

IN THE MATTER of the Queensland Racing Commission of Inquiry  
before the Honourable Justice Margaret White AO  
pursuant to the *Commissions of Inquiry Order (No.1) 2013*

### AFFIDAVIT OF KEVIN WILL SEYMOUR

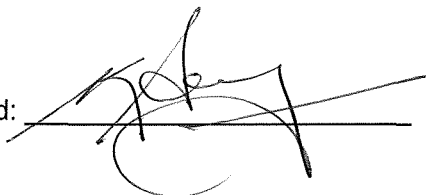
KEVIN WILL SEYMOUR of [REDACTED], company director, in the State of Queensland states on oath:

1. I have been involved in the harness racing industry in Queensland for over 45 years, and been involved generally in Australia, as a:
  - (a) major sponsor, including:
    - (i) several Inter Dominion Harness Racing Championships in New South Wales, Victoria and Queensland;
    - (ii) the annual Seymour Nursery Pace;
    - (iii) races in almost every state of Australia, including the Globe Derby in South Australia, the richest country race in harness racing in Australia;
  - (b) owner for 40 years, racing horses in every state in Australia;
  - (c) promoter; and
  - (d) official – including as a:
    - (i) Chairman for 5 years (over two terms), and as the Deputy Chairman, and otherwise as a member of the Committee, and most recently as Patron, of the Albion Park Harness Racing Club (**APHRC**);
    - (ii) Board Member of both the Queensland Harness Racing Board (**QHRB**) for two terms as Deputy Chairman (5 years in total);


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- (iii) director of Queensland Harness Racing Limited (ACN 128 036 000) (QHRL) since 17 October 2007 (including during its period as the control body for harness racing in Queensland from 1 July 2008 to 30 June 2010);
  - (iv) a trustee of the Albion Park Trust for two years;
  - (v) President of the Standardbred Owners Association of Queensland for 10 years;
  - (vi) served on the Australian Harness Racing Board for 3 years; and
  - (vii) the Inaugural Chairman, founder and financier of Australian Pacing Gold for 6 years; and
- (e) a major benefactor.

**Comments in accordance with the Requirement to Provide a Statement**

2. I have received a Requirement to Provide Written Statement to the Queensland Racing Commission of Inquiry dated 17 July 2013 (**Notice**).

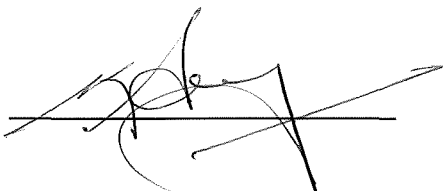
**Contract Management and Financial Accountability**

3. As to section 1 of the Schedule to the Notice:
- (a) in respect of the procurement, contract management and financial accountability of the Relevant Entities:
    - (i) my knowledge is limited to QHRB and QHRL;
    - (ii) while I expect that there were:
      - (A) policies;
      - (B) processes;
      - (C) guidelines; and


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(D) measures used to ensure contracts which were awarded delivered value for money,

I cannot:

(E) recall those policies, processes, guidelines and measures; nor

(F) say whether such policies, processes, guidelines and measures, were adhered to by QHRB and QHRL during the Relevant Period;

(b) having said that, I have no recollection of it having been brought to the Board's attention or to my attention separately that there had been any particular breach of a policy, process, guideline or measure of that kind, and as such I believe that any such policies, processes, guidelines and measures were adhered to;

(c) as a general proposition, my recollection is that competitive tenders were used by QHRB and QHRL wherever appropriate (e.g. where the amount of the contract was sufficient to warrant a competitive tender process) and that normal conflict of interest practices applied so as to require a conflict of interest to be declared if one existed;

(d) the only contract that I can think of which might have given rise to a question of a conflict of interest related to the demolition of the grandstand at Albion Park, which was awarded to Watpac, a company of which I was a significant shareholder at the time, however:


(i) that contract was awarded by the Albion Park Trust (ie not QHRB or QHRL);

(ii) I had no involvement in the award of that contract; and


(iii) as such no conflict of interest ever arose;

(e) to the best of my knowledge neither QHRB nor QHRL ever had any involvement with Contour Consulting Engineers Pty Ltd;

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- (f) I have no direct knowledge of any other Relevant Entity's involvement with Contour Consulting Engineers Pty Ltd.

## Management

4. As to section 2 of the Schedule:

(a) my knowledge is limited to QHRB and QHRL;

(b) while I expect that there were:

- (i) management policies;
- (ii) management processes;
- (iii) management guidelines;
- (iv) workplace culture and practices;

I cannot:

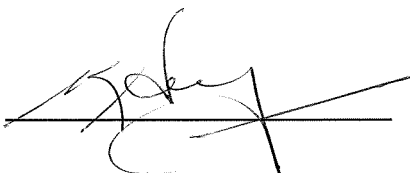
(v) recall such management policies, management processes, management guidelines or workplace culture and practices; nor

(vi) say whether such management policies, management processes, management guidelines or workplace culture and practices ensured integrity and were adhered to;

(c) having said that, I expect that:

- (i) there were such policies, processes, guidelines and practices;
- (ii) the Chief Executive Officer (CEO) of QHRB and QHRL (whoever that was from time to time) was responsible for such policies, processes, guidelines and practices; and
- (iii) they were adhered to, and that they ensured integrity, because I cannot think of any instance which makes me think that that is not the case;

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- (d) in relation to section 2.2 of the Schedule:
- (i) my direct knowledge is limited to my involvement on the Boards of QHRB and QHRL;
  - (ii) in my view there was what I would call the 'usual' separation of functions between a Board and the business in that:
    - (A) there was what I believe was the normal delegation of functions to management;
    - (B) responsibility for key decision making came back to the Board;
  - (iii) I expect that Mike Godber, the former CEO of QHRL, would be best placed to comment on this issue;
  - (iv) it always appeared to me that:
    - (A) there was an orthodox and proper separation of responsibilities; and
    - (B) the Board did not seek to 'run' all, or even most, of the day to day responsibilities of QHRB and QHRL; and
    - (C) the company secretary for QHRL, and before that the secretary to the Board of QHRB, took minutes at Board meetings which were checked by the Chairman and then tabled for approval at the next meeting as is normal corporate / Board practice.

### Corporate Governance

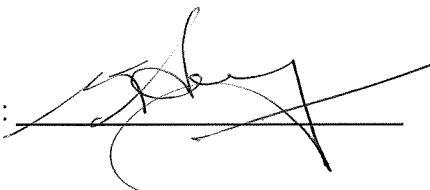
5. As to section 3:

- (a) I do not have any direct knowledge of:
  - (i) the corporate governance arrangements of Racing Queensland Limited (**Racing Queensland**) in the Relevant Period; or


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- (ii) whether Racing Queensland and its officers operated and acted on a day to day basis in the manner set out in section 3.2 of the Schedule;
- (b) I do not however believe that Racing Queensland and Mr Bentley acted in the manner described in sections 3.2(a), (d), (f) of the Schedule insofar as they acted in the manner described in the pleadings in Supreme Court of Queensland Proceedings 13832 of 2010, *Queensland Harness Racing Limited & ors v Racing Queensland Limited & Bentley (the Albion Park litigation)*;
- (c) my knowledge of matters in relation to the Albion Park litigation is described in the following documents, copies of which are exhibited to this Affidavit:
  - (i) exhibit **KWS-1** is the Affidavit of Andrew Harris sworn 20 February 2011 wherein he swore certain matters on information and belief from me at paragraphs 23, 24 and 26;
  - (ii) exhibit **KWS-2** is a Summary of Evidence filed on behalf of the Plaintiffs dated 19 July 2011 in which my evidence was accurately summarised at paragraph 2; and
  - (iii) exhibit **KWS-3** is a further Summary of Evidence filed on behalf of the Plaintiffs dated 22 November 2011 my evidence was accurately summarised at paragraphs 7 to 17 inclusive;
- (d) I have no knowledge of whether there were in place any of the items described in sections 3.3 and 3.4 of the Schedule.

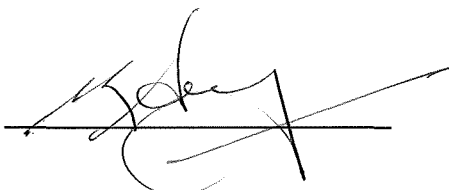
**Oversight by the Minister, the Executive Government, the Chief Executive**

6. As to section 4 of the Schedule:
- (a) my direct knowledge is limited to QHRB and QHRL;
  - (b) as a general rule, neither I nor the Board of QHRB or QHRL were subject to any specific oversight or regular involvement by or with the responsible Minister, the Executive Government or the Chief Executive during the Relevant Period;


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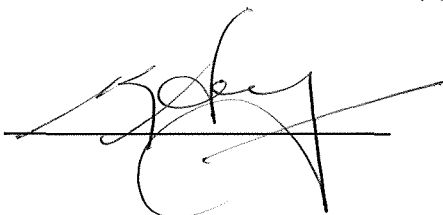
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- (c) any dealings with the responsible Minister, the Executive Government or the Chief Executive were by the Chair (Bob Lette) or the CEO (primarily, through the Relevant Period, Mike Godber);
- (d) any relevant correspondence with the responsible Minister, the Executive Government or the Chief Executive was tabled at a subsequent Board meeting;
- (e) the only correspondence with the Minister or the Executive Government that I recall having particular knowledge of prior to it being sent, or at about the time it was received, is correspondence in relation to the proposed amalgamation of the 3 codes of racing in the period December 2009 to February 2010;
- (f) I otherwise had no insight into the oversight of operations of Racing Queensland in the Relevant Period and, generally speaking, I cannot comment on it;
- (g) I would however say that it was particularly concerning that, in relation to the Racing Queensland decision to sell Albion Park, and to seek to walk away from the Intercode Agreement, to be told that the Queensland Government's position was that Racing Queensland was "beyond the Government's control" and that the Government sought to 'wash its hands' in relation to the matter;
- (h) as I understood it, the *Racing Act* was not so clear as to put Racing Queensland beyond the control of the Minister, but even if that was the case, it seemed extraordinary that (and it would be very poor oversight if) the Government:
  - (i) had created a position under the *Racing Act* whereby such a valuable industry and bundle of assets had been put into the hands of a company which could, on the Government's view, do whatever it wanted with those assets;
  - (ii) was saying there was nothing it could do about assets that had been provided to Racing Queensland when those assets were, to varying degrees:
    - (A) to all intents and purposes, public assets;

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- (B) assets which had been developed or improved with public money over the years; and
- (C) the subject of direct funding input as well as volunteer effort from the industry itself (eg Clubs).

**Employment Contracts: Tuttle, Orchard, Brennan, Reid**

7. As to section 5 of the Schedule, although I have seen numerous media reports in relation to the matters described in this section, I had no involvement in them.

**Queensland Race Product Co Limited and Tatts Group**

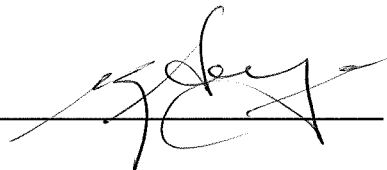
8. As to section 6 of the Schedule:

- (a) in relation to Tatts Group Limited (**Tatts Group**), I became a director of UNiTAB in 1996 and was a director of that company until October 2006 and since then have been a director of Tatts Group;
- (b) to the best of my knowledge and recollection, fees payable to Racing Queensland or any Queensland Racing entity that is described in the Schedule, including race field information fees, have never been discussed in any Tatts Group Board meeting nor any other Tatts Group meeting or documents;
- (c) I recall that QHRB and QHRL were represented on the Board of Queensland Race Product Co (**Product Co**) by the Chair (Bob Lette) (and I think at times by the CEO, Mike Godber), and I think they would be best placed to comment on section 6;
- (d) my recollection is that the activities of Product Co were subject to secrecy provisions which resulted in them never being discussed even in QHRB or QHRL Board meetings;

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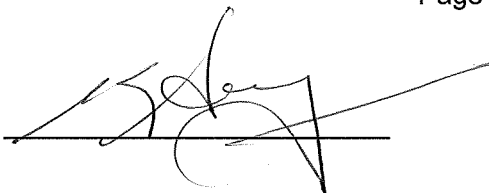
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- (e) as I recall it:
- (i) QHRL received a percentage from corporate bookmakers in respect of race information fees under an agreement with corporate bookmakers;
  - (ii) the QHRL agreement was that they would pay fees based on 1.5% of turnover on Queensland harness races;
  - (iii) Racing Queensland subsequently entered into an arrangement which was based on 10% of gross profit of those corporate book makers on Queensland racing product;
  - (iv) it was always my view that the position that QHRL had adopted was a far better approach because the approach adopted by Racing Queensland allowed the corporate bookmaker to manipulate its results (albeit legitimately) to underplay the gross profit and thereby minimise the amount payable by way of race information fees;
- (f) other than believing that Product Co responded to the introduction of race information fees by imposing the 10% gross profit approach (through the 'Race Fields legislation'), I have no specific knowledge as to what happened in relation to race information fees because this occurred after the 3 code amalgamation and is beyond my knowledge;
- (g) I have no knowledge of any action taken or not taken as a consequence of the legal or other expert advice because I have no knowledge or such legal or other expert advice (see paragraph 9(f) above);
- (h) to the best of my recollection, during the time of QHRL the Chair and/or CEO were involved in Product Co, he/they:
- (i) acted in the manner described in paragraphs 6.5(a) to (d) of the Schedule;
  - (ii) did not act in the manner described in paragraph 6.5(e) of the Schedule;

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- (i) I have no direct knowledge of the way in which directors of the other Relevant Entities acted, save to say that I would not agree that it was in the best interest of Racing Queensland Limited or the racing industry for the directors or senior executives of that company to recommend the gross turnover approach in respect of race field information fees (for the reasons set out at paragraph 8(c)(iv) above);
- (j) I have no direct knowledge of any of the matters described in section 6.6 of the Schedule.

**Funds Transfer in February 2012: Queensland Government to Racing Queensland Limited Infrastructure Trust Account**

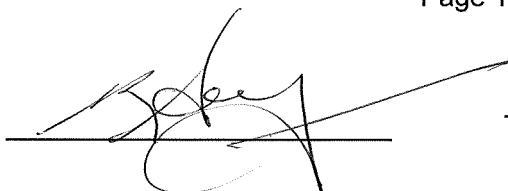
9. As to section 7 of the Schedule, I have no direct knowledge of any of the matters described in paragraphs 7.1, 7.2 and 7.3 of the Schedule.

**Any Other Relevant Matter**

10. As to section 8 of the Schedule, in relation to the Albion Park litigation I would say that:

- (a) I, and I believe the majority of the harness racing industry, was angered by Racing Queensland's decision to sell Albion Park contrary to the commitments that had been given prior to QHRL agreeing to participate in the amalgamation of the 3 codes of racing;
- (b) for my part I did all that I could to prevent that happening and, to the extent that I could, I wrote to, and sought to have (and had) meetings with, the Premier of Queensland and the Minister for Racing (attended by various government officers);
- (c) the primary intent of that correspondence and those meetings was to seek to bring an end to the Albion Park litigation, and to thereby save the industry substantial legal costs, by having Racing Queensland abide the commitments given prior to QHRL agreeing to the amalgamation;

Signed: \_\_\_\_\_



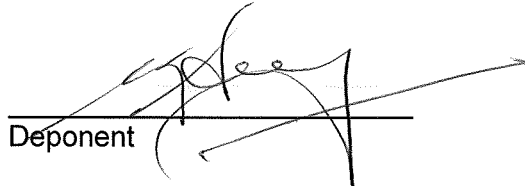
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- (d) as those efforts were unsuccessful, it was necessary for QHRL and the relevant Clubs to pursue the litigation against Racing Queensland and Mr Bentley throughout the Relevant Period.

**SWORN** by **KEVIN WILL SEYMOUR** on 16 August 2013 at **BRISBANE** in the presence of:

  
Deponent

  
A Justice of the Peace/Solicitor

IN THE MATTER of the Queensland Racing Commission of Inquiry  
before the Honourable Justice Margaret White AO  
pursuant to the *Commissions of Inquiry Order (No.1) 2013*

### CERTIFICATE OF EXHIBITS


Exhibits to the affidavit of **KEVIN WILL SEYMOUR** sworn 16 August 2013.

Exhibit No.	Description	Date	Page
"KWS – 1"	Affidavit of Andrew Robert Harris sworn 20.02.11 in Supreme Court Matter 13832 of 2010	20.02.11	1 – 18
"KWS – 2"	Plaintiffs' Summary of Evidence in Supreme Court Matter 13832 of 2010	19.07.11	19 – 24
"KWS – 3"	Plaintiffs' Summary of Evidence in Chief in Supreme Court Matter 13832 of 2010	22.11.11	25 – 52

Signed: \_\_\_\_\_



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(Justice of the Peace/Solicitor)

SUPREME COURT OF QUEENSLAND

REGISTRY: Brisbane  
NUMBER: 13832/10

Plaintiff: QUEENSLAND HARNESS RACING LIMITED  
ACN 128 036 000

First Defendant: RACING QUEENSLAND LIMITED  
ACN 142 786 874

Second Defendant: ROBERT GEOFFREY BENTLEY

AFFIDAVIT OF ANDREW ROBERT HARRIS

ANDREW ROBERT HARRIS of 10 Eagle Street, Brisbane, Solicitor, states on oath:

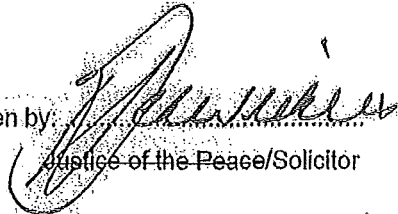
- 1. I am a director of Schweikert Legal Practice Pty Ltd trading as Schweikert Harris, the solicitors for the Plaintiff. I have conduct of this matter on behalf of the Plaintiff.

Exhibits

- 2. Exhibit "ARH-1" to this affidavit is a true copy of:
  - (a) an email dated 10 February 2011 from the solicitors for the defendants, Cooper Grace Ward (CGW) to Schweikert Harris (SH) (excluding the affidavit of Edward Sweeney referred to in that email);

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AFFIDAVIT

Filed on behalf of the Plaintiff  
Form 46 - Rule 431

SCHWEIKERT HARRIS

Level 22, AMP Place  
10 Eagle Street  
Brisbane QLD 4000  
Tel: (07) 3009 7222  
Fax: (07) 3009 7233

- (b) a further letter dated 10 February 2011 from CGW to SH;
- (c) a letter dated 11 February 2011 from CGW to SH;
- (d) a letter dated 10 February 2011 from Mullins Lawyers (Mullins), the solicitors for Mr Robert Lette;
- (e) a letter dated 11 February 2011 from SH to Mullins;
- (f) ASIC Document No. 024680272 referred to in exhibit DJG1 to the Affidavit of David James Grace (Mr Grace) sworn 4 February 2011;
- (g) a letter dated 24 January 2011 from CGW to SH;
- (h) an extract of a document titled 'TRANSCRIPTS & MEDIA RELEASES January 2010' made available with the material referred to in paragraph 5 of this affidavit;
- (i) two emails from the mailbox of Toni Fenwick made available on the external hard drive referred to in paragraph 7 of this affidavit;
- (j) articles published in *The Courier-Mail* on 4 and 7 February 2011;
- (k) the *Industry Infrastructure Plan (Sale Plan)* referred to in paragraph 34(a) of the Amended Statement of Claim in this proceeding; and
- (l) a letter dated 18 February 2011 from SH to CGW.

**Documents produced by the defendants on 11 February 2011**

3. At 9.33am on Thursday morning 10 February 2011, CGW served an Affidavit by Mr Grace in which he swore that:

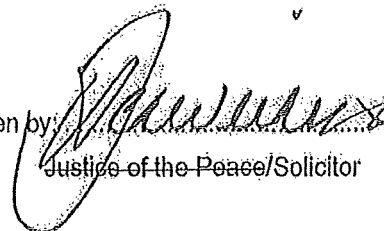
- (a) he was informed by Ms Shara Murray, senior in-house legal counsel and company secretary for the First Defendant, the Plaintiff was in possession of the Board Minutes of the Plaintiff;

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- (b) during the month of January the First Defendant had "been engaged in putting together the relevant records of the plaintiff";
  - (c) he had an appointment with Ms Murray that day to "collect those documents"; and
  - (d) that those documents would be available at CGW's office for inspection and copying on Friday 11 February 2011.
4. At 5.55pm on 10 February 2011 I received an email from CGW to which the letter referred to in subparagraph 2(b) of this affidavit was attached.
5. At about 8.35am I attended the offices of CGW and commenced inspecting 3 boxes of documents produced by the defendants and noted that the documents produced:
- (a) were only:
    - (i) 'Board packs' for the period January 2009 to June 2010;
    - (ii) signed originals of the Plaintiff's Board Minutes for 2009 and 2010 (not including minutes of a meeting on 25 January 2010 referred to in the minutes of a meeting on 3 February 2010);
    - (iii) a folder of 'Flying Minutes' of the Plaintiff's Board; and
    - (iv) a folder of irrelevant documents regarding the Metropolitan Harness Racing Club (Rocklea) and a Board Paper regarding Race Information; and
  - (b) did not include any files in relation to:
    - (i) the integration of the 3 codes the integration of the 3 codes (whether by that description or 'merger' or 'amalgamation' or any other name);

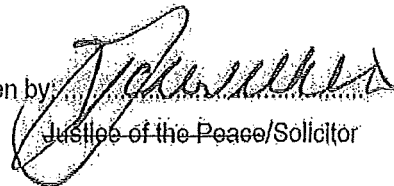
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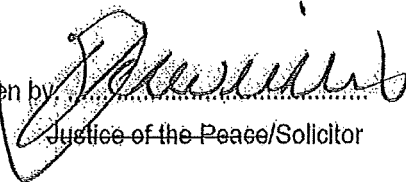


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- (ii) a 'handover' summary and related lever arch folder of material prepared by the Plaintiff's former Chief Executive Officer, Mr Mike Godber (Mr Godber) in or about May 2010;
  - (iii) the proposed new grandstand for Albion Park; nor
  - (iv) the Albion Park Harness Racing Club.
6. I formed the view that it would take a significant amount of time to review the documents referred to in paragraph 5(a) of this affidavit. As I was concerned about the time that would be needed to copy documents I formed the view that the best course was to obtain a copy of all of the documents such that I would then be able to review them on the weekend of 12 and 13 February 2011.
7. At 4.59pm on Friday 11 February I received an email from CGW to which the letter referred to in subparagraph 2(c) of this affidavit was attached. At about 5.30pm on Friday 11 February 2011 I attended the offices of CGW to collect an external hard drive referred to in that letter and was provided with:
- (a) a box containing an external hard drive (the Ex Drive); and
  - (b) a bundle of print outs of emails which Mr Ed Sweeney, a solicitor of CGW, informed me "should have been given to [us that] morning".
8. CGW did not provide any:
- (a) explanation of the material referred to in subparagraphs 5(a) and 7 of this affidavit; nor
  - (b) assurance that the Ex Drive contains all relevant electronic documents.
9. At about 8.00am on Saturday 12 February I received a call from Mr Sweeney to advise me that copies of the documents referred to in paragraphs 5(a) and 6 of this affidavit would be available for collection by about 10.00am that day.

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I collected 3 archive type boxes of copies (containing an estimated 6,000 pages of documents) from CGW's service provider at about 10.30am that day.

10. I commenced reviewing material on the Ex Drive on 12 and 13 February 2011 and found that, despite the matters set out in subparagraphs 3(b) and (c) of this affidavit:

- (a) the Ex Drive contained over 185,000 files (including many zipped folders) using some 541 gigabytes of data;
- (b) all of the files on the Ex Drive had created by 8.52am on Friday 11 February;
- (c) for files not created prior to commencement of the proceeding, the files appeared to have been created on the following dates:
  - (i) 6 January 2011;
  - (ii) 7 January 2011;
  - (iii) 10 February 2011; or
  - (iv) 11 February 2011; and
- (d) some of the most relevant files (for example the pst files for Mr Godber and his former Executive Assistant, Ms Fenwick) had been created on 6 and 7 January 2011.

11. The Ex Drive also contained pst files (ie principally emails) however, given the fact that the Ex Drive was not made available for collection until after 5.00pm on Friday 11 February 2011, I could not review any of those files on the weekend of 12 and 13 February 2011 as I needed the assistance of our practice's external service provider.

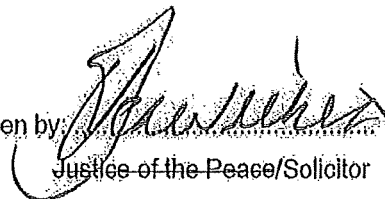
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12. Arrangements were made for the pst files to be uploaded onto our server for review on Monday 14 February 2011, however the size of the files and corruption of various files meant that that process was not completed until Tuesday 15 February 2011. I am informed by Ms Megan England, our practice's Information Manager, and believe, that she reviewed the pst file data and found that there were:

- (a) folders for:
  - (i) Ms Marla Jackson;
  - (ii) Ms Tracey Harris (the former Chief Financial Officer and Company Secretary for the Plaintiff);
  - (iii) Mr Godber; and
  - (iv) Ms Fenwick; and
- (b) at least 38,000 files.

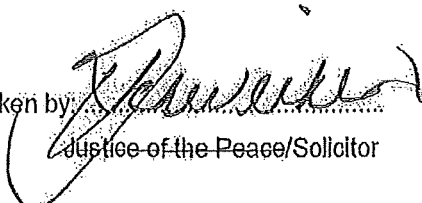
13. It was apparent then and my further review since has confirmed that, despite the matters referred to in subparagraph 3(b) of this affidavit, the overwhelming majority of the files on the Ex Drive are not in any way relevant to the subject matter of the proceeding. By way of example, the Ex Drive contains:

- (a) accounting templates previously used by the Plaintiff;
- (b) music and internet 'favourites' saved to the server by the former Chief Executive Officer of the Albion Park Harness Racing Club;
- (c) photographs from the 2009 Inter Dominion fashion parade; and
- (d) 'Footy Tips'.

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14. Notwithstanding the plethora of irrelevant documents provided on the Ex Drive, we have so far identified documents which are clearly relevant and not referred to in:
- (a) the Defence; nor
  - (b) any affidavit filed and served on behalf of the defendants;
15. The emails referred to in paragraph 2(l) of this affidavit are examples of such documents.
16. In terms of hard copy documents of the Plaintiff which were not made available by the defendants until 11 February 2011 but which are directly relevant, the extract referred to in subparagraph 2(h) of this affidavit is an example. The document from which that extract has been obtained was part of the 'Board pack' for the Plaintiff's Board Meeting on 25 January 2010.
17. Since receiving the material referred to in paragraphs 5, 6, 7 and 9 of this affidavit I have spoken with Mr Godber about documents created and maintained by the Plaintiff insofar as documents would be likely to be directly relevant to a matter in issue in this proceeding.
18. Based on my discussions with Mr Godber, I believe that files of the type referred to in paragraph 5 of this affidavit were maintained by the Plaintiff prior to 30 June 2010 and contained documents directly relevant to matters in issue in the proceeding in that files of the type referred to in:
- (a) subparagraphs 5(b)(i) and (ii) contained correspondence and other documents directly relevant to at least the matters pleaded in paragraphs 3, 4, 5, 6, 7, 9, 10, 12, 14, 15, 19, 20, 21, 22, 23, 24, 26, 27, 28 and 31 of the Amended Statement of Claim; and
  - (b) subparagraphs 5(b)(iii) and (iv) contained correspondence and other documents such as drawings and plans directly relevant to at least the

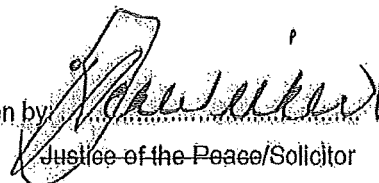
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matters pleaded in paragraphs 7, 9, 15, 19, 20, 22, 24, 27 and 28 of the Amended Statement of Claim.

19. Further based on my discussions with Mr Godber and Ms Harris, I believe that electronic copies of correspondence and other documents were generally prepared for them by Ms Fenwick and saved to a separate drive not accessible to all employees and included documents relevant to the matters referred to in subparagraph 5(b) of this affidavit. Such files would include minutes of Class A Member meetings. In my review of the Ex Drive to date I have not been able to locate those files.

**Evidence for the Plaintiff**

20. While Mullins have not responded to the letter referred to in subparagraph 2(e) of this affidavit, I believe that Mr Lette remains prepared to assist the Plaintiff, provided he is given access to the documents referred to in the letter referred to in subparagraph 2(d) of this affidavit.
21. Mr Godber is now the Operations Manager for the New Zealand Racing Integrity Unit. While Mr Godber has told me and I believe he is prepared to assist, as with Mr Lette, he requires access to all relevant documents of the Plaintiff to enable him to do so. Mr Godber has also told me and I believe that is very busy in his new role and any assistance he provides needs to be as efficient as possible.
22. Ms Harris has told me that, subject to obtaining independent legal advice regarding her ability to do so, she is prepared to assist, although she also requires access to all relevant documents of the Plaintiff to enable her to do so. Ms Harris has also told me that, as she is now a senior manager with an international pharmaceutical company, she is extremely busy and requires that the time required to obtain her assistance be minimised by ensuring that all relevant documents are available and organised when she meets with us.


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Matters referred to in the pleadings

23. I am informed by Mr Seymour and I believe that the allegations in the Amended Statement of Claim (the Statement of Claim) are, to the best of his knowledge and belief having regard to the lack of access to the Plaintiff's documents, true and in particular that:

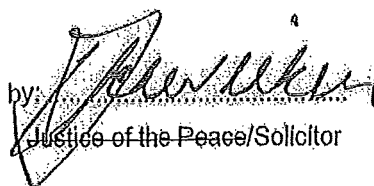
- (a) Mr Lette told him the matters alleged in paragraph 4 of the Statement of Claim on or about 18 December 2010;
- (b) Mr Lette told him the matters alleged in paragraph 7 of the Statement of Claim on or about 23 December 2010;
- (c) he attended the meeting particularised in paragraph 9 of the Statement of Claim and heard Mr Lette tell say words which were to the substance of the matters set out in paragraph 7 of the Statement of Claim;
- (d) Mr Lette gave him a copy of the minutes referred to in paragraph 8 of the Statement of Claim on or about 30 December 2010;
- (e) Mr Lette gave Mr Seymour a copy of the Twelve Points Document on or about 4 January 2010;
- (f) Mr Lette gave Mr Seymour a copy of the Twelve Points Response on or about 5 January 2010;
- (g) Mr Seymour read each of the documents referred to in subparagraphs 23(d) – (f) of this affidavit on or about the day he received each document;
- (h) based on:
  - (i) his personal knowledge of the Second Defendant and his belief as to the Second Defendant's strong control of thoroughbred racing in Queensland; and

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(ii) his belief from the minutes and draft constitution referred to in paragraphs 7 and 8 of the Statement of Claim,

he believed that the Second Defendant's representations were made by him on the basis that he was able to speak for the new control body;

(i) between 4 January 2010 and 7 February 2010:

(i) he spoke with Mr Lette in person and by telephone on numerous occasions regarding the proposed integration of the 3 codes and the fact that:

(A) the Second Defendant had given the assurances and commitments referred to in paragraphs 7 and 13 of the Statement of Claim; and

(B) It had been agreed that, if the harness racing code agreed to participate in the proposed integration, the proposed new control body would keep and use Albion Park as the long term home of harness racing and provide funding for a new grandstand;

(ii) he participated in meetings with Mr Lette and variously the following people:

(A) Mr Knudsen, a director of the Plaintiff;

(B) Mr Godber;

(C) Ms Harris;

(D) Mr Phil Mitchell, the Authorised Representative of the Class A Members; and

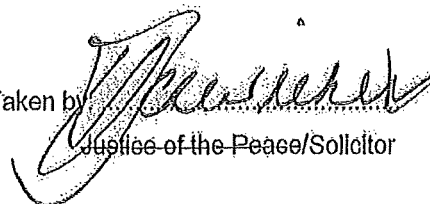
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- (E) the representatives of the Class A Members set out in the particulars to paragraph 20 of the Statement of Claim;
- (iii) he received a copy of the briefing document referred to in paragraph (d) of the particulars of paragraph 15 of the Statement of Claim;
- (iv) on or about each of the respective dates set out in paragraphs 16, 17 and 18 of the Statement of Claim he received copies of the letters referred to in those paragraphs from, and discussed those letters with, Mr Lette;
- (v) the substance of the matters set out in paragraphs 7, 11 and 13 of the Statement of Claim and the letters set out in paragraphs 6, 17 and 18 were discussed in the meetings referred to in subparagraph 23(i)(ii) of this affidavit;
- (vi) Mr Lette told him in substance that, based on Mr Lette's discussions with the Second Defendant and representatives of the Government, if the Plaintiff agreed to the proposed integration, the *Racing Act* would be amended such that:
- (A) the approvals as a control body for all 3 of the then control bodies (including the Plaintiff) would be cancelled and the new control body appointed as the control body for all 3 codes; and
- (B) all of the assets of the then 3 control bodies would be transferred to the new control body and there would be no compensation paid for that transfer or the cancellation of the approvals as control bodies;

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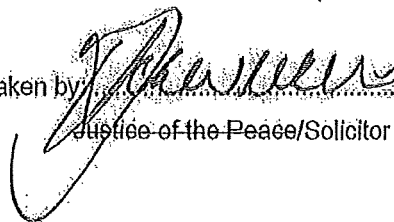
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Justice of the Peace/Solicitor

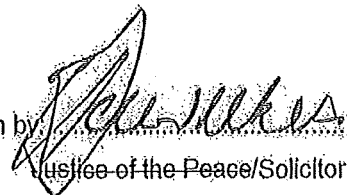


- (j) he attended a meeting with the Class A Members on the morning of 8 February 2010 during which Mr Lette said the matters set out in paragraph 20 of the Statement of Claim;
- (k) he met with the Class A Members as pleaded in paragraph 21 of the Statement of Claim;
- (l) based on discussions with representatives of the Class A Members in the meetings referred to in subparagraphs 23(i)(i) and 23(j) and (k) of this affidavit, he believes that the Class A Members would have voted against agreeing to the integration had they not been told the matters as pleaded in paragraphs 9, 15 and 20 of the Statement of Claim;
- (m) had the Class A Members voted against the integration as set out in subparagraph 23(l) of this affidavit, he believes the Class B Members would have resolved to vote against the integration;
- (n) had the Class A Members and Class B Members voted as set out in subparagraphs 23(l) and (m) of this affidavit:
  - (i) the Plaintiff would have formally resolved to inform, and would have informed, the Government that the Plaintiff was not agreeable to the proposed integration; and
  - (ii) the Government:
    - (A) may have proceeded with the integration of the thoroughbred and greyhound racing codes;
    - (B) would not have proceeded with the integration of the harness racing code;
- (o) had he and the other directors of the Plaintiff not believed they could rely on the matters pleaded in paragraph 22 of the Statement of Claim they would have proceeded as set out in subparagraph 23(n)(i) of this

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affidavit with the result that the Government would have acted in the manner set out in subparagraph 23(n)(ii) of this affidavit;

(p) had either of the defendants informed the Plaintiff prior to the passing of the *Racing and Other Legislation Amendment Act 2010* that the First Defendant;

(i) was not bound to perform the Integration Agreement; or

(ii) was not bound to otherwise;

(A) keep and use Albion Park as the long term home of harness racing; and

(B) use between \$14,000,000 and \$18,000,000 of the anticipated Government funding to build a new grandstand at Albion Park;

(iii) resiled from the representations of its Chairman pleaded in paragraphs 7, 7A, 7B and 13 of the Statement of Claim,

the Plaintiff would have informed the Government that the Plaintiff had withdrawn its agreement to the Integration and the proposed legislation with the result that the Government would have acted in the manner set out in subparagraph 23(n)(ii) of this affidavit;

(q) the effect of the outcome as set out in subparagraphs 22(n) and 22(o) of this affidavit would have been that the Plaintiff would have retained and therefore not suffered loss in relation to:

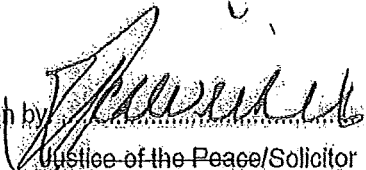
(i) its half interest in Albion Park;

(ii) its approval as the control body for harness racing in Queensland; and

(iii) its other assets.

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24. I am further informed by Mr Seymour and I believe that:

(a) at no time between 23 December 2009 and 8 February 2010 did Mr Lette tell Mr Seymour that the Second Defendant had indicated in any way that:

(i) his statements set out in paragraphs 7 and 11 of the Statement of Claim were merely his opinion; or

(ii) he could not speak with any authority as to what the new control body would do if the integration was agreed;

(b) he had not seen the letter referred to in subparagraph 22(a)(vi) of the Defence before:

(i) either of the meetings pleaded in paragraphs 20 and 22 of the Statement of Claim;

(ii) the letter referred to in paragraph 23 of the Statement of Claim was sent;

(c) further as the letter referred to in subparagraph 22(a)(vi) of the Defence:

(i) his usual practice with emails addressed to him is to have them either addressed to or accessed by his personal assistant, Ms Sue Burns, and Ms Burns prints relevant emails for him to review;

(ii) he was not in his office during business hours on 8 February 2010 as he was out of the office attending the meetings pleaded in paragraphs 20, 21 and 22 of the Statement of Claim;

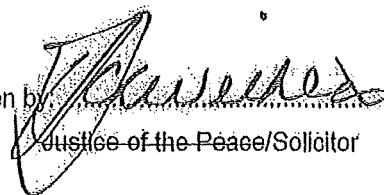
(iii) he does not recall reading the letter at any time between 9 February 2010 and 11 November 2010;

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- (iv) he read the letter sometime after 8 February 2010 and is unable to now identify precisely when;
- (v) when he read it he understood it as relevantly:
- (A) indicating that the Second Defendant was not able to agree on behalf of the First Defendant that the expression 'long term' meant 30 years;
- (B) not in any way resiling from the matters set out paragraphs 7, 7A, 7B and 13 of the Statement of Claim;
- (vi) if he had read the letter on or about 8 February 2010 he would have understood it in the same manner as set out in subparagraph 24(c)(v) of this affidavit; and
- (d) there was no discussion between Mr Seymour and Mr Lette, Mr Knudsen or Ms Dawson to the effect that any of them believed or concerned that the letter indicated that the Second Defendant was in any way resiling from the matters set out paragraphs 7, 7A, 7B and 13 of the Statement of Claim.

#### Importance of Albion Park

25. I am informed by Margaret Reynolds and I believe that:

- (a) she:
- (i) was a Board Member of the Queensland Harness Racing Board from 2004 to 2006;
- (ii) she has been a director of the Plaintiff since 23 December 2010;
- (iii) she has been a member of the Breeders Owners Trainers & Reinspersons Association (Qld) Incorporated (BOTRA) for

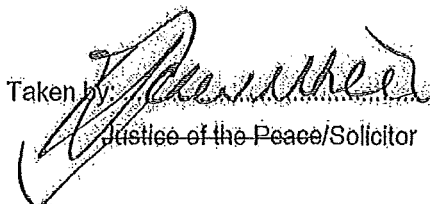
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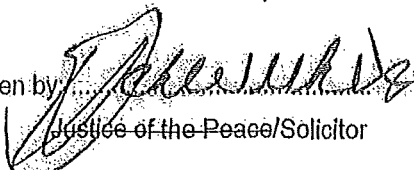
approximately 10 years and is presently the Secretary and Treasurer of BOTRA;

- (b) Albion Park has been the Principal Club for harness racing in Queensland for approximately 40 years;
- (c) she has reviewed the Sale Plan and believes:
  - (i) that the proposed replacement track at Deagon is inferior to Albion Park (with a replacement grandstand);
  - (ii) the closure of Albion Park will result in reduced:
    - (A) participation and interest in; and
    - (B) betting on, harness racing in Queensland; and
  - (iii) as a consequence of the matters referred to in subparagraphs 25(c)(i) and (ii) above, there will be:
    - (A) less potential return on investment and therefore less incentive for owners;
    - (B) less breeding of horses for harness racing purposes;
    - (C) less potential earnings and therefore less incentive for people to be harness racing trainers and drivers; and
    - (D) less interest in attending harness racing meetings at other venues and therefore less income for the harness racing clubs operating at those venues.
- (d) she attended a meeting of approximately 230 people at Marburg Showgrounds on 6 February 2011 and that:

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- (i) the negative impact on harness racing of the sale of Albion Park was a topic of discussion at the meeting; and
  - (ii) she has read the articles referred to in subparagraph 2(j) of this affidavit and the meeting referred to in those articles is the meeting referred to in this subparagraph; and
- (e) while the Plaintiff presently has in place financial arrangements which permit it to proceed with this litigation:
- (i) aside from a small amount of cash in its bank account, as a result of the *Racing and Other Legislation Amendment Act 2010* the Plaintiff otherwise has no assets;
  - (ii) if the Plaintiff is ordered to provide security for costs and cannot secure such security from a third party, the Plaintiff will be unable to proceed; and
  - (iii) to the extent that the Plaintiff is presently receiving financial support which has enabled it to prosecute its claims against the defendants, no person providing such support stands to gain from the proceeding.

EGM -- 30 November 2011

26: In relation to paragraphs 22 and 31 of Mr Grace's affidavit of 4 February 2011, I am informed by Mr Seymour and believe that:

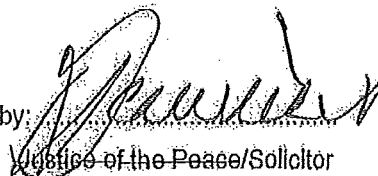
- (a) he spoke to Mr Lette prior to the issuing of notices for the meeting on 30 November and said words to him to the effect that a meeting was to be held and he believed the meeting was likely to discuss matters which could result in a conflict of interest for Mr Lette;

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(b) Mr Lette responded to Mr Seymour to the effect that, in light of that, he would not take any part in the meeting and that Mr Seymour could note his apologies for the meeting; and

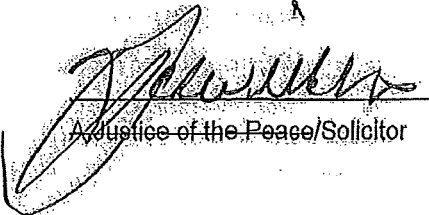
(c) In accordance with that position, Mr Lette did not attend the meeting.

**Proposed inclusion of further plaintiffs**

27. I have received instructions from each of the entities referred to as the Second to Fifth Plaintiffs in the proposed Further Amended Statement of Claim (attached to the letter which is referred to in subparagraph 2(l) of this affidavit) to prepare, file and serve an Application seeking their inclusion on the basis set out in that document as soon as possible.

SWORN by ANDREW ROBERT HARRIS on 20 February 2011 at Brisbane in the presence of:

  
\_\_\_\_\_  
Deponent

  
\_\_\_\_\_  
Justice of the Peace/Solicitor

**SUPREME COURT OF QUEENSLAND**

REGISTRY: BRISBANE  
NUMBER: 13832/2010

First Plaintiff: **QUEENSLAND HARNESS RACING LIMITED (ACN 128 036 000)**

AND

Second Plaintiff: **ALBION PARK HARNESS RACING CLUB INCORPORATED  
(ABN 20 915 436 422)**

AND

Third Plaintiff: **GOLD COAST HARNESS RACING CLUB INC  
(ABN 44 353 563 241)**

AND

Fourth Plaintiff: **REDCLIFFE PENINSULA HARNESS RACING AND SPORTING  
CLUB INC (ABN 95 525 290 290)**

AND

Fifth Plaintiff: **BREEDERS OWNERS TRAINERS & REINSPERSONS  
ASSOCIATION (QLD) INCORPORATED (ABN 82 432 467 833)**

AND

First Defendant: **RACING QUEENSLAND LIMITED (ACN 142 786 874)**

AND

Second Defendant: **ROBERT GEOFFREY BENTLEY**

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**SUMMARY OF EVIDENCE**

The Plaintiffs provide the following summary of the evidence and the name of each witness upon which they presently intend to rely to prove the allegations contained in paragraphs 24B(b)(ii), 25(b)(i) and 28A(b)(i) of the Second Further Amended Statement of Claim ("the allegations").

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**SUMMARY OF EVIDENCE**  
Filed on behalf of the Plaintiffs

**SCHWEIKERT HARRIS**  
Level 22  
AMP Place  
10 Eagle Street  
Brisbane QLD 4000  
Tel: (07) 3009 7222  
Fax: (07) 3009 7233

1. The Plaintiffs intend to call Robert Lette, the former Chairman of the First Plaintiff, to give evidence. Because the Plaintiffs' solicitors have, for reasons previously set out in affidavits filed in this proceeding, not yet been able to obtain a detailed statement from Mr Lette, what follows is the Plaintiffs' understanding of the effect of the evidence that Mr Lette will give in relation to the allegations and the documents he will refer to in evidence or will be tendered through him relevant to the allegations. The evidence will be to the following effect:
  - (a) that from 1 July 2008 to 30 June 2010, he was a director, a Class B Member and the Chairman of the First Plaintiff;
  - (b) that he knew the Second Defendant to be the Chairman of Queensland Racing Limited (ACN 116 735 374) and that the Second Defendant had a long history of involvement with the control of racing in Queensland, including:
    - (i) as Chairman of the Queensland Principal Club from 1993 to 2002;
    - (ii) as Chairman of the Queensland Thoroughbred Racing Board from 2002 to 2006;
    - (iii) as Chairman of Queensland Racing Limited from 1 July 2006 to the time the representations were made (and later to 30 June 2010);
    - (iv) that he knew that the Second Defendant had been closely involved in various reforms in the industry and had a reputation within the racing industry of being very influential;
  - (c) that he knew Mr Mike Kelly to be the Executive Director of the Office of Racing within the Queensland Department of Employment, Economic Development and Innovation and Mr Ken Smith to be the Director-General of the Queensland Department of the Premier;
  - (d) that he was aware of the Product and Program Agreement, the Intercode Agreement and the Club Contracts; and in particular that the Intercode Agreement provided to the effect that during the term of the Product and Program Agreement, the distribution of income from, inter alia, the Product and Program Agreement, was to be distributed in accordance with the flowing fixed distribution percentages:



Thoroughbred Code: 76.0%

Harness Code: 14.5%

Greyhound Code: 9.5%

- (e) that on or about 18 December 2009 he attended a meeting with the Second Defendant, Mrs Watson (a representative of the greyhound control body), Mr Kelly and Mr Smith, at which Mr Kelly sought on behalf of the Queensland Government, the agreement of the three racing codes to an amalgamation of the control bodies in exchange for which the Government would make available to the industry a capital works fund in the order of \$80,000,000;
- (f) that he attended a further meeting on 23 December 2009 at the office of Queensland Racing Limited attended by the Second Defendant, Mrs Watson, Mr Kelly and Ms Carol Perrett (of the Office of Racing), which was chaired by the Second Defendant and at which various representations were made by the Second Defendant in connection with the proposal for the merger of the three codes of racing and the seeking of the agreement of the First Plaintiff to the merger;
- (g) that on or about 30 December 2009, he received from the Second Defendant, minutes of the meeting of 23 December 2009;
- (h) that on 4 January 2010 he attended a meeting with the Treasurer, the Minister, the Second Defendant and Mrs Watson at which the Treasurer and the Minister again sought the agreement of the harness racing code to the merger proposal;
- (i) that on or about 4 January 2010 he gave the Second Defendant a document titled "Amalgamation of the three Racing Codes into a single organisation" (**the Twelve Points Document**), which detailed issues upon which the Plaintiffs required clarification so that it could properly consider whether to agree to the proposal;
- (j) that on or about 5 January 2010, the Second Defendant gave Mr Lette a document titled "Answers to Harness Questions 5th January 2010" (**the Twelve Points Response**);
- (k) that on 6 January 2010, he wrote to the Treasurer in relation to the basis upon which the First Plaintiff might agree to the proposal;

- (l) that on or about 8 January 2010 he received a letter from the Minister which stated, among other things, that "a funding package ... amounting to more than \$80 million will be made available to a united industry to redevelop key facilities such as those at Bundall, Albion Park and Logan";
  - (m) that he received a letter dated 15 January 2010 from the Minister seeking the agreement of the First Plaintiff to the proposal;
  - (n) that on or about 20 January 2010 he sent a letter to the Minister and stated that "a great majority of issues have been resolved including ... Albion Park has been guaranteed as the long term home and racing head quarters for Harness racing" and "current race product co agreement to continue until its end date in 2014.";
  - (o) that on 20 January 2010 he received a letter from the Minister extending the time to advise whether the First Plaintiff accepted the proposal;
  - (p) that on or about 21 January 2010 he received a letter from the Minister in response to his letter of 20 January 2010;
  - (q) that on 25 January 2010 he wrote to the Minister raising issues in relation to the proposal;
  - (r) that on 1 February 2010, he received a letter from the Minister dated 28 January 2010, responding to the letter of 25 January 2010 in which the Minister noted that the First Plaintiff had agreed to the proposal and advised that accordingly, he intended to introduce legislation into Parliament to amalgamate the three control bodies;
- 
- (s) that on 2 February 2010, he wrote to the Minister noting the matters set out in the Minister's letter and stating that the matter would be referred to the Class A members of the First Plaintiff;
  - (t) that on 3 February 2010, he wrote to the Second Defendant outlining certain matters that required addressing;
  - (u) that on 3 February 2010, he wrote to the Minister advising of the matters the subject of his letter to the Second Defendant and advising that unless satisfactory agreement could be reached, the Class A members would not agree to join the merger;

- (v) that on or about 5 February 2010 he received a letter from the Minister dated 5 February 2010 which asked that as a matter of urgency, the First Plaintiff reconsider its participation in the amalgamation process and advise on its participation by 5.00 pm 8 February 2010;
  - (w) that on 8 February 2010 he sent a letter to the Minister informing him that the First Plaintiff agreed to the proposal on the basis of assurances that had been given to the First Plaintiff;
  - (x) that he received a letter from the Minister dated 11 February 2010, responding to the letter of 8 February 2010 in which the Minister noted that the First Plaintiff had resolved to participate in the amalgamation and that he intended to introduce legislation into Parliament to give effect to the amalgamation;
  - (y) that on 16 February 2010 he sent a letter to the Minister, a copy of which was also sent to the Second Defendant, expressing the willingness of the First Plaintiff to work together with the Minister and representatives of the other codes of racing to give effect to the amalgamation agreed to;
  - (z) that he understood that, if the First Plaintiff agreed to the proposal, the Minister would cause a bill to be introduced into the Parliament of Queensland for legislation to give effect to the proposal and that the legislation would become law.
2. The Plaintiffs also intend to call Kevin Seymour to give evidence in relation to the allegations. He will relevantly give evidence to the following effect:
- (a) that he saw a press release issued by the Minister for Tourism and Fair Trading on 20 December 2009;
  - (b) that on 9 January 2010 he saw a press release issued that day by the Minister for Tourism and Fair Trading;
  - (c) that in about mid to late January 2010, he saw the transcript of an interview given by the Second Defendant to Steven Hewlett on 12 January 2010;

(d) that he knew the Second Defendant to be the Chairman of Queensland Racing Limited (ACN 116 735 374) and that the Second Defendant had a long history of involvement with the control of racing in Queensland, including:

- (i) as Chairman of the Queensland Principal Club from 1993 to 2002;
- (ii) as Chairman of the Queensland Thoroughbred Racing Board from 2002 to 2006;
- (iii) as Chairman of Queensland Racing Limited from 1 July 2006 to the time the representations were made (and later to 30 June 2010);
- (iv) that he knew that the Second Defendant had been closely involved in various reforms in the industry and had a reputation within the racing industry of being very influential.

3. The Plaintiffs also intend to call such additional evidence in relation to the allegations as they may be advised, including from Mrs Watson, following the completion of interlocutory steps, including completion of pleadings, disclosure by the defendants, non-party disclosure and proofing of witnesses.

Signed:



Description: Solicitor for the Plaintiffs

Date: 19 July 2011

**SUPREME COURT OF QUEENSLAND**

REGISTRY: BRISBANE  
NUMBER: 13832/2010

First Plaintiff: **QUEENSLAND HARNESS RACING LIMITED (ACN 128 036 000)**

AND

Second Plaintiff: **ALBION PARK HARNESS RACING CLUB INCORPORATED  
(ABN 20 915 436 422)**

AND

Third Plaintiff: **GOLD COAST HARNESS RACING CLUB INC  
(ABN 44 353 563 241)**

AND

Fourth Plaintiff: **REDCLIFFE PENINSULA HARNESS RACING AND SPORTING  
CLUB INC (ABN 95 525 290 290)**

AND

Fifth Plaintiff: **BREEDERS OWNERS TRAINERS & REINSPERSONS  
ASSOCIATION (QLD) INCORPORATED (ABN 82 432 467 833)**

AND

First Defendant: **RACING QUEENSLAND LIMITED (ACN 142 786 874)**

AND

Second Defendant: **ROBERT GEOFFREY BENTLEY**

**SUMMARY OF EVIDENCE IN CHIEF**

This summary is additional to the Summary of Evidence filed and served on 19 July 2011 and is delivered on the basis of the contentions made by the Plaintiffs' in their solicitor's letter of 7 November 2011.

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**SUMMARY OF EVIDENCE**  
Filed on behalf of the Plaintiffs

**SCHWEIKERT HARRIS**  
Level 22  
AMP Place  
10 Eagle Street  
Brisbane QLD 4000  
Tel: (07) 3009 7222  
Fax: (07) 3009 7233

In this Summary, the expression:

- 'Statement of Claim' means the Second Further Amended Statement of Claim dated 11 July 2011
- 'the Representations' is used to generally describe the representations referred to in paragraphs 7(c) and 7A of the Statement of Claim;
- 'Infrastructure Funding' is used to generally describe the funding referred to in paragraph 4(b) of the Statement of Claim; and
- 'Integration Bill' is used to generally describe legislation referred to in paragraph 19(c) of the Statement of Claim.

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#### Robert Lette

1. Mr Lette has been a director of the First Defendant (**Racing Queensland**) since 25 March 2010 and participated in several meetings of the directors of Racing Queensland prior to 1 July 2010. He was also a director of the First Plaintiff (**QHRL**) in the period 1 July 2008 to a date after 1 July 2010.
2. Because of Mr Lette's position as a former director of QHRL and current director of Racing Queensland and the fact that his ability to provide a Statement has been prejudiced by issues in relation to the defendants' disclosure, at present the Plaintiffs say that they expect his evidence will be to the following effect:
  - (a) that he is a solicitor and consultant to the firm Mullins & Mullins;
  - (b) that from 1 July 2008 to 30 June 2010, he was a director, a Class B Member and the Chairman of QHRL;
  - (c) that before then he had a long history of involvement with the harness racing code, including as Chairman of the Albion Park Club;
  - (d) that he is aware of the long connection between harness racing and Albion Park and the importance of Albion Park to the code and its future;
  - (e) that he is aware of the plans that had been discussed by the directors of QHRL for the redevelopment of Albion Park and the advice that had been received as to the likely cost of that redevelopment and the value of the asset;

- (f) that he is aware of the structure of the racing industry as it existed historically, including its structure prior to the integration that occurred on 1 July 2010;
- (g) that he knew the Second Defendant (**Mr Bentley**) to be the Chairman of Queensland Racing Limited (ACN 116 735 374) and that Mr Bentley had a long history of involvement with the control of racing in Queensland, including:
  - (i) as Chairman of the Queensland Principal Club from 1993 to 2002;
  - (ii) as Chairman of the Queensland Thoroughbred Racing Board from 2002 to 2006;
  - (iii) as Chairman of Queensland Racing Limited from 1 July 2006 to the time the representations were made (and later to 30 June 2010);
  - (iv) that he knew that Mr Bentley had been closely involved in various reforms in the industry and had a reputation within the racing industry of being very influential;
- (h) that he knew Mr Mike Kelly to be the Executive Director of the Office of Racing within the Queensland Department of Employment, Economic Development and Innovation and Mr Ken Smith to be the Director-General of the Queensland Department of the Premier;
- (i) that he was aware of the Product and Program Agreement, the Intercode Agreement and the Club Contracts; and in particular that the Intercode Agreement provided to the effect that during the term of the Product and Program Agreement, the distribution of income from, inter alia, the Product and Program Agreement, was to be distributed in accordance with the following fixed distribution percentages:

Thoroughbred Code:	76.0%
Harness Code:	14.5%
Greyhound Code:	9.5%

- (j) that on or about 18 December 2009 he attended a meeting with Mr Bentley, Mrs Watson (a representative of the greyhound control body), Mr Kelly and Mr Smith, at which Mr Kelly sought on behalf of the Queensland Government, the agreement of the three racing codes to an amalgamation of the control bodies in exchange for which the Government would make available to the industry a capital works fund in the order of \$80,000,000;
- (k) that prior to that meeting, he was not aware that there was any proposal for amalgamation of the three codes;
- (l) that he received an email dated 22 December 2009 from QHRL's Chief Executive Officer, Mr Godber;
- (m) that he attended a further meeting on 23 December 2009 at the office of Queensland Racing Limited attended by Mr Bentley, Mrs Watson, Mr Kelly and Ms Carol Perrett (of the Office of Racing), which was chaired by Mr Bentley and at which:
  - (i) he emphasised the importance of Albion Park being retained for harness racing to continue at that venue;
  - (ii) various representations were made by Mr Bentley in connection with the proposal for the merger of the three codes of racing and the seeking of the agreement of QHRL to the merger to the effect pleaded in paragraph 7(c) of the Statement of Claim;
- (n) that on or about 30 December 2009, he received from Mr Bentley, minutes of the meeting of 23 December 2009 under cover of letter from Mr Bentley stating that in Mr Bentley's view, the minutes were a true reflection of the meeting;
- (o) that on 4 January 2010 he attended a meeting with the Treasurer, the Minister, Mr Bentley and Mrs Watson at which the Treasurer and the Minister again sought the agreement of the harness racing code to the merger proposal;
- (p) that on or about 4 January 2010 he gave Mr Bentley a document titled "Amalgamation of the three Racing Codes into a single organisation" (**the Twelve Points Document**), which detailed issues upon which the Plaintiffs required clarification so that they could properly consider whether to agree to the proposal;



- (q) that on or about 5 January 2010, Mr Bentley gave Mr Lette a document titled "Answers to Harness Questions 5th January 2010" (**the Twelve Points Response**);
- (r) that on 6 January 2010, he wrote to the Treasurer in relation to the basis upon which QHRL might agree to the proposal;
- (s) that on or about 8 January 2010 he received a letter from the Minister which stated, among other things, that "a funding package ... amounting to more than \$80 million will be made available to a united industry to redevelop key facilities such as those at Bundall, Albion Park and Logan";
- (t) that he received a letter dated 15 January 2010 from the Minister seeking the agreement of QHRL to the proposal;
- (u) that on or about 20 January 2010 he sent a letter to the Minister and stated that "a great majority of issues have been resolved including ... Albion Park has been guaranteed as the long term home and racing head quarters for Harness racing" and "current race product co agreement to continue until its end date in 2014.";
- (v) that on 20 January 2010 he received a letter from the Minister extending the time to advise whether QHRL accepted the proposal;
- (w) that on or about 21 January 2010 he received a letter from the Minister in response to his letter of 20 January 2010;
- (x) he had various discussions with Mr Mitchell, the authorised representative of the Class A Members, in which he informed Mr Mitchell of the things that had been said at the various meetings he had attended and of the contents of the Twelve Points Document and Twelve Points Response;
- (y) that on 25 January 2010 he wrote to the Minister raising issues in relation to the proposal;
- (z) that on 1 February 2010, he received a letter from the Minister dated 28 January 2010, responding to the letter of 25 January 2010 in which the Minister noted that QHRL had agreed to the proposal and advised that accordingly, he intended to introduce legislation into Parliament to amalgamate the three control bodies;

- (aa) that on 2 February 2010, he wrote to the Minister noting the matters set out in the Minister's letter and stating that the matter would be referred to the Class A Members of QHRL;
  - (bb) that on 3 February 2010, he wrote to Mr Bentley outlining certain matters that required addressing;
  - (cc) that on 3 February 2010, he wrote to the Minister advising of the matters the subject of his letter to Mr Bentley and advising that unless satisfactory agreement could be reached, the Class A Members would not agree to join the merger;
  - (dd) that on or about 5 February 2010 he received a letter from the Minister dated 5 February 2010 which asked that as a matter of urgency, QHRL reconsider its participation in the amalgamation process and advise on its participation by 5.00 pm 8 February 2010;
  - (ee) that on 8 February 2010 he sent a letter to the Minister informing him that QHRL agreed to the proposal on the basis of assurances that had been given to QHRL;
  - (ff) that he received a letter from the Minister dated 11 February 2010, responding to the letter of 8 February 2010 in which the Minister noted that QHRL had resolved to participate in the amalgamation and that he intended to introduce legislation into Parliament to give effect to the amalgamation;
  - (gg) that on 16 February 2010 he sent a letter to the Minister, a copy of which was also sent to Mr Bentley, expressing the willingness of QHRL to work together with the Minister and representatives of the other codes of racing to give effect to the amalgamation agreed to;
  - (hh) that he understood that, if QHRL agreed to the proposal, the Minister would cause a bill to be introduced into the Parliament of Queensland for legislation to give effect to the proposal and that the legislation would become law.
3. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, his understanding and belief was that:
- (a) Mr Bentley had made the Representations; and

- (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
    - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.
4. He also understood that if QHRL's Class A or Class B Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
5. He was present when the directors of QHRL resolved to support the integration in reliance upon the Representations. If the Representations had not been made, the directors of QHRL would not have resolved (and he as a director would not have voted) to support the integration and would have advised the Minister accordingly.

6. Subsequent to QHRL notifying its agreement to the integration and prior to 1 July 2010:
  - (a) QHRL proceeded with progressing plans for the construction of the new grandstand at Albion Park;
  - (b) QHRL briefed Mr Tuttle (then of Queensland Racing Limited and now of Racing Queensland) about those plans; and
  - (c) neither QHRL nor Mr Lette was at any stage advised by Mr Tuttle or anyone else at or for Queensland Racing Limited or Racing Queensland or Mr Bentley:
    - (i) to cease progressing those plans; nor
    - (ii) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
    - (iii) that Mr Bentley and/or Racing Queensland did not intend to or otherwise consider that Racing Queensland would not abide the terms of the Intercode Agreement from 1 July 2010.

#### **Kevin Seymour**

7. Mr Seymour has an extensive history of involvement in the harness racing industry in Queensland and Australia as an administrator, promoter, breeder and owner, including extensive involvement with the Albion Park Club.
8. He is aware of the long connection between harness racing and Albion Park and the importance of Albion Park to the code and its future and the likely effect on harness racing if Albion Park was not to be used as the home track for the code.
9. He is aware of the plans that had been discussed by the directors of the First Plaintiff for the redevelopment of Albion Park and the advice that had been received as to the likely cost of that redevelopment and the value of the asset.
10. He is aware of the structure of the racing industry as it existed historically, including its structure prior to the integration that occurred on 1 July 2010.

11. He has been a director of QHRL since 1 July 2008 and was involved in relevant:
- (a) meetings of or with the QHRL Board and Class A Members (including receiving relevant correspondence and documents and Board Papers); and
  - (b) discussions with QHRL directors, particularly Mr Lette, and representatives of QHRL's Class A Members,
- particularly in the period from December 2009 to February 2010.
12. He was informed by Mr Lette and given copies of various documents as referred to in paragraphs 9, 15 and 19 of the Statement of Claim.
13. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, he believed that:
- (a) Mr Bentley had made the Representations; and
  - (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
  - (d) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.

14. He also understood that if QHRL's Class A or Class B Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
15. Specifically, he was present when the directors of QHRL resolved to support the integration in reliance upon the Representations. If the Representations had not been made, the directors of QHRL would not have resolved (and he as a director would not have voted) to support the integration and would have advised the Minister accordingly.
16. Subsequent to QHRL notifying its agreement to the integration, QHRL:
- (a) proceeded with progressing plans for the construction of the new grandstand at Albion Park;
  - (b) briefed Mr Tuttle (then of Queensland Racing Limited and now of Racing Queensland) about those plans; and
  - (c) was at no stage advised by Mr Tuttle or anyone else at or for Queensland Racing Limited or Racing Queensland or Mr Bentley:
    - (i) to cease progressing those plans; nor
    - (ii) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor

- (iii) that Mr Bentley and/or Racing Queensland did not intend to or otherwise consider that Racing Queensland would not abide the terms of the Intercode Agreement from 1 July 2010.

17. He will also give evidence to the following effect:

- (a) that he saw a press release issued by the Minister for Tourism and Fair Trading on 20 December 2009;
- (b) that he received an email dated 22 December 2009 from Mr Godber;
- (c) that on 9 January 2010 he saw a press release issued that day by the Treasurer;
- (d) that in about mid to late January 2010, he saw the transcript of an interview given by Mr Bentley to Steven Hewlett on 12 January 2010;
- (e) that he knew Mr Bentley to be the Chairman of Queensland Racing Limited (ACN 116 735 374) and that Mr Bentley had a long history of involvement with the control of racing in Queensland, including:
  - (i) as Chairman of the Queensland Principal Club from 1993 to 2002;
  - (ii) as Chairman of the Queensland Thoroughbred Racing Board from 2002 to 2006;
  - (iii) as Chairman of Queensland Racing Limited from 1 July 2006 to the time the representations were made (and later to 30 June 2010);
- (f) that he knew that Mr Bentley had been closely involved in various reforms in the industry and had a reputation within the racing industry of being very influential.

**Janice Dawson**

- 18. Ms Dawson has been a director of QHRL since 1 June 2008. Ms Dawson was involved in relevant QHRL Board Meetings (including receiving copies of relevant Board Papers) and discussions with other QHRL directors, particularly in the period from December 2009 to February 2010.
- 19. She was informed by Mr Lette and given copies of various documents as referred to in paragraphs 9, 15 and 19 of the Statement of Claim.

20. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, she believed that:
- (a) Mr Bentley had made the Representations; and
  - (b) If QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) In due course that Bill would be passed and the integration effected.
21. She also understood that if QHRL's Class A or Class B Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.

**Michael Godber**

22. Mr Godber was Chief Executive Officer of QHRL from (relevantly) January 2009 to 30 June 2010. In that capacity, among other things, he had a working knowledge of the operation of the Product and Program and Intercode Agreements and day-to-day issues in relation to Albion Park.
23. He was involved in relevant:
- (a) meetings of or with the QHRL Board and Class A Members (including receiving and sending relevant correspondence and documents and preparing Board Papers); and



(b) discussions with:

- (i) Mr Kelly and Ms Perrett of the Office of Racing;
- (ii) QHRL directors and representatives of QHRL's Class A Members,

particularly in the period from December 2009 to February 2010.

24. He was, along with Mr Tuttle of Queensland Racing Limited (and now Racing Queensland) and Mr Beavis of Greyhounds Queensland, a member of the 3 Code Implementation Committee (the 3CIC) from about March to June 2010. In addition to his involvement as part of the 3CIC, in the period between about February and June 2010, he separately briefed Mr Tuttle in relation to matters regarding QHRL, in particular the progress of plans for the new grandstand at Albion Park.
25. He sent an email dated 22 December 2009 to Mr Lette and Mr Seymour and copied it to Ms Harris.
26. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, he believed that:
- (a) Mr Bentley had made the Representations; and
  - (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of funds to be provided by the Government for racing industry infrastructure works (which he understood would be in the order of \$80M to \$100M) to be used to construct a new grandstand at Albion Park; and
    - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.

27. He also understood that if QHRL's Class A or Class B Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
28. Specifically, he was present when the directors of QHRL resolved to support the integration and believed that in doing so the directors were relying upon the Representations. He also believed that if the Representations had not been made, the directors of QHRL would not have resolved to support the integration and would have advised the Minister accordingly.
29. Subsequent to QHRL notifying its agreement to the integration, Mr Godber:
- (a) proceeded with progressing plans for the construction of the new grandstand at Albion Park;
  - (b) briefed Mr Tuttle about those plans; and
  - (c) was at no stage advised by Mr Tuttle or anyone else at or for Queensland Racing Limited or Racing Queensland or Mr Bentley:
    - (i) to cease progressing those plans; nor
    - (ii) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
    - (iii) that Mr Bentley and/or Racing Queensland did not intend to or otherwise consider that Racing Queensland would not abide the terms of the Intercode Agreement from 1 July 2010.

**Tracey Harris**

30. Company Secretary and Manager, Finance and Administration for QHRL between (relevantly) December 2009 and June 2010. In that capacity, among other things, she had a working knowledge of the operation of the Product and Program and Intercode Agreements and day-to-day issues in relation to Albion Park.
31. She was involved in relevant:
- (a) meetings of or with the QHRL Board and Class A Members (including receiving or reading copies relevant correspondence and documents and Board Papers); and
  - (b) discussions with:
    - (i) Ms Perrett of the Office of Racing; and
    - (ii) QHRL directors and representatives of QHRL's Class A Members,
 particularly in the period from December 2009 to February 2010.
32. That she received an email dated 22 December 2009 from Mr Godber.
33. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, she believed that:
- (a) Mr Bentley had made the Representations; and
  - (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland were obliged to:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and

- (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.
34. She also understood that if QHRL's Class A or Class B Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
35. Specifically, she was present when:
- (a) the Class A Members of QHRL resolved not to oppose the integration; and
  - (b) the directors of QHRL resolved to support the integration,
- and believed and believes that in doing so the Class A Members and the directors were respectively relying upon the Representations. She also believed that if the Representations had not been made, the Class A Members would have opposed the integration and the directors of QHRL would not have resolved to support the integration and would have advised the Minister accordingly.
36. To her knowledge, subsequent to QHRL notifying its agreement to the integration, QHRL:
- (a) proceeded with progressing plans for the construction of the new grandstand at Albion Park;
  - (b) informed Mr Tuttle of Racing Queensland about those plans; and

- (c) was at no stage advised by Mr Tuttle or anyone else at or for Queensland Racing Limited or Racing Queensland or Mr Bentley:
  - (i) to cease progressing those plans; nor
  - (ii) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
  - (iii) that Mr Bentley and/or Racing Queensland did not intend to or otherwise consider that Racing Queensland would not abide the terms of the Intercode Agreement from 1 July 2010.

### **Warwick Stansfield**

37. Mr Stansfield has (relevantly) been the President of the Second Plaintiff (**the Albion Park Club**) in the period since December 2009. He was (relevantly) also a Class A Member Representative for the Albion Park Club and:

- (a) has direct knowledge of discussions between members of the committee of the Albion Park Club; and
- (b) was involved in relevant meetings with QHRL directors and other Class A Member Representatives,

in the period from December 2009 to June 2010 (in particular on 4 January 2010 and 8 February 2010) regarding the integration. He also knew that the Intercode Agreement provided that the harness code received 14.5% of moneys paid under the Product and Program Agreement and that that was to continue until June 2014.

- 38. He saw a press release issued by the Minister for Tourism and Fair Trading on 20 December 2009. He sent an email dated 23 December 2009 to Mr Lette and Mr Seymour in relation to the press release.
- 39. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, he knew that:
  - (a) Mr Bentley had made the Representations; and
  - (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and

- (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
    - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.
40. He also knew that if QHRL's Class A Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
41. Specifically, he was present on 8 February 2010 when the Class A Members of QHRL resolved not to oppose the integration and that:
- (a) the Class A Member Representatives were relying upon the Representations in resolving not to do so; and
  - (b) if the Representations had not been made, the Class A Members would have resolved unanimously, or at least by a required majority, to oppose the integration.

42. To his knowledge, subsequent to QHRL notifying its agreement to the integration, QHRL:
- (a) proceeded with progressing plans for the construction of the new grandstand at Albion Park;
  - (b) informed Racing Queensland about those plans; and
  - (c) was at no stage advised by anyone at or for Queensland Racing Limited or Racing Queensland or Mr Bentley:
    - (i) to cease progressing those plans; nor
    - (ii) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
    - (iii) that Mr Bentley and/or Racing Queensland did not intend to or otherwise consider that Racing Queensland would not abide the terms of the Intercode Agreement from 1 July 2010.
43. Based in particular on his knowledge of the Albion Park Club's operations prior and subsequent to the demolition of the Russ Hinze Stand, that, as a consequence of Racing Queensland not proceeding with construction of a new grandstand, not committing to Albion Park as the long term home of harness racing and/or not abiding the terms of the Intercode Agreement:
- (a) the Albion Park Club:
    - (i) has been unable to secure sponsorships that it otherwise would have;
    - (ii) has otherwise lost operating revenue due to reduced attendances at Albion Park;
    - (iii) will, if Albion Park ceases to be the home of harness racing, lose all of its income generated from conducting harness racing activities at Albion Park;
  - (b) there has been reduced public interest in the harness racing code in Queensland.

**Wayne Dossetto**

44. Mr Dossetto has (relevantly) been the Secretary and then Treasurer of the Third Plaintiff (**the Gold Coast Club**) in the period since December 2009. He was (relevantly) also a Class A Member Representative for the Gold Coast Club and:

- (a) has direct knowledge of discussions between members of the committee of the Gold Coast Club; and
- (b) was involved in relevant meetings with QHRL directors and other Class A Member Representatives,

in the period from December 2009 to June 2010 (in particular on 4 January 2010 and 8 February 2010) regarding the integration. He also knew that the Intercode Agreement provided that the harness code received 14.5% of moneys paid under the Product and Program Agreement and that that was to continue until June 2014.

45. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, he knew that:

- (a) Mr Bentley had made the Representations; and
- (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
- (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
  - (i) cause Albion Park to be used as the long term home of harness racing;
  - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
  - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.



46. He also knew that if QHRL's Class A Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
47. Specifically, he was present on 8 February 2010 when the Class A Members of QHRL resolved not to oppose the integration and that:
- (a) the Class A Member Representatives were relying upon the Representations in resolving not to do so; and
  - (b) if the Representations had not been made, the Class A Members would have resolved unanimously, or at least by a required majority, to oppose the integration.
48. To his knowledge, subsequent to QHRL notifying its agreement to the integration, neither QHRL nor the Gold Coast Club was advised by anyone at or for Queensland Racing Limited or Racing Queensland or Mr Bentley that:
- (a) QHRL should cease progressing plans for a new grandstand at Albion Park; nor
  - (b) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
  - (c) that Mr Bentley and/or Racing Queensland did not intend to, or otherwise considered that Racing Queensland would not, abide the terms of the Intercode Agreement from 1 July 2010.

49. As a consequence of Racing Queensland not proceeding with construction of a new grandstand, not committing to Albion Park as the long term home of harness racing and/or not abiding the terms of the Intercode Agreement there:
- (a) has been and/or will be reduced public interest in the harness racing code in Queensland; and
  - (b) has been and/or is likely to an unquantifiable, but real consequential loss, suffered by the Gold Coast Club.

**Kerry Ebert**

50. Mr Ebert has (relevantly) been the President of the Fourth Plaintiff (the Redcliffe Club) in the period since December 2009. He was (relevantly) also a Class A Member Representative for the Redcliffe Club and:
- (a) has direct knowledge of discussions between members of the committee of the Redcliffe Club; and
  - (b) was involved in relevant meetings with QHRL directors and other Class A Member Representatives,

in the period from December 2009 to June 2010 (in particular on 4 January 2010 and 8 February 2010) regarding the integration. He also knew that the Intercode Agreement provided that the harness code received 14.5% of moneys paid under the Product and Program Agreement and that that was to continue until June 2014.

51. He has had a long history of involvement with the harness racing code.
52. He is aware of the long connection between harness racing and Albion Park and the importance of Albion Park to the code and its future and the likely effect on harness racing if Albion Park was not to be used as the home track for the code.
53. He is aware of the structure of the racing industry as it existed historically, including its structure prior to the integration that occurred on 1 July 2010.
54. Based on that involvement, and not being aware of any information or advice to the contrary, by early February 2010 and through to (relevantly) at least 30 June 2010, he knew that:
- (a) Mr Bentley had made the Representations; and

- (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
    - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.
55. He also knew that if QHRL's Class A Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;
      - (B) receive the harness code's 14.5% distribution under the Intercode Agreement;
    - (ii) not receive any part of the Infrastructure Funding.
56. Specifically, he was present on 8 February 2010 when the Class A Members of QHRL resolved not to oppose the integration and that:
- (a) the Class A Member Representatives were relying upon the Representations in resolving not to do so; and

- (b) if the Representations had not been made, the Class A Members would have resolved unanimously, or at least by a required majority, to oppose the integration.
57. To his knowledge, subsequent to QHRL notifying its agreement to the integration, neither QHRL nor the Redcliffe Club was advised by anyone at or for Queensland Racing Limited or Racing Queensland or Mr Bentley that:
- (a) QHRL should cease progressing plans for a new grandstand at Albion Park; nor
  - (b) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
  - (c) that Mr Bentley and/or Racing Queensland did not intend to, or otherwise considered that Racing Queensland would not, abide the terms of the Intercode Agreement from 1 July 2010.
58. As a consequence of Racing Queensland not proceeding with construction of a new grandstand, not committing to Albion Park as the long term home of harness racing and/or not abiding the terms of the Intercode Agreement there:
- (a) has been and/or will be reduced public interest in the harness racing code in Queensland; and
  - (b) has been and/or is likely to an unquantifiable, but real consequential loss, suffered by the Redcliffe Club.

#### **Bill Dixon**

59. Mr Dixon is the President of the Fifth Plaintiff (BOTRA) since December 2010 and prior to that was a committee member of that Association in the period from December 2009 to February 2010. During that time he was involved in discussions with members of BOTRA's committee and in particular with its then President, David Lewis.
60. He has had a long history of involvement with the harness racing code.
61. He is aware of the long connection between harness racing and Albion Park and the importance of Albion Park to the code and its future and the likely effect on harness racing if Albion Park was not to be used as the home track for the code.

62. He is aware of the structure of the racing industry as it existed historically, including its structure prior to the integration that occurred on 1 July 2010.
63. He knew throughout that time that, under the Intercode Agreement, the harness code received 14.5% of moneys paid under the Product and Program Agreement and that that was to continue until June 2014.
64. By early February 2010 and through to (relevantly) at least 30 June 2010, he knew that:
- (a) Mr Bentley had made the Representations; and
  - (b) if QHRL agreed to support the integration of the 3 control bodies into a single new control body, the Minister for Racing would cause an Integration Bill to be prepared; and
  - (c) in due course that Bill would be passed and the integration effected such that, among other things, Mr Bentley and Racing Queensland would:
    - (i) cause Albion Park to be used as the long term home of harness racing;
    - (ii) cause 16% of the Infrastructure Funding to be used to construct a new grandstand at Albion Park; and
    - (iii) abide the terms of the Intercode Agreement such that 14.5% of funds received from Product Co pursuant to the Product & Program Agreement would be used for harness racing purposes.
65. He also knew that if QHRL's Class A Members resolved not to support the integration, QHRL would not support the integration and:
- (a) the Government would proceed with legislation to give effect to the agreement of the control bodies for the codes of thoroughbred and greyhound racing to be integrated into a new single control body and that those codes would receive all of the Infrastructure Funding; and
  - (b) QHRL would:
    - (i) continue to:
      - (A) be the control body for harness racing in Queensland;

(B) receive the harness code's 14.5% distribution under the Intercode Agreement;

(ii) not receive any part of the Infrastructure Funding.


66. On 8 February 2010 BOTRA's decision to not oppose the integration was in reliance upon the Representations and that, if the Representations had not been made, BOTRA would have voted to oppose the integration.
67. To his knowledge, subsequent to QHRL notifying its agreement to the integration, neither QHRL nor BOTRA was advised by anyone at or for Queensland Racing Limited or Racing Queensland or Mr Bentley that:
- (a) QHRL should cease progressing plans for a new grandstand at Albion Park; nor
  - (b) that a consultancy had been planned and/or implemented with a view to determining that Albion Park should not be retained; nor
  - (c) that Mr Bentley and/or Racing Queensland did not intend to, or otherwise considered that Racing Queensland would not, abide the terms of the Intercode Agreement from 1 July 2010.
68. As a consequence of Racing Queensland not proceeding with construction of a new grandstand, not committing to Albion Park as the long term home of harness racing and/or not abiding the terms of the Intercode Agreement there:
- (a) has been and/or will be reduced public interest in the harness racing code in Queensland; and
  - (b) has been and/or is likely to an unquantifiable, but real consequential loss, suffered by the members of BOTRA.

#### **Kerry Watson**

69. Ms Watson was, relevantly, the Chair of Greyhounds Queensland Limited from 1 July 2008 to 30 June 2010. She was a director of Racing Queensland until being removed in December 2010 in circumstances relevant to matters in issue in this proceeding.
70. She is presently in dispute with Racing Queensland over that removal.

71. She is a reluctant witness and it may be necessary for the Plaintiffs to seek to compel her attendance at trial to give evidence by the issue of a subpoena. Because of this, the best the Plaintiffs can say at present is that they expect that she will give evidence:

- (a) that on or about 18 December 2009 she attended a meeting with the Second Defendant, Mr Lette, Mr Kelly and Mr Smith, at which Mr Kelly sought on behalf of the Queensland Government, the agreement of the three racing codes to an amalgamation of the control bodies in exchange for which the Government would make available to the industry a capital works fund in the order of \$80,000,000;
- (b) that she attended a further meeting on 23 December 2009 at the office of Queensland Racing Limited attended by the Second Defendant, Mr Lette, Mr Kelly and Ms Carol Perrett (of the Office of Racing), which was chaired by the Second Defendant and at which various representations were made by the Second Defendant in connection with the proposal for the merger of the three codes of racing and the seeking of the agreement of Greyhounds Queensland Limited and the First Plaintiff to the merger;
- (c) that she subsequently received minutes of the meeting of 23 December 2009;
- (d) that on 4 January 2010 she attended a meeting with the Treasurer, the Minister, the Second Defendant and Mr Lette at which the Treasurer and the Minister again sought the agreement to the merger proposal;
- (e) that she was given a copy of a document titled "Amalgamation of the three Racing Codes into a single organisation" (the Twelve Points Document) and she also received a copy of a document titled "Answers to Harness Questions 5th January 2010" (the Twelve Points Response);
- (f) as to her communications on behalf of Greyhounds Queensland Limited with the Second Defendant and others in relation to the proposed integration of the three codes of racing;
- (g) as to her communications with representatives of the Office of Racing, Queensland Racing Limited and Racing Queensland Limited, and Mr Bentley, between mid 2009 and June 2010 (in particular December 2009 and January 2010) regarding the integration.

Signed:   
Description: Solicitor for the Plaintiffs  
Date: 22 November 2011