply my client with copies of the Minutes and the financial records is clearly intentionally obstructing a Committee member, Mr Burke, in breach of the TTC's obligations under the AIA.

Your client must also give our client copies of all financial records that he has repeatedly asked for but been refused, as required by the AIA section set out below:-

"59C Inspection of financial documents

(1) If asked by a member of an incorporated association, the association's secretary must, within 28 days after the request is made—

(a) make the association's financial documents available for inspection by the member at a mutually convenient time and place; and

(b) give the member copies of the documents."

Please ensure copies of all current financial records including payment ledger and receipts ledger are sent to our client by email today.

The AIA imposes certain obligations on my client including:-

*** 57 Management committee to ensure association complies with its rules for meetings**

(1) The members of the management committee of an incorporated association must ensure that the association complies with its rules about the calling and holding of meetings.

Maximum penalty for each member of the management committee—10 penalty units.

(2) It is a defence to a prosecution of a member of the management committee for an offence against subsection (1) for the member to prove he or she took all reasonable steps to ensure the association complied with the subsection. "

Unless the TTC allows Mr Burke to inspect today everything he needs to inspect to comply with his obligation under the above section, the TTC is guilty of preventing our client fulfilling his obligations under the AIA.

The TTC **MUST** assist Mr Burke, as its Agent, to ensure the TTC complies with the AIA about meetings, particularly where there is evidence of misleading the Committee by withholding correspondence as specified above.

To fail to do so makes Mr Clancy [who is instructing you] guilty of preventing a Committee Member from exercising his rights and obligations under the AIA, and further guilty of failing to ensure the TTC complies with its obligations under the AIA.

The continued refusal by your client to allow my client to exercise his 'entitlement' to inspect the books of the TTC is in clear breach of the rights my client has as a Committee member.

We note the following section of the AIA:-

"69A Functions of secretary

- (1) The secretary's functions include—
- (a) calling meetings of the incorporated association, including preparing notices of a meeting and of the business to be conducted at the meeting in consultation with the president of the association; and
 - (b) keeping minutes of each meeting; and
 - (c) keeping copies of all correspondence and other documents relating to the association; and
 - (d) maintaining the association's register of members."

Our client will also inspect copies of all correspondence this morning and the Membership Register.

As you will advise your client about these sections of the AIA there can be no defence that Mr Clancy, if he continues to instruct you to advise us that the TTC refuses to allow Mr Burke to inspect all records of the TTC, has acted appropriately.

Our client requested copies of the Minutes and the financial records more than 28 days ago. Failure to provide the complete copies will result in further action by our client.

Barry Atkins 
Solicitor & Attorney



TOOWOOMBA TURF CLUB INC.

Clifford Park Racecourse

Hawley Road, Toowoomba, QLD 4360 PO BOX 6037 Toowoomba West, QLD 4360

Phone (07) 46 34 60 69 Fax (07) 46 38 12 88

Mr. Burke,

I am in receipt of your letters regarding sponsorship arrangements between TTC and Jewels of the Range. You have elected not to meet with myself and the promotions sub-committee to discuss your advertising for the 2011 year until we respond in writing to you.

The points you make are very confusing to me and this Committee for the following reasons.

1. The current Committee was elected at the end of September and started functioning in October 2010
2. The Sponsorship arrangements in place were made by the previous administration (when you were part of the Promotional Sub-Committee) commencing in February 2010.
3. The current Committee has not altered those arrangements in any way.
4. Your agreement expires in February 2011.
6. Not all the benefits you refer to in 20th January 2011 letter are relevant to your current sponsorship agreement.

You sought and were granted a 3 month leave of absence from your Committee duties from December 1 2010. Your discussions with me indicated you had a serious health issue. With due respect it seemed inappropriate to concern you with sponsorship issues until your health issues were resolved. I assume from the number of letters you are writing and the tone those health issues are at the stage where you can discuss sponsorship with the Committee.

During an RQL audit of the TTC (for RQL, by Deloitte's in May 2010), whilst you were on the board, and on the sponsorship Sub-Committee it was noted there was no sponsorship register.

You well know that was addressed by Aaron Clancy on behalf of the previous Committee after that audit. Since the new Committee was elected that register has been reviewed and is completely up-to-date. The Committee and I personally take exception to the slur you have placed on this Committee and the Toowoomba Turf Club by your public assertion that is not the case.

A comprehensive review of all sponsorship arrangements with the TTC has been completed over the past month.

It is noted that Jewels of the Range has received more than \$17,000 worth of benefits since February 2010.

It is the opinion of this Committee that your sponsorship arrangement which expires in February 2011 was more than generous to Jewels of the Range.

I make the following points.

1. Every commitment due to you in the sponsorship arrangements has been honoured by the previous Committee and the present Committee.
2. The review of sponsorship arrangements by the current Committee entered into by previous Committee's is a very good business practice that was decided at the December Committee meeting.
3. All sponsorship arrangements need to be reviewed regularly in order to ensure both parties are meeting any commitments agreed.

Perhaps your recent illness is contributing to your view of the Sponsorship and I stress again we have not altered any previous arrangements you as a member of the Committee and the Promotion and advertising Sub-committee have entered into.

I suggest an immediate meeting between you the TTC executive in order to discuss this matter and better understand your point of view.

Regards,

Bob Frappell
Chairman Toowoomba Turf Club

ANNEXURE D



Client Toowoomba Turf Club Inc
Re Review of constitution (1102847)
Date 18 May 2011

Voicemail messages left on Graham Healy's phone by Barry Atkins on 18 May 2011:

Message received at 8.52am:

"Hi Graham my name is Barry, Barry Atkins. I'm Anthony Burke's solicitor. My mobile number will come up on yours. With respect it's urgent that you ring me this morning. We have identified several instances where the committee has been misled by the omission of documents that should have been tabled at committee meetings. We believe that there, we believe on grounds that there are other instances of the committee being misled and we wish to inspect the payment ledger, the receipts ledger and the sponsorship register this morning but the club's solicitors are preventing us doing that and we hope that you as Acting Chairman will step in and ensure that the club is protected and allow my client and I to inspect those three things this morning. Feel free to ring me as soon as you get that message. I would appreciate it and I know the club will need you to take action to ensure that all actions by the club are with integrity and transparent. If what I say is correct these are very very serious allegations and I will tell you Graham, what I'm telling you is correct. The evidence is there on the base of the documents that we have inspected being the minutes and and you should also be informed that they refuse to give Burke copies of the minutes. That refusal is immoral. I wait to hear from you Graham. I look forward to talking to you. Thanks for listening to this message. Good bye."

Received at 5.06pm:

"Yeah hi Graham its Barry Atkins solicitor here. Sorry you didn't get a chance to get back to me today. We sent you a copy of the letter for Racing Queensland that was sent to the Toowoomba Turf Club about the 18th February that Mr Clancy and Mr Fitzgerald have kept from the committee. Under the Association Incorporation Act this is misleading the committee for an omission. We are very concerned about it. We hope that you can help the club by talking to me about how the club might move forward from here in circumstances where the committee is also a victim as well as Anthony Burke. Quite clearly the committee has been misled by the Chairman and the employed racing secretary and not only is that a breach of the Act, the Association Incorporation Act but its also just quite immoral and it should never have happened. We are very concerned that the committee is being misled in these circumstances so if you can give me a ring we can clarify anything you want to have clarified and discuss how we might move forward from here. Thanks very much. Talk to you soon. Bye."

11/11/11 11:11



Client Toowoomba Turf Club Inc
Re Review of Constitution - 1102847
Date 19 May 2011

Voicemail message Anthony Burke to Graham Healy - 2.37pm

Oh Graham. It's Anthony. You've got my mobile. It's just a call, I've sent you the information through. We have discussed it. We know what the next step is. I want you[?] to be Chairman of the Club, you can have Peter as Deputy, John Scott as Deputy Treasurer, I all them in ... except being on the Committee as I'm appointed to. There is enough there to stop ... ratting. You know I have said I don't want to go down this path. If I'm forced to I will. My solicitor did try and ring you yesterday. We wanted to give you a heads up on all the information as the Acting Chairman. I'm going to be meeting in regards to this in the next four days. I have people in Melbourne that I need to talk to so I will be on my mobile in between some of these interviews but you are welcome to contact me with your decision that you make and I think that's about all Graham. You know the Club's important. I know you'd have the right, you understand rights and wrongs, you understand black and white, you understand law. You've been a government person um and yeah I look forward to talking to you, ah sorry not talk, I guess that's your choice Graham but um that's what I'd like you to do is be Chairman. If someone else, John Scott or Peter to be your Deputy and Treasurer and look after the Club the way it should be looked after. Thanks Graham.

Anthony Burke
Shop 5 11 James Street
TOOWOOMBA QLD 4350
Tel: 07 4637 9955

19 May 2011

Graham Healy
P.O. Box 212
TOOWOOMBA QLD 4350

Dear Graham,

THE TRUTH IS HERE

You deserve to know the truth about my Committee membership of the Toowoomba Turf Club.

You elected me as a Committee Member at the AGM in 2010.

In February this year the Chairman, Mr. Frappell wrote me a letter trying to terminate my individual and Committee memberships.

At a Supreme Court Hearing on 20 April 2011 the Judge said that the Club had failed to give me natural justice.

I was forced to take the Club to Court to enable me to continue to serve as your committee member.

This action was not taken lightly by me but when the Club failed to comply with its Rules (Rule 12, 37 and Standing Order 16) I had no option.

Racing Queensland wrote to the Club telling it to avoid spending money on litigation and to comply with its Rules. This letter was withheld from the committee.

The Supreme Court declared that I was both a member of the Club and a Committee member.

After the Court decision, the Toowoomba Turf Club issued a false and misleading press release saying I was "back on" or "reinstated to" the Committee after my membership was 'deemed invalid'.

That is not true.

Despite me asking for a retraction and correction the TTC refused to set the record straight. That is why I am writing to you directly to ensure you know the truth.

I attach a copy of a letter from my Barrister which shows the truth -- I have always been and remain a member of TTC and a Committee Member of this Club.

I am greatly disappointed that I have had to spend a lot of money to apply to the Supreme Court which ruled in my favour when the Club failed to give me natural justice.

As a Club member I am greatly disappointed that the Club chose to spend a large amount of money arguing with me when I did nothing wrong.

The Club does not accept responsibility for its actions. For example my name was left off the list of Committee members in the Weetwood Race Day programme and the Club refuses to do as I asked to correct this falsehood and let its members and the public know the truth -- that I was a Committee member when Weetwood was run.

The truth is that I was elected your Committee member in 2010 and I have never been removed as a Committee member. I look forward to serving you in 2011 and 2012 until my elected term expires.

I am available to discuss with you this letter or any other aspect of the Club's affairs that is troubling you.

We cannot let the little people get swept under the carpet by those who have a distorted view of reality. If I can I will help you and together we might get the Toowoomba Turf Club back on track!

Yours faithfully



Anthony Burke
Elected Committee Member
2010-2012 Toowoomba Turf Club

Annexure 6

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
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Tel: 07 4639 3038
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FACSIMILE TRANSMISSION

Date: 20 May 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club ["TTC"]
If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Thank you for your letter received by facsimile on 17 May 2011.

We agree with you that "any recording he [Mr. Clancy] possesses would be held on behalf of the Club".

Because you say in that letter you do not act for him, we have written directly to him.

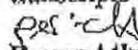
Because the tape recording is in the possession of your client's employed racing secretary, we are writing to you about the Toowoomba Turf Club, on instructions, to advise you that in our client's personal opinion and in our professional opinion:-

1. Mr Clancy, as your client's employee, has misled the committee of TTC by omission, in breach of his duties and obligations
2. the tape recording held by Mr. Clancy, on behalf TTC should have been tabled at the Club's committee meetings in February, March and April 2011;
3. your client's employed racing secretary failed to table the tape at the Club's committee meetings in February, March and April 2011;
4. your client's employed racing secretary withheld that item from the Committee;
5. your client's committee, during the time my client was wrongfully excluded from the committee meetings [February, March and April 2011], failed to fulfil its duties to ensure that the employed racing secretary tabled that tape, when the Chairman of the Committee knew of the existence of the tape;
6. your client's chairman, Mr. B Frappell, [for whom you also act in relation to the threat of defamation proceedings against our client], knowing of the existence of the tape, failed:-
 - a. to ensure the item was tabled at Committee Meetings in February, March and April 2011;
 - b. to advise the Committee of his conflict of interest regarding the tape in circumstances where you had had written, on Mr. Frappell's instructions, to Mr. Burke threatening defamation proceedings for which Mr. Frappell relied on the

tape, as it [allegedly] confirmed Mr. Frappell's version of events in the TTC Offices and car park;

7. our client's duty to the Club includes requiring Mr Clancy to table the tape at the committee meeting on 26 May. This is what we have written to Mr Clancy about, as well as the following:-
- a. The employed racing secretary has misled the committee by omission, by failing to table the tape at three successive committee meetings [February, March and April 2011];
 - b. A formal complaint is being made by a committee member of the Toowoomba Turf Club (Mr A. Burke) to Racing Queensland about :-
 - i. The most serious misleading of the committee by the employed racing secretary; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item [held by Mr. Clancy on behalf of the TTC]; and
 - iii. The current Chairman, Mr. B Frappell, failing to:-
 - 1. require the tabling of the item when he knew it existed; and
 - 2. in circumstances where he had a conflict of interest, failing to declare that conflict of interest to the Committee.
 - c. A committee member, Mr A., Burke, is making a formal complaint to the Office of Fair Trading about:-
 - i. The misleading of the committee by the employed racing secretary by the omission to table the item at Committee Meetings in February, March and April 2011; and
 - ii. The failure of the committee (sans Mr Burke) to ensure the racing secretary fulfilled his duties to table an item; and
 - iii. The Chairman failing to require the tabling of the item when he knew it existed in circumstances where he had a conflict of interest; and
 - iv. The Chairman failing to declare a conflict of interest, when he knew the tape existed, in circumstances where he had a conflict of interest; and
 - v. The current Chairman failing his duty to the Club to ensure the item was tabled at a Committee Meeting when he knew it existed.

With respect, we disagree totally with your last paragraph because it is Mr Clancy's obligation and duty to table the item at the first Committee Meeting after the tape was made, not if, "a majority of the committee validly directs Mr Clancy to provide any tape recording and/or transcripts to all committee members."


Barry Atkins
Solicitor & Attorney



Client Toowoomba Turf Club Inc
Re Review of Constitution - 1102847
Date 20 May 2011

Voicemail message Barry Atkins to Graham Healy – 9.15am

Graham. Hi, it's Barry Atkins Solicitor here. Look I can understand that you don't want to ring and talk to me and I respect that. Um, the future of the Toowoomba Turf Club is in your hands Graham and I sincerely and respectfully suggest that you get someone to ring me so that we can communicate about the problems that Frappell has caused the Club and the solution for the future. So if it's your lawyer, or if it's a friend if you don't want to ring me yourself, um somehow or other the lines of communication have to be opened up so that Anthony Burke's um situation can be clearly understood by the Committee Members and the Committee Members need to clearly understand that Frappell has misled, and Clancy, have both misled you. Now that type of behaviour cannot be allowed to continue and it is continuing and it is costing the Club money and there are some serious, very very serious problems. Frankly at the moment it seems to me that there is the risk of the Club losing its licence to the Office of Fair Trading and that's the situation that Anthony does not want to, want to have happen. But if it did happen, it would be solely the result of the actions of Clancy and Frappell in breaching their obligations under the relevant legislation and misleading the Committee. The Committee Members other than Anthony are also victims in this Graham, and you as Acting Chairperson, I honestly entreat you to please let's open some form of, of lines of communication so that the other Committee Members can understand exactly how badly and how wrongly Frappell and Clancy have and are continuing to act. Thanks for your time in listening to this. I hope that I'll hear from someone on your behalf or from you in the near future. Good on ya. Bye.

authorised by the sender acting with the Authority of or on behalf of Racing Queensland Limited.

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It is your responsibility to ensure that this email does not contain and is not affected by computer viruses, defect or interference by third parties or replication problems (including incompatibility with your computer system).

Unless expressly attributed, the views expressed in this email do not necessarily represent the views of Racing Queensland Limited.

@LAW

Principal:
Barry Atkins B.A., LL.B.(Hons)

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Annexure 8

Park View Chambers
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TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 28 April 2011
To: Hopgood Ganim Lawyers
Fax No: 07 ~~3024 0041~~ 3024 0002 *AG*
Our Ref: BA:11030
Your Ref: MR. B Bolton
Re: Anthony Burke - TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Your clients have issued a false and misleading press statement.

They have intentionally distorted the truth.

They have lied.

They have defamed my client.

My client was not 're-instated'.

The TTC denied my client natural justice, as opined by Justice Daubney.

"THE Toowoomba Turf Club has returned to a full management committee following yesterday's decision by the Supreme Court of Queensland to reinstate Anthony Burke onto the TTC committee.

Anthony Burke sought a ruling from the court yesterday after his membership and committee position was reviewed and deemed invalid in January last year.

The judge ruled that Anthony Burke could continue his role on the TTC management committee.

The TTC did not oppose Mr Burke's application and no costs were awarded.

TTC Race Secretary Aaron Clancy said that the Club was not in a position to overrule the constitution and that the avenue Mr Burke took was the right option for a ruling to be made.

"The TTC is now back to a full management committee and they will continue to work tirelessly to bring the club back to profitability and are currently on track to do so in this financial year," Mr Clancy said."

AG

My client demands and apology and retraction as well as details of all parties that received the press release.

This is a Concerns notice under the Defamation Act.

The defamation complained of is that your client alleges he was 're-instated'.

This is not true and damages my client's reputation.

The orders made were declarations that Mr Burke is a Member and a Committee Member. There was no Order that he be 're-instated'.

My client's positions were not 'deemed invalid'.

The Chairman of the TTC wrote a meaningless letter without any actual Authority. It was a nullity. The Rules of the TTC were not followed.

We are greatly disappointed that the TTC has chosen to risk being taken back to Court, after they have lied to the public.

Our client is not listed on the web site as he must be straight away.

Barry Atkins 
Solicitor & Attorney

cc:
fax:

3 May 2011

Mr Barry Atkins
Solicitor & Attorney
@Law
By facsimile: 4632 9529

Our Ref: 1102847 - Brett Bolton

This electronic transmission is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and/or exempt from disclosure under applicable law. If you are not the intended recipient, any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, return the original electronic transmission to us at the address below by post and delete or destroy any electronic or other copies. Thank you.

Dear Colleague

Toowoomba Turf Club Inc & Anthony Burke

We refer to your facsimile transmission of 28 April 2011 and respond as follows:

1. In our view, you have not given our client a Concerns Notice for the purposes of section 14 of the *Defamation Act 2005 (the Act)*. Your correspondence under reply does not properly particularise the defamatory imputations that your client considers are conveyed by the press statement to which you refer. It is, with respect, not sufficient to merely assert that the "defamation complained of" is the reference in the press statement to the court's Order to "reinstate" your client.
2. In any event, there is, in our view, nothing in the press statement capable of conveying or giving rise to any defamatory imputations of and concerning your client, either at law or in fact.
3. Further, even if the press statement was defamatory of your client (which is denied), the publication of any defamatory material in it is clearly defensible under sections 25, 26 and 29 of the Act.
4. In the circumstances our client has nothing to apologise for or retract in relation to the press statement, and will not be doing so.
5. If, despite the foregoing, your client intends to take this matter further, please treat this correspondence as a further particulars notice under section 14(3) of the Act.

We note that your correspondence under reply alleges that, by its press statement, our client has "intentionally distorted the truth", "have (sic) lied" and "have (sic) lied to the public". These are extremely serious accusations, and we presume that you would not have made them without specific instructions to do so. Our client accepts Mr Justice Daubney's ruling and intends to conduct itself in accordance with the spirit and letter of that ruling. However, this is a two-way street. We do not understand how your client believes that an effective working relationship with his fellow Committee Members will be advanced by the use of emotive and inflammatory language of the type contained in your correspondence under reply, especially having regard to the allegations your client has already made about Committee Members in other fora (eg. his correspondence to Racing

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Solicitor & Attorney
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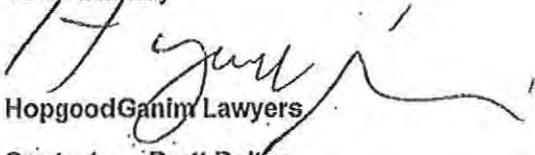
3 May 2011



Queensland Limited). If your client has the Club's best interests at heart (and is not intent on settling scores or pursuing other agendas), he will join with his fellow Committee Members to promote the Club and ensure its continuing profitability.

Finally, we are instructed that your client was included in our client's "Race Book" for last weekend; that he will appear on relevant Club correspondence as a Committee Member, and that the Club's website will be altered accordingly in the next couple of days.

Yours faithfully



HopgoodGanim Lawyers

Contact: **Brett Bolton**
Special Counsel
T 07 3024 0302
F 07 3024 0002
E b.bolton@hopgoodganim.com.au

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

Liability limited by a scheme approved under professional standards legislation

Park View Chambers
123 Margaret Street

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 23 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

We refer to your letter to us dated 18 May 2011.

Our client instructs us to advise you that:-

1. He takes great offence at the statement at the top of page 4 that he is somehow doing what he has done is 'on behalf of another person';
2. He requires an apology and retraction from your client.

Frankly we are surprised given the professional standing of your Firm that you would act on your client's instructions to make that statement as the personal snide allegation is unprofessional.

That statement about my client acting 'on behalf of another person' made by you proves the falsity of your assertion at the start of that paragraph [last on page 3] that your client 'has attempted to conduct itself in an amicable..... way with your client.'

The personal attack on my client's integrity is shameful and spiteful.

It is consistent with your clients vindictive attitude approach and actions to our client including:-

1. The current Chairman writing a letter trying to get rid of Mr. Burke [14/2/11] without authority from the Committee or at all;
2. The racing secretary and the current chairman intentionally misleading the Committee by withholding the letter from Racing Queensland dated 18 February to TTC from the Committee

In relation to this we note the statement at the bottom of page 2 and the top of page 3 of your letter dated 18 May 2011, tries to defend the indefensible, with words to the effect, that as the Committee was aware of the dispute about my clients membership status the letter did not have to be tabled.

BB

It is not for the currently employed racing secretary and the current chairman to veto the rights of Committee Members to receive copies of all correspondence. Clearly those two people have intentionally withheld that letter and that is just not allowed.

3. Your clients false and misleading press statement that Mr. Burke was 'reinstated' as a Committee member when your client knew, or ought to have known that such a statement was false;
4. Your client's refusal to correct the false and misleading press release;
5. Your clients refusal to remedy the false and misleading Public Notice advertising for nominations for a casual vacancy position on the Committee;
6. Your clients failure to award the perpetual trophy to the winners of the Toowoomba Club in 2011 without any decision by the Committee;

None of these actions could fairly be called 'amicable'.

Nor has your client 'attempted to conduct itself in [a]..... business like way with your client' because:-

7. Your client tried to end the Jewels of the Range [Mr. Burke's Company] sponsorship Agreement with TTC without authority from the Committee at all;
8. Your clients directive to Channel 7 to not collect the two \$100 gift vouchers donated by Jewels of the Range for Fashions on the Field 2011.
9. Your clients refusal to re-erect the Jewels of the Range signs at the winning post in 2011 despite admitting that those signs were a condition of the Sponsorship Agreement of 2009 - 2010 and not erected last year;
10. Your client's continued refusal to give Mr. Burke , a Committee member, copies of the Minutes ;
11. Your client's continued refusal to give Mr. Burke , a Committee member copies of the 'draft' electronic Minutes that every other Committee Member was given.

Our client does not have faith that the current chairman will be impartial in his conduct of the Committee Meeting due 26 May 2011.

For that reason:-

- a. I will be present as is my client's rights under the Rule of Law to have access to legal advice and representation;
- b. We have asked Ms. Shara Murray general Counsel of Racing Queensland a to chair the meeting;
- c. We have asked Mr. Orchard from Racing Queensland to attend the meeting.

A copy of this letter will be sent to Racing Queensland in support of our request that their representatives attend the meeting due 26 May 2011.


Barry Atkins
Solicitor & Attorney

@LAW

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 24 May 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke Committee Member of Toowoomba Turf Club Inc.

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

Dear Sirs,

Our client requires your client make available to him copies of the audio recordings of the last 6 Committee meetings.

This will enable him to put the written Minutes in perspective, as he has noted from his examination of them that there is a lot less detail than was in the previous Minutes in previous years.

Our client is willing to pay the reasonable copying charges, which we opine would not be very much, as we are not asking for them to be transcribed.

It is important that these copies be made straight away.

Please advise if there is any problem making them for Mr. Burke to collect at 9 a.m. on Thursday 26 May 2011.


Barry Atkins
Solicitor & Attorney

ANNEXURE IV

@LAW

Principal:
Barry Atkins B.A., LLB.(Hons)

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Park View Chambers
123 Margaret Street
P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

FACSIMILE TRANSMISSION

Date: 2 June 2011
To: Hopgood Ganin Lawyers
Fax No: 07 3024 0002
Re: Anthony Burke and Toowoomba Turf Club Inc.

Your Ref: 1102847 Mr B. Bolton
Our Ref: BA:11030

If you do not receive all 2 pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

We have received instructions to respond to your fax, using the same numbering system you have used, as follows:-

1. Noted.
2. Noted. We are of the opinion that by adopting the terms of that motion TTC is acting in breach of its obligation to maintain records of TTC.
3. Noted.
4. Noted but we do not admit that the procedures are "well known to our client".
5. Noted.
6. Noted.
7. Rule 15 is clear.

Our client has complied with Rule 15 and given reasonable notice of his intention to inspect the membership register, as is his right under Rule 15.3.

There is nothing in Rule 15.3 that entitles the executive committee to be involved, and it is entirely unnecessary. It is an unreasonable imposition on Mr Burke.

Please advise how and when "the club has decided that any contact between your client and Mr Clancy should be avoided where possible".

There does not need to be any contact between Mr Burke and Mr Clancy tomorrow morning at about 9.00 am when our client will be attending TTC to inspect the membership register in accordance with his rights under the Rules, particularly Rule 15.3.

It is a simple matter for TTC to have the membership register on the counter available for Mr Burke to inspect as is his right.

We note the unfounded allegations in the last paragraph of your letter dated 2 June.

Our client is neither harassing nor intimidating 'the club in general'. Our client is simply exercising his rights, in relation to the membership register, as a member, as provided under the Rules.

Your assertions are without foundation and do not reflect the truth.

8. Please advise when and how "the majority of the committee [say] no reason for [me] to be present with [my] client". I do not accept (without proof from you) that any decision has been properly made by TTC.

You seem, with respect, to have misconstrued communications between our two law firms, or indeed between this law firm and your client directly when appropriate, as expressing my "views concerning Mr Clancy and Mr Frappell".

AB

P. 001/002

FAX No. 61 7 49395237

Imba Serviced Office

THU/02/JUN/2011 04:47 PM

P. 002/002

FAX No. 61 7 46395237

Tmba Serviced Office

THU/02/JUN/2011 04:47 PM

I have acted appropriately at all times in all forms of communications with your firm and with TTC and with its currently employed racing secretary and any of the committee members with whom I have had contact in person or verbally.

You, with respect, seem to have misjudged my actions when acting as my client's solicitor, as I have not expressed my personal opinion in those communications.

I will not take this matter further at this stage but reserve my rights to do so should you repeat an allegation that I am expressing my personal views about your client and its employees and its committee members, in communications on behalf of my client.

Please advise me when and how a decision was made by TTC that "the club believes that the best interests of its officers and employees dictates that [I] not be permitted to accompany [my] client to any inspection of club records.

We do not accept (without proof from you) that any proper decision was made by TTC in relation to this.

Mr Atkins will accompany Mr Burke when Mr Burke attends at the TTC tomorrow morning at about 9.00 am to inspect the membership register as is Mr Burke's right.

Mr Atkins hereby gives his personal and professional undertaking, without admitting there is any right in TTC to prevent him inspecting the membership register with his client, that he will not look at the membership register while Mr Burke inspects it.

This undertaking is limited to the inspection tomorrow morning and is not to be construed as an undertaking in relation to any other inspection of any other records and with the express statement that neither Mr Atkins nor Mr Burke believes that TTC has the power to prevent Mr Atkins providing legal advice to Mr Burke; and further that TTC has not properly made a decision to deny Mr Burke's right to legal representation when inspecting records. It is done simply and solely to facilitate the orderly inspection of the membership register tomorrow at about 9.00 am as is Mr Burke's right in accordance with the Rules.

9. Noted. Please advise by 5.00 pm tomorrow, Friday 3 June 2011, the dates on which the executive committee has met.
10. Finally, we reject your unfounded assertion that my letters of 1 June are "hectoring". Hectoring is defined as 'blustering', 'bullying'.

As you should well know, I am duty bound to act on instructions from my client in accordance with my duties to him as his Solicitor. This I have done without transgressing any requirements on me in my professional capacity. Please withdraw your statement that the two letters on 1 June 2011 are bullying your client. If you fail to do so by 5.00 pm on Friday 3 June 2011 I reserve my rights to take further action.

We ask that you refrain from insulting our client by falsely alleging that he is engaged in a "campaign of harassment and intimidation of the club in general".

Nothing could be further from the truth.

All my client has done is to exercise his rights as a member.

We look forward to your response within the timeframe stated.

We continue to reserve our client's rights to take such action as is appropriate without further notice to you. If that action involves an Application to the Court, in which our client is successful, we shall also seek an Order of the Court that TTC pay our client's costs on an indemnity basis.


Barry Atkins
Solicitor & Attorney

@LAW

FAIR VIEW CHAMBERS
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350
Tel: 07 4639 3038
Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 6 June 2011
To: Hopgood Ganim Lawyers
Fax No: 07 3024 0002
Our Ref: BA:11030
Your Ref: Mr B. Bolton
Re: Anthony Burke sale to Toowoomba Turf Club Inc.
Property: TOOWOOMBA TURF CLUB

If you do not receive all pages, please telephone 07 4639 3038 (return fax 07 4632 9529)

MESSAGE

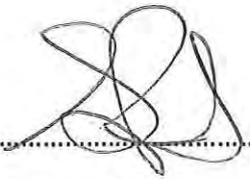
Dear Sirs,

1. My client is not waging a 'campaign' against TTC. He has only acted appropriately in accordance with his duties obligations and rights under the Rules of TTC;
2. The Supreme Court declared Mr. Burke to be a member of TTC;
3. Under Rule 15 TTC is obliged to keep a membership Register;
4. Mr. Burke, as a member, is entitled to inspect the Register;
5. Mr. Burke is certainly entitled to inspect the Register to find out if TTC has complied with the Supreme Court Order;
6. Mr. Burke is not obliged to consent to the imposition of an unreasonable requirement that he is only allowed to inspect the membership register in the presence of a member of the executive committee;
7. Without derogating from the true legal position, Mr. Burke instructs that he has, 'in the interests of moving on' advised the executive committee that he wishes to inspect the membership register this Wednesday between 9 am and 12.30 pm with a member of the executive committee present;
8. If the executive committee do not arrange for 1 of their number to be present during this period [or do not specify a time suitable to one of their number within that time period], then Mr. Burke reserves his rights to go back to the Supreme Court for consequential Orders arising from the previous Order;
9. Mr. Atkins is Mr. Burke's legal representative. He also was Mr. Burke's legal representative when the Supreme Court made the Order. Mr. Burke is entitled to have his legal representative present to verify that TTC has complied with the Order. Mr. Burke is not legally qualified. It is

AB

This is attachment marked "AB" ¹⁴⁵

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB145



RACING
QUEENSLAND

2 August 2011

Mr Barry Atkins
@ Law
Parkview Chambers
123 Margaret Street
TOOWOOMBA QLD 4350



Racing Queensland Limited
A.B.N 52 142 786 874
Racecourse Rd Deagon QLD 4017
PO Box 63 Sandgate QLD 4017
T 07 3869 9777
F 07 3269 6404
E info@racingqueensland.com.au
W www.racingqueensland.com.au

By E-mail: bazlawyer@atlaw.net.au; sales@atlaw.net.au
Original by Post

Dear Mr Atkins,

RE: RACING ACT 2002 (Qld)

SECTION 34(2) & (3) – CONTROL BODY DIRECTION

On 19 July 2011, Racing Queensland Limited (**RQL**) commenced an investigation into allegations concerning the operations of the Toowoomba Turf Club (the **Club**).

That investigation is currently in the early stages but RQL is aware that the Club plans to hold a Special General Meeting on 3 August 2011 with a view to members removing Mr Anthony Burke as a Committee member of the Club.

On 1 August 2011, RQL requested the Club to postpone the meeting pending the outcome of the investigation. On 2 August 2011, the Club both directly and through its solicitors refused the request to postpone the meeting.

Given RQL's view that the findings from the investigation may have some impact on the decision of the members of the Club, the Board of RQL has resolved to issue a Control Body Direction to the Club under Section 34 (2) and (3) of the *Racing Act 2002 (Qld)* (**Act**), which states:

'To the extent a control body believes necessary or desirable for performing the control body's function, the control body may, by notice given to a licensed club, give a direction to a club (a control body direction) relating to –

- a. the operations of the club, including, for example, matters in relation to the licensed club's assets, or*
- b. a licensed venue for which the club is the license holder.*

A Control Body Direction under subsection 3 of section 34 may require a licensed club to do something or refrain from doing something.

Direction

The Club is hereby directed by virtue of section 34 of the Act to:

- a. refrain from holding a Special General Meeting for the purpose of considering the removal of Mr Anthony Burke from the Committee of the Club until such time as RQL advises in writing that the investigation into the operations of the Club is complete; and
- b. prevent any person, on behalf of the Club, from making any public statement concerning Mr Anthony Burke and/or any allegations he has made concerning the Club.

You should note that paragraph [b] above is included to prevent any further public statements being made, which may be prejudicial to the interests of the racing industry.

Please note that Mr Burke is also required to refrain either himself, or through any person acting on his behalf, from making any public statement concerning the Club until such time as RQL advises in writing that the investigation into the operations of the Club is completed.

Yours sincerely

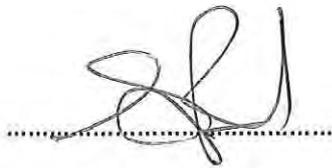
A handwritten signature in black ink, appearing to read 'RG Bentley', written in a cursive style.

RG BENTLEY
Chairman

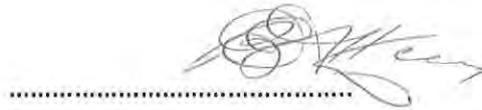
This is attachment marked "AB

146
"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a dotted line.

Anthony John Burke

A handwritten signature in black ink, featuring a circular flourish at the beginning and a long horizontal stroke at the end, positioned above a dotted line.

Barry Edward Atkins, Solicitor Witness

@LAW

AB 146

Park View Chambers
123 Margaret Street

Principal:
Barry Atkins B.A., LLB.(Hons)

P.O. Box 605
TOOWOOMBA QLD 4350

Tel: 07 4639 3038

Fax: 07 4632 9529

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FACSIMILE TRANSMISSION

Date: 3 August 2011
To: Hopgood Ganim Lawyers Fax No: 07 3024 0002
Our Ref: BA:11030 Your Ref: Mr B. Bolton
Re: Anthony Burke and Toowoomba Turf Club Inc.
Property: SPECIAL MEETING CALLED FOR 3/8/11

Dear Sirs,

We refer to the Control Body directive issued to TTC by RQL yesterday.

We refer to the notice given to club members today via SMS by TTC's employed racing secretary Mr. Clancy.

We note that the notice given to club members is not correct as it says the Special Meeting due 3/8/11 has been "postponed". That is not the direction given by RQL and is misleading to members.

TTC has been directed by RQL to refrain from holding a meeting to consider removing Mr. Burke as a Committee Member until after RQL advise the investigation into TTC is completed.

There is no current resolution before the members to remove Mr. Burke from the Committee.

The only relevant resolution was passed by the Committee to direct the secretary to call a Special Meeting to consider a resolution that Mr. Burke be removed.

Such a resolution would still need to be moved and seconded at an appropriately convened special meeting after notification that the investigation is completed if a decision to hold a Special Meeting is properly made in the future.

In relation to the SMS sent to club members we also note that TTC intends to present information to members tonight. The only information that may be presented to members is a copy of the letter containing the direction from RQL.

The SMS also states that the direction was made by "Bob Bentley" which is not true.

We note Mr. Frappell has breached condition "b." of the directive by talking publicly on ABC radio today. We reserve our client's rights regarding this breach but advise that if Mr. Frappell breaches the condition again Mr. Burke will formalise this complaint against Mr. Frappell,



Barry Atkins
Solicitor & Attorney

TRANSACTION REPORT

WED/03/AUG/2011 05:14 PM

FAX (TX)

#	DATE	START T.	RECEIVER	COM.TIME	PAGE	TYPE/NOTE	FILE
001	03/AUG	05:13PM	30240002	0:00:22	1	MEMORY OK	SG3 5575

@LAW

Principal:
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TOOWOOMBA QLD 4350
Tel: 07 4639 3038
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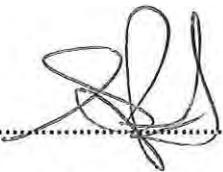


Barry Atkins
Solicitor & Attorney

This is attachment marked "AB

147
"

Specified in the list of attachments in the Statutory Declaration
of Anthony John Burke sworn 6 August 2013



.....

Anthony John Burke



.....

Barry Edward Atkins, Solicitor Witness

AB 147

Barry Atkins

From: Jamie Orchard <jorchard@racingqueensland.com.au>
Sent: Thursday, 4 August 2011 12:00 PM
To: 'Barry Atkins'
Cc: Shara Murray
Subject: RE: Investigation of TTC

Dear Mr Atkins,

1. RQL is, as you are aware, anxious to ensure that all allegations by Mr Burke are properly considered. Mr King took the lengthy statement from your client last week in an attempt to ensure that we had a complete statement of all allegations so that each one could be properly considered. If you say that there is now additional material, you will need to provide it as quickly as possible. We are providing the brief to Ms Freeman today and I expect that Counsel will use, as the starting point for determining the investigation plan, the set of allegations in your client's statement. The addition of matters during her investigation is likely to add significantly to the length (and therefore cost) of the investigation as she is likely to have to re-interview relevant parties, seek further documents etc. Accordingly, you should provide any additional matters as a matter of urgency, and certainly well before 10 August 2011.
2. The allegations made in respect of workplace harassment will be incorporated into Ms Freeman's investigation.
3. The investigation by Ms Freeman is being undertaken independently of RQL. It will be a matter for Counsel to determine what information she considers necessary or useful for her to make findings in respect of the allegations made by your client. That said, I do not expect that Counsel would have any objection to an appropriate submission being made to her.
4. I am confident that all matters raised by your client will be completely canvassed. If Counsel considers however that it may be useful for her to take further information from you to clarify any issue, I expect that she will do so.

Regards,

Jamie Orchard

Director of Integrity Operations

PO Box 63, Sandgate QLD 4017

P +61 7 3869 9742

F +61 7 3269 8268

 RACING QUEENSLAND M 0417 791 596

E jorchard@racingqueensland.com.au

W www.racingqueensland.com.au

From: Barry Atkins [mailto:bazlawyer@atlaw.net.au]
Sent: Thursday, 4 August 2011 11:02 AM
To: Jamie Orchard
Subject: RE: Investigation of TTC

Dear Mr. Orchard,

1. Mr. Burke requests the opportunity to make a further statement for the investigation about actions taken by TTC since Mr. Burke gave a statement to Mr. W. King on Thursday 28 July. The actions by TTC in the last week are further evidence relevant to the matters under investigation. Due to Mr. Burke's medical condition, his business obligations and time constraints this submission would be done on or about 7/8/11

and finalised by 10/8/11. Please confirm this request is approved and advise if the statement is to be provided to, and submission made, direct to Ms. Freeman?

2. Shara Murray is currently examining Mr. Burke's complaints against TTC in respect to breaches by TTC of the Workplace Health and safety Act with emphasis on breaches of the 2004 Code of Conduct on Workplace Harassment. Mr. Burke provided to Mr. King a summary prepared by me, with attachments verifying the analysis. I ask if Shara Murray's investigation can or should be also referred to Ms. Freeman of Counsel for investigation and report as part of the brief to her, presumably, to consider the material and report to RQL?
3. I attended at TTC holding a signed proxy from Mr. Burke, last night. I advise that no meeting was held. The only information disclosed to the Members was when Mr. Frappell read out RQL's letter to TTC and a statement about the appointment of Ms. Freeman. There is an aspect of the actions of TTC specified in RQL's letter read out that, in my professional opinion, is proof absolute of the unlawful conduct in breaching TTC Rules that Mr. Burke has complained of and which is being investigated by RQL.

Please confirm I am entitled, on behalf of Mr. Burke, to make a written submission to Ms. Freeman about this aspect of Mr. Frappell's breach of the TTC Rules as I wish to do so without delay.

4. I offered to Mr. King and again offer to personally give evidence by way of a statement or interview to Ms. Freeman should that be requested to clarify any aspect of Mr. Burke's complaints and allegations that may be needed to ensure that all matters are completely canvassed.

I look forward to hearing from you.

Barry Edward Atkins (B.A., LLB(Hons.))
Solicitor & Attorney
@LAW
Tel: 07 4639 3038
Fax: 07 4632 9529
Email: bazlawyer@atlaw.net.au
Web: www.atlaw.net.au

Park View Chambers
123 Margaret Street
(P.O. Box 605)
Toowoomba Qld 4350

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From: Jamie Orchard [<mailto:jorchard@racingqueensland.com.au>]
Sent: Wednesday, 3 August 2011 3:33 PM
To: 'bazlawyer@atlaw.net.au'
Subject: Investigation

Mr Atkins,

RQL has appointed Ms April Freeman, Barrister at law, to conduct the investigation into the allegations that have been made. You will see from the attached statement that will soon be released that we hope to have her report by the end of next week.

Regards,

Jamie Orchard

Director of Integrity Operations



PO Box 63, Sandgate QLD 4017

P +61 7 3869 9742

F +61 7 3269 8268

RACING M 0417 791 596

QUEENSLAND E jorchard@racingqueensland.com.au

W www.racingqueensland.com.au

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