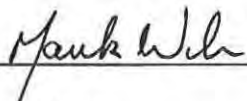


Statement of Mark Wilson

I, **Mark Wilson** of c/- Northern Recruitment, Level 3, Waterfront Place, 1 Eagle Street, Brisbane in the State of Queensland do solemnly and sincerely declare that:

1. I am the managing Director of Northern Recruitment Co. Pty. Ltd. ("Northern Recruitment"). Northern Recruitment is a professional recruitment business that I established in the early 1990's and have run since that time.
2. Unless otherwise stated, the matters set out in this statement are based upon my own knowledge or information derived from my position as managing Director of Northern Recruitment.
3. On 6 March 2009 Queensland Racing Limited ("QRL") appointed Northern Recruitment to be the "Independent Recruitment Consultant" for the purpose of the selection of new Directors of QRL in accordance with its Constitution ("Selection Process"). I undertook the Selection Process on behalf of Northern Recruitment.
4. The Selection Process became the subject of litigation in the Supreme Court of Queensland in the matter of *Andrews -v- Queensland Racing Ltd* (BS 9471/09) ("Andrews Proceedings").
5. On 21 October 2009 I gave evidence at the Trial of the Andrews Proceedings in relation to Northern Recruitment's role in the Selection Process. Attachment "MW-01" to this statement is an extract from the transcript of the Trial in the Andrews Proceedings setting out my oral evidence.
6. The transcript of my oral evidence at the Trial of the Andrews Proceedings accurately sets out my involvement in the Selection Process. I have sworn this statement to assist the Queensland Racing Commission of Inquiry by clarifying certain matters from that oral evidence.
7. At page 2-71 of the transcript there are references to a print-out from the computer system of Northern Recruitment which showed three meetings that were scheduled with Mr Robert Bentley. I have reviewed the records of Northern Recruitment and confirm that this print-out has been destroyed and cannot now be recreated.
8. At page 2-71 of the transcript I gave evidence that I met with Mr Bentley on 12 June 2009 in relation to a personal matter. I do not now recall this meeting or what the personal matter would have been. I did not have any personal matters with Mr Bentley at any time, nor did I have any connection with him outside of QRL's various retainers of Northern Recruitment. None of the matters in which Northern Recruitment was retained by QRL were personal to Mr Bentley in nature.


Mark Wilson


Witness

9. At page 2-74 of the transcript I gave evidence that I received several telephone calls from Mr Bentley between 1 June and 17 June 2009, but that very few of those telephone calls related to Mr Bentley's private matter. Again, I cannot now recall what the private matter would have been.

I make this statement conscientiously believing the same to be true, and by virtue of the provisions of the *Oaths Act 1867* (Qld).


Dated: 13th August 2013

Signed and declared by Mark Wilson at
Brisbane in the State of Queensland this
13th day of August 2013

Before me:



Signature of person before whom the
declaration is made


Signature of declarant

Christine Mary Maher Solicitor Supreme Court of
Queensland
Full name and qualification of person before
whom the declaration is made

THE COURT RESUMED AT 11.34 A.M.

1

HER HONOUR: Yes, Mr Derrington?

MR DERRINGTON: May it please your Honour, I call Mark Wilson.

HER HONOUR: Yes.

10

MARK WILSON, SWORN AND EXAMINED:

MR DERRINGTON: Mr Wilson, your full name is Mark Wilson?-- Correct.

And your business address is Level 3, 1 Eagle Street, Brisbane?-- Correct.

20

And you are the managing director of Northern Recruitment Pty Ltd?-- Correct.

And that's a professional recruitment business?-- Correct again.

Thank you. Can I ask you this: on the 1st of April 2009 I think it's common ground you had a meeting with - in relation to Queensland Racing. Can you tell her Honour about that meeting?-- Yes, I was asked to attend a meeting with the chairman of Queensland Racing, Bob Bentley, at their offices at Deagon to take a brief to manage the process to oversee the selection of directors for Queensland Racing.

30

Okay. Do you recall who attended that meeting?-- Yes, I do. It was - Bob was there all the time and Shara came in for a brief period.

40

Sorry, you mean Ms Murray?-- Sorry, Shara Murray, to basically inform me at a later stage she'd correspond with us independently to take us through the timelines that we needed to follow to meet the requirements for the successful selection of directors.

Okay. Well, on that, can you recall what you were told by Ms Murray?-- On the day not very much. She indicated that she'd give us a copy of the various correspondence, particularly the clauses within the constitution that we needed to comply with.

50

Okay. I'll come back to that. Did you have some discussion with Mr Bentley?-- We did.

And can you tell her Honour about that conversation, particularly saying what you said to Mr Bentley and he said to you?-- Yep. There were a number of things we spoke about.

Bob wanted me to understand, firstly, that I was to take the role of independent recruitment consultant quite seriously and not be subject to influence by anybody. Secondly, that he reiterated and reminded me of the somewhat unique nature of Queensland Racing as a control board, and the importance that people understand that this wasn't like a normal corporate board or the board of a government owned corporation in that it was important that people be independently minded and not come on to that board representing particular interests. And the third matter that we spoke about was the importance in terms of what I would call culture, or the style of operation. Bob was at pains to point out that he didn't want people on the board who would simply take their board pack a month before - or a week, sorry, before the monthly board meeting, read that, turn up, pontificate and then move on. He was looking for a culture that was more engaging, that people would get out - in fact I think he used the phrase they would adopt projects in conjunction with some of the race clubs, they'd be visible and they'd show themselves to be approachable.

Okay. Did you ask - did you have any inquiries of Mr Bentley?-- Not that I recall. I mean, I think - I've dealt with racing and Bob before. He gives a very specific and very detailed brief without a lot of fluffery or unnecessary instruction. It was very clear and to the point.

Okay?-- In fact my recollection is it was only about 45 minutes.

Okay. Was there any discussion about the qualities that - other than - of candidates other than that you've discussed?-- Not that I took note of. Those seemed to me to be the more important things.

Mmm hmm?-- And can I add, they're reflected in the document that we then subsequently returned to Queensland Racing which I think we termed our Directors Selection Strategy and which is the basis upon which we made the decision about peoples eligibility.

When you say "we" made the decision-----?-- I made the decision.

Perhaps I should take you to that. Could you have a look at Exhibit 2, please? Could you just look at tab 6 for the moment, the document behind tab 6?-- Hang on a second. This is a copy of the constitution?

Yes - no, it's an email to you, I think, with documents behind it, is that right?-- Yep.

Can you tell her Honour how that came to be in your possession?-- Well, I presume it was sent to us by email.

Okay. And did you receive it and read it?-- Yes, I did, but we'd already sourced this material ourselves independently.

Okay?-- Can I make a comment?

1

No, that's fine for the moment?-- Right.

Now, how did you go about seeking applications and what did you - well, I think it's uncontroversial that you advertised. What happened after the advertising occurred?-- We ran advertisements in both the local and the national press. People were encouraged, or invited to make an initial telephone inquiry if they wanted to. The vast majority of interested candidates did in fact call us initially. There were a variety of questions that people wanted asked which we were able to ask. People requested access to the constitution. For some reasons that seemed to be difficult for people to get, so we undertook to provide people with relevant copies of the constitution and our Directors Selection Strategy to assist them in making application.

10

Okay. Can you just go, in relation to that last matter, to tab 17 in that volume? It's an email there, originally I think from someone called Catherine Ryan?-- Yes.

20

Could you tell her Honour what the document is that's attached to that chain of emails?-- Your Honour, this document is a variation on a document we normally prepare for any assignment, which is really our writing instructions. It's what we're looking for. It's a working document. It's the front part of a document we prepare with a client. We don't give candidates any information about likely remuneration, usually, and this becomes a document that's available for public access to assist candidates in making their application to us.

30

HER HONOUR: Sorry, did you say you don't give candidates information about remuneration?-- Usually we don't.

Thank you.

MR DERRINGTON: Sorry, did you say that people were given copies of this document or part of it?-- Yes, anybody who requested a copy of the document, we sent them a copy, or it was available from Queensland Racing's website.

40

I think you received 26 applications, and can you tell her Honour what you did with those?-- On receipt of the applications I sat down and went through them. I read them from cover to cover, made some judgments or decisions about peoples backgrounds. I also had the benefit of having spoken to the vast majority of candidates and I recorded some comments that they may have made to me by phone in assisting me to make a judgment about who I thought were the more suitable people to interview.

50

What did you do then?-- Contacted - I had my office contact seven of the 26 candidates that were the best prospects, brought them in and entered into a discussion and interview with them.

Okay. Now, can I take it that you interviewed the four persons on the shortlist as well as Mr McGruther and Mr Andrews?-- We interviewed face-to-face the seven candidates who had been mentioned, but also had quite extensive phone discussions with a number of candidates on the way through as well.

1

If I can just, perhaps, take you to your interview technique, did you have a technique which you applied to all interviews?-- Yes, I did.

10

And all seven interviews that you did face-to-face in this matter?-- Yes, I did.

Would you just explain to her Honour how you conducted those interviews?-- Yes, the intent is to be relatively disarming, to put people at ease. I'm looking to develop a sense of, in their own mind, how they see themselves. We work on a construct of self-image drives attitude drives behaviour and we find it very useful in all of our appointments, and we simply applied that construct in this sense. So in terms of a discussion, I'm attempting to form a view of understanding how they see themselves. That then gives me a sense of how this appointment looms in their life and what it means to them and how they're likely to apply themselves in undertaking it.

20

Okay. Now, in relation to each person, did you have a standard set of questions or was it a more disperse approach at each one?-- Well, there are really two I started off with with each one. One was to ask them why, why did they want to do this? Why did they want to be a member of the Queensland Racing Board, and could they tell me more or less what it meant to them.

30

Okay. Can I ask you about an interview that you had with Mr McGruther? Do you recall that interview?-- I do.

Could you, in brief, try to encapsulate what occurred in that interview for her Honour?-- Of course. Having reviewed Mr McGruther's resume, which was pretty impressive, I'd expected to encounter a very engaging, forthright person who would articulately tell me what it was about this particular appointment that motivated them, and unfortunately, despite my best efforts, I couldn't get to the bottom of that. I found Dick McGruther to be probably a bit frosty. I'm not sure if it was my interview technique or his expectations, but he was disappointingly less than engaging on the day.

40

Okay. Now, were there topics of questions that you asked him?-- Well, I was - I did go back and ask - basically try to get a sense of how he started in life. It wasn't apparent from his resume as to how he'd initially qualified to be a member of the Institute of Chartered Accountants. That was a pathway that wasn't clear to me. And I do this with all people I interview, I will go back and I want to understand where you've come from and what the succession - or what the consistency has been in your career progression. I went back, I asked him how he started. He was a little surprised I

50

wanted to go that far back, but it was more important to me to build up a complete picture of where he'd been and what he'd done to give me a sense of what this appointment might mean to him and how he might apply himself. We went back, he was forthcoming, he was very open. Once we started he was quite open about his career and some of the things that were important to him over time.

1

Okay. Did any questions about his education arise?-- Yes, I asked him where he went to school, and I also asked him whether he finished at year 10 or year 12.

10

And in what context was that question asked?-- To try and understand how he started his career. One of the things we're looking for with anybody's career history is their consistency. You either have consistency or inconsistency, and I wanted to build up that picture to understand the consistent progression in his career.

Were there any - was there any discussion about his personal beliefs?-- I'd already identified through listening to Mr McGruther that he'd been brought up a Catholic, and I think in passing I was trying to get a sense of - I couldn't pin him down - in my mind I couldn't pin him down on where his commitments were, so a lot of it was at a superficial level and I simply said, I think, something to the effect of, "Are you still practising", or words to that effect, just to get a sense of whether he was or he wasn't. Whether or not he's Catholic was immaterial to me.

20

How long did the interview take?-- It actually went over time, and I think it was probably about an hour and 15 minutes.

30

Did you ask him - was there any discussion about what he'd done over his lifetime or what achievements he might have made?-- Yes, I was gently probing all the time, trying to encourage him to open up a little bit more, and I think towards the end he did. You know, there's no - he's done a lot.

40

Are there any specific topics that you recall he told you about?-- Oh, he mentioned there was some - I mean keynote achievements, he was very proud of his involvement with things like - I think it was the organising committee for the Commonwealth Games in Brisbane. Another thing he was very proud of was his involvement in the creation of professional rugby union in Australia, and more recently he seemed to be quite proud of his involvement as the deputy chair of a construction and development company.

50

Just very briefly, tab 24 - before you go there, did you make any notes during the course of this meeting or shortly thereafter?-- I just did little prompts on a standard form we use for interview for me, and afterwards I would have written a little summary on the front.

Could you go to tab 24, please? I think there might be a

group of documents there that might relate to different persons you interviewed, is that right?-- I'm sorry, I didn't hear the question. 1

Are they notes - your standard form notes from a number of interviews?-- On 24, no, it's a copy of-----

Behind tab 24?-- Oh, behind tab 24. Yes, they look to be.

Is there one there in relation to Mr McGruther?-- Just let me have a look. Yes, there is. 10

I think your notations on that - do you know when they were made?-- Whereabouts? Would have been on the day of the interview.

Okay, yes?-- So some are done during the course of the interview, just as a prompt for me, and then - I'll usually see the person out of the office and go and sit at my desk and just write a quick summary at the bottom as a prompt for later on when I go back and consider people. 20

Okay. Thanks for that. In relation to Mr Andrews, you had an interview with Mr Andrews?-- I did.

Do you recall that interview?-- I do.

Again, in brief compass, can you tell her Honour about that interview?-- Well, I had a pretty high expectation given that Bill Andrews has got, you know, a pretty good history, he's established in the community and he'd been a director of Queensland Racing already for a term, and I guess the expectation was he'd come out of the blocks like a bolter. I found on the contrary on the day. Bill was not vague, but he didn't seem very engaging. As soon as we sat down and started to talk I had the distinct impression that he wasn't aware that he really needed to make a strong case for inclusion in the group going forward, that he had to demonstrate, the same as any other candidate did, that there were strong and compelling reasons why he should be up for this, and they were not forthcoming to me. 30 40

Okay. Can you tell her Honour the topics you discussed with Mr Andrews?-- Again my recollection is we started off the same way, trying to get the candidate to tell me why he wanted to continue, essentially inviting him to give me a sense of what they contribute, and then going back through his history. He went through his evolution as a youngster up through the legal profession. He indicated to me that he was very proud of a couple of things. One was the growth and development of his professional firm, and the second was he has a very extensive family and he was very proud of the fact he was a member of that and that they were all well and there'd been no particular illness or nobody died, which I found a bit intriguing, but was by the by. 50

Okay. In relation to the job that you were doing, I think it's - were you aware of any criteria or - that you had to

measure any candidates - or sorry, applicants for candidature to meet?-- Yes, there were two elements. One is they had to be eligible, and there were criteria spelled out that they had to meet, and the other was to my mind, particularly after meeting with the chairman of Queensland Racing, they needed to be suitable. So being eligible and not being suitable wasn't enough. And so what I was looking for was, one, that they were eligible, which most people attested to, but secondly, that they were able to demonstrate that they would be suitable.

1
10

Can I just ask you about eligible at the moment? What are you referring to?-- That they had to meet a set of criteria, that they had to be able to satisfy us that the criteria that was specified, that they could comply with, which were some performance metrics in terms of the size of a business they'd been involved with, but also that they were eligible and that they were not precluded because they were a member of a race committee at some stage.

20

Was that a topic of any discussions with any of the interviews?-- No, that was a given. In fact most people attested to that in the covering letter with their resume.

Could I take you then to the period where you finished that? Ultimately - if you look at tab 29 you will see a letter. Is that your letter behind tab 29?-- Yes, this is a copy of a letter I wrote.

Now, in it, if I can take you to - you will see there that you formally identify four persons as being on the shortlist. That's on page 2?-- That's correct.

30

Can you explain to her Honour how that came about? Not the writing of the letter, how you came to-----?-- How I came to this conclusion?

Yes?-- Yes, I can. I found of the seven people that we interviewed, these four satisfied the eligibility criteria, in my mind. They also seemed to be particularly suitable. Each person was very engaging during the interview. They outlined for me their activities at race club level. They were able to demonstrate to me during the time that we spoke-----

40

MR JACKSON: Your Honour, we are objecting on the grounds of relevance. We don't know that it's an issue in the case whether the other four people were eligible or suitable.

HER HONOUR: I'll allow the question at this stage.

50

MR DERRINGTON: Thank you, your Honour. Just continue?-- He's interrupted my flow of thinking. They were engaging, we were able to - I drew the conclusion that these people had really both the capability and also very, very strong desire to be involved in the creation of a strong and robust racing industry in Queensland. Importantly, each one was able to demonstrate for me not only they'd taken particular initiatives as a member of a race club - a race club

committee, but in fact some of those initiatives, or the thing they tried to do were often at variance with the wishes of Queensland Racing or the chairman of Queensland Racing, and I thought that showed a real independence of spirit. They were also able to demonstrate to my satisfaction they understood the importance of being independent and being seen to be independent if they were successful in achieving their nomination to the Queensland Racing board.

1

Can I ask you to go to the first page of the letter, please?--
Yep.

10

Can I take you to the fourth paragraph on the first page?--
Yes.

Can I ask you to explain to her Honour why you wrote that first sentence?-- It was the royal we. I found that I really only had four people I felt were suitable to nominate, and I thought that was unfortunate because I didn't like the idea of having only four. In the event somebody fell by the wayside for whatever reason. We were going to move into unchartered territory, and that's the intent behind that comment.

20

HER HONOUR: What did you mean by the word "required"?-- It wasn't a particularly deliberate use of the word. It was just the phrase I used at the time. I mean, under the selection process I was required to put people forward who I felt met the criteria and I only had four, and it was in that context I used the word "required".

30

40

50

MR DERRINGTON: Could I take you to tab 21, please?-- Yes. 1

Before I come to that, do you recall that there is - there was a period in time where you settled on four or-----?-- I mean, after we - the nominations had closed and I interviewed the seven and only after I'd interviewed the last person did I come to the conclusion I had four.

Did you have in your mind at any time a belief as to the number that you were required or obliged to produce on the list?-- No. In fact, it was a - until I got to that point I didn't know that it would only be four. I mean, I - you know, the reason I interviewed seven is because I thought - I interviewed those people in good faith believing, I'd hope, that we could find they would be worthwhile putting through. 10

Okay. Sorry-----?-- Did that answer your question?

Take you to tab 21?-- Yep. 20

Would you look at tab 21, please?-- Yep. Twenty-one.

Is that an e-mail - does that contain an e-mail written by you, I think, on the 18th of May 2009?-- Yes, it does.

Could you just explain to her Honour the circumstances of you sending that e-mail?-- Shara had - Shara Murray had rung basically looking for a progress report and that's essentially what we sent back. 30

Having - you said you sourced the constitution of the Queensland Racing Limited independently and you also got Ms Murray's constitution, at any time did you form a belief as to how many on the list would be - would meet the constitutional requirements?-- Well, I mean, it stipulates that there are two directors' positions available and that we have to have a minimum of four candidates for the A and B class shareholders to vote on and choose from so we had to have a minimum of four. 40

Did you form that view by yourself or with others - well, how did you form that view?-- The minute I'd read the constitution.

Okay. Excuse me. Sorry, can you just go back one tab, I think, to tab 20? Is that a letter from Mr Milner to you?-- Yes, it appears to be.

Do you recall receiving such a letter?-- Not necessarily. It would have come into the office and been processed. It wouldn't have come directly to me. 50

I see. But would you have read it at any stage in your deliberations?-- Yes.

There's reference there to the resignation of directorships. Was that relevant to your consideration of - to the shortlist?-- When I spoke to most of the candidates that we

interviewed face-to-face they either volunteered or we discussed that they had to meet the eligibility requirements by a date in the future and that they needed to come back to me and indicate that they'd done so. Each of the candidates that were ultimately nominated also went the extra yard, as it were, and indicated they'd do whatever they had to do to divest themselves of any conflict of interest-----

1

Okay?-- -----outside, whether it was just membership of a race club.

10

HER HONOUR: Sorry, I didn't understand your response there. You said you told them they had to meet "eligibility requirements by a date in the future". Did you give them a date?-- If I can clarify, your Honour. We discussed the fact that there were - that they were aware of the eligibility requirements and conflict of interest and that at a point when they became subject to the vote by A and B class shareholders they'd need to make sure that they were well and truly clear of any of these impediments.

20

Thank you.

MR DERRINGTON: If I haven't already covered this, Mr Wilson, whose decision it was to put the four names on the shortlist?-- Well, in my role as independent recruitment consultant it was mine and mine alone.

Now, do you recall that I think somewhere around about the 10th of August receiving a telephone call from Mr Lambert?-- Ah-----

30

Do you recall that?-- I do.

Can you tell her Honour about what was said in that telephone conversation?-- Well, it's a little bit hard to recall. I mean, it was a - I was sitting at my desk. A call came through, I took it, and the next thing I know there was somebody in a fairly agitated state making accusations at me down the telephone.

40

Well, can you tell her Honour what accusations were being made at you?-- The first thing, he identified himself as Michael Lambert, a director of Queensland Racing. He then said, "How is it you came to decide there were only to be four people on the shortlist? Who told you to do that?" Did Shara Murray told you to do that?" And then I said, "Excuse me, I don't think we should be going down this track."

Was anything else indicated or said by either party?-- I'm sorry, I didn't hear-----

50

Was anything else said by either yourself or Mr Lambert?-- He demanded that I explain to him why it was that I - apparently I'd been influenced to only have four people on the shortlist. He wanted me to ring him back and explain to him how this had happened, and he gave me his mobile telephone number and demanded I ring him before close of business that day.

Okay. Was anything else said?-- Well, I got off the phone as soon as I could because I felt it was completely improper. 1

Okay. Could you just have a look at tab 51, please? Is that an e-mail from Mr Lambert to yourself? Sorry. Have you got tab 51?-- Yes, it appears to be a copy of an e-mail from Michael Lambert to me.

Okay. Did you receive that in the afternoon of Monday, the 10th of-----?-- Yes, it was about mid afternoon. Here it says 3 o'clock. 10

Yes. Did you do anything in relation to that?-- No. Completely ignored it.

Do you know what happened thereafter?-- Well, I rang him back later in the day-----

Did you speak to Mr Lambert later that day?-- Yes, I did. 20

And how did that come about?-- Well, he asked me to ring him before close of business and I did so. I think I rang him between 5 and 6 o'clock and indicated to him that-----

Well, can you say what you said to Mr Lambert on that occasion?-- Yes, I did. I said if he had an inquiry regarding any issues about selection I thought it was improper he should take them up with me and I directed him back to either Miss Shara Murray or the board at Queensland Racing, he should talk to them. 30

Was anything else said by you in relation - in that telephone conversation?-- Not that I recall. In fact, I wanted to make it quite polite but put it to bed.

Okay. Did you during the course of the day speak to anyone from Queensland Racing about the telephone calls?-- I did. After I got off the phone I was quite surprised by-----

Which occasion, the first or the second? You said after you got off the phone. You had two calls that day-----?-- In the morning when Michael Lambert had rung me my initial reaction was, "Something doesn't seem right here, I don't think he should be talking to me about these things," and I rang Queensland Racing and spoke to Shara and she indicated to me that no it probably wasn't appropriate for him to ring me in the role of independent recruitment consultant and I should direct him back to her or the board. 40

Okay. In relation - finally, Mr Wilson, in relation to the preparation of the shortlist, did you receive any direction from any person or entity about how you should go about compiling that - or the numbers - number of people that should be on the shortlist?-- No, none whatsoever. 50

Thank you. Thank you, your Honour.

HER HONOUR: Cross-examination?

MR JACKSON: Thank you, your Honour.

CROSS-EXAMINATION:

MR JACKSON: Can I take you directly to your letter dated the 18th of June which, if you could hand that one back, is in a grey volume, which I would rather use, Exhibit 1. Tab 14. Now, it was you who composed this letter; is that correct?-- This letter?

Yes. It should be behind tab 14 in the grey volume?-- Sorry, I'm looking at the wrong one. Yep. The 18th of June.

Eighteenth of June, yeah. You composed this letter?-- I did.

And when we talk about Northern Recruitment, it's a company of which you and your wife were the shareholders?-- I'm the shareholder.

Perhaps things have changed since the company search. Are you and your wife directors?-- I'm the sole director now.

So it is a matter of - or an entity which is completely within your control? So Northern Recruitment is you?-- Correct.

There are a number of people who work for you, though, in the office?-- Yep.

All right. And in composing this document you, in the third paragraph, referred to, "of the 26 applications seven that clearly stood out in terms of either commercial capability or entrepreneurial achievements at club level"?-- Yes.

And then you go on to say that you went to speak to each of them and you then wrote, "Unfortunately we are required to reduce the numbers to four nominations for consideration for the appointment of two directors"; is that right?-- Correct.

And when you wrote that you had in mind that what you were asked to do, and what you had to do, was come up with four? That's right, isn't it?-- No.

Why did you use the word "unfortunately"?-- Because I considered the fact we only had four was extremely unfortunate. I would like to have had more people on the shortlist.

Well, you were always aiming to come up with four, weren't you?-- No, I wasn't - I didn't have a number in mind. I had to have a minimum of four but there was no upper limit.

Well, one of the things, I think, you were shown was an e-mail you had written in the middle of May saying you were going to get four?-- That we would be able to achieve four.

At some point did you have a concern that you might only get three?-- I did. 1

And that was at what time?-- During the process of interviewing people.

Well, was the problem that was concerning you that Mr Ryan, who was one of the seven, might not stand up at the end of the day because he was considering whether he would continue with his application?-- I actually encouraged him to go away over a weekend and think whether or not he wanted to go through with it. 10

And so when was it that you had the thought you might only get three?-- Actually don't recall.

All right. Well, when you answered a question asked by Mr Derrington I think you said only four met the criteria, it was in that context that you made the decision. That's right, isn't it?-- I'm not clear on your question. 20

Well, when Mr Derrington asked you a question earlier about this process you said only four met the criteria and it was in that context that you made the decision, which is the subject of this document?-- Correct.

But that's not right, isn't it? It wasn't that only four of the people who were interviewed met the criteria, it was only four that you put on the list? 30

MR DERRINGTON: I object to the question because it's entirely unfair because that's - the evidence was not that - I don't want to speak about the substance in front of the witness, but it's the - the questions - the answers leading up to that identified what he meant by "criteria" and now it's being put in a different way, saying that there was only one set of criteria, he identified two sets. Your Honour will recall. So it's unfair to say that he was talking about one set of criteria. 40

HER HONOUR: Well, perhaps the fair thing, Mr Jackson, would be to clarify what he means by "criteria" in this context.

MR JACKSON: May I say, with respect, your Honour, that's completely not the appropriate thing for me to do. I was asking him about what he'd said in chief and I'd asked him a question which flowed from that, which was perfectly proper.

HER HONOUR: Your recollection of what he said in chief accorded with my recollection. It was the following question that I think was the difficult one. 50

MR DERRINGTON: Yes.

MR JACKSON: Well, let's talk about the criteria. They're the selection criteria under appendix A?-- The eligibility criteria.

Well-----?-- But we also exercise suitability criteria.

1

Well, I'm having some difficulty, Mr Wilson. Are you saying that, for example, Mr Andrews, the plaintiff in this case, who was an existing director and who was someone who met what you've now called eligibility criteria wasn't suitable?-- You've got it in one.

So he didn't actually meet the requirements in appendix A at all? It wasn't just that you didn't think he was among the four best candidates?-- No, that's not what I said. I said we exercised two sets. There was - you had to be eligible and as - my role as the independent recruitment consultant, under a brief from Ray Singh regarding people's suitability, they also had to satisfy that criteria and he did not.

10

If we are talking about eligible for a moment. I've made an objection earlier which was erroneous because at the time you were interviewing these people there were a number who weren't eligible; correct?-- I don't know what you mean.

20

Well, there were a number who were still on the committee of relevant racing bodies?-- I don't see how that made them ineligible at our stage of the process.

Well, you formed - did someone tell you that or did you form your own view about the constitution?-- I formed my own view that there was an intent that they couldn't be responsible to two masters, hence they couldn't be on the board of Queensland Racing and also on the board of a race committee. It seemed entirely unreasonable to ask somebody to resign from something until they actually became subject to being selected. Through our process we nominated the people for a shortlist. They then have to go up before the A and B class shareholders. At that stage they needed to meet that particular criteria.

30

I think in your evidence in chief you mentioned a concern that if you only had four, what happens if someone falls out?-- True.

40

A reason why someone might fall out is that at the time you select them it might be thought that they're going to resign, or they might be thinking of resigning but they might change their mind?-- That wasn't - that had not occurred to me at all.

Well if, in fact, someone is prejudice qualified you're hoping in making your decision that at some time in the future they'll not be disqualified from being able to act because they're an eligible person; that's the sum of it, isn't it?-- I'm not sure what point you're trying to make, to be honest.

50

Well, the point I'm trying to make is two of the people who were of the four you selected, at the time you spoke to them, at the time you made your preparation of the shortlist, people who were not then eligible?-- I don't believe that to be the case.

Well, you agree, don't you, that if you - that you appreciated the effect of putting someone on your shortlist was that they and - or that person and the others, meaning "they", were the only people who would be considered to go forward?-- Again I find - with respect, I'm finding your reasoning a bit convoluted.

1

Are you? Did you not appreciate that by putting someone on the shortlist only those people on that list would go forward?-- Yes.

10

All right. And the reality is, in terms of the criteria described as the "selection criteria" that you read in the constitution, more than four satisfied those criteria?-- Correct.

So potentially more than four could have gone forward?-- If they'd been suitable.

Well, whether they'd been suitable or not potentially they could have gone forward?-- What do you want me to say?

20

Well you agree, don't you?-- Yes.

All right. And what you did then was approach the question in accordance with your letter in the fourth paragraph that unfortunately you were required to reduce the numbers to four because you thought that's what you had to do?-- No.

Not because of suitability but because that was the task?-- I find this a bit rude.

30

I'm sorry?-- That's not the case at all. I was required to provide a minimum number, not a maximum.

When Mr - I'll come back to that a little later. Perhaps we should do this in chronological order. Could I ask you to go to tab 6? Tab 6 in Exhibit 1. Is that a document which you recognise as being one that includes behind Ms - sorry, which is from you to Ms Murray, and includes behind the e-mail a letter dated 2nd April and your director strategy document, in its form then?-- Correct.

40

And if you go to page 9, your proposal for fees was written - initially calculated on the footing you were looking for four positions?-- True.

Being four directors at \$40,000 per annum and a percentage fee be calculated on that footing?-- That's a mistake.

50

Well, at the outset of the process, what I want to suggest to you, is you thought you would be putting forward four names?-- No. That doesn't imply that we'd be putting through four names at all. That was a mistake we made about how we could bill. There's no implication there whatsoever on the maximum number of people who could go forward, and there never is on a shortlist with us.

Just to be fair about this, on exhibit - if you go to tab 7 in Exhibit 1, three pages from the back, you have a corresponding document where at this stage you've reduced it to two positions?-- That's correct. 1

But always, I suggest to you, you had in mind that there were four that you were looking for?-- No, there was always a - can I reply?

Sorry, I didn't mean to interrupt you, you answer the question?-- There was always a requirement for a minimum of four. There was never at any stage an upper limit. 10

If I could bring you all the way forward to when in August matters became difficult, you were aware-----?-- I'm sorry, are we looking at a document?

No, not yet. I ask you to listen to the question. You were aware by the end of the first week in August that there were problems or challenges that were being made to the process of selection that you had maintained and the outcome and your shortlist, weren't you?-- I don't remember the dates but, yeah, there was an issue starting to come up. 20

Well, you remember the telephone call you received from Mr Lambert on the 10th of August?-- Sure do.

And what I suggest to you is that call was in the morning?-- Correct. 30

And that when Mr Lambert called you he introduced himself and told you who he was; is that correct?-- Strictly speaking yes, but in a pretty perfunctory manner.

Well, whether it's a perfunctory manner, you understood he was calling you and he was a director of Queensland Racing Limited?-- Correct.

All right. And he asked you about the basis on which you had formulated the list of four persons?-- No he didn't, he made an accusation. 40

Well, you call it "an accusation", which is a descriptive noun, but he asked you questions about it, didn't he?-- No, he made an accusation. He said to you (sic), "Why did you limit it to four?"

Is "why" not a question?-- It seems rhetorical-----

What's accusatory about a question which is, "Why did you limit it to four?"?-- No, it's - hang on, let me finish - "Why did you limit it to four? Who told you to limit it to four? Did Shara Murray tell you to limit it to four?" 50

In the first place, they're questions, aren't they?-- It would seem so.

All right. And whether they're an accusation or not, as you look at it now, at the time you responded to him, didn't you?-- Well, I was actually a bit - I was honestly caught off-guard by him. 1

Well, that's not an answer to my question. At the time you responded to him, didn't you?-- Yes.

And your response was, well, you had been advised by Shara that this was required under the constitution?-- I think that's taking it out of context. I'd indicated to him we were required to have a minimum of four and I was actually at a loss to understand where he was coming from. 10

You said to him in response that you'd been advised by Shara Murray that this was required under the constitution. No context. They were the words you used. Or words to that effect. That's my suggestion to you?

What do you say to that? 20

HER HONOUR: It's no good shaking your head, you'll have to answer so it can be taken down, Mr Wilson?-- That's not my recollection.

MR JACKSON: Do you deny you said that?-- No, it's not my recollection.

What's the difference between not being your recollection and denying it, from your point of view?-- Can you repeat the question again? 30

Are you saying that you could have said it but you don't remember?-- No, I think I was probably a little bit more evasive than that.

Well, you "think". Do you actually remember what you said?-- No. It was a very heated moment.

Do you recall - I think you said that you spoke shortly after - I'm sorry. You spoke later in that day again to Mr Lambert?-- Yes, I did. 40

And that was a call that you say happened at the end of the day. I think you said between 5 and 6?-- Correct.

Did you make any note of the time or is that just your-----?-- No.

-----recollection?-- No. 50

So that's just your recollection?-- Yes, it is.

All right. And-----?-- Because I'd already made the decision that I would call him later in the day when hopefully he had cooled down a bit.

Well, whether you'd made that decision or not, I'm asking you about the time. And your recollection is that it was later in the day but-----?-- Correct. 1

-----you don't have any note of precisely whether it was 5 or 6?-- No.

But do you recall that by the time you'd called him Ms Murray had called you?-- No, I called her. 10

Well, what I suggest to you is that Ms Murray had called you after 3.30 p.m. on that day?-- I have no recollection of that.

And she asked you whether you had said to Mr Lambert that she'd told you that was what was required by the constitution?-- My only recollection of her phone call with Shara Murray on that day was one I initiated earlier in the day after the phone call from Lambert. 20

Well, what do you recall was said between you and her about what had caused you to choose four and your conversation with Mr Lambert that morning, what did you tell her about that conversation?-- Well, I asked her why would be ringing me, I didn't understand the context, and she indicated to me that he'd made some accusations against her that morning, I presume in or around a board meeting, that it was improper for him to be making this inquiry of me and I should direct him back to Queensland Racing. 30

Well, you do recall then that she made a statement to you that he had said something about her involvement? You recall that much of the conversation with her?-- Her involvement in? I'm not sure - I'm not clear on----- 40

Well, let me ask you if you can recount it again because I'm not sure what your difficulty is. What was it that she said to you about the subject matter of this conversation?-- The question about four candidates? 1

You've said you called her and said something to her about Mr Lambert's call, what was it-----?-- I called her and asked her why it would be that Michael Lambert would be ringing me, making accusations of this nature. 10

What was it that she said to you, if you could repeat that, please?-- That he had been making accusations about her that morning, some of which she'd found quite insulting, that it was improper for him to be making these inquiries and I should direct him back to either her or the board at Queensland Racing.

All right. So your recollection is that she told you about something that he'd said about her that day?-- Not the specifics. I wasn't interested. 20

But whatever it was, it was something about what he'd said about her that day?-- Something going on between them, yep.

Do you recall any reference to an email?-- There was - I mean, the only email on that day was from Lambert to me.

Did she discuss any email with you?-- No.

Did you not - were you not asked by her that day that - whether you'd told Lambert in the morning that she had given you an instruction or told you that that was the number that was required?-- No, I think - not at all. Shara never gave me any instructions about what was required. 30

Yes, but the question I'm asking you was about whether you were asked about the conversation you'd had with Lambert in the morning and whether you'd said something to Mr Lambert to that effect?-- I'm sorry, you've lost me, to be honest. 40

Were you asked by Ms Murray-----?-- When was this? This alleged second conversation?

Alleged what?-- Second conversation?

A conversation you had with Ms Murray-----?-- In the morning?

I'm not saying in the morning, I'm asking you for your best recollection about a conversation with Ms Murray any time where you were - on the Monday where you were asked about your recollection of your conversation with Mr Lambert by her, and whether you'd said something to the effect-----?-- No, there was no - to the best of my----- 50

Just listen to the end. Whether you'd said something to the effect that you'd been told by her that the number was four - or was to be four?-- I don't have any recollection of that at all.

Do you recall it was after you spoke to Ms Murray that you called Mr Lambert?-- That evening, correct.

All right. And do you recall that when you spoke to Mr Lambert you were placating, or conciliatory in your tone?-- No, I think I was - just rang him out of a courtesy and said, "Look, I don't think this is something we should be discussing", and directed him back to Queensland Racing.

What I suggest you said to him was, "I'm sorry, I'm having a bad day, obviously, I was incorrect this morning in what I said. It was my interpretation. I wasn't advised by or directed by Shara Murray"?-- That's probably a fair summary.

So you did tell Mr Lambert in the afternoon that you'd been mistaken in the morning?-- Yes, I think that's probably reasonable.

And if I could ask you then to go in this bundle - sorry, let me just, before I do, ask you this. I want to get this time context precisely right, if I can. On the Monday, which was the 13th, we are now, I think, five or six days later from a press release that you made on about the 7th of August. Do you recall that press release?-- Yep.

Which was in response to publicity perhaps in the newspaper, perhaps in questions asked in parliament?-- Correct.

And am I right in thinking that through this period you were in close consultation with Ms Murray?-- No.

Or for that matter Mr Bentley?-- Not in my mind.

Were you speaking to them at all?-- Off and on.

Did you consult Mr Bentley and Ms Murray about the terms of the press release?-- There were two press releases. One was written not for public consumption, it was a satirical response to being named in parliament. Having done a satirical one, I then realised it might be worthwhile doing a proper one and I drafted a proper one I had counsel look through and make sure that we could say what we said, and then asked that it be released on Queensland Racing's website to get out to their particular community.

Mr Wilson, after her Honour rose this morning were you outside when Mr Bentley came out of the Court?-- Yep.

Did he come across and talk to you?-- He did.

Did he raise that - or discuss that subject matter with you?-- What subject matter?

The matter of the second press release?-- No, we spoke about something else.

I see. The context, if we come back to the 10th of August and

your conversation with Mr Lambert, was that in the following days there was still ongoing, as her Honour's heard, argument within the board of Queensland Racing Limited about the process and your involvement in it. Were you apprised of that?-- No, I had no knowledge of it whatsoever. In fact it's the first time I've heard it. 1

My asking you now is the first time you've heard it?-- Yes.

Do you recall whether you spoke to any lawyers acting for Queensland Racing Limited - I think the 10th is the Monday - by the end of that week?-- I don't. 10

You don't?-- I don't.

Do you recall that on the morning of the 14th of August arrangements were made for you to speak to Mr Grace?-- They may well have been. I don't have a documentary record with me. 20

If I could ask you then to go to a document which is behind tab 36 of the bundle in front of you. It's in Exhibit 1. Do you have there a copy of a letter which was written by Cooper Grace & Ward dated the 14th of August?-- Yep, I do.

And in that letter do you see in paragraph 4 there's reference to you?-- There is.

And then you'll see in paragraph 5 there's further reference to you and a conversation where you telephoned Mr Lambert back to correct his statement. 30

MR DERRINGTON: Just hold on there, please, Mr Wilson. Your Honour, my learned friend's cross-examining this witness on a document which isn't his document, and the proper way to cross-examine a person about this is not to put word form paper in front of the person written by someone else. It is to ask the question without it. It's quite improper and objectionable to cross-examine him on someone else's document, and the rationale of that rule is, and always has been, witnesses take a false sense of import from reading what other people might write about them in a document. 40

It's not his document and he can't ask him to do it. He can ask questions about the topic. To that there's no objection, but he can't cross-examine him on this document.

HER HONOUR: Mr Jackson?

MR JACKSON: Could Mr Wilson go outside while I answer the objection, your Honour? 50

HER HONOUR: Yes, would you mind waiting outside, Mr Wilson?

WITNESS LEAVES COURTROOM

MR JACKSON: Your Honour might recall that Mr Lambert was cross-examined on the footing that Mr Wilson didn't say to him there was any mistake, and that he hadn't told Mr Lambert in the morning conversation-----

HER HONOUR: Yes.

MR JACKSON: -----that Ms Murray had given him instruction or told him what to do. That was also the tenor of Mr Wilson's evidence-in-chief.

10

HER HONOUR: Yes.

MR JACKSON: He's now made a concession in cross-examination. I am putting to him the circumstances by which I propose to seek to ask him the question which says - which is whether that which is in paragraph 5 is what he told Mr Grace.

20

HER HONOUR: Well, I think the point of the objection is that you're putting someone else's letter to him. If you want to put those circumstances to him, that's fine, but don't put the letter to him is the point of the objection.

MR JACKSON: I can't other than put the letter - can't other than show him what the letter says and ask him whether that's what he told Mr Grace on the 14th because he's got obviously a vague recollection about it. He's made a half concession in the answer he's given before that he may have spoken to somebody.

30

HER HONOUR: You're still not, with respect, satisfying me that you can put the letter to him. You can put the contents of the letter to him.

MR JACKSON: I'm not trying to prove the letter. The letter is in evidence. All I'm trying to do is ask him to read it and ask him whether he gave those instructions to Mr Grace. The objection is not that I'm trying to prove a document through him.

40

HER HONOUR: I'm not going to allow you to do it that way. You can put the circumstances to him, not put the letter to him.

MR JACKSON: Thank you, your Honour.

HER HONOUR: Would you bring Mr Wilson back, please?

50

MR JACKSON: Can I ask him whether he saw a copy of the letter, your Honour?

HER HONOUR: If you want to ask him that you can, but that's as far as you can go.

MARK WILSON, CONTINUING CROSS-EXAMINATION:

1

MR JACKSON: Can you just close that document up for the moment? I want to ask you some questions first. What I suggest to you is that on the 14th of August you spoke to Mr Grace or Ms Murray, perhaps both of them, and you told them what at that time you recalled about speaking to Mr Lambert. No, please close the document up. I'm asking you not to read it. I've been directed by her Honour not to do it that way-- I don't recollect, to be honest.

10

Do you recall talking to Ms Murray and Mr Grace about the subject matter of Mr Lambert's conversation at around this time at all?-- Not overly. I don't recall it.

What I suggest to you is that you told Mr Grace, or Ms Murray, that Mr Lambert had called you and that you had called him back to correct the statement that you'd made in the morning?-- I honestly don't recall it.

20

And you told him in the second conversation that you'd answered Mr Lambert's question in haste in the morning, and that in doing that you'd made a mistake. Did you tell Mr Grace that or Ms Murray that?-- Look, I may well have. I honestly don't have a recollection of that conversation or the date.

And further, that you told Mr Grace or Ms Murray that you told Mr Lambert that Ms Murray hadn't directed you to shortlist the candidates to four only?-- I'm at a bit of a loss how to answer because I don't recall this event.

30

If you then open the document up again, please, at page 36 - or tab 36 of Exhibit 1?-- This is the original document?

This is the document I was asking you to look at before?-- I haven't seen this document before.

40

I was going to ask you have you ever seen this document before?-- Never.

Did you ever read it before?-- No, no.

Now, if I could ask you then to come back to your first conversation with Mr Lambert. I want to suggest to you again that what you said to Mr Lambert in that first conversation on the 10th was that you had been advised by Shara Murray that the number of four was required under the constitution?-- That's not untrue.

50

Okay. Now, if we go back to - excuse me, your Honour, for a moment. Go back to the process which you - sorry, there's one other question I need to ask you about a document in this tab before I do that. Could I take you to tab 27? It's the document Mr Derrington asked you about briefly. Do you see that's an email from Mr Lambert?-- Yes.

And it says, "Greetings. Further to my discussion, would you let me know what the outcome of you checking on the reason for your statement", do you see that?-- Yep.

Now, you didn't, apart from the second conversation you had with Mr Lambert, respond to this?-- No.

And what I suggest to you was that the effect of the second conversation was you'd told Mr Lambert in the second conversation you'd be mistaken in the first place in telling him in the morning that Ms Murray had told you that the number was to be four?-- No, Lambert had attempted to wrong foot me and make an accusation and I was quite flummoxed, to be honest.

10

The-----?-- I didn't make a definitive comment in that early - early exchange with him.

What I want to suggest to you is in the early exchange with him, in the morning conversation he asked you about whether you had any documents that showed what you were asked to do and you said that you had, and he asked you if you could go and check for them?-- I think that's a fabrication.

20

Well, when you received this document-----?-- Hang on. That conversation - you're implying that there was some sort of interaction between Lambert and I. There wasn't. It was incredibly one-sided. It was quite aggravated and there was no clarity, as you're suggesting that there was.

30

Well, if you look at this document which is an email, when you received it it asked that you let him know the outcome of the checking?-- These are his words.

I know. You didn't respond by saying, "I didn't say I'd do any checking", did you?-- I didn't respond at all.

Well, you called him back?-- As a courtesy, which I said I would.

40

And in calling him back you told him you'd made a mistake in what you'd said in the morning?-- I don't recall having said I'd made any mistake. I hadn't said anything definitively. I'd responded to an accusation.

Do you recall - if I could ask you, perhaps, to look at another document - on that afternoon-----?-- Excuse me, which document are we looking at?

50

I'll ask you to look at this, this is - excuse me, I'll just have to get this out. The afternoon I've been asking you about is the 10th. Do you recall on the next day there was further discussion between you and Ms Murray about what had happened?-- No, I don't.

Do you know Catherine Ryan?-- Very well.

And is she someone who works for you?-- Yes.

1

And if you look at this document?-- Sorry, and your question is.

Is that a copy of an email that was sent by Ms Ryan internally in your office to you?-- Yep. Couldn't have hit the delete button fast enough.

Pardon?-- I couldn't have hit the delete button fast enough.

10

What does that mean?-- I would have deleted it out of my email immediately. So this is from archives, right? In other words, once we're past this, this is of no import to me whatsoever. This was for my information, I've just moved on.

I see. Well, do you accept you received it?-- If - I must have.

Yes. Do you see it refers to a fax?-- Not a fax we had.

20

Well, I wanted to ask you about a document. If you'd go back into that folder, if you go to tab 31?-- Yes.

Do you have there a copy of an email which is from Mr Bentley to Mr Lambert?-- Yep.

Which is dated that afternoon?-- Yep.

Did you see that at the time?-- No. In fact there's no record here of us having got it.

30

Well, on that document that's correct. We tender the email from Ms Ryan to Mr Wilson.

HER HONOUR: That will be Exhibit 5.

ADMITTED AND MARKED "EXHIBIT 5"

40

HER HONOUR: Just confirming, you said Ms Ryan was an employee of yours?-- She is. She's our office manager, your Honour.

Thank you.

MR JACKSON: I asked you earlier about a press release. Can I show you a document about this?-- This is me in creative mode.

50

Is this the press release that was in fact made?-- No. This was my satirical response to being irritated by somebody naming me in parliament. That's all it was. It was never for external consumption.

Was there another press release?-- There was.

What I want to suggest to you is - and this is the best we can do - that this is the document that was released. Are you sure there's another one?-- Absolutely.

We tender that for identification for present purposes, your Honour.

WITNESS: Hang on. Let me read it first. Hang on. Hang on. Hang on. No, sorry, this appears - I stand corrected. This appears to be the one we got advice on from legal counsel, and then this went out.

MR JACKSON: I tender the document, your Honour.

WITNESS: Yep, you're correct. I apologise.

HER HONOUR: The press release dated 7 August 2009 on the letterhead of Northern Recruitment will be Exhibit 6.

ADMITTED AND MARKED "EXHIBIT 6"

MR JACKSON: I'm just interested why you're so focused on the satirical press release. Are you sure Mr Bentley didn't talk to you about-----?-- I can't-----

Are you sure Mr Bentley didn't talk to you about it outside Court?-- What?

The satirical press release?-- No.

You seem focused on it, with respect?-- Because we were asked to source it this morning. And not by Mr Bentley. Did you want me to explain?

No, no, if you were asked by somebody to source it, that's your explanation, as I understand it?-- Yep.

The press release was that we've just seen and that her Honour has received into evidence as Exhibit 6 was one, I suggest to you, that you passed by Mr Bentley before you published it?-- No, I passed it by senior counsel at - what's their name?

Could I ask you to look at this document, please?-- Yep.

Do you have a copy of another email to you from Ms Ryan?-- That's internal.

Yes, which is internal, yes?-- Yep.

By which she advises you of some information that's come-----?-- Yep.

-----on the face of it from Ms Murray?-- Yep.

1

And I suggest to you that's referring to the press release which you published?-- That was - this one actually refers to the one I wish had never come up, which is the satirical press release which was done as a bit of a joke amongst ourselves, but then it did make me think maybe we should put out a proper one.

Why would it - this document - or would the message have come that a request was given for them to put it on the Queensland Racing website?-- They thought it was pretty good.

10

That's about a real press release, isn't it, surely?-- No, this is about the bluff press release.

We tender the email, your Honour.

HER HONOUR: Exhibit 7.

20

ADMITTED AND MARKED "EXHIBIT 7"

MR JACKSON: Am I right in thinking that in fact this process by which you'd prepared the shortlist was one which involved you acting and working closely then with Mr Bentley and Ms Murray?-- No, you are not.

Why would you be writing satirical press releases?-- It's after the event.

Oh, I see. Things changed after the event, did they?-- I'm sorry?

Did things change after the event?-- No.

It wasn't close until then, but-----?-- Not at all. I think they were meticulously maintaining the same approach that we did, is that everything was at arm's length.

40

Well, in this press release you say that the process by which candidates were nominated was not undertaken in consultation with anybody at Queensland Racing?-- That's correct.

But in fact you'd had a fair bit of consultation with people from Queensland Racing through that process, hadn't you?-- No, we had it at the start. During the process there wasn't.

50

All right. You had a meeting on the 1st of April, do you accept?-- Yep, out at Deagon.

Out at Doomben? Was there another meeting-----

HER HONOUR: Doomben or Deagon?-- I said Deagon.

MR JACKSON: I apologise for that. Did you have another

meeting in your office at which the subject matter of the process and preparation of the shortlist was discussed?-- Not that I recall. I think the one-off with Bob at the start. 1

I suggest to you there was one where you met with Mr Bentley and that was discussed in your office?-- When was that?

I can't give you a date. Might have been early April. Might have been later?-- I don't have a recollection of that. 10

You met with Mr Bentley on the 12th of June 2009, do you accept that?-- I believe so, if you say so.

Well, let me - if I can-----?-- No, it's fine.

No, no, let me, if I can, show you the relevant documents.

HER HONOUR: Mr Jackson, I'd like you to keep an eye on the clock. 20

MR JACKSON: I am trying to do my best, your Honour.

HER HONOUR: We do want to break for the staff's sake at one, or shortly thereafter.

WITNESS: This is from our system.

MR JACKSON: The question I wanted to ask you is is this a-----?-- The 12th?

-----print-out of your computer system which shows three meetings that were scheduled between you and Mr Bentley?-- Correct.

The first one being on the 1st of April?-- Correct.

And it says "at Queensland Racing"?-- Correct.

The second one, "Bob Bentley here"?-- Correct. 40

And the third one doesn't say in the print-out where it is, but it's the 24th of June?-- Yep.

And do you accept that on those occasions you had those meetings?-- Correct.

Now, if we take the one on the 12th of June, can you tell us what that was about?-- That was a personal matter.

Did you think it was appropriate to be dealing with Mr Bentley about a personal matter right in the middle of your interview process with the candidates?-- I've dealt with Bob on this before. 50

So is it fair to say then that you have an ongoing relationship with him apart from this appointment as the independent consultant?-- No, not at all.

In that context, I suggest to you Mr Bentley called you regularly about the process?-- No.

1

What about the 24th of June? What was that about?-- I was starting to get, so was Bob, concerned about the coverage we were getting in the media.

What I want to suggest to is - and this is - I'm not trying to be clever about this - by the 24th of June there hadn't been any coverage in the media in terms of-----

10

MR DERRINGTON: Well, my learned friend can't give evidence about coverage in the media.

MR JACKSON: I wanted to suggest to him there hadn't been any coverage in the media. What I wanted to ask you is if you can recall anything specific about it?-- No, we were already starting to get very strong inquiry - I'd been subjected to what I thought was an unusual level of pressure to make comments in the media, and I felt it was really getting out of hand.

20

On the 24th of June?-- Yep, we'd already started.

What started? What had started on the 24th of June? What coverage that there been in the media?-- There hadn't, but I was - there were a couple of phone calls, one of which was a 45 minute berating by a member of the Third Estate who felt that I should be more forthcoming.

30

Well, for present purposes then the meeting was because you were concerned about inquiries that you'd received from the press?-- Well, I was concerned that going forward we could get wrong-footed, and I didn't want to end up in the situation where we ended up with this he said/she said/he said, because I felt it was inappropriate given the process. I was determined, under no circumstances, to say anything that could be recorded about this and I just wanted to reassure Bob that I'd hold the line and I wasn't going to say anything no matter what.

40

50

What I suggest to you was the position as at the 24th of June was that you had sent your letter containing the list but that at that stage there had been no further publicity or publicity about it at all?-- I'm not clear on what you're trying to say.

1

What I'm trying to suggest to you is that by the 24th of June nothing had happened?-- That's quite likely but that doesn't mean that there wasn't inquiry and pressure for that to happen.

10

In your letter of the 18th of June you refer anonymous calls for pressuring - or in favour of some candidates?-- Mmm.

Can I ask you this: your day-to-day practice of your - of what you were doing is, of course, conducted from your office?-- Yes.

That's where you receive your calls?-- Correct.

20

Why would you take an anonymous call from somebody about the selection process?-- Because they rang up.

But if somebody from your switch rings up and says - or calls through to you and says, "I've got somebody who's" - "wants to talk to you about the selection process but they won't say who their name is," did you speak to them?-- Yep.

Why would you have done that?-- Because they might be - I don't know who it is from when it starts and sometimes people are very, very cautious about their confidentiality.

30

But this process of anonymous calls was unwelcome to you, you wrote in the letter of the 18th of June?-- It wasn't helpful.

Well, why would you have engaged in it?-- I didn't have a choice.

You're not suggesting that you formulated your list by reference to that?-- No-----

40

Or are you?-- No, not at all. Not even in the slightest.

Because on one reading of your letter it seems to be a factor that you distinguish those on your - four preferred candidates from those who aren't?-- No, that wasn't a distinguishing characteristic that came into my deliberations but I did think it was worth raising.

I'm confused about that answer. It was worth raising but it didn't come into your deliberations?-- Well, I thought it was unusual. In fact, it was unusual. We've never received lobbying on behalf of candidates. In this case we had a large amount of lobbying and I've simply reported it through.

50

Well, lobbying on behalf of some or other of the 26 candidates?-- Correct.

You're not suggesting it was the three who weren't preferred by you?-- Yes.

1

Oh. So anonymous calls formed part of your decision-making?-- You said they're "anonymous". They're not all anonymous. Some people purport to identify themselves but you don't know who they are. I don't know who they are.

All right. Well, let's me come back to you-----?-- Excuse me. If somebody rings up and says, "My name's Jed Smith. I'm from Cairns. I'm interested," I've got to take the call, I've got to listen to them, and then all of a sudden it deteriorates into some kind of mishmash - a nonsensical conversation, I can't just cut them off for the sake of it, I've got to listen to what they want to say.

10

But that's not anonymous if they're telling you who they are?-- Yes, but I don't know who they are. I haven't got a phone number and I can't ring them back.

20

I see. Let's go to the subject matter - I'm conscious of the time - of your dealings with Mr Bentley. Do you keep in your office a system of telephone messages?-- No.

Well, are messages not taken and then forwarded to you?-- Yep, via the e-mail.

Sorry?-- Via e-mail.

And is that not a system of taking telephone messages? That's all I was trying to suggest to you?-- I thought you were implying the content.

30

And what I want to suggest to you is that in the process of - or the period of the process of your interviews you received a number of calls from Mr Bentley, for example, between the 1st of June and the 17th of June, several of them. Is that right or not?-- If that's our record, yes it is.

Well, do you want me to show them to you?-- No, I'll accept it.

40

Right. So you accept you received a number of calls? And how many of those calls do you say were concerned with Mr Bentley's private matter?-- Very few.

So what was the other subject matter that you'd have been talking to him about in June in a number of telephone calls?-- It could have varied across a number of things.

50

Well, could it have been, for example, what the status was of your consideration of a number of applicants?-- No. Bob never asked me that.

You see, for example, you interviewed Mr Stewart on the 3rd of June, I think, according to the documents which Mr Derrington showed you before. Do you accept that or-----?-- Yes.

-----do you want me to show you?-- No, I accept that.

1

And he was a successful candidate in terms of your preparation of the shortlist?-- That's correct.

You interviewed Mr Ryan on the 4th of June, who was a successful candidate in terms of preparation of your list?-- Correct.

And you interviewed Mr Milner on the 4th of June, who was also a successful candidate in terms of the preparation of your list?-- Ultimately, yes.

10

And you interviewed Mr O'Hara on the 5th of June, who was also a successful candidate in preparation of your list?-- Correct.

The other three people who were interviewed were interviewed by you on - that's Mr Millican on the 5th, Mr McGruther on the 9th and Mr Ryan on the 10th. If we just take those as a starting point. Did you not talk about any of this to Mr Bentley in your conversations with him leading up to and, for example, in your meeting of the 12th June?-- Under no circumstances.

20

Mr Bentley was someone who liked to keep a close eye on what was going on, wasn't he?-- No, not in this case.

I see?-- Bob was - excuse me. Bob was meticulous in making sure that he stayed out of this and I did my job.

30

Well, after the event you were concerned to make sure that it all looked - or appeared in such a way that there was nothing that could be said about anything you'd said?-- I refute that. Absolutely refute it.

That was the purpose of your meeting on the 24th of June, wasn't it?-- No, it was to talk about media.

Well, did you think it might not be a concern, in terms of the media even, for example, if you had regular contact with Mr Bentley about other matters during the period of the selection process?-- No, because I'm at a loss to understand how the media would know.

40

The - Mr Ryan was ultimately successful. You interviewed him on the - as I suggest to you, in the first place, on the 4th of June but it was on the 10th that he called and indicated his preparedness to continue, do you accept that?-- Yes.

50

And it was then on the 12th that you met with Mr Bentley about some other subject matter and then on the 15th that you interviewed Mr Andrews. That's the sequence of it, I'd suggest to you?-- I'll accept that.

And what I suggest to you is that there were no less than a dozen calls from Mr Bentley to you over this relevant period, between the beginning of June and-----?-- There might have been a dozen calls, we didn't have a dozen conversations.

1

Can I ask you if you go then particularly to-----?-- Can I just-----

Sorry?-- Because somebody calls me doesn't necessarily mean they talk to me. This is-----

10

No, in fact, what I was going to suggest to you, these are all calls that were sent to you - were recorded in your message system that - when you weren't there. There is no record of the calls that you in fact made or received from Mr Bentley at the time. That's right, isn't it?-- I don't know how to answer that, that's a kind of hypothetical.

Well, do you keep a record of the calls you make?-- I presume they're in our phone records but-----

20

Um-----?-- What are you trying to get at?

I'm only trying to suggest to you you were talking regularly to Mr Bentley through this period on the telephone?-- Not particular - to my way of thinking it wasn't untoward, there was no particularly high incidence of-----

On the - I'm sorry, I didn't mean to cut you off?-- There was no particularly high incidence of conversation.

30

Can I ask you then if you go to-----

HER HONOUR: Will you be much longer, Mr Jackson?

MR JACKSON: I'll be another 10 minutes or so, your Honour.

HER HONOUR: Oh, look, I really think the staff have got to have a break. I'm prepared to come back at a quarter past 2.

40

MR JACKSON: I'm sorry. I apologise. I appreciate that.

HER HONOUR: I think we should adjourn at this point and come back at a quarter past 2. Because you're being cross-examined, please don't discuss the case or your evidence with anyone over the lunch break?-- Yes, your Honour.

THE COURT ADJOURNED AT 1.10 P.M. TILL 2.15 P.M.

50

THE COURT RESUMED AT 2.10 P.M.

1

MARK WILSON, CONTINUING:

CROSS-EXAMINATION:

10

HER HONOUR: Yes, Mr Jackson.

MR JACKSON: Thank you, your Honour. Mr Wilson, could I ask you to look, please, at this document. Do you have in front of you a copy of an e-mail, internal e-mail, from Ms Ryan to yourself on the afternoon of 17th of June of 2009, this year?-- Yep.

20

And that was an e-mail that you received that afternoon?-- Yes. It would appear to be.

And in it it refers to Mr Milner resigning his other positions. Was that a subject matter you'd been discussing with Mr Bentley?-- No.

And it refers to a conversation that Mr Bentley appears to have had with somebody. Then there's a reference to Carina King and she was an applicant for entry on the short list?-- Correct.

30

Had you discussed her with Mr Bentley?-- No.

Was there any reason why, as far as you know, he was telling you about what she might have been saying?-- Probably because she was the sort of person who was going to make waves. I mean, when she spoke to me initially she claimed the support of Kevin Rudd, Wayne Swan, the Premier, I mean Uncle Tom Cobley and all. It was - I thought - this was on a phone conversation and alluded to the fact that it would be completely untoward if a female wasn't given consideration, but I hadn't conveyed that to Bob. This was completely separate.

40

All right. So when answering my question about whether you knew of any reason why he'd be telling you, is the answer no or is you-----?-- No. Bob's just the sort of person that keeps you informed. I mean, this was like - to me, this was a message on the screen. Get rid of it. Water off a duck's back.

50

And he said something about a million traps being laid and giving you a heads-up. Did you know what that was referring to?-- No, I didn't.

Did you speak to him?-- No. I didn't pay it much credence.

Thanks. I tender that document, your Honour.

1

HER HONOUR: The e-mail from Katherine Ryan to Mr Wilson of 17 June 2009 at 17:03 hours will be Exhibit 8.

ADMITTED AND MARKED "EXHIBIT 8"

10

MR JACKSON: And could I ask you then if you'd go in Exhibit 2 to tab 24 and-----?-- Hang on.

Sorry. Just take your time. And at tab 24 are copies of your notes of either - of interviews that you had with various candidates?-- That's correct. These are photocopies.

And if you could go to the one relating to Mr McGruther. I think it might be at the back of the bundle?-- Yep.

20

Is it right that these notes are the sum total of the written assessment that you made of Mr McGruther?-- Correct.

If I go to the last page you have noted the word "terrace", is that right, about a third of the way from the bottom on the left?-- Are we looking at the-----

The last page. Should be the last page of what I've got. The page headed "Why did you choose this career?". Is that not the last page?-- Yep.

30

Is that the - is the last page headed "Why did you choose this career"?-- Correct.

And under - two-thirds of the way down the page on the left do you note the word "Terrace"?-- No.

What's that word?-- Well, you'll have to come and point to it. I don't know which one you mean.

40

It's about two-thirds of the way down the page on the left. Are there any other words?-- Give me a hint.

Could I look at the page you're looking at and I'll see if we're at cross-purposes here. No, we're not. About two-thirds of the way down the page do you see the heading "Appearance/Background/Interests" on that last page? Don't look at other pages. On the last page. You were looking at it before. Do you see the words - a box and the words "Appearance/Background/Interest" in type?-- Oh, yep. Yep. Yep.

50

Underneath that-----?-- Oh, down there?

-----is there one word written which is the word "Terrace"?-- Correct.

Thank you. And if I take you back to the second page and the top of the page have you written above the box the words "ex Brothers"?-- Correct.

1

Is that you noting that Mr McGruther was a rugby union player at the Brothers Rugby Union Football Club in his youth?-- Yes. He mentioned it.

What did that have to do with your assessment?-- Nothing.

10

What did the fact that he went to Terrace have to do with your assessment?-- Absolutely nothing.

Well, why would you note them?-- Because he mentioned them.

But you asked him what school he went to; he didn't mention it?-- Correct.

And you also asked him whether he was a practising Catholic?-- No. I think - I don't think that was the exactly the question. I think the question was, "Are you still practising?"

20

Well, I suggest to you you asked him either one. "Are you still a practising Catholic?", or, "Are you a practising Catholic?", and you asked it directly after you asked him what school he'd gone to, which was Terrace?-- I don't recall if it was directly.

It was a completely inappropriate question?-- Why?

30

Why was it appropriate?-- It was in the context of a conversation. I wanted to know what school he'd been to and I wanted to know whether he'd finished in year 10 or year 12 and what he'd done subsequent to that.

In your oral evidence you say you wanted to know whether he went to year 10 or year 12. You didn't make any note about that?-- I think I did.

40

Where?-- I've put here on the last - the elusive last page, "What is the resume behind the resume? Commonwealth Bank, uni part-time, joined Bentleys." So - "did PY". So that's - to me he's gone through, done year 12, and that's what he's done afterwards. He didn't finish university.

But that's not the question. It's whether he - you've noted there what he did after he left school, not whether he finished year 10 or year 12?-- I'm sorry. I don't understand your question.

50

Oh, you don't? You don't understand that it's an inappropriate question to ask whether somebody's still a practising Catholic in the context of an employment interview? Do you not understand that?-- This had no bearing on his suitability at all. It was-----

Can you please answer my question. Do you not understand that

it's an inappropriate-----?-- No-----

1

-----question to ask?-- -----I don't. No, I don't.

So you maintain it's an appropriate question to ask in an employment interview?-- No. What I'm saying is it wasn't in the context of his employment interview. It was just by way of discussion.

Is that the best answer you can give to my question?-- I'm sorry?

10

Is that the best answer you can give to my question?-- No. I'm trying to put it into context for you. We were having a discussion. To me it was not germane as to what religion he was and it bears no - has no bearing on his selection.

You didn't actually ask him about subject matter to do with racing, did you?-- I did, at the very start.

20

Oh, I see. What did you ask him?-- "Why do you want to be involved in this? What does it mean to you? What will you do?"

This interview goes on for over an hour, I think you say?-- An hour and 15 minutes.

And, basically, you didn't discuss the subject matter of his involvement or interest in the racing industry or what his views were about it. That's correct, isn't it?-- That didn't come up.

30

I see?-- And, excuse me, he elected not to do that.

He elected?-- Yep.

I see. So is the process that this interview in relation to employment-----?-- It's not in relation to employment. They're a director.

40

They're not employed as well? Is the directorship remunerated?-- Yes, it is.

By a substantial amount?-- If you consider \$40,000 a year a substantial amount.

You saw Mr McGruther's application?-- Yes.

You would have noted that he actually bothered to give you information about that application under the headings that were appropriate to the selection criteria?-- I don't understand.

50

I see. You didn't. If we come then back to this document which you wrote. I think you wrote on the first page you're not sure - something. What did you write?-- Do you want me to translate?

Yes, please?-- "Not sure why he would want to take a step back as a director of QRL. Is he his own man? Why take the step down?" 1

Now, let me ask you about is he his own man. Are you seriously suggesting that Dick McGruther, who is such a well known figure and whose CV you had, is somebody who you should question is he his own man?-- I did.

I see. And this assessment then is the full amount of your process of analysis, this written document?-- No. I think we sat and spoke for an hour and 15 minutes and I'd say it's my considered judgment listening to him. 10

I see?-- In fact, I don't record that chapter and verse. I don't consider it to be neither here nor there.

What I was going to say to you is you didn't actually make the notes whilst you were sitting with him. You made the notes afterwards?-- The commentary at the front? 20

And the notes?-- No. The notes were made when I sat in front of him.

And what I want to suggest to you is that in the context of this very skinny analysis it is something that you can see is completely inappropriate that you placed emphasis on his school, that you placed emphasis in the conversation on whether he was a practising Catholic or whether he was an ex Brothers rugby union football player?-- I didn't concede that. 30

I didn't say you conceded it. I said in the context it was inappropriate for you to do those things?-- I don't believe so.

Thank you, your Honour.

HER HONOUR: Re-examination?

MR DERRINGTON: Very briefly, your Honour. 40

RE-EXAMINATION:

MR DERRINGTON: Mr Wilson, can I just ask you about one topic in which you gave some evidence. It was in relation to your initial conversation with Mr Lambert on the 10th on the telephone?-- Yes. 50

Do you recall you gave some evidence in relation to that? I think you said in response to my learned friend's question you didn't make a definitive comment and I think you added - my note tell - me if I'm wrong - you responded to an accusation. Do you recall-----?-- That's correct, yes.

1

Could you just explain - that's sort of a conclusion of what went on. Could you explain to her Honour-----?-- What happened?

-----what happened, yes?--

MR JACKSON: We object, your Honour. This isn't re-examination. The evidence was given in full as to what was said simply and it was also given in chief. This is just simply doing it all again. It's not explaining an answer given then.

10

MR DERRINGTON: The witness didn't give any answer in evidence-in-chief that he was responding to an explanation. It arose only in cross-examination and it was an answer - I'm just asking him to explain the answer.

HER HONOUR: You're asking him to - you can ask him to explain what he meant when he gave the answer no definitive comment responding to an accusation.

20

MR DERRINGTON: Yes. That's what I - sorry. If my question went wider, I apologise. That's all I'm asking.

HER HONOUR: Well, rephrase it.

MR DERRINGTON: Sorry. Could you just explain to her Honour that answer?-- Well, I was sitting at my desk during the morning. A call came through. A person identified themselves as Michael Lambert who I've not met before, I've not dealt with, and he sounded very excited. I would expect that a person like that would say, "Good morning. My name is". "How are you? I'd like to talk to you about" X, Y and Z. That didn't happen. He rang up in a very excited manner. He chopped and changed in his sentences and I realised this was unusual and he was making accusations and I found it very difficult to respond to. He caught me on the back foot. I didn't say anything definitive. I realised this was probably not something I should be doing. I listened to him. I took his phone number. I committed to ring him back later in the day and that's the sum total of what occurred.

30

40

HER HONOUR: Thank you.

MR DERRINGTON: Okay. Thank you. They're all the questions I have in re-examination. Might Mr Wilson please be excused?

HER HONOUR: Yes. Thanks, Mr Wilson. You're excused.

50

WITNESS EXCUSED

MR DERRINGTON: Your Honour, Mr Clothier will take the next witness.