

MK-39

KELLY Mike

From: David K Ford <cn=david k ford/ou=to/o=qtreasury> on behalf of David K Ford
Sent: Friday, 17 October 2008 5:37 PM
To: michael.kelly@racing.qld.gov.au
Subject: Re: Meeting with ASIC

Mike

Thanks. Early indications from Lachlan are that the Treasurer's Office supports the approach we have outlined, although I'm not sure whether he'll reject the proposed constitutional changes on integrity grounds or content grounds.

Kind regards

David

David Ford
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Michael Kelly/OR/QTreasury

Michael Kelly/OR/QTreasury 17/10/2008 05:34 PM	To	"David Ford" <david.ford@treasury.qld.gov.au>
	cc	[]
	Subject	Re: Meeting with ASIC

David

I will now update and finalise the relevant brief that contains the detailed legal advice that outlines the options available to AF and implications/risks associated with each possible course of action. I will have it to you Tue so AF can consider it upon his return.

MK

David K Ford

From: David K Ford
Sent: 17/10/2008 03:04 PM ZEL0
To: Gerard Bradley
Cc: Michael Kelly; Chris Turnbull
Subject: Meeting with ASIC

Gerard

Chris Turnbull, Mike Kelly and I met with Maree Blake, the ASIC Queensland Regional Commissioner and two of her senior staff this afternoon to discuss the outcome of the ASIC assessment of the Treasurer's reference of Bill Carter's complaint re Queensland Racing.

Key outcomes were -

- the assessment (which is the precursor in ASIC processes to a formal investigation) identified no breaches of the Corporations Law.
- therefore, there would be no formal investigation launched.
- there were a number of elements of the process, especially around the use of Queensland Country Racing's proxy, which raised ethical questions and a lack of transparency. These were not issues within ASIC's remit.
- nonetheless, it is most unlikely that the outcome would have changed, irrespective of the use of Country Racing's proxy or the admission of the Chairman of the Townsville Turf Club, as the contentious motion was passed 14-1, considerably in excess of the 75% required.
- a written response along these lines will be provided to us next week. At this stage it is not intended, however, to provide responses to others who had raised their concerns with ASIC.
- note that the ASIC response will be just that - there will be no "report".

We discussed next steps for the Treasurer. Options seemed to be -

- to refer the matter back to QRL on the basis of the concerns about transparency, etc and direct that they pass the proposed constitutional changes through the process again, this time with proper independent audit supervision.
- to reject the proposed changes on the basis of concerns with their content (especially the elimination of the requirement that an independent executive search process be included in the appointment process for the Board), thus ensuring that, should QRL wish to proceed with the changes or a sub-set of them, the process would have to be conducted again. This is the basis on which Office of Racing has prepared briefing material.

If the Treasurer were of a mind to finalise his consideration of the matter quickly, it may be worth consideration of a Ministerial Statement to the Regional Parliament in Cairns, outlining the CMC and ASIC responses and his decision to reject the Constitution and return it to QRL. ASIC would be comfortable with this outcome and would then use the Treasurer's Statement in formulating a response to the other interested parties (which would go out after the Statement). I have asked Mike Kelly to start some precautionary drafting of a Statement.

If the Treasurer would prefer to release the outcome outside Parliament, I would still suggest it be done soon as it will be helpful to tie our response and ASIC's together.

Could you raise this with the Treasurer while overseas and let us know how he wants to proceed?

Kind regards

David

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