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TRANSCRIPT OF PROCEEDINGS

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THE HONOURABLE MARGARET WHITE AO, Commissioner

MR JC BELL QC, Counsel Assisting

MR T PINCUS, Counsel Assisting

IN THE MATTER OF THE COMMISSIONS OF INQUIRY ACT 1950

COMMISSIONS OF INQUIRY ORDER (No.1) 2013

QUEENSLAND RACING COMMISSION OF INQUIRY

BRISBANE

10.00 AM, MONDAY, 23 SEPTEMBER 2013

Continued from 20.9.13

DAY 4

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE COMMISSION RESUMED

[10.00 am]

5 COMMISSIONER WHITE: Mr Bell. Mr Bentley.

MR ROBERT GEOFFREY BENTLEY, ON FORMER OATH

[10.01 am]

10

FURTHER EXAMINATION-IN-CHIEF BY MR BELL QC

[10.01 am]

15 MR BELL: Just to recap where we got to on Friday afternoon please, Mr Bentley. You can recall that the product and program agreement was reached in 1999. We talked about that?---Yes.

20 And that in the 2008 period, the Race Fields legislation issue became a topic that needed to be discussed in racing in Queensland and elsewhere?---Yes.

And then in October – in about October 2008, New South Wales commenced to charge Tatts for use of New South Wales race fields information?---I'm not sure but I take it that you – you have got that document.

25 And what did happen was, you recall that Tatts started to deduct the charges it paid from the revenue share that it paid to Product Co and therefore Queensland Racing?---Yes.

30 And you knew that Queensland Racing obtained a written legal advice from Mr Grace?---Yes, I did.

And that, that question about action or inaction was something that you gave over to Product Co?---It was always in Product Company's corner.

35 But the – you've agreed with me, haven't you that Queensland Racing received legal advice about the question from Mr Grace?---I understood it was legal advice to Product Company.

40 Well, it wasn't. It was to Queensland Racing?---Well, that's what I understood it to be.

45 But you heard the legal advice on the 3rd of November 2008 when you attended at Mr Grace's office with Mr Tuttle?---I'm not so sure that I heard that advice then. I would like to have Mr Grace to confirm that one way or the other. I can't confirm or say no.

5 Okay. Well, we've talked about on the Saturday after that, the third of November Friday – on the Saturday you certainly emailed Dick McIlwain telling him of the unforeseen outcome?---Yeah. I also said that I – I thought that the issue was on Friday with those two clauses and I advised Dick that there was going to be an issue and that Malcolm would handle it, yes.

Well, when you said to me just before that this was always a matter for Product Co, it wasn't on this occasion, was it?---Yes, it was.

10 Mr Bentley, do we need to go back over it. You were there, weren't there, discussing the topic of the product and program agreement?---As I said, counsellor, I'm not sure about that. I'd like that confirmed with Mr Grace.

15 This you have no recollection?---I don't have any recollection of – of – of being part of that conversation.

Okay?---And I would be most surprised if Mr Grace wouldn't have pulled me up if he thought I had a conflict in that particular circumstances.

20 So that means you recognise that if you were there, it was a conflict?---No. If I was discussing that particular subject it could have been a conflict.

25 Okay. So we're moving around on every area, Mr Bentley, aren't we?---No, I don't think so.

“If it was a conflict, maybe I could have been there but I don't think I was but I'm not sure whether it was a conflict.” I don't know where you go with all this, Mr Bentley?---Because I don't – I don't recollect that – recollect that meeting.

30 I know you don't but does a contemporaneous diary note of your solicitor, Mr Grace, saying you were there discussing it. There is, isn't there? You've seen it?---Well, there is – yeah, but I'm not so sure, I mean, of that – that I was part of that conversation.

35 Oh, I see?---I'd like it confirmed. Thank you.

You'd like it confirmed. What about confirming the email you wrote. Do you accept you wrote it?---I accept I wrote that, yes.

40 Okay. What did you understand to be the unforeseen outcome that you described in that email. What was that about?---The unforeseen - - -

45 Do you remember that?---Yes. The unforeseen circumstances was – was those two clauses in the product and program agreement, may or may not be enforceable. Yes.

Okay. May not be enforceable. How was that your business if you say that was the conflict area. Tell me that?---I knew that those – Malcolm had told me that those two clauses were – might be a problem and that’s why I advised Dick McIlwain.

5 No. no. You didn’t answer my question. I’ll give you another go. Have a go?---What – will you repeat the question?

How was that part of the area you were willing to involve yourself with if it was about those clauses in the product and program agreement?---Because I don’t see
10 that there is a conflict there by doing what I’ve done. All I was doing was passing on information – and information is not making decisions.

Okay. I see. But anyway, one thing is for certain. We don’t need to argue about this part do we – that you knew that advice had come – you knew that Mr Grace had
15 written an advice about the topic?---Yes.

And you knew that - - -?---Excuse me, I think it was a draft advice. I’m not sure. I haven’t seen it.

20 Never seen the draft advice but - - -?---No, I haven’t seen it.

You go away and ask Mr Grace if there’s a draft one. We haven’t seen one?---Okay.

We only saw the final one which I showed you myself?---I’m just supposing that I
25 thought it might have been a draft one.

Why - - -?---I haven’t seen the advice. I don’t know why.

Well, why did you make it up?---I didn’t make it up.
30

You did. You just said, “I thought it was a draft advice”. Why do you say this?---Well, that’s what I thought.

Why? Why did you think that?---Well, I don’t know. I just thought it.
35

You just say anything that comes into your head?---No, I don’t.

Well what evidence - - -?---I’m trying – I’m trying to - - -

40 What evidence did you have for saying, “I thought it was a draft”, Mr Bentley?---Well, I don’t – whether it’s the draft or whether it’s the original. I don’t know. I haven’t seen it.

Do you understand what you’re doing here in sitting in that chair? You’re giving
45 evidence on oath?---Yes. I know that.

Oath is an important thing. Do you appreciate what it is?---I appreciate that.

Okay. Don't just say, unless you believe it, "I think it was a draft"?---Well, as far as I'm concerned, I thought that was the answer.

5 Okay. Why was it a draft?---I don't know why it was a draft.

Why did you think it was a draft?---Because there'd been a bit of draft advice floating around on different issues. I didn't know whether - - -

10 Over the five years?---Yeah, there had been.

I see. So it could have been a draft?---Well, I – I – it would be immaterial as far as I was concerned on whether it was a draft or an original. I don't – it doesn't matter. I mean, there was advice.

15 See, you've just proved my point, Mr Bentley. You started off this little ruckus we've had saying, "I thought it was a draft" and now you're saying, "Well, look I don't know whether it was a draft or not. I got draft sometimes."?---Well, I don't think I've been – been firm about it. I haven't said yes or no. I said, I thought.

20 Yeah, exactly, "I thought". Anyway, you knew there was an advice from Mr Grace, didn't you?---Yes, I knew there was an advice.

25 Yeah. And you knew that at the very least, that advice brought into question the entitlement of Tatts to deduct the third party – to deduct the charges made by New South Wales to it?---Yeah, those are the two clauses.

Okay. But you understood, didn't you, that at least – at the least, this advice from Mr Grace brought into question their entitlement to do that?---Yes.

30 Yes. And you did nothing about that, did you?---No.

And you see, you say – you said to me last week that, that was because you considered you had a conflict?---To take it any further, I did, yes.

35 I suggest to you, Mr Bentley, and it's something I want you to think about please and if necessary – if you wish, put in more evidence or any legal submissions you think ought be put in. I suggest a person with a conflict in that situation would be all the more motivated to ensure that something right is done about it. You see? That's what I'm – that's what I'm suggesting to you?---Yes.

40 If you really cared about conflict that you might be seen to have there, you would've ensured that David Jackson QC, who you got for another matter, gave an advice on this – to ensure that you were right not to do anything about it. See what I mean? That's the point?---Are you saying I should have got advice on conflict. Is that
45 correct?

No. Should've got advice on whether or not Tatts could charge \$500,000 a month?---I – as I said to you before, I considered it a Product Company issue.

5 No, I know. But I'm telling you back that one of the possible conclusions that I'll be
advancing or may be advancing, subject to further evidence and submissions that you
might put in – or anybody else might put in – that if somebody in your position
considered they had a conflict and they knew their was advice from Mr Grace and
they knew that there was \$500,000 odd being charged a month. They should've
done something about it to make sure that later people appreciated – somebody
10 independent of view like a QC did something and gave a final position on it?---Okay.

See what I mean?---I know I could make – I could make some more submissions on
that if I wished.

15 You certainly can – your – we – the Commission invites you to make submissions.
Not only that – invite statements from Mr Grace or anybody else you wish?---Good.

Because it will be helpful?---Thank you.

20 Could Mr Bentley see folder number two please, at document 108? I just wanted to
take you back to the 6th of February 2009, to the minutes of QRL – Queensland
Racing – board meeting to refresh your memory about a topic we touched upon a
little. And that's – the topic is recorded at page 8, please.

25 COMMISSIONER WHITE: Would you mind repeating the tab number. Thanks,
Mr Bell.

MR BELL: Yes. The tab number is 108, please, Commissioner.

30 Just while that's being obtained, Mr Bentley, would you read under "General
Business" section 10, "Board Succession", please?---Yes. That's my understanding.

35 And you see in the last paragraph under "Board Succession", Mr Hanmer advised
that there had been a discussion that he had had with Mr Lambert where he recorded
that Lambert had agreed, should Palm Meadows' development not proceed, that he
would retire?---That's my understanding.

40 But he argued about that, didn't he? He said that that wasn't what he said?---Yes.
He did.

And eventually – if I ask you to go to 113, please. That's tab 113. On page 2,
please, under the heading "Section 10: General Business – Board Succession" – I'll
let you read that?---Yes. I've read that.

45 And that reflects what you had just said, that Lambert wanted things corrected and
was saying that that wasn't his recollection of the conversation he'd had with
Hanmer?---That – that is correct.

And what happened was – after that – in accordance with the constitution, it was left to the chairman, namely, you, to select who would be the person to retire by rotation?---That’s correct.

5 And you picked Mr Lambert, didn’t you?---Yes.

So we do agree, no doubt, that it was your selection of Mr Lambert that caused him to go off the board?---Yes.

10 Now, the reason why you - - -?---Excuse me, counsellor.

Yes?---Not to nominate.

Sorry?---He could have nominated; he didn’t nominate.

15

No. That’s right. In fact, Mr Andrews had nominated himself, subject to going for re-election - - -?---Yes.

- - - but nobody else did?---Correct.

20

And you had to select one?---Yes.

And did you – we accept – we know now that it was you who selected Lambert rather than selecting, for example, Hanmer or Ludwig?---Yes.

25

And I suggested to you on Friday that the reason that you selected Lambert was Lambert was making trouble for Hanmer on Product Co - - -?---No.

- - - about the race fields legislation issue?---No. Don’t agree with that.

30

Now, I want to ask you now, please, to go to the constitution of Queensland Racing, which I understand is at 230 – tab 230. And I’ll find that for you?---Yes.

35 What I wanted to deal with here is to refresh your memory of the terms of the constitution of QRL, which were relevant to the situation that had arisen. That was, clearly enough – there is no doubt that two directors had to retire by rotation, and if one or two or anybody wanted to seek re-election there was a process set in the constitution, wasn’t there?---Yes. Yes.

40 Let’s just go to that, please. And the parts I wanted to show you are – first, if you don’t mind going to page 2 at the top?---2?

2. You see, about three quarters of the way down you see a clause, “Independent recruitment consultant” defined?---Yes.

45

And Northern Recruitment were selected by the board to perform the role of the independent recruitment consultant under the constitution. Just having a look at that

5 definition there, please, the phrase “Independent recruitment consultant” is defined as “an independent recruitment consultant engaged by the board”. What do you see – or of – start again. It doesn’t say “a recruitment consultant engaged by the board”, does it? It says an independent one. See that?---An independent recruitment consultant. Yes.

Yeah. Now, I just want you to distinguish two things. It could have said “a recruitment consultant engaged by the board”, couldn’t it?---Yes.

10 But it said “an independent recruitment consultant”. Now, this was one of the requirements in the negotiation with the government for this – Queensland Racing to be the control body – that they wanted in, didn’t they?---Yes.

15 And when it provided “independent”, what did you understand that to mean, Mr Bentley?---Independent of the board.

Independent of the board in what sense?---Well - - -

20 Not being the board itself – for example - - -?---Yes.

- - - if Mr Hanmer ran a recruitment agency, he couldn’t be it?---Yeah. It’s different to a normal company. Yes.

25 But not only that – did you read “independent recruitment consultant” to mean somebody independent of the board in the sense that – not influenced by the board?---Yes.

30 So they would exercise independent judgment of the person or persons who would be best to fit the bill?---Yes.

Okay. Now, then if I ask you to go over, please, to 7, which is on page 6 at the top. I just wanted to ask you – you see there, just in passing, that the class A members were made up of a number of clubs and committees and associations, weren’t they?---Yes.

35 And when – soon – which we’ll come back to – a constitution was being promoted by you in 2010 for Racing Queensland, you wanted to get rid of these class A members, didn’t you?---I believe that’s correct.

40 Yeah. So then if I ask you, please, to go over to 15 on page 12. In 15, you see that in 15.2 the first founding directors were established there?---Oh, 15 – clause 15.

Yes, please?---Yes.

45 And 15.2 was the first founding directors, and it was necessary because of the constitution that two of them rotate off?---Yes.

And they were appointed, those five people, for the initial term, which was not less than three years. You recall that?---Yes.

5 And so by December 2009, it was necessary for two to go?---Correct.

Okay. And in 15.3, after the initial term, an election of directors must take place every year in accordance with 17?---Yes.

10 See that?---Mmm.

And then 15.4 is the one that no doubt was in your mind when you were discussing board level 2 retiring. See that?---Yes.

15 Just to ask you in passing, in 16, that is, article or clause 16 – it’s titled “Chairman”. See that?---Yes.

20 “The initial chairman will be Mr Bentley, who shall hold office until the annual general meeting following the initial term.” Did you hold office till that time, as chairman?---I’ve been chairman all the time. Yes.

But did you go up to vote for re-election as chairman at the end of the initial term?---Not – not to my recollection.

25 No. I don’t think you did, either. I’ve seen no record of it. 16.4: “Following the initial term, the election of the chairman will be determined by the board following each director’s selection process in accordance with clause 17,” meaning, I think, when Milner and Ryan came on to the board there ought to have been a vote about who would be chairman. See what I mean?---Yes.

30 Did that happen?---I can’t – I don’t – can’t recall. No.

35 There’s no record of it in the minutes. That seems a bit odd, but anyway, under 17, that is, article 17 or clause 17, you see “Selection of Directors”. See that, please?---Yes.

In 17.3 – I’ll let you read that and then I’ll ask you a question?---Yes. Yes.

40 The logic of this, Mr Bentley, that the government were consistent upon was that it be the independent recruitment consultant that would refine the list of applicants to a shortlist?---Yes.

45 And I just read the words – it says, does it not, “A shortlist of the applications received must be prepared by the independent recruitment consultant by reference to the selection criteria contained in appendix A.” Do you recall that that was the requirement?--- Yes.

Okay. If you go over to A – appendix A. It’s on page 21 there, please?--- Just – would you – mine finishes at 19.

5 Let me see how I can do this. Have a look at my copy, Mr Bentley, and it’s got some writing on it. You can disregard it. And I’ll get you a copy as soon as I can. That’s appendix A, I believe, to the Queensland Racing Constitution at that time. And you see that certain mandatory criteria which the applicants must meet before they’re going to get onto the shortlist?--- Mmhmm.

10 Which is provided for there?--- Yes.

And I think the last one, from memory, is knowledge of the industry?--- Yes.

15 So clearly enough when the independent person considers who’s right for the job, he’d have to consider that as one of the things - - -?--- Yes.

- - - that’s important. And then underneath it, I think – I just can’t remember the word. Is it eligible people? I’ve got - - -?--- [indistinct] be capable of demonstrating their eligibility and individual [indistinct] within the meaning of the Racing Act.

20 That’s right. And that eligible individuals I think is define in the section in the legislation - - -?--- Yes

- - - isn’t it?--- I’m sort of familiar on that, yes.

25 Yeah, okay. Okay, just pass that back, please. So clearly enough - - -

COMMISSIONER: Perhaps it might be of – for those who don’t have a copy of the – of appendix A in front of them, Mr Bell. If you could just perhaps pass it to Mr
30 Wilson. I suspect he’s - - -

MR BELL: Yes.

COMMISSIONER: Just so he can have a look.
35

MR BELL: Of course. Thank you. I’ll get you a copy.

COMMISSIONER: I’ll get some copies sent over, Mr Bell.

40 MR BELL: Thank you.

COMMISSIONER: Someone can bring them over within about five minutes, I should think, Mr Wilson. And for those who are interested. Thank you. I mean, it’s not – it’s not a surprise document. We’ve all seen it in another context so I don’t
45 think we need to stop.

MR BELL: So then in – if I ask you to go back to page 14 of your constitution, please. Once the shortlist has been selected, you’ll see in 17.6, “Prior to the annual general meeting, a selection committee must be convened by the chairman. The selection committee will comprise of a member representative from the class A, one
5 from the class B and yourself.”?--- Yes.

And so therefore it’s clear enough that your role comes back into play at that time, of course, once the shortlist has been determined?--- Yes.

10 Okay. Now – oh, you’ll need help with this, as I will. 186, please.

COMMISSIONER: Can you give an indication which volume you think it is, Mr Bell, for those assisting? You might be able to - - -

15 MR BELL: I’m looking at three, your Honour.

COMMISSIONER: So still in three; is it? Yeah.

MR BELL: I’m told it’s three, at the back end of yours.
20

COMMISSIONER: Thank you.

MR BELL: No, sorry, you’ve given me 186. I might’ve said that; I meant 168.

25 COMMISSIONER: Volume 4 for those who are floundering a little.

MR WILSON: We don’t have volume 4, Commissioner. We don’t have volume 4 yet.

30 COMMISSIONER: Just so that Brett will be the same, is that a letter, Mr Bell?

MR BELL: Yes.

COMMISSIONER: Yes, thank you.
35

MR BELL: Mr Bentley, the letter at 168 is a letter from a man called Mr Bill Carter QC. And it appears to be dated 6 August ’09?--- Yes, I have that.

40 Just have a – refresh your memory and I’ll show you particular parts of the letter that I want you to think about, please. You tell me when you’re ready and I’ll take you to particular parts?--- I’d prefer you to take me to where - - -

Yes, okay?--- I have a faint recollection of the letter.

45 Yeah, I know that?--- I mean - - -

It's impossible to remember. You would've received a number of letters from this man?--- Lots and lots. Not on this – necessarily in this matter but - - -

No, I meant this man?--- Yes, in fact since 1992.

5

So on page 1 of it, please, in the second last paragraph on the page it commences, "my submission is." And then about four – three lines down, "The compelling argument is that the process involving QRL and the so-called independent recruitment consultant has seriously miscarried and has been tainted with illegality. And therefore your intervention as the responsible minister is a matter of considerable urgency." You see that that's what he wrote to the minister?--- Yes.

10

And he was writing to The Honourable Peter Lawlor MP at that time?--- Yes.

15

And then if you go over the page, please. About – not about. In the second new paragraph that commences, "I know of at least five of the 22 candidates"; see that? The second new paragraph. Have you got that one? On page 3?--- Page 3.

Yeah?--- Oh, yes. Yes.

20

And the one that I'm asking you to refer to, please, is about four lines into that paragraph. "One can only ask, if those excluded satisfy the objective selection criteria, on what basis and by reference to what considerations did the independent recruitment consultant exclude those candidates from any further participation in the constitutional selection process. Neither those candidates nor many other relevant persons seemed to know. For example, those excluded included a retiring QRL director who sought reselection. And even though he satisfied all selection criteria, having been a founding director of the company since 1 July 2006, he also was excluded." That's the part I'm asking you to think about and I'll ask you a question in a minute. And then if you go over, please, to page 7 at the foot of the page. You'll see the one line paragraph which is the second paragraph on the page. Mr Carter contends, "Independence in this context must not only be present but must be seen to be present." Do you see that?--- Yes.

25

30

35

Just on that last one, that submission he made to the minister there. Do you agree with that?--- Well, I've read it right through. I don't - - -

No, sorry. What I meant is just that statement there. "Independence in this context must not only be present but must be seen to be present."?--- Yes, that's a generic statement. Yes.

40

Well, what I mean is under the constitution that was negotiated with the government that required the independent consultant to select the shortlist, I referred you to the word independent before, recruitment consultant. Do – did you consider that independence meant that he must not only be independent but he must be seen to be independent?--- Yes.

45

And what does the “seem to be independent” mean in general terms? Not asking you tie down?--- Not being influenced.

Not to be seen to be being influenced?--- Yeah.

5

You know – and the other thing about the code of conduct I showed you last week – and you tell me if you want to see it and we’ll have another look – it talks about transparency. You know transparency?---Yes.

10 And you talk about it too in some documents that we’ve got to go to today – but transparency means what?---That – it’s open and – open and fair. You can see through it.

15 Yes. So that if necessary, somebody looking later can see exactly what happened?---Yes.

Would you agree with that?---Yes.

20 And so where he says independence in this context must not only be present but must be seen to be present. If somebody looked later, with transparency, they’d see that it looks like he was independent, you know?---Yes.

25 That’s the sort of thing. Okay. And also, if I ask you now to turn to the next document, please, which is at 169?---Right.

25

This is part of Hansard – and I hope you know what I mean, Hansard is a record of parliament?---Yes.

30 And in particular you recall Mr Stevens – and Mr Stevens was the, I think, LNP member who spoke on racing during this period somewhat, didn’t he?---Well, frequently.

35 Yeah. And you on occasions responded about some of the things he said from time to time, didn’t you?---Where possible.

35

Okay. So just looking at Stevens and if you come down to the third paragraph, “There was one issue that particularly galled me”, says Stevens. “That relates to the response I received about the process for election of the new members to the Queensland Racing Board for which the minister has overall responsibility under the act. Four people were selected from the industry to vote for. They went out to a supposedly independent recruitment agency called Northern Recruitment agency. This was done at the current Queensland Racing Board’s request”. And then he quotes something from the website of Northern Recruitment. And then in the next paragraph, “In other words, they are indicating that they will get a determined result for whoever hires them. In this case the chairman and the QR board hire these people.” See that part?---Yes.

40

45

And then I'm jumping a few lines and I go down still in that paragraph, "We have one Neville Stewart, a long time friend of Bob Bentley from the breeding industry. He is a long time compatriot going back to the QPC days. Surprise, surprise, Neville, while stilling being the chairman of Toowoomba Turf Club who agreed with
5 Mr Bentley's proposal to put in a new track to replace the grass track at Toowoomba, is on that particular shortlist to be selected by other groups." And then he goes on in the next paragraph, "It will be a money back, odds on but worst case scenario that the quinella for the elected representatives will be Wayne Milner who no one is arguing about, and Neville Stewart. That is the quinella that will elected in terms of Mr
10 Bentley's direction." You see that now?---Yes, I do.

Now, the point of Carter's letter that we just looked at the point of this statement to parliament was to suggest the independence was not being maintained, wasn't it?---That's their opinion, yes.

15 That's their opinion. Now, what happened was – if I ask you to turn over to 170, please. I'll just let you read this press release in relation to Stevens statement in parliament?---Yes. I remember that press release.

20 Okay. What do you remember about it?---I was grateful that someone else, at least, would say something to Stevens. Obviously get repeatedly replying to things that he said in parliament.

25 Well, the funny thing is the press release initiated from your office?---That's possible.

Yeah. So Stevens was at least sufficiently on board at that time to cooperate with you to issue this statement in his name but out of your office?---It wasn't recruitment [indistinct] Yes. I'm – I'm – I'd have to take your word for it that - - -

30 I'm sorry, I said Stevens – that was stupid. I meant Wilson?---Yeah. I take your word for it that this was initiated out of our office.

35 Yes. I know you do. Yes, no I confirmed that and you can check it later and have your people check it?---Yeah.

But I made sure that I was right that it came out of the office?---Yes.

40 And it's in the records of one of the press releases from Queensland Racing at the time?---Yes.

But just let me ask you about what he says. Is it right what he says? Is it true?---Yes.

45 Okay. In particular, I'm interested in the second sentence, "The process by which candidates were nominated for the positions of direction with Queensland Racing

was not undertaken in consultation with anybody at Queensland Racing. Is that true?---That's true.

5 Okay. Now, more importantly, you committed to writing too, I know, at 171 on this topic. This was – I'll give you time to read it of course but it's a letter you wrote to the minister on the 10th of August 2009. Just have a look through it and tell me when you're ready and I'll take you to particular parts of it?---Yep. Sort of – my – my reply – it's really my reply to Carter. Is that correct

10 Exactly. Exactly. You tell me when you're ready?---I'm ready.

Sorry?---I'm ready.

15 Okay. So you replied to the minister, addressing Carter's letter of the 6th of August that I've shown you, about this question of independence. Do you see that? And then under – on page 2 under candidate eligibility – you turn over when you're ready?---Yes.

20 You'll see that last line of the second last paragraph reads, "The process was independent of QRL. See that? Do you see that?---No. Just – it's the interview process.

Sorry?---Where – where – would you give me the line again?

25 Yes. Under the heading, candidate eligibility?---Yeah.

There's about five – four paragraphs. It's the last line of the third paragraph and it says the process was independent of QRL?---Yes. I believe it was.

30 But that was your statement at the time to the minister?---Yes. I still – it's still my statement.

35 And then under interview process, the last line, "The basis on which the independent recruitment consultant selects those for interview as a matter of independent recruitment consultant. You see that?---Yes.

Okay. Now, then over on shortlist numbers – see that?---Yes.

40 Second paragraph in the second last line, "No guidance or direction was given to the independent recruitment consultant by QRL." See that? "No guidance or direction was given - - -?---Just give – well, just give me the page then?

45 Yes, of course. I'm sorry. It's – you were looking at candidate eligibility a second ago?---Yes.

And if you go to the next page it's under the heading, short list numbers?---Short list numbers, yes.

And then in second paragraph, “Carter’s comment is ill-considered and wrong in the last sentence. The final decision was that of IRC. No guidance or direction was given to the independent recruitment consultant by QRL?---That’s correct.

5 See that?---Yes.

So your position was that there was no guidance or direction given in particular by you?---In – in the beginning has anyone - - -

10 Well, just answer my question?---Yes.

That’s what you said to the minister, didn’t you?---Yes, I did.

Yeah. And your point - - -?---And I believe that’s correct.

15

Beg your pardon?---I believe that’s correct.

Yes. And that means you weren’t providing any time limit on that statement. You said to him that no guidance or direction was given by you?---Any addition - - -

20

That’s what you say, don’t you?---That’s what it says there but that’s not the intent of what it actually is.

No. But wait a sec. Let’s just stick and we’ll go to every piece, I promise you. But what you said to the minister when it was raised as an issue by Mr Carter, QC and raised as an issue in parliament, was, “No guidance or direction was given to the independent recruitment consultant by me.”?---Yes.

25

Okay. Was that true?---It’s true in – in – in – in a pure sense, yes.

30

Okay. Well, that means yes, doesn’t it?---Means yes.

In a pure sense, truth is only one thing. It’s true or it’s not true. You can’t have degrees. Do you see?---Yes, and I’m saying that – I mean, there’s a practicality that comes into this too.

35

Okay. Well, let me see where you explain that to the minister, please?---I don’t.

Can you show me?---I don’t.

40

Okay. So let’s just go backtrack. You’re explaining to the minister about Carter QCs assertions that you influenced the independent recruitment consultant, aren’t you?---I don’t consider I did.

45

No, you’ve got to answer my question, we will never get there. You are addressing Mr Carter QCs contention to the minister that you, Mr Bentley, influenced the independent recruitment consultant’s selection?---Yes.

Yes. And your answer to the contention is, among other things, “No guidance or direction was given to the independent recruit consultant by me”?---Yes.

5 Okay. That’s not true, is it?---No.

And then if I ask you to go over, now, to 174, please. This 174 is a legal document. What happened was Andrews sued QRL, didn’t he, about this matter?---That’s correct.

10 And he won?---Yes.

Yeah. And what he won about was – there were two winnings he had. The first win was with Justice Wilson, who said that Shara Murray had directed him incorrectly – directed Wilson incorrectly?---I believe that’s correct.

15 Yeah. And secondly, in the end Justice McMurdo also found that Northern Recruitment must not be used for the selection process, despite your persistence to want to do so after Wilson’s judgment?---Yeah. We – we sought to – to reappoint him, because he – he had done the – the first one.

20 That’s right. And you - - -?---And they were looking – looking for more candidates.

And - - -?---It seemed a practical thing to do.

25 And the second judge who dealt with it restrained you from doing it too, didn’t it?---That’s correct.

30 Yeah. Now, let’s have a look. Andrews sues Queensland Racing and you’re very much at the centre of it, of course, because you’re the chairman and you handled a lot to do with it. Now, let me ask you to go to paragraph 17, which is at the bottom of page 4 of the defence that was filed on your behalf by your lawyers. When I say “your” I mean Queensland Racing, and it’s Cooper - - -?---Page 17?

35 Beg your pardon?---Page 17?

COMMISSIONER WHITE: Page 4, Mr Bentley.

MR BELL: Page 4 - - -

40 COMMISSIONER WHITE: And it’s - - -

MR BELL: - - - and just to remember – just so - - -

COMMISSIONER WHITE: Can I just assist Mr Bentley here.

45 MR BELL: Yes. Yes.

COMMISSIONER WHITE: It's a bit hard to read. 17 is the very last line, and it's got – it's actually in the crown of this court's stamp, so it's right at the bottom of the page, paragraph 17. Ms Cunningham, can you just indicate if Mr Bentley's in the right place.

5

MR BELL: Page 4, at the top.

COMMISSIONER WHITE: Right down at the bottom of the page?---Yes.

10 MR BELL: Okay?---The defendant denies the allegations?

COMMISSIONER WHITE: Yes. And then we - - -

15 MR BELL: Okay. Just wait one second, please. Now, this document is the document filed by the lawyers for Queensland Racing, Cooper Grace and Ward?---Yes.

And Mr Grace was acting for your side?---Yes.

20 Okay. So he filed this defence, and in paragraph 17: "The defendant" – meaning QRL – "denies the allegations in 24 of the statement of claim." You see that?---Yes.

And then in particular I want you to read (c), please?---That's what it says. Yes.

25 Just read it out loud just so I'm sure you're reading the right one, please?---Mr Bentley did not require Mr Wilson to include in the shortlist candidates with race club experience as well as some financial accounting background.

30 Okay. Now, that's not true either, is it?---No. I don't think that's true. No.

Okay. Now, what happened was advertisements went into the newspaper to have candidates come forward for the position that was available – one position that was available, Mr Lambert's position – I'm sorry. Two positions: Mr Lambert's and Mr Andrews', because he must retire?---Yes.

35

Yeah. And what happened was there were 26 applicants, you'll recall, weren't there?---I don't know that - - -

40 Okay. Well, there were 26; there's no doubt about that, and they came to the independent recruitment consultant's notice, of course, in accordance with the advertisement. And what happened was on the 20th of May 2009 the nomination period closed and he had 26 from which he needed to select a shortlist. See what I mean?---Yes.

45 Okay. Now, what happens after that, after the 26th of May 2009, is you got involved in talking to him, didn't you?---I did have some meetings with him. Yes.

Yeah. You had meetings but you had lots of telephone calls too, didn't you?---Some, yes.

Well, how many?---I – I don't know.

5

Okay. I said "lots"; you said "some"?---I - - -

You must know it's not lots?---It's not lots, I don't think.

10 Like what? 10?---I – I can't - - -

Okay?--- - - - can't remember, counsellor. There were some phone calls. Yeah. I was – was feeding him the information that I was getting out from the marketplace.

15 Anyway, what happened was you gave some evidence about what had occurred as between you and him, that is, you and Wilson, during the period from the closing of the nomination period to his selection in the case of *Andrews v Queensland Racing*. You remember that? And you were cross-examined about it?---Yeah. I had a – I had a meeting with him, right. The - - -

20

No. Just let's talk about what I'm talking about. You were cross-examined in the case, *Andrews v Queensland Racing*, about this topic?---Yes. I was. Yes.

25 And the topic I'm talking about to focus your mind is in the period after all the nominations were in on the 20th of May 2009, from that date you had calls and communications with Wilson, didn't you?---On the 29th of May.

No. 20th of May?---20th of May.

30 When they shut – after they shut, you started to have communications with him, didn't you?---Yes. I did.

Okay?---There was a meeting, because in the beginning – I don't know whether it was before the 20th of May or – or after the 20th - - -

35

Okay. The date's too hard to remember?---Yeah.

I know what you mean. My point is that whenever the nominations closed, you started calling and having meetings with him, didn't you?---I had a meeting.

40

Okay. Well, I think you had three meetings, but I'll come back and tell you what you said at the court case in a minute. But the big point is that you knew at least some of the people who were on the candidate list of the 26th, didn't you?---Yes. I did.

45

Yeah. For example, Mr Stewart?---Yes.

And you also knew, of course, Mr Andrews was on that?---Yes.

And you knew others who also had applied?---I did.

5 Yeah. So let me ask you this question. If – and I’m not suggesting at the moment you did – but if you wanted to influence Mr Wilson’s choice of the shortlist, you might tell him that you wanted on the board characteristics that you knew Mr Stewart, for example, had, and then he’s more likely to select Mr Stewart. You see my point – hypothetically? Hypothetically?---I see your – I see your point.

10

Okay?---I’d – I’d like to explain that at some stage.

15 No. That’s okay, and we’ll give you the opportunity. I want you to explain it, but the point is, you see, the danger in the telephone call, you see. Because if a man wants to influence the independent selection process, he thinks, “I know Neville. I want him on the board and I know he’s the chairman of the Toowoomba Turf Club, so what I’ll say to Wilson is, ‘I want somebody with club experience.’ Perfect.” That could happen, couldn’t it?---It could happen.

20 You know what I mean. That could happen?---Yes. It could happen. Yes. Yeah, sure.

25 And then you might say, “Andrews? I don’t want him; he’s academic.” So you say to lovely Wilson, “I don’t want academics”?---Well, I don’t think that’s correct, but - - -

But he did do law, didn’t he?---Yes, but that - - -

30 And he was giving some trouble to Hanmer about the tax thing, wasn’t he?---Oh, that – counsellor, that wasn’t an issue.

35 Okay. So anyway, do you see the danger in getting involved with the lovely recruitment agent after the nominations have come in? Do you see that danger, Mr Bentley?---I do see that danger, but - - -

Okay. Now, why didn’t you take heed of it at the time? Could you explain that?---Yeah. I – I can explain that.

40 Yes, please?---I mean you can’t ask a recruitment agent, whether he’s independent or not, to go out and select two directors if he hasn’t got some guidelines of what the board needs and what the board wants.

Why do you get to choose that?---Appendix – appendix A’s fine - - -

45 Why do you get to choose that? Why do you get to decide that? Tell me how that works?---Because he asked. What – I mean I’m the - - -

No, no, no, no, no, no?---I'm the chairman of the board. I've got to get a - - -

Nothing to do with being chairman of the board. The constitution tells the criteria.
We've been through that?---Yeah, but the – excuse me, counsellor. The criteria
5 might – is fine, but it doesn't give any commerciality to it.

Mr Bentley, are you above the constitution - - -?---No. I'm not.

- - - that was selected by the government?---No. I'm not above the constitution.

10

You are. You thought you were, didn't you?---No. I didn't.

Did you not wish to choose who those people were who came on to the board?---No.
I did not.

15

Didn't want to have anything to do with it?---I didn't want to choose anyone that
came on to the board.

Okay. You understood what transparency is. Could you please show me all the
20 conversations and communications you had with Mr Wilson after the nominations
came in, please, so I can look at some document to be sure that you maintain - - -?---I
– I haven't got any - - -

- - - his independent position. Could you show me that?---No. I don't have any
25 documents.

No. What you did have was a lot of telephone calls, didn't you?---I had some
telephone calls. Yes.

30 And you had meetings with him. What did you say?---Well, the first meeting, I
think, was early – say it's June or May. I – which month?

How do I check this now, Mr Bentley?---Which month?

35 How do I check this to be sure that it's transparent so that people who were
stakeholders can check? How do we do that?---I - - -

Could you help us?---I'm saying that – I'm just asking you the date. All right?

40 Forget the date?---Okay. Well, okay.

Any date you want?---Well, let's – can we just make a date to make it easy for me.

45 Right?---The 1st of May - - -

Yes?--- - - - yes. I had a meeting with him. Yes. We had a discussion about what did the board needed, what was the dynamics of the board, all those sort of things. Yes. I had that meeting.

5 Why would I – why do I believe you? Why don't I look at a piece of paper or a record or something?---Well, I'm not – not too big on the records.

No. I know. But you know why you wouldn't be, you see, because you might not want people to know what you said. That's the suspicion, the problem?---I think I've
10 – counsellor, I think it's written down in black and white somewhere. I think I've said that.

It's written down?---It's written down.

15 You mean you've made a statement?---Yes.

But why would we believe you? You see, the problem is, Mr Bentley – I know you get this. I'm playing a game here. You know that if there's no record kept, it's impossible for anybody to see whether or not you influenced Wilson?---Well, it's
20 certainly not the intention.

I think it was, Mr Bentley?---Well, I deny that, counsellor.

Okay?---I mean – Mr Wilson to have come forward with the right candidates, he
25 needed some guidance other than just appendix A.

Okay?---And I – and I gave him that guidance, what I thought would be the best dynamics on the board.

30 Okay. So - - -?---Simple – no names, no back door – but I did say that. I don't disagree that I – I gave those sort of instructions. Now, I thought they were in writing. I - - -

I wish they were, but really what I want to ask you about is some of the detail - - -
35

COMMISSIONER WHITE: Just before you do that - - -

MR BELL: Yes. Sorry.

40 COMMISSIONER WHITE: I suspect that appendix A has – copies have arrived, so perhaps it would be helpful for Mr Wilson at least to have that during this part of the cross-examination. Thank you. And perhaps Mr - - -

MR BELL: Mr Bentley.

45 COMMISSIONER WHITE: And Mr Bentley as well.

WITNESS: Thank you.

5 MR BELL: While you've got that, Mr Bentley. Have a look. I thought when I read it, and it might be silly, but the whole reason for appendix B was to give the criteria to the independent recruitment consultant.

COMMISSIONER: Appendix A.

10 MR BELL: Appendix A?--- I'm sure he would've had that. But needs something else beside that.

That's your judgment; is it?--- Yes, it is. And it - - -

15 Okay?--- I think it'd be a commercial judgment. In any commercial company, the chairman or the board just doesn't go out and say – they always have a say in what actually is happening and what they're needed on. A board – I mean, you need to do that.

20 You know why - - -?--- That's practical.

You know why, Mr Bentley, it's hard to believe? I'll tell you why. When Carter raises this with the minister, you don't mention it. You mention everything else but you don't mention it. Why not, Mr Bentley? Was it not good for you at the time?--- No.

25 Well, why didn't you mention it to the minister?--- What I did with – on the first - - -

30 No, no, no. You answer my question. Why didn't you mention it to the minister?--- Because I didn't think it was needed. I thought - - -

Oh, come on, Mr Bentley. That's silly?--- That's - - -

You're going nowhere with that answer?--- Sorry, counsellor, it's not silly.

35 It is silly. You know it's silly?--- I don't – I don't know it's silly. It's correct.

40 Your answer are unreliable, Mr Bentley. When you answer the – Mr Lawlor, when obviously you are meaning to address Carter's complaint about the lack of independence, you did not mention yes, in fact I spoke to Mr Wilson quite a bit and I had meetings with him. You don't mention that?--- No.

That's really odd, unless you're not telling the truth now; you see?--- Well, I'd consider – I know I'm under oath. I'm telling the truth.

45 Okay. Now, you remember I showed you the defence put in by Mr Grace on Queensland Racing's behalf that says that you did not direct or tell Mr Wilson you were looking for club experience etcetera. Remember that part I showed you?--- I –

whatever I've got in there. I mean, point me to it. What I've said in that statement is what I've said.

Okay?--- I'm not backing off that, counsellor.

5

Yeah. You see, in fact you did have a discussion with Wilson and you did say to him you wanted somebody with club experience; didn't you?--- I have him – our discussion were those points. Not just that, all the other points as well.

10 Yeah?--- And I think you'll find that – and I – that's what I said.

Now, Mr Bentley, when the shortlist was to be selected after the 26 nominations came in, some of whom you knew who they were, you did have a discussion with Mr Wilson at least once when you told him you wanted somebody or the board wanted
15 somebody or needed somebody with club experience; didn't you?--- That is only one criteria that I said to him.

Okay. Well, I'll come to the others?--- Oh.

20 But you did say that; didn't you?--- Yes, I've certainly said that.

Okay. Now, you also said, didn't you, you wanted somebody with financial skills?--- I did.

25 And you also said you wanted somebody practical, not academic?--- Yes.

Yep. When did you tell him that? Wilson that?--- At the same time.

30 When was that in relation to when the nominations - - -?--- In the first meeting, what – when we were talking about the dynamics of the board and what would be a fit; right?

Okay. When – in relation to the when the nominations - - -?--- Right. No, no. Right.

35

Just wait, otherwise I'm interrupting you too and I'll stop it. Now, in relation to when the nominations closed and there were 26 people who'd applied. When in relation to that?--- I don't know the – in relation to what. I know I had that meeting with him. Where it's sat in the scheme of things I'm not sure.

40

You see at the trial in the Andrews case, you said on oath that that was right at the beginning, even before the nominations had come in?--- Well, I – as I said to you right now, I don't know when I had that meeting.

45 Yeah. You see, I suggest to you that it was after the nominations came in and you knew who's applied. And what you did was you rang him up and you said, "I want to see you about who we need on the board." And you told him, "I want somebody

with club experience, I want financial skills. Practical, not academic.”; didn’t you?--- Yeah, I think there’s a few other things there too; wasn’t there?

5 Okay. Well, a few other things too. But certainly those three?--- Yeah. But non-academic – academic doesn’t necessarily mean what I was meaning with somebody who was just a plain academic with no other skills.

Somebody who hadn’t started a business?--- Somebody?

10 Who had not started a business?--- Yeah, somebody who just had a one career situation.

15 Now, when you were being asked questions about your communications with Wilson in the trial and you were being tied down to – but you had a meeting here too and there. You said, “Oh, no. That was another matter. That was a personal matter.”?--- Yes, it was.

On a few occasions?--- It was.

20 So with the independent recruitment consultant, you had other businesses yourself; did you?--- A situation arose - - -

No, no. You had other business yourself; did you?--- It wasn’t business, it was – I was seeking advice.

25 So you had other matters as well - - -?--- Yes.

- - - on a personal level?--- That arose urgently, yes.

30 And where you said paying him for this advice?--- No.

Why were you talking to him and not your best friend, for example, about these matters?--- Because my best friend couldn’t give me the advice I was looking for.

35 Okay. Why didn’t you talk to another recruitment consultant who could give you the same advice expert-wise?--- Because he was there and he was there on the stop, why not ask him.

40 Did you offer to pay him?--- No.

45 Why not? I thought it was professional advice?--- Well, it was professional – I’d be more than happy – I don’t really want to talk about it in open court and have it splattered all over the TV. But I’m more than happy to – in chambers or something like that – to tell you what it was about.

You see the problem, Mr Bentley, is it just makes for no transparency for that very reason that you've just mentioned. Don't tell me about it. But do you see my point?--- Yes.

5 I know that you could see the point at the time. You see, you must have known that that was the wrong thing to do?--- No, I don't consider I did.

And then on top of it, when people raise it, you don't tell the truth?--- Because I wrote a letter – I don't think that that's correct.

10

Now, you – you just - - -?--- I don't accept that.

That was a throwaway comment just because I wrote to the minister explaining what I did when somebody else had complained, doesn't matter much?--- I reject that. I mean, that I'm trying to hide something.

15

Okay. Well you were trying to hide something here, I'll show you how.

Okay?--- How's this – how's this for good? Let me see if I can find it for you.

20

COMMISSIONER: And perhaps I could say, Mr Bell, that it's of no interest of the commission, Mr Bentley, what the private issue was with Mr Wilson, merely that there was a private issue?--- Thank you, your Honour. I was more than happy to share that but I didn't want to - - -

25

No, I don't – I certainly don't need to know it and I don't believe that it will assist counsel assisting to know it either. It's just that it happened?--- Yes.

MR BELL: This is evidence you gave at the trial, on oath, when Mr Jackson was asking you questions at page 2-9. So - - -?--- Would it be possible to see that, counsellor?

30

Of course. So do you accept then that you had a meeting with Mr Wilson on the 1st of April? This is about halfway down the page, on the right hand side you'll see the line numbers. You'll see about line 30?--- Yes. Well, that's the matter you - - -

35

So do you accept, says Jackson then, that you had a meeting with Mr Wilson on the 1st of April?--- Yes, I do.

40 Do you see that?--- YES.

Do you accept you had a meeting with him on the 12th of June? Yes, I do. You see that?--- That – that was a private matter.

45 Okay. And do you accept you had a meeting with him on the 24th of June? Yes, I do?--- Yes.

Okay. So all of a sudden, the independent consultant is in your diary. You're having meetings with him?--- Yeah, but I don't -- I don't see how that -- maybe -- I mean, it's not a good look. But I mean, it was perfectly innocent.

5 Let me give you a better look. If you don't like that one, get this one. Get this one. Here we go. Are you ready, Mr Bentley?--- Yes.

I'm looking at 2-27 at line 30 to -- oh. What I suggest to you is you called Mr Wilson's office and you left a message for him Ms Ryan, who was the secretary.
10 And the message was "plead read Mark Oberhardt's column this morning, then ring Bob and he'll explain the context. And you asked that it would be better if the message was not put in print form?--- Mmhmm.

Absolute classic. Why would you let the independent consultant think that you
15 didn't want people to see something, Mr Bentley? Please?--- I don't -- I don't know. I can't explain that.

No, I didn't think so. Not very transparent, let me tell you?--- Please, counsellor, all
20 during the process I did phone Mark Wilson, I admit that. And I'm filling him in on all different - - -

Just let me -- just answer this one at the moment?--- I don't know what it was about. I don't know even know what the market -- half the thing is about.

25 Okay. But let's talk a little bit about transparency again, Mr Chairman?---If you tell me what Mark -- what the article is, maybe I can explain it. I can't just on that.

Okay. The important part I'm very keen to address to you is you asked that it would
30 be better if the message were not put in print form. "Yes, that's correct," you say. Now, I'm asking you this question: why would you not want there to be some print in Northern Recruitment's office about a message you left for Mr Wilson?---I've got no idea, because I don't know what the article was about, but I did say - - -

Forget about the article?---Well, I think - - -
35

Why would you not want - - -?---No, I think the - - -

- - - any -- why would you not want there to be a record of a topic you were raising
40 with him, whatever be the topic?---I've got no idea until I saw the topic.

Well, the topic's got nothing to do with it, Mr Bentley. The question is that it's not
transparent at all, is it?---Well, that certainly appears not to be transparent, but I'd like to know what the article is first.

45 You might, but I want to know why you didn't want - - -?---I can't give you answer, counsel. I've told you that.

Just think about this: you agree with me that transparency is important for a chairman - - -?---Yes.

- - - when he's dealing with an independent recruitment agent?---Yes.

5

Okay. People's rights, like Mr Andrews' rights, of being selected or not under the constitution are relevant, aren't they?---Yes, they are.

10 But what you're doing is you're standing all over them and crushing them by interfering with the independence, aren't you?---I didn't have anything to do with what he selected, who he selected. What we've said to date is correct at the first part of the meeting on – that you asked me about. I said that, I said those criteria, I said that. I don't see that as standing over anybody.

15 And did you – you've done business with Mr Wilson before, haven't you?---Yes. He selected Mr Orchard.

COMMISSIONER WHITE: And I think he was also used to select stewards?---I

20

- - -
2005?---I wasn't sure about that, your Honour.

I just saw it in the bit – the board – relevant board minutes?---Yeah, I – yes, we had – the answer to your question, sir, is yes.

25

MR BELL: And all of a sudden after he was appointed by the board to do this job, you had business to discuss with him?---It's just to the – the private business came up rather urgently.

30 Forget about the private business, you had business to discuss with him about the selection?---I mean, it could have been next month, it could have been the month before. It just happened to come up at that time.

35 I'm not interested in a personal matter because I can't and don't want to investigate it. The point is made by you that you're talking to him about things that we're not to know about, as neither is anybody else, including this message?---Yep.

See that?---Yes.

40 Did you tell the Minister about that?---No, I'd hardly tell the Minister about that. I mean, I can't tell the Minister about everything. I didn't think that it was – in fact, I didn't even remember it.

45 Let me tell you something, Mr Bentley. Think about this and comment on it, please: if you tell somebody a little piece and not the whole story, it's called misleading sometimes, you see? You understand that?---Yes.

Okay. To tell the Minister “there was no direction or consultation with me,” when there was is very misleading, wouldn’t you agree?---There was no [indistinct] – just excuse - - -

5 Yes?---There was no consultation about this particularly matter.

Forget about that thing?---No, forget about – I am forgetting about that.

10 Yep. To tell the Minister as you did in your letter and to be aggressive about Mr Carter’s complaint and Mr Stevens in parliament’s contention and not to tell him that you were in fact talking to him and you had a personal matter you discussed with him and you had rung him a number of times and seen him at three meetings during the period: don’t you think that’s misleading?---No, I don’t.

15 Okay. I didn’t think you would, and if you go over to 2-31 please - - -

COMMISSIONER WHITE: That is in the volume, Minister, also, at 180.

20 MR BELL: At line 30, what you say is this – this is you talking, “Good corporate in a normal operation, the chairman or the nominations committee would sit down with a recruitment consultant and discuss who was going to be on the board, what skills were required. In this case, it was an independent recruitment consultant. I spoke to Mark Wilson. I mean, how else would he possibly know or be able to make and form an assessment? And I looked at the number of people on the list of people that
25 he had, the 26, and I think 21 would qualify under the mandatory criteria,” and I see here, “I think I’ll leave it at that.”?---Yep.

That’s what you said?---Yes.

30 And your position is that where it said independent, this, what you’ve just stated there, is the right way to view it: that the chairman is entitled to ring up and tell him what is required, isn’t it? That’s your position?---What is required?

35 Yep?---That is my - - -

And then when the Minister is to be told what role you had when people were screaming about you interfering you don’t tell him about it?---I don’t consider that to be interfering. I consider that to be - - -

40 No, I’m talking about what you told the Minister, you see?---Well I’m – your – you’ve got the floor, I’m sorry.

Yeah, I have the floor at the moment?---Otherwise I’d say something else.

45 So when you tell the Minister why didn’t you tell him this view?---Well, how long was the letter going to be in all different bits and pieces?

It's pretty long; we'll go back to it I think, won't we, because you want to see how long it was, addressing all the points that Carter had raised and Stevens had raised?---Yes, if you would like to take me back to it.

5 Okay, let's do it.

MR WILSON: While there's a break, Commissioner, we don't have that transcript in our bundle.

10 COMMISSIONER WHITE: No. I'm sorry, I gave – same number, wrong content.

MR BELL: 171, please?---Yes, it is a long letter.

15 Yeah, and then under – from page 2, candidate eligibility, “The eligibility and criteria set out in the Act and the constitution has been made as wide as possible at the request of the government at the time the constitution was drafted. The criteria and eligibility may fit a wide range of applicants. The notion that the criteria in Appendix A was the only base for determining candidates’ suitability is palpably erroneous.”?---Yes.

20

“Basic common sense tells anyone that issues such as availability are also important criteria.” See that?---Yes.

25 And then in the next paragraph you say that, “the process was independent of QRL. If the IRC did not do so, it would result in the board being unable to properly carry out its role,” and then you talk about specifically the interview process, and the last line of the first paragraph, “The basis on which the independent recruitment consultant selects for interviews is a matter for it.”?---Yes, and that's what happened.

30 And then – beg your pardon?---And that's what happened.

And short-list numbers: this seems to be a matter of interpretation that the short list should have been greater than four. In fact, you were wrong about that: the judge found that?---Yes.

35

The constitution says that, “There must be, without question, no less – that is, all vacant positions must be filled, and an additional two over vacancies. Carter's comments are ill-considered and wrong in the last sentence. The final decision was that of IRC. No guidance” – I think I'm getting this right – “No guidance was direction was given to the independent recruitment consultant by me.” It says QRL, which is you?---Yeah, I was referring to the short list.

40

Exactly, you were?---Yep.

45 Yep?---And I wasn't giving any guidance to the short-listing.

- 5 Okay. What was that? Just going back, I'll just read this again to you, what you said on oath, "Good corporate in normal operation, the chairman or the nomination committee would sit down with the recruitment consultant and discuss who was going to be on the board, what skills were required. In this case it was an independent recruitment consultant. I spoke to Mark Wilson. I mean, how else would he possibly know or be able to make and form an assessment, and I looked at the number of people on the list of people that he had, the 26, and I think 21 would qualify."?---Yep. I think 21 had qualified.
- 10 You think that statement to the Minister and what you said on oath fits, do you?---Looking at that, probably doesn't fit.
- 15 Okay. One's on oath – that's the one in the court – is that the truth, or is the one to the Minister the truth?---Well, what did I say in court, so I don't get myself slipped up?
- 20 Yes, that's 2-31. Just while you're getting that up, what I was surprised to hear, Mr Bentley, or to see, was when Mr Wilson swore his statement to the Commission he said he didn't have a personal matter with you at the time that he was discussing?---Well, he did. Just which one are we referring to here?
- Yes, 2-31, about line 30, looking at the right to line 40?---Yes, that's correct.
- 25 So could you now tell me how a statement to the Minister made, "No guidance or direction was given by – to the independent recruitment consultant by me." How can that be true?---Well, guidance to who to pick.
- Beg your pardon?---Guidance on who to pick.
- 30 Whatever?---All the time through this I'm referring to the actual selection process, not the process of short-listing people. I'm not talking about the process before. I certainly didn't give him any guidance of who to pick or what to pick.
- 35 But there's only – you see - - -?---I said this is what the board needs.
- That's silly stuff. Well, let me tell you - - -?---Well, I don't consider it silly.
- You put an ad in the paper, 26 people come in?---Yep.
- 40 His only role is to short-list it down: you see what I mean?---Yes.
- 45 Okay, that's it. Now, when you're talking to the Minister, short-list numbers, you say "Carter's comment is ill-founded and wrong. The final decision was that of the independent recruitment consultant. No guidance or direction was given by me."?---The final decision was the - - -
- Sorry?---The final decision was the recruitment company's decision, yes.

No, you don't say decision, my friend, you say "no guidance or direction," no decision [indistinct], you say "no guidance or direction." Please read it; answer the question?---Yes, I've read it, but I'll answer the question.

5 Okay, please answer it?---At all times, I was considering this was – who was going to be picked to be on the short list.

Correct, you were. I agree with you a hundred per cent. Now, you can't possibly say that you maintained a truthful position to the Minister in saying no guidance or
10 direction was given by me, can you?---No. I guess the guidance thing, but I mean that's a letter that's been - - -

Don't just run away?--- - - - that's a letter – no – that's a letter that's been written, possibly in the heat of the moment.

15 Okay. Give me a straight answer?---I have.

Now, is the sentence "No guidance or direction was given to the independent recruitment consultant by Queensland Racing," is that not true?---In your context, it
20 isn't. It is true.

No, don't forget my context. The truth is only for everybody the same?---Yeah, but I'm saying - - -

25 What about in your context?---I'm saying yes. In my concept, the meeting and what I wrote was to do with the actual selection of the short-listing of the people.

It's a letter, well - - -?---That's what I – did I give guidance in the way it's put? Yes.

30 Why do you add the way it's put bit for?---Well, because – what it was was about - - -

No. I'm laughing, not you - - -?---No, the short list.

35 Yeah, exactly?---That's what I was talking about: was the short list.

But there was no other role he had - - -?---I'm not talking about anything else, but I'm talking about that letter, okay?

40 We're not going to go away from this, so let's - - -?---No.

- - - try and be straight with each other. Now, listen to me: what you have said is, "No guidance or direction was given to the independent recruitment consultant by me." Now, I'm asking you squarely not what I think or anybody else thinks. You're
45 the one who knows: is that true?---No.

And at the time you wrote it you knew it wasn't true, didn't you?---I would - - -

Clearly, you did?---No, I wouldn't have intentionally written it like that, no.

Why do you say that?---Because I said to you before that I wasn't referring – at all times to the actual selection of the short list.

5

But I know that. What else could you be referring to? He's only got one role: to do that?---I didn't give him any guidance as far as the short list is concerned, no.

I'm sorry?---I didn't give him any guidance of who was going to be on the short list.

10

COMMISSIONER WHITE: I think, Mr Bentley, your – what you mean to say is you didn't nominate anybody?---That's correct.

You didn't state names: is that correct?---That's correct: four numbers.

15

MR BELL: Okay.

COMMISSIONER WHITE: Thank you.

20

MR BELL: So when you say to the Minister where Carter is contending it wasn't independent – do you remember he was contending it wasn't independent?---Yes.

You come back and say “No guidance or direction was given by me,” when he's saying you did give guidance, you see? But you didn't say – what's amazing to me – that you didn't say is I did have three meetings with him, and I did have discussions, and I did tell him the criteria, and I did know who was on the list. I don't think you – I think what you did was you consciously didn't tell him, because you knew it wouldn't advance your position, and - - -?---No.

25

30

- - - Carter would be seen to be at least partly right?---No, I wouldn't have done that. That's not – that's not true. I couldn't possibly accept that.

So where Wilson swears in his statement to the Commission here about the personal matter not existing, you deny that, don't you?---Yes, I do.

35

One other interesting thing, sad as it is, one of the answers you gave in a court case was that you needed to speak to Wilson to tell him that Mr Neville Stewart's son had had an accident and died?---That's correct.

40

Just trying to think how that could be relevant to the process?---Because I knew Stewart was a candidate, and Stewart rang me and asked me would I be kind enough to ring Mark Wilson and tell him in case he needed to contact me that I'd be off the air for a period of time because my son has just been killed. So I took it on myself to ring him.

45

So it's not relevant to the selection process?---No. Not in the slightest.

Please excuse me one second, please. Would you mind going to 167, please, Mr Bentley?---Yes. I recall that letter.

5 So you did tell the minister that some other people were trying to – from what Wilson had reported to you, disturbingly - - -?---Yeah.

- - - that some identified attempts were made to interfere or influence the decision?---That’s what he said, yes.

10 Did you mention that you had told him of the criteria, anywhere at anytime?---No.

And then we’ve been to 168, 169 and 170. We’re just going back to 171, please. I think you’ve said that this letter was one that you accept you sent to the minister of the 10th of August 2009 and it was in response to Mr Carter’s contentions in his letter of the 6th?---Yes.

And at the end of the letter you wrote – you copied Mr Grace with this letter?---Yes.

20 Mr Grace had drafted the letter with you, hadn’t he?---I can’t – don’t know. I don’t know.

He often helped you draft letters?---He did.

25 Now, you recalled on the 3rd of October 2009, Wilson J, found that in fact the constitution had not been properly complied with?---She did.

And what had happened was that under the constitution, there were to be a minimum of four candidates selected by the short list process by Northern Recruitment?---Correct.

30 And as her reasons go, the judge found that she had been directed by Shara Murray to reduce it two-four?---Yes.

35 And she found that, that was wrong. Do you remember that?---That’s the – that’s the findings, yes.

And Shara Murray had said in the case that, that did not happen, didn’t she? She’d denied it when it was put to her?---She deny – she denied what?

40 She denied that she’d directed Mr Wilson to reduce the shortlist to four?---Yes. I think that’s correct.

45 And the judge found in fact it was four and that she had directed him, Mr Wilson, to do that?---That’s correct.

And her integrity came into question?---It did.

And then after – after Wilson J made the finding that the process had not been properly followed, it was necessary to do something to complete the selection process?---Yes.

5 And what happened was, you with members of the board, decided to continue with Wilson regardless, to complete the process?---We thought that was the practical side of it rather than call for a complete fresh new nominations – tell him to go back and do it again.

10 And then what happened was, Mr Ambrose and Mr Lambert objected to that, didn't they?---They did.

And they objected in board meetings?---Yes.

15 And the consequence of that was you ploughed ahead with it regardless of their complaint?---I thought we went – we got someone else to do it.

What happened was – they had to take – he, Lambert – I'll start again. He, Andrews, had to take QRL board back to court - - -?---Oh, okay.

20 - - - with another judge and again, you were restrained from using Mr Wilson?---Yes.

25 But despite Andrews' complaints and despite his win on the first occasion, you were – felt strongly enough to continue with Wilson, didn't you?---I thought it was the practical thing to do. I thought it – if he's – if he's done all the work, why doesn't he go back through his files and just put – put the people in that he wants to put in [indistinct]

30 Well, there's another view of it too, you see. The other view is; he was going to do your bidding?---Oh, that's not correct.

35 Well, you've done the job on him in the sense that Shara Murray had directed him to do the wrong thing and reduced it to four, you remember – and you would concede that, don't you?---I concede that's what the judge said. I – I mean, that's what was found, yes.

Well, it was found in the sense that the correspondence seemed to indicate that too, don't you recall?---Yes.

40 And so instead of having seven or eight, he had four – so that was the wrong – Wilson had four. So there was interference at least to that extent, found by Wilson J?---Was – I don't know that the judgment was interference or.

45 Yeah, interference because she had directed him to do it, "Make it four. Don't make it more than four."?---Right.

See what I mean and can you see why in the end she found that, that was the wrong thing to do because the constitution said at least four?---Four, maximum seven, yes.

5 Yeah. But you see, to make that direction might be seen by somebody else as coming from you to ensure that the four that were selected were people you wanted and not others?---Well, I – I reject that completely.

10 Because you see the selection from the four would be made in part by you. You'd be one of the voters, wouldn't you? There's three people who'd vote on who of the four – you?---Yeah.

Somebody else on the board like Mr Hanmer or Mr Ludwig, for example?---Yeah, I'm not sure – I'm not sure of that process from there on.

15 Well, I showed you in the constitution. I'll tell you - - -?---Yeah, I know. But I'm not sure sitting here talking to you.

20 There's three people who would vote: a representative from the clubs and associations?---Yes.

Yourself and one of your board members; either Ludwig or Hanmer, because the other two had gone, you see?---Yes.

25 So you'd be pretty safe there because you and your board member, who you'd been on the board since 2004 with; Ludwig. Or 2002 with Mr Hanmer, would be likely to be at one on who it should be, wouldn't you?---Oh, I wouldn't think – not necessarily. I mean they're independent people.

30 Are they?---Yes.

COMMISSIONER WHITE: Can you finish that topic, Mr Bell or do you want to bring it to a conclusion?

35 MR BELL: I'm not sure. So it'd be a good time for the morning break, thank you.

40 MR WILSON: Commissioner, can I raise one matter before you break? Having listened to the cross-examination this morning – we understood from what was put, I think, reasonably late on Friday that it was going to be counsel-assisting's contention that following the disagreement with Mr Andrews and Mr Lambert that a scheme or a conspiracy was put in place to make sure they didn't get back on the board. And I understand how the questions may be relevant to advancing that. It seemed from a lot of the questioning this morning that, what was actually being looked at was the process of re-election or the process of selecting candidates for re-election.

45 We've raised in correspondence with the commission that, that's not, we respectfully submit, within the terms of reference and I just want to clarify that the questions that are being asked are to go to the matter that was put last Friday and not some other

issue. Because if it's going to some other issue, I do want to address you about whether it's within the terms of reference or not.

5 COMMISSIONER WHITE: All right. Mr Wilson, perhaps Mr Bell can take that on notice.

MR BELL: I'm ready to address it. I'm glad my learned friend raised it. No, the contention that needs to be tested, Commissioner, is the contention that Mr Bentley was intent upon getting rid of Lambert and Andrews because they were raising the issue of the deducting by Tatts of the money under the third party charge when the people appreciated that, that should be tested and never was. And so the contention is that it does relate to that. In particular, one thing is for sure – Mr Bentley did decide that it'd be Mr Lambert who would go when pushed. So we're clear on it being his decision to let him go. The question is, why did he decide on Mr Lambert and then secondly, if the contention is accepted that it was Mr Bentley's motivation to block Mr Andrews getting back on the board, the process that I've just investigated with him, might be one way of achieving it.

20 That's what we're testing and we want to hear more evidence, if there's any around, to address that.

COMMISSIONER WHITE: Thank you, Mr Bell.

MR WILSON: My understanding in the first part of my submission to you Commissioner, is obviously correct and we're not opening up a discreet topic.

COMMISSIONER WHITE: Anything new. No. No, it's all going – or endeavouring to go home to the same place.

30 MR WILSON: Yes.

COMMISSIONER WHITE: All right. Thank you. We'll take a 15 minute break, ladies and gentlemen.

35

THE COMMISSION ADJOURNED [11:35 am]

40

THE COMMISSION RESUMED [11.50 am]

ROBERT GEOFFREY BENTLEY, CONTINUING

45 **EXAMINATION BY MR BELL**

MR BELL: Just before the break, Mr Bentley, Mr Wilson made some submissions to the commissioner, as did I, and you were here during those submissions?---Yes.

5 The contention, you see, so that you too appreciate, is to investigate whether the choice of Lambert and the role that you played in relation to the re-election or non-re-election of Andrews, whether it's connected to the concern that they were expressing about the inaction on the Tatts issue; that's the investigation point. And in particular, in relation to Mr Andrews the contention is, to be tested, whether or not you in your communications with Wilson were seeking to avoid his re-election, that is, Andrews' re-election. But certainly one thing, I suppose, is clear enough: that 10 Hanmer and Lambert had got into a bit of a tangle personality-wise, anyway, on the board of Product Co during 2009, hadn't they?---Yeah. Not a serious tangle. I mean I'd say it was a – a boardroom tussle over issues. Yes. Yeah.

15 And - - -?---But not serious.

And it seems from looking at the board minutes that Andrews was with Lambert on it – with on the question?---To my recollection, he remained fairly passive about the thing.

20 But he was with Lambert on it; he was agitating for action too?---I don't – I don't actually recall him agitating.

Okay?---I do – I do certainly know that Lambert was agitating. Yes.

25 One thing is for sure - - -?---Excuse me, counsellor, but - - -

Yes?--- - - - those agitations – I knew about it, but that didn't necessarily flow over into – into the Racing Queensland board. That was a Product Company issue and – and they – that's where it was.

30 Queensland Racing - - -?---But it didn't really flow over into Queensland Racing board.

35 But you see, the suggestion I want to test is a suggestion that, in fact, Hanmer was talking to you about his views, in particular about his views of Lambert's position on the Grace advice and Andrews supporting him. And he didn't want them on the board going forward, did he?---I don't know what he did. You'd have to ask him, because he certainly didn't say I don't want this one or I don't want that one. That's 40 not - - -

Are you sure about that?---That's correct.

45 Mr Hanmer emailed you – and we looked at it on Friday – emailed you saying, in effect, “I may have to stand up for this and I want to see where the board minutes are to kill off this advice from Grace.” You remember that email?---I remember you showing it to me.

Yeah?---I don't remember seeing it at the time.

5 Okay. Well, certainly reading it, it tends to indicate that Mr Hanmer's feeling the heat from Mr Lambert and Mr Andrews pushing and continuing to try and push it, and he's trying to block it. You remember the commissioner said to you it looked like he didn't want the money? You remember that?---Yes. I remember that.

10 And it seemed like, looking at the evidence so far, that that was the position. It looked like he's blocking it, you see. And they were pushing it and he was blocking it?---The getting advice?

15 Getting more advice or taking action or continuing to allow Tatts to make that deduction [indistinct]?---What sort of – listening to the questions that you're putting to me and some of the paperwork, why is it that Lambert or Andrews didn't come to me and ask me to do something?

Did they not?---No.

20 But they did mention - - -?---Excuse me. Can I finish.

Yes. Yep?---Mr Lambert was very, very conscious of my – my conflict, and on many times he said no. You've got a conflict. Just keep a bit away from that – many times.

25 Okay?---And I'm sure that he would back that up if you asked him.

I'll ask him. Now, certainly one thing is for sure. I'm suggesting to you that you were intent upon not having Andrews re-elected?---No.

30 Did you write to Mr Kelly of the Office of Racing seeking to point out that Mr Andrews ought not be re-elected?---I can't - - -

Sorry?---I can't recall doing that.

35 Okay. But if you did, that would disclose that, in fact, you were looking to block his re-election?---Not necessarily, but it certainly would – would be my views, would – had my views been put forward to Mr Kelly.

40 So do you recall that you had a view that Mr Andrews wouldn't be good going forward?---I had a personal view.

And what was that?---That he was – do I say it in a court?

45 Sorry?---Do I say that in a court, my views?

Yeah. Of course you can.

COMMISSIONER WHITE: By all means?---Yeah. Okay.

This not in a court in - - -?---Okay.

5 This is an inquiry, Mr Bentley?---Yeah. I – I considered Mr Andrews was lazy. He – he wasn't – he wasn't as engaged as – as he should be, and he was too interested in what was actually happening at the physical part of Deegan, on the racetrack where he had his horses – horses trained. I had a couple occasions to – to speak to him about inappropriate thing that he did.

10

MR BELL: And were there any other important aspects of Andrews that you felt – on a personal level, even – that didn't equip him well for being a director of Queensland Racing going forward?---On a personal level he was not a bad bloke.

15 But what about business or personal – on either level, was there anything else you can recall that you felt would not equip him well going forward?---Only those – those issues that I've said there before, but I certainly wouldn't have blocked him and I certainly – and I think you'll find somewhere in one of the transcript I've said that I – that I'd be more than happy to support him again.

20

Were there any important corporate governance issues which might impede his ability to continue in the future on Queensland Racing's board in 2009?---No. No. Only those ones that I – I had addressed.

25 Well, you see I suggest to you that on the 27th of November 2009, you raised corporate governance issues in relation to Mr Andrews with ASIC, didn't you?---I don't know. If – obviously – I don't know.

30 Yeah. And not only that, what you did was you raised with the Office of Racing, when they were carrying out their checks on the candidates for directorship, complaint that you'd made to ASIC about Mr Andrews?---I don't remember that complaint.

35 But if you did, you see, that might be more evidence to suggest you didn't want him back on the board, mightn't it?---I think so, on face value. Yes.

Yeah. Let's have a look at it. At 179 of your bundle, please. If you need help, say so?---This is subsequent to the election, this letter?

40 This is before the Office of Racing are doing the – at the time the Office of Racing are about to do probity checks on anybody who had been on the list?---Is this prior to the election that we're talking about - - -

45 I can't remember the exact dates?--- - - - or after? This says the 29th of November 2009. I'm just - - -

27th, I think, isn't it?---This is 27th of November 2009.

Yeah. Yeah. They hadn't gone – Andrews hadn't gone at that time, because in fact, when you think about it, you were writing about Andrews being a director?---This – this letter is after the – after the election.

5 Well, have a look at number 6, over the page. What you're saying is, "I am concerned that one of the directors has obtained money from persons who hold senior positions in the industry." See that?---Yep.

10 And in 8, you're promoting the idea to ASIC that because of the high standards required and confidence that the industry needs, he might need to answer questions?---I don't know what – I really don't know about the money. I don't – don't remember that.

15 Okay. Well, let me tell you what it was. What happened was – in paragraph 4 on the first page, you're recording to ASIC, "Certain events have occurred which may raise important corporate governance issues and the ability of one of the directors of QRL, being Mr Andrews, to continue to fulfil his function as a director." Number 4: "Mr Andrews in his evidence admitted before the court that he'd received funding from several people to assist him in the litigation" - - -?---Oh, right. Yes. Yes. Yes.

20 - - - "and three of those people are currently officeholders in class A members of the company"?---Yes.

25 And you record who they are?--- Yes.

So what you're doing is you're making a complaint to ASIC?--- But this is after – after.

30 No, he's still on the board. And I'll show you in the minute, but hold the phone for a sec because you put this information to the Office of Racing and contend that it's relevant when they're assessing their probity of the different candidates?--- But wasn't the election in August two thousand and - - -

35 No, it – the election was, that's right?--- But Andrews had gone.

The court interrupted it, you see, on a number of occasions. And then you had to have a meeting in December about it?--- Oh, okay. Righto.

40 Yep. So anyway - - -?--- Sorry?

- - - this letter, you might recall now, is one from you that went to ASIC about Mr Andrews?--- Yes.

45 Didn't it? And in particular, I want to ask you about this because this will become important in our discussions today. Could you read eight, please, at the foot of the page?--- Yes.

That statement tends to indicate that you're a careful chairman who wants to ensure that the directors of Queensland Racing are properly investigated, such that the industry can maintain confidence in them?--- Yes.

5 Doesn't it?--- Yeah, and I was aware that – I mean, he'd had money given to him by class A members, yes.

You were. But just come back to the point I'm making about eight. Talking about yourself as chairman, what you're indicating to ASIC is that you as chairman
10 considered it appropriate to take care when it came to directors that public confidence was maintained in the way you had them investigated etcetera?--- Mhmm.

15 Wasn't it?--- Yeah. Yes.

Okay. We'll talk about that a bit more. But anyway, you write to ASIC about Andrews there; don't you?--- Yes.

20 Would you go over to 182, please?--- Is that an email?

Just let me find mine too. Here it is. No, 182 is a letter. Have you got - - -?--- Yes.

25 All right. Just have a look at that, please. That's from Ms Murray, and I'll let you read it. So it will answer the questions you've asked me about candidates and elections and things?--- Yes.

Now - - -?--- We're only talking – I've only read the Bill Andrews bit, that's all.

30 Sorry?--- I don't need to read the other one; do I?

No, don't worry about the other guy, just Bill Andrews. So what's happening is you've made the complaint to ASIC about him being supported in his litigation by four people who provided funds?--- Yes.

35 And you've now raised this with the Office of Racing clearly enough – I'm sorry, I shouldn't say you. Ms Murray raised this, that you had made a complaint with the Office in Racing in their consideration of the candidates?--- Yeah, and I think it was a legitimate complaint because he'd been funded by people; right? Who were going to vote at the election. And at the last line I say, for clarity, "QRL does not know
40 and does not assert that this affects Mr Andrews' ability to be appointed as director of QRL."

45 No, but you were involved in directing Ms Murray to write this the Office of Racing?--- Oh - - -

That you had made the complaint; weren't you?--- That's possible. I - - -

Not possible, it's probable; isn't it?--- It's probable, yes.

5 Yes. And so what's happening is that you're telling the Office of Racing that there are candidates for selection. And when they're doing the probity checks that they've got to do, they ought take into account your complaint about Andrews?--- Yes, I think that's fair.

Yeah?--- That's fair consideration.

10 Now, I wanted to ask you now to go to a document you wrote to the minister, please. It's an important document, as you have said in your statement, it's the case for change document. Do you remember the one?--- I remember.

15 Okay. I'll just have somebody hand that up to you, please. You see, I hope, has yours on the front page got a letter from you to the Director General?--- Yes.

Okay. Dated 10 November. And you recall I was just showing you the document about Andrews which was at about this time; you remember that?--- Yes.

20 Okay. Now, at about this time, you wrote to the Director General of the Department of Premier and Cabinet your document, the case for change. And this was about the QRL constitution; wasn't it? And you were arguing that in future, for consideration there should be an amalgamation of the three control bodies for the three codes?--- Is it in here?

25 Yeah, I think it's in there?--- I've -- I wrote quite a few papers around about that time.

30 Okay?--- But I wrote them in conjunction with the CEO, yes.

35 Okay. Let's have a look at the heading so that we're clear. Under "Overview" on page 3 at the bottom of the page, "The purpose of this submission is to recommend a suitable structure for Queensland Racing industry. And following discussions with the premier, the treasurer, on a transparent and workable industry structure that encapsulates the best principles of independence and commercial governance for the control body structure for the racing industry, the recommended structure is simple and commercially sound, and recommends the amalgamation of the three." You see that?--- Yes, I do.

40 So that's the point you were raising. And if I ask you to go over to page 5, it's the heading -- it says "Current Control Body". You see that?--- Yes.

45 In the last line under there or the last two lines, "However, due to political constraints that existed at the time and the impact of AR1, which is Australian Racing Rule 1"?--- Correct, I'm aware of that one.

"The government was not able to fully" - - -

COMMISSIONER: I'm just not sure whether Mr Bentley's with you. Are you
- - -?--- Yes. I'm with you, your Honour.

You're on track?--- Yes.

5

Thank you.

MR BELL: "The government was not able to fully implement its preferred model,
and had to compromise the final model that still provided considerable power to the
10 club system." And that was the class A membership in the constitution of
Queensland Racing; was it?--- That's correct.

Yeah. And then the next paragraph, "The constitution, they necessarily adopted the
present voting structure at its inception when the QRL constitution needed to comply
15 with the tightly administered Australia Rule of Racing AR1. The strict application of
AR1 meant that there could be no appointees other than by clubs and industry
associations to a control body. This rule protected the status quo and kept
governments out of supervision of racing, as well as protecting the traditional
inefficient and amateur administrations." So that is what was a driver at the time in
20 your judgment?--- Yes.

You say, in the next paragraph in italics, "The strict adherence to AR1 and the
appointments no longer exist." AR1 remained a rule; didn't it?--- Yes.

25 And the rule was a rule that required the control body not to have its directors
appointed by government?--- That's correct.

So they had to be representative of the industry, in effect?--- That's true.

30 But there is no way on earth that anybody could say that your appointment at that
time was of the industry – from the industry; does it? Because you had been
appointed - - -?--- Yeah, from - - -

- - - under the constitution. Approved by the government in 2006?--- Would you like
35 me to comment?

Yes, please?--- That rule, AR1, was gradually – it was very, very tight up until about
1991, when the government changed the legislation in Queensland. Queensland was
thrown out of the Australian Racing Board because they couldn't adhere to AR1.
40 But since then, it's been gradually and systematically watered down by every state in
Australia. So at this particular time, AR1 was almost but finished.

Let me show you this letter from Andrew Harding which doesn't seem to reinforce
that. It's a letter of the 7th of May 2010. You know Andrew Harding?---Yes.

45

And I'll let you read the letter?---Yes, I see – see that.

That doesn't seem consistent with the submission you made to me?---Well, it probably not because I was chairman of the Australian Racing Board.

5 Yeah, I know. But what he's writing – Mr Harding's writing is, with reference to rule 1 on the 7th of May?---Yeah.

And it seems that, at least, if you read this letter, that the policy of Australian Racing seemed to be to have people who were on the boards of the control bodies in the states not be government appointees - - -?---Yes.

10 - - - but appointed from the industry so as to be representative of the industry?---Yes.

And this is an important part of the inquiry I think, Mr Bentley, and we really want your help. You see, the problem is in a sense, it's an enigma isn't it because you've got a corporation, a company under the Corporations Act on the one hand but really in this case in 2006 because of the initial term and 2010 because of the legislation, you and the other board members were appointed by the government?---Well, I – I don't want to get into a legal argument about that but on a practical terms I'd say that, that is possibly correct or quite possibly correct.

20 But the point is now let's get to the substance of it, too. The substance is that if you don't have representatives from the industry but you have government representatives, that's not in accordance with what seemed to be the theme and the Australian Racing Board rule 1 – the Australian Racing rule 1, I should say?---Yes.

25 Does it? Is that the change that's necessary?---I – in my previous statement to you on this subject I'd like you to – I'd like to make a submission – a further submission - - -

30 Okay?--- - - - of the – of what has actually happened in each state, to put forward before the commission, right.

35 Yep. Okay. That's probably a better way to do it?---Because there are – there are government appointees and it's – it's a mish-mash of – in each state it's a mish-mash of all different bits and pieces and it hasn't been strictly adhered to by any – any state as far as I know. Right.

40 COMMISSIONER WHITE: How long was the Queensland principal club on the outer, as far as the Australian Racing Board was concerned?---Three years, your Honour.

45 That was until they got rid of the direct appointments. Is that the case?---Yeah. It was a pretty awful time here but that – but by the same token, the Australian race – that was in 92 to 93. I remember standing out in the cold at Flemington outside the committee room while they were having a cup of tea deciding whether they let Queensland back in. But it had serious ramifications had they applied exactly the rule because we would have – all our races would have been excluded from black

type. We wouldn't have any recognition for any racehorses so it was quite serious. So I did a fair bit of work at that particular time to get us back into the ARB and from then it's just been gradually watered down. But there were some serious ramifications by not being in it.

5

Is there – are other racing jurisdictions that have as their control body an ASIC corporation, are there not?---Your Honour, I would have to check that.

Victoria, for example?---I've been out – yeah, I've been out of it for 18 months, 2 years now and I, I would have to go back and check. But I'm more than happy to make a submission on that.

10

No. Well, we can actually do that. Thanks, Mr Bentley.

15 MR BELL: The point about it, Mr Bentley, I think what you have argued on a number of occasions is that the difficulty arises because to have an election from clubs et cetera, your contention has been that history shows that they are too self-interested to vote in the best interests of the industry as a whole?---Yes.

20 And therefore, having the directors answerable to the clubs doesn't make sense. That's your argument, I think, isn't it?---No, I think my argument is that directors who get to their position by being reliant on an industry association or a club vote come with the vested interests.

25 Yeah?---And it makes it very, very difficult at the boardroom table when a decision's being made. For existence, country racing. I mean, if – if you've got there with the support of country racing and the board through economic means decides they're going to cut 50 meetings out of the – out of the country racing program for financial reasons for the whole of the industry, well you've got a – a fight on your hands with the board. Makes it very difficult to – to operate.

30

See, it's an interesting topic and no doubt one you address many times in your mind but the topic is interesting because if you don't have a representative or people who are representative of stake holders, you just have good executive and or good directors. You know what I mean?---Yes.

35

Who have a knowledge of the industry but that's it. Your preference is for the good director choice rather than somebody with a representative capacity – representative of the industry or part of it?---Oh, yes.

40

So therefore, people who have nothing to do with racing really ought be on the racing control body boards?---No, no, No I don't – No, I don't think that at all, no. I think that, I mean, the issue of how they actually get to be a director should be through a different process. I mean, if I had my – had my way for a day I'd say that a consultant should select them. And you nominate independently of everybody else, you nominate to be on it. Whether you come from a club – but, I think club representation is important, definitely important. But the way – way the club

45

representative gets there is the important thing because they can't go – make a bad decision on a – on –a – on a Friday board meeting and go to the races on Saturday and say, sorry fellers, I just lost you a \$100,000. So it just doesn't work.

5 So they're beholden to their club throughout their term?---Yes.

But I would like to add that it - - -

10 No, no, that's good?---It would be important going forward, for the industry to have a certain number of club representatives on the board. It's the issue of how they get there.

15 One thing, Mr Bentley, of interest to think about too, or answer now if you wish – or both are the question about the model for control body being a corporation. What's the advantage, would you think, of being a corporation rather than being a board, for example, now that we don't have A01 that you say is not current, in effect?---No, well I'm – it's not current, it's probably not being adhered to.

20 Adhered to?---And would you repeat the question?

Yes, I'll – what's the reason for having a corporation rather than a board, for example? What's the advantage of having it at all because a corporation normally – the model of corporation is that management or directorship are answerable to owners of shares, you know?---Shareholders.

25 Here in your years there, Australian – Queensland Racing had no relevant shareholders nor did Racing Queensland?---Yeah.

30 So there's nobody to answer to. So if somebody is unpopular, say for example yourself, if you were unpopular I mean?---Well, you can take that for granted.

35 Yeah. Well maybe, as you say, the chairman's always unpopular because that's the role. That goes with the contract?--- Well, the problem – the problem is with the racing industry no matter what you make – what decision you make, 50 per cent of the people don't like it.

So my question is about corporations. What's the value in making it a corporation?--- I haven't – I haven't got an answer for that one.

40 Okay. But it seems, you see, that complaints that might be made during your reign, for example, by others might be that you're answerable to nobody; you know what I mean? Because there's no shareholding. So if people wanted to replace you with, say, Mr Hamner as the chairman going forward because they preferred his vision, it was very hard to deal with because they had no vote they could exercise. And if you had the ear of the government, you could lock yourself in. You see what I mean?---
45 Yes.

So do you have any view about that?--- Well, if you're referring particularly to [indistinct] , what was – the government had set out a system where – I mean, the directors were definitely going to retire and I was going to be the first to retire.

5 So that the next person would come up for election?--- Yes.

So it's just about the election process, really. It's not about whether it's a company. The company doesn't mean anything, does it, really?--- Not really, no.

10 Anyway, we were looking at case for change. And we were talking a little bit about AR1. And it seemed as if Mr Harding was still writing as if AR1 had application. But you're telling us that, in fact, it didn't really have application?--- It was losing its influence. It was a – it was used by the old club system in the early point as a hammer over government. You can't do that because we won't be in the – and
15 particularly so in the 90s, '91 when Bob Gibbs was racing minister.

Yes. So they would use it against him having too much power in appointments, you mean, for example?--- Correct.

20 Yeah. So we're looking at case for change, please. If you don't mind turning to page 9, at the bottom of the page. In this paper to the government, you used the litigation involving Andrews as a case in point demonstrating there was a need for a new constitution?--- I did.

25 And you in particular report to the government about the receipt of financial assistance that he received from those five people you record there?--- Yes.

And your point is, at the foot of the page, identifying and understanding the motives of those who had co-funded Andrews' action provides a great insight as to the
30 underlying reason why the action was initiated; see that?--- Sorry – yeah, sorry.

But, you know, really does that argument work if he wins the litigation? Meaning if the judge finds that Queensland Racing did not comply with its constitution in giving him opportunity to be re-elected, does that argument hold water? Because, you see,
35 the problem the judge found was that Shara Murray and possibly you with Shara Murray had directed Wilson?--- Look, can we - - -

That was the problem?--- Can we correct that? I mean, I deny that emphatically.

40 Well, she had definitely, the judge found, directed Wilson to make it four, no more. Then the constitution didn't provide that?--- I know – I know that was the judgment.

Yeah?--- But I don't – I personally don't necessarily think that was correct. But anyway, I'm not going to question the court. The court found - - -?---

45 No?--- That was achieved.

Well, let's assume - - -

COMMISSIONER: But there were – there were documents - - -?--- Yes, there were.

5

- - - that were tendered that looked – you'd have to be pretty blind not to see that that's what Ms Murray was saying to Mr Wilson?--- Yep.

It's not as if the judge was reliant upon oral recollection of two witnesses and she preferred one over the other. She had a lot of documentary evidence to support the conclusion to which she came, with respect?--- Yes.

10

MR BELL: Anyway, the point is that – let's assume for the purpose of the argument, if the constitution was not allowed to work, as she found, then it isn't a good model, I'd suggest to you, to use the Andrews litigation as demonstrating motive on peoples' part. Because the motive might as well have been a good one, to give him a fair go without influence?--- Yes, I accept that.

15

You see what I mean?--- I accept that.

20

Okay. So then going over to page 10, the first new paragraph. In terms of the orders that have been subsequently handed down in short, Queensland Racing is required to recommence the election process for two new directors, starting with the compilation of a shortlist of candidates by and independent recruitment agent. So that doesn't seem to be so bad really; does it?--- No.

25

If the process had been carried out without the direction from Murray, for example, then it would've been valid. And all the agitating by these people in the background wouldn't have done anything?--- That's correct.

30

So you see what I mean?--- Yes.

But you argue on anyway, even though the case was lost to Queensland Racing, that this demonstrates a flaw. And in – just jumping one paragraph, “The inquiries have emanated from disgruntled persons within the industry who lack a preparedness to accept the necessary change that is vital for the thoroughbred racing industry in Queensland to survive and prosper. It looks, arguably, that you're using this litigation as an example of how vested interests keep pushing their barrow when, in fact, his position was justified by the finding of the judge, you see. You see my point?--- Yep.

35

40

And you knew that he had won and that the judge had found that Murray ought not to have directed the way she did?--- Yes.

It was unfair?--- Yes.

45

And yet you use it with the minister as an example of vested interests playing a role. It just doesn't hold water; does it?--- It's a paper I've written to the minister, that's correct.

5 I know that, yeah?--- Yeah.

But it just doesn't hold water, I suggest to you; does it?--- In the way you put it, yes.

10 And then the second last paragraph in that heading, still on page 10. "If government wish to distance themselves from racing, and generally want excellence from racing control, they need to properly empower the control body with effective legislation without the collar of political compromise to manage the industry." Now whether or not one agrees with that, the problem here, you see, with Andrews' case was there wasn't sufficient control over the people who were interfering with the process; you
15 see? And giving more - - -?--- Well, I'm not - - -

Having no independent recruitment - - -?--- I'm not saying that I interfered with the process.

20 But they did. But they did?--- I think that second last paragraph is a general statement.

It is?--- And I think we've moved off – moved off Andrews.

25 Well, it's under the heading "Andrews Litigation."?--- I know, but I think we've moved off. It's a general – general - - -

Well, let's just have a look at it. The truth is, isn't it, if you give somebody a dictatorship, sure. They don't have to answer to anybody?--- That's correct.
30

They just go hard all the time. Did you get in that position?--- No.

Well, you were in the seat from 2002 to 2012; weren't you?--- Yes.

35 And you had the ear of government?--- Yes.

And so long as you maintained it, nobody would have any say about whether or not you continued as chairman?--- Oh, I think that we've watered it down over the years to get to a point where it was a reasonable situation.

40 I don't - - -?--- And there was a lot of things happening.

No, I know. I don't remember you going to election once?--- No, I haven't gone to election.

45 No. So you were not answerable to anybody but the government?--- I – I was certainly answerable to the government, yes.

Yeah. And we've shown, I suggest to you, Mr Bentley, that you would tell the government what was required rather than the full story?--- I refute that. I mean, you can pick out sentences here and there and things that I might've said. But pretty well – I mean, anything that I've said was certainly not intentional.

5

Okay. Here's my point about that. I accept what you say. Picking out, like a lawyer might, little pieces here and there – I accept that criticism. But what I want to ask you is this: when you write to a minister when a stakeholder like Carter – I suppose he's a stakeholder, Mr Carter QC, or Stephens, the member – is critical and you address the criticism by telling part of the story about your consultation with Wilson. That becomes more difficult, you see, than just being a lawyer picking out one paragraph?--- Oh, no. I don't accept that, I'm sorry.

15 Certainly you would appreciate too, wouldn't you, if you kept the ear of the government then there was not much risk for you because you would do, in fact, what you did. You would get legislation to be passed so that Racing Queensland with you as chairman would stay on for another five years?--- Yeah, I think that [indistinct] – I mean, this is plenty of – whilst I may have the ear of government, I don't think that was sort of unfettered. But everything that I did, I did for – I considered to do for the industry, not for myself. And I saw that the succession or keeping the boards or everything like that intact was fairly important to get – to try and get through a reform agenda. And that was the – but I didn't – certainly didn't ever set out at any time to mislead the government. Any time.

25 Let me ask you this, see if I'm right about this. One view of the Tatts thing that we've talked is that you felt that it was unjust that Tatts be paying for race information, whatever they did with it – Used it or it was provided it, when they were paying for it under the Product and Program Agreement?--- They were already – I accept they were already paying for it.

30

Yeah. And you've - - -?--- I mean – and I believed that the contract that they had was enforceable, and that's the way it was.

35 Exactly. Your view was, wasn't it, that in 1999 they agreed to pay for it. They paid a substantial sum which came to 39 per cent of their wagering revenue and therefore you felt they shouldn't be paying New South Wales for it, or anybody else. They were already paying heavily for it?---Well, that's the logic of those two clauses.

40 Yeah. But that's how you felt about it, wasn't it?---That's how I understood it to be.

And that's how Tatts felt about it too?---That's correct.

45 So senior players in the industry – you and people at Tatts – thought that it was unfair that this legislation had come in and made a mess of the outcome?---No. I didn't think it was unfair.

Well, in the sense - - -?---I mean we – we needed that legislation – I mean so we captured the corporate bookmakers and others.

5 Precisely, but the effect of it was that you felt it should not impose another charge on Tatts for information on New South Wales Racing, for example, because they were already paying for it under the Product and Program Agreement?---That's correct. It's there.

10 Yeah. That's what I thought you thought, and you convinced Hanmer of that too, didn't you?---No. Hanmer's independent of me absolutely. I mean - - -

15 Not when you – not - - -?---I mean surely – surely he must have a view on – on things. I mean he's – you know, he's been around for a long time. I mean he's been made to study the Product and Program Agreement.

If I was on a board with somebody from 2002 to 2012, I'd certainly strike up some relationship with them, whether good or bad. You'd accept that?---I accept that.

20 So if you're on that long, it can possibly lead to somebody not being as independent. Don't you agree?---I – I – I considered that Hanmer was – was very independent. He was very protective of Product Company, extremely.

25 But when you discussed with him his view of the race fields legislation coming in New South Wales, he was of the same view as you: that it was unfair to charge them a second time for information, wasn't it?---Yes. It would be fair to say that.

Yeah?---He was – he was – he's not concurring with me. That's his view.

30 Yeah?---Right. And I think - - -

35 And you see - - -?--- - - - you would – might find there's a lot of other people as well, and I think I said to you yesterday if they would have come to me and said set your conflict aside, and Lambert would've come to me and said set your conflict aside, sort this out, I would've sorted it out. And I think I answered you yesterday when you asked me the question what would you do? I said I would've got advice. Now, I can't say any more than that.

You would've got advice?---I would've got advice.

40 You see, Mr - - -?---And I mean I wanted that – but while I was sitting there, no one came to me. Lambert and – and – and Hanmer and the other members of the Queensland Racing Board or Product Company could have, at any time, got the chequebook and gone and got advice if that was what they wanted to do.

45 But they didn't need to. You'd already got one?---Beg your pardon?

They didn't need to. You had already got one from Mr Grace?---No. My advice is my advice to me, right, not advice to them.

5 No, no, no. No?---That's my opinion.

You had already got one at Queensland Racing from the great Mr Grace?---I'm sorry. I didn't get it. It was got – got for Product Company on behalf - - -

10 Sorry. Let me rephrase that. Queensland Racing had already got advice?---Yes.

Yeah. So why would we need another one? We know what Mr Grace said?---That advice was – was got – right - - -

15 Yep?--- - - - by Mr Tuttle – at the instigate of Mr Tuttle - - -

And he's Queensland Racing, remember?---That's right.

And you're the chairman of it?---That's right. It wasn't advice that I sought.

20 Okay?---Well, that's the truth.

Well, you went – okay. Don't worry about it?---Yeah. Well, we're going to clarify that at some later stage.

25 I hope so?---We will.

That's good. Just excuse me, Mr Bentley. I've got loose pages and I'm trying to see where they fit?---Well, I'm glad someone else is struggling with the pages.

30 Yep. Yes. Okay. I'm ready. Thank you. I wanted to talk to you now about a different topic, please. We talked about Andrews and how it came that he didn't get re-elected, to some extent. And we talked about Lambert, how it came that he went off the board. I want to talk about Watson, how she went off the board of Racing Queensland, please. You remember that she did - - -?---I do.

35 Yeah. And in particular you moved, didn't you, for her to be removed from the board of Racing Queensland in 2010, I think?---You mean I moved?

40 You moved. Yes?---I – I thought the board - - -

What happened was - - -?---I thought the board moved.

Sorry?---I thought it was a board decision.

45 It was a board decision, but you moved - - -?---Just – not necessarily because someone moves they're the ones that actually promote it, but I mean – I don't know.

I don't understand that?---Could I – could I have a look at the board – could I have a look at the board meeting.

5 Yeah. You definitely will; I'm going to take you to the board minutes of the 6th of December in a second, but - - -?---Yeah.

- - - don't you agree that when you move it, you're in favour of it?---Yes. Oh, yes.

10 Okay. You moved it, you see, for Watson to go off the board?---Yes.

Do you recall that?---Yes. I was [indistinct].

15 Yeah. Now, would you please go to page 142 – I'm sorry – divider 142?---Board minutes of Friday, the 5th of November?

Just hold one sec. I've got 142(a), I'm told.

20 COMMISSIONER WHITE: Just bear in mind that we've had about 200,000 documents, Mr Wilson, and - - -

MR WILSON: I know. I know, Commissioner.

25 MR BELL: Commissioner, could we have lunch early and I'll just get organised, because I'm messy and I don't have that document which I should. And I want to take Mr Bentley to it, please.

COMMISSIONER WHITE: We certainly can do that. Folder number 4 – we can break early, but it is in folder number 4.

30 MR BELL: Thank you.

COMMISSIONER: All right. So you're comfortable that we just take the usual amount of time – lunch-time, or do you want to start at – should we start at - - -

35 MR BELL: How do you feel, Mr Bentley?---I – I would like to start back at the – excuse me, your Honour. I'd like to start back at the normal time. I have something else I need to do.

40 MR BELL: Okay.

COMMISSIONER WHITE: 2.15, then.

WITNESS: [indistinct] scheduling. That'd be fine. Thank you.

45 COMMISSIONER: 2.15 – yes. It's – we can easily accommodate that?---Thank you.

THE COMMISSION ADJOURNED

[12.38 pm]

THE COMMISSION RESUMED

[2.15 pm]

5

ROBERT GEOFFREY BENTLEY, CONTINUING

10 **EXAMINATION BY MR BELL**

COMMISSIONER WHITE: Thanks, Mr Bell.

15 MR BELL: Thank you.

Mr Bentley, we were going to talk about Watson, and I'll ask you, please, to go to 142(a). And you'll see that's a board meeting minute of the 6th of December 2010?---Yes.

20

And you will see in the second paragraph, "Mr Bob Bentley spoke to the motion and in doing so, confirmed all members had received a notice of meeting stating the motion to be considered." See that?---Yes.

25 And then so that you get the motion, at one eight – sorry – 289, please. Would you have a look at that. It's over about eight dividers. 289?---Yes. I do.

And you see there's a notice to Ms Watson dated 9 November, but if you turn over the page you see the notice signed by you of the same day, where you give her notice you intend to move a motion that Kerry Watson be removed from office as a director?---Yes.

30 Okay. So that seems to be the motion, and then if you go back – I'm sorry – to 142(a) – as I said in the second paragraph, you're recorded as speaking to the motion, and then Ms Watson is called upon to speak. And then if you turn over the page to 2, "Motion was moved that she leave the room by Mr Lette and that discussion take place without her present." That's what happened?---Yes.

40 And then on page 3, she was removed from the board by the numbers set out there. See that? And Mr Lette was against the motion, you can see, and the other members of the board were for it, including you. Okay. So before lunch we were talking about how it was that she came to be removed. It was on your motion that she was removed?---Yes.

45 Okay. And then would you go to 135, please. If you have a look at 135, this was a minute of the first meeting of Racing Queensland?---Yes.

And in particular, do you recall at that meeting – if you look at the bottom of page 2 – “1.8 Strategic Asset Plan”. Do you recall what happened was that you updated the board in relation to the development of strategic asset plan?---Well, I don’t actually recall it, but I mean - - -

5

Okay. Have a read of it, then?--- - - - it’s in the minutes, so it’d be right.

Have a read and then I’ll ask you something about that?---Yes. I’ve read that.

10 So at the first meeting on this day, the 1st of July ’10, after the merger of the three codes into Racing Queensland as their control body, you updated the board on the development of it?---Correct.

Clearly enough. So what was happening was the executive of what was now Racing
15 Queensland would continue work that had been done previously in relation to a plan?---Yes. Working on the strategic plan?

Yeah?---Yes.

20 And in number 4 under that heading in the minutes, the strategic asset plan will consider the assets of the three codes to secure the best economic outcomes?---Yes.

Because of course, Racing Queensland had not existed before this time and the assets were owned by Harness and Greyhound and Thoroughbred?---Correct.

25

And what happened was – if you then go to 137, please. This is the minute of the 24th of September 2010, on a Friday, and it’s the first meeting when you come back with the executives to report to the board about the development of the plan – strategic asset plan?---Yes.

30

That fair enough?---That’s fair enough.

Okay. So what you say is – in 2, on page 2: “The chairman advised all board members that the information before them today was strictly confidential and that
35 any board member found breaching the board confidentiality, the chairman would seek their resignation. The message was also conveyed to Mr Bob Lette by email.” And then what you do is you proceed to reveal to the board for the first time what was the plan?---Correct.

40 Okay. And that plan was a plan that involved assets that had once been controlled by Harness and once been controlled by Greyhound, but also the Thoroughbred assets?---Correct.

And in it you detailed to them – that is, to them I mean to all of them – but in
45 particular to the person who’d been the Greyhound chairman, Watson, that the plan that she may have thought was going to happen about Logan for greyhounds was off the agenda – was off the plan. That’s right, isn’t it?---That’s right.

And for that that involved Harness, which was an earlier expectation that Lette may have had for Harness, that is, to retain Albion for its events, was also to go off the agenda?---Yes.

5 And what the plan was for Albion was to sell it – to develop it and then sell it, and by that means to fund other development?---Yeah. Realise the asset.

Yeah. Now, that was Friday. If I ask you to go to 238 – 283, which is the next document. I’m sorry. That’s wrong, what I said. Mine says – just excuse me one
10 second. I’m sorry. Before I go from that, I just wanted to ask you something more about a place – yes. In the – under that heading in the second line, you say – and it’s in bold – “Strictly confidential”. You see that?---Yes.

Now, may I ask you to go to your statement where you seek to explain that
15 confidentiality direction, please.

COMMISSIONER WHITE: Mr Bentley’s first or second statement?

MR BELL: First statement, please, your Honour - - -
20

COMMISSIONER WHITE: Yes. Thank you.

MR BELL: - - - Mr – Ms Commissioner.

25 WITNESS: I’ve got my statement.

MR BELL: Oh, thank you. Paragraph 14, please, Mr Bentley. I’ll just let you read that?--- Yes, I’ve read that.

30 In the second last sentence, your point is the plan had to be considered by the board and approved and then go to cabinet for approval. That – that’s the way it would work, I suppose?--- Yes.

And then, just we’re sure of our ground, 27 – paragraph 27, please. And I think
35 you’ve reinforced this point in 27B. You say, “The board members were provided with copies of the draft plan, and I directed them to take the documentation away and to consider it so they could meet again on 28 September before making any recommendation to the government?--- That’s correct.

40 Okay. And then to really put the point away, paragraph 30, please. Okay. So the point in 30 and the other paragraph, particularly 30, is that your belief was that confidentiality needed to be strict because you believed the government would not be inclined to provide the tax redirection if the plan lacked community support or had adverse media?--- Yes.
45

Okay. So I take it that what you mean by that is that if the government appreciated that there was an objection to the plan, they wouldn’t approve?--- No, not

necessarily. We wanted to get the plan to a stage where it could be properly conveyed to everybody, this is what's happening, rather than going out early before it was really set in stone for consultation.

5 Okay. Let's talk about set in stone, what that means. What I'm - - -?--- Well, completed.

What's that mean?--- Sort of complete.

10 Completed. You mean in a piece of paper? Or - - -?--- Yeah, completed in the proper plan. Yeah.

Well, at what stage did it get completed?--- Prior to the business cases being commenced.

15

No, no. Forget about the business cases. Let's talk about the plan. What we're trying to identify is you saying in paragraph 30, "I believe that the government would not be inclined to provide the tax redirection if the plan that it agreed to lacked community support and there was adverse media."?--- Yes.

20

Okay. I'm thinking that what you're saying is that if the plan went out there and the government found out that it wasn't accepted by those that had an interest in the industry or the community generally, they wouldn't approve it?--- Yeah. I'm just trying to answer that question. Adverse media would've caused this a lot of trouble in getting the money and getting it through funding.

25

Yes?--- We needed something that was defensible. The plan needed to be – to have structure and be capable of being defended.

30 Yes?--- That's – that's really what I meant, whereas it's not necessarily in those words there.

Yes. But I'm a little confused, you see, because what I want to understand is that when you say to the board, who are seeing you for the first time on the Friday, "This is strictly confidential. Don't tell anybody, board. Because if the Government learns that this plan isn't supported, they won't redirect the money." That's right; isn't it?--- That's right.

35

So were you concerned that this plan would not be supported?--- I – I had a concern, certainly. I mean, everything you do in racing, there's always a concern. We've had other projects scuttle before. We'd even got to this stage.

40

Yeah?--- I'm not so sure I agree with your previous statement.

45 Okay?--- I'm just trying to frame it in my own mind exactly - - -

Let me tell you what I'm getting at. If you look at 30 of your statement, the way I'm reading the second last sentence, "I believe that the government would not be inclined to provide the tax redirection if the plan that it agreed to lacked community support and there was adverse media." What I'm thinking you mean is let's not let the government think that this plan does not have community support because if we do, if they do hear that, they won't redirect the tax towards us?--- No, I don't -- no, that's not the -- that's not the meaning.

Well, how do you read it?--- I believe that the government would not be inclined to provide tax direction if the plan that it agreed to lacked community support and there was adverse media.

Yeah?--- What I'm saying is that until the plan gets out there; right?

Yeah?--- But if there was a huge amount of adverse media, they would -- they'd probably cause it at this stage. Because I remember having a meeting with the Premier. She said, "I don't want this out in the public."

No, no. Stay with the point?--- Yeah, I'm trying to stay with the point.

Just stay with the point. Here's the point, you see. There can't be adverse media, of course, and there can't be signs of the community not supporting it if they don't know about it?--- That's right. We were going out for consultation.

Okay. But what you're saying is -- to the board, "Keep it strictly confidential because we don't want the community getting up in arms about this."?--- Till we've had a chance to explain it.

Okay, fair enough. Till we've had a chance to explain it. To the government, you mean?--- Both.

Okay. Well, let's stay with the government first. So I think you're saying, aren't you, that you wanted to get the government covered off first to tick the plan to approve the plan before you went to the community?--- Yes.

Okay. Now, just looking back at what you believed in 30. "I believed that the government would not be inclined to provide the tax redirection if the plan that it agreed to lacked community support." Was your intention to deny the government the knowledge that might be there that the community didn't support it?--- Oh look, I'm sure that the government knew that and realised that, that there would be no -- there would've been no trying to hide anything. I mean, they would've known. And I guess at different times I would've said well, you know, there's going to be some adverse media here because of this. But we needed something to put out to be able to defend.

Okay. Well, one thing is for sure. On the Friday when the board meeting occurs and you say, "Now listen, this is strictly confidential. It can't go outside here." To the directors?--- Correct.

5 What you have before they approve anything is your plan. You don't have their plan. They've still got to approve it first; right?--- That's correct.

Okay. And for their plan, they need time to consider it?--- Yes.

10 Don't they?--- And they need something to consider.

Okay. And then, once they'd approved it, you would go to government?--- Yes.

15 Okay. Is that for sure? That's the structure?--- That's the structure, yes.

So what happens is Bob Bentley and the executive might approve a plan, but it's not approved by QRL then – by QRL then. It needs to go to board to be approved; doesn't it?--- Yes.

20 And then after that, the first step would be to go to government and get it approved?--- Yes.

Okay. I see?--- The government were well aware of the plans that we were working on because we'd been talking about this for two years.

25 I know that the point you make to me is that they knew I was working on a plan?--- Yes.

30 Yeah. But of course, your point, I thought, in the affidavit on oath you made here was they wouldn't approve a plan that didn't have community support?--- Yeah, well the way you're reading it and the way I meant it to be is probably different.

Okay. Have I got it wrong?--- Yeah, I think you - - -

35 If they knew - - -?--- I think you have got it wrong.

Okay?--- I mean, you're playing on the words. I'm playing on the practicality of it.

40 Okay, tell me the practicality. How it could possibly – the government could possibly know whether it had community support or not, even if the board didn't know what it was at that stage and weren't allowed to talk about it?--- No, we needed the plan for preliminary support from the government to know that we were going to get some tax redirection; right?

45 But you had tax redirection from November the year before?--- Yeah, well it was all – it had certain caveats on it as well.

That was that you needed a plan?--- We needed a plan.

Did you need a plan with community support?--- Well, eventually we would need community support. But that didn't mean to say it wouldn't go ahead.

5

Okay. When you put this proviso on the board on the Friday that it was strictly confidential, what was confidential about the plan?--- I think the way the assets were going to be handled. Because as I said, the year earlier and this inquiry – I mean, there were certain people who were going to be affected by it.

10

Okay. But it wasn't confidential from the government; was it?--- No.

Okay. So it's not them that you're concerned about learning about the plan?--- The actual plan – the community or the racing community knew there was a plan being worked on.

15

Yeah?--- They didn't know the detail of the plan, what was - - -

I'm trying to work out what's confidential, you see - - -?--- The plan.

20

- - - that the board can't tell anybody?--- The plan.

Okay. And you're not worried about the board telling the government the plan because they are involved in it; are they?--- The – yes.

25

Okay. Who is it you're worried about the board telling?--- The general community.

Okay. I see. Because you see, what happened was the reason Watson ended up getting removed was because she didn't keep this plan strictly confidential?---That's what I believe.

30

Who did she write to about it?---She wrote to – to me and c.c.'d the minister.

Yes. Well, it wasn't confidential from you?---No.

35

Okay. Who else?---She c.c.'d the minister - - -

That's right?--- - - - and she spoke to stakeholders outside.

No. She was removed, Mr Bentley, because she wrote a letter, you recall, to you and she c.c'd the minister - - -?---Yes.

40

- - - and she c.c'd Mr Kelly, didn't she?---Yes.

Okay. Now, those three people aren't of concern?---No.

45

5 Okay. Now, the point about it being strictly confidential – you see, insofar as she wrote a letter to the minister and wrote it to you and wrote it to Kelly, there was nothing wrong with her doing that so far as confidentiality was concerned, was there? The key was that she had problems with it?---Yes. And she was talking to stakeholders outside about the plan.

The key was that she had a problem with it, wasn't it?---Yeah. She'd voted for it and then – then changed her mind.

10 That's right. You said, about her, that she, by writing the letter to you and the minister and to Mr Kelly, had breached the strict confidentiality, didn't you?---She did. I did.

15 Well, let me understand what had, in fact, occurred by that time. Now, would you mind going to 287, please. Now, what I'm going to take you to is what appears to be the case as to what had, in fact, happened with – can I call it Mr Bentley's plan at this stage, because this is before approval by the board?---Yep.

20 If you look at Mr Smith's statement. Mr Smith at the time was high up in premier's office?---He was.

If you go to paragraph 39, please?---I recall that meeting.

25 So what happened was on the 18th of August, more than a month before it went to the board, there was a meeting with the premier, Paul Lucas, a member of cabinet, Andrew Fraser, the treasurer, and also Peter Lawlor, the minister for racing, yourself, Bill Ludwig and staff from the premier's office. And at that meeting, the racing strategic plan was discussed for significant rationalisation of facilities, wasn't it?---That's correct.

30 Now, at the time it's clear enough Watson had no idea about this, did she?---I wouldn't think so. No.

35 Nor Lette?---No.

No. Was there a reason for that?---No reason. No.

40 Okay. So then if I ask you to go to document two eighty – document at 286, please. I think it's the one before, I'm told, Mr Bentley, please. Have you got that one?---Yes. Is that Bevis?

45 Bevis. Paragraph 43, please. So we talked about a meeting with the premier and others high up in government on the 18th of August. In paragraph 43, the second meetings – a second meeting occurs on the 2nd of September, attended by Mr Bradley, yourself and other people. And those other people, I'll take you to in a minute, were Mr Bradley and yourself – yes, all three. Can you recall that meeting?---I can't - - -

Okay?--- - - - but I'm not saying it didn't happen.

5 No. I understand. At that meeting RQL – it would seem, by this witness's statement, RQL proposed a strategic asset plan which proposed numerous and various plans for racing infrastructure around the state. That – his understanding is wrong about that, I suspect, isn't it?---I can't comment on that.

10 Well, my point is this: RQL proposed a strategic asset plan – that can't be right at that point in time, can it?---I wouldn't think so.

No. We're three weeks away from taking it to the board yet?---Yes.

15 Okay. And then on 45, the second meeting was a follow-up on the 10th of September, when RQL presented a proposal to free up funds by way of early access to wagering money through the redevelopment and future sale of Albion. The invitees were Robert Bentley, Carol Perrett, Malcolm Tuttle and Ms Whitchurch. Remember that meeting?---No. I don't.

20 Okay. And then one thing is for sure, again: the – this person has got it wrong. It wasn't RQLs plan, was it?---No.

No?---It was put together by myself and the staff. Yes.

25 And what's interesting – that was on the 2nd. If you go to 283, please, the next day there's a board meeting of RQL. And see if you can find anything in there where you disclose to your fellow board members that you're at government putting the plan. Oh, sorry. That you're at government putting a plan, because they don't know anything about a plan yet?---No. No. There's nothing there.

30 Beg your pardon? Nothing there?---I - - -

So you didn't at that meeting mention that you'd been to the government on two occasions promoting a plan, did you?---Well, it's not in the minutes.

35 No. Well, did you?---I – I – I don't know. I may have, but it's not in the minutes so it's highly unlikely.

Okay?---I probably didn't do it.

40 Okay. Then would you go to 286, please, back to 286. And at paragraph 43, there's a second meeting, says Bevis. It was a follow-up - - -?---I'm not with you - - -

I'm sorry. It's at - - -?---43?

45 286 at paragraph 45, please?---45. Yes. I've read that.

Yeah. So it would seem then there's the 10th, and then if you look down to 47
- - -?---Yes.

5 - - - what seems to happen is that on the 14th of September, the treasurer and the
minister for racing and Mr Bradley are proceeding to consider whether a guarantee
should be provided?---Yeah. I think that was a – I think that was part of the funding.

That's right?---Yeah.

10 That's right. Part of the idea for funding, so that the money could come in before the
sale of Albion?---That's correct.

So they're working on the basis that this is something for their consideration at that
time, aren't they?---Yes.

15 Okay?---It's all part of the plan. Yes.

Now, may I take you to 137 now, please. I'm sorry. 138, Mr Bentley?---Yes.

20 Now, we've – I'm sorry. I did get that wrong; it's 137. Go to that. Now, having
heard what had occurred already, on the 24th we know that on this Friday you
revealed to the board members the plan, so they could consider it?---Yes.

25 And what the approach that you used was that they consider it and then on the
Tuesday approve it?---That's correct.

30 Now, how was it that the board had no information about the plan before it went to
government with you?---Mainly I had to get all the ducks in line to make sure that – I
mean there was something to present properly to the board that they could approve to
go to government. I mean the – how – how - - -

No. Sorry. It's around the other way, isn't it?--- - - - how we were going to do it.

35 We established before when I asked you questions that the plan was to be developed,
go to board, get approved and then go to government?---No. Part of the – part of the
– the plan was also the funding that – that went with it.

40 Yeah. Forget about the funding; let's talk about the plan?---No, no. The funding
was – the funding was part - - -

Oh, no doubt it was?--- - - - of the plan.

45 No doubt it was, but the plan was integral because you see, the plan involved the sale
of Albion?---That's correct.

Yeah?---We had to make sure that - - -

And it involved whether or not Logan went for the greyhound racers. Am I right?---Yes. That's correct - - -

5 Okay?--- - - - and I'd say that was a subject of those – those meetings with Bevis. Is it Bevis?

Yes?---Yes.

10 But before we go to government and treasurers and premiers, shouldn't we first get a tick from the board?---Yes. But the – all those – all those other meetings were all part of getting the – the final plan together for the board to approve to go to the government. That's the way - - -

15 I don't think so?---I do.

I don't think so because in fact when you look at the documents which I'll show you now – you gave the plan to government before it went to the board?---I don't - - -

20 They weren't asked, did they like it or would they want to change it or anything like that?---There was – there was a lot of plans.

There was a lot of plans but this plan - - -?---The final plan – the final plan that went to government went to the board.

25 Yeah. That's right. That's exactly what you said is exactly right. The plan that went to government before the board saw it, went to the board?---No. That's not what I said.

30 That's what happened?---No. I don't – don't agree with that.

Okay?---The final plan with the funding attached to it – because the plan wasn't worth two-bob if there – if it wasn't roughly funded within 15 to 20 per cent. How do we know if we do it?

35 Let's have a look - - -?---We took those meetings – I'm sort of trying to recollect now.

40 Yes, I know?---We're part of the plan to say that it was feasible. There was no good giving a plan to the board or the government that wasn't feasible. And that – as far as I was concerned or as far as I think now, reading that, in the short period I've got – that – that's the way it worked.

45 Okay. Here's my question to you: that doesn't make sense, I respectfully suggest to you. Feasible must first be considered by the corporation of whether it works and whether the board support it before you go looking for funding for it. Don't you agree?---No. Cos – No, one part of the – one part of the plan was, I think, obtaining

a loan from Treasury Corporation as part of the funding. It wouldn't work without that.

5 You see, when you're a chairman – chairman – that means, doesn't it, that you sit at the head of a board?---Yes.

You're no different from other board members except that you sit at the head as the chairman?---I agree with that.

10 Okay. You have no powers for the company other than as chairman of the board – as part of the board, do you?---Yes, correct.

15 Yeah. So could you explain to me please, how it was that you were at government promoting a plan that you hadn't yet shown to Watson or Lette?---Because of the confidentiality situation.

Exactly. Because you had the feeling – you knew that they would have a problem with it, didn't you?---No.

20 Why not? Why are you so sure?---Oh, I'm not – I'm not sure but I don't think that they would've had a problem. Mr Lette had a problem with Albion Park.

Exactly?---And Ms Watson would've preferred the greyhounds to go to Logan.

25 Logan?---Yes definitely.

And why was that, that they preferred – you thought that they would prefer that?---Oh I think they've both been in their position for a long time.

30 Yeah. That's right. In fact, it was their position of January of 2010 when we discussed whether we'd all consent to amalgamating to one control body?---That's correct.

35 Yeah. You were conscious that the greyhounds, rightly or wrongly, put their hand up to say yes because they were assured that Logan was going to be something developed?---At that particular time it was.

40 And the same for harness with Albion?---Yeah, there was – we were – we tendered to go ahead with that at that particular time.

That's right?---It wasn't til March, I think, when Snowden came aboard.

That's right. It wasn't til March but you didn't tell them?---Yes, I – oh, yes I did.

45 No you didn't. You didn't tell Watson - - -?---I – I – I refer you to my statement. There's a letter attached to my statement of the 5th of February.

No - - -?---I'd like you - - -

5 Your letter of the 5th of February says, "I can't promise anything, in effect. We gotta get together as a board on the 1st of July to decide those?---I said I have no authority to promise anything and I'd like to make sure that – and why's that – why is the letter not here

It's here. I'm going to take you to it?---Well, I haven't - - -

10 You know the funny thing about your letter is you gave them all the assurances they wanted, as did Hanmer and then wrote the letter to them saying, "You can't rely on us."?---I disagree with that. I didn't give them any assurance. I said there was no intention. As far as greyhounds were concerned, yes. There was no intention to go – not to go ahead with the greyhound facility and as far as harness, there was nothing
15 on the board about selling or developing or doing anything different from Harness.

Here's my question then: the plan is being developed over, at least from 1st of July 2010, isn't it?---Oh, I think it was in formula stage a little bit before that.

20 That's right. But you couldn't formulate it for Harness and Greyhound back then because you weren't in charge of them – you had nothing to do with them.?---That's correct.

25 So what happened is after the 1st of July, you continued whatever work had been done by you and the executives in Queensland Racing and developed a plan up until the 24th of September which you then showed to the board?---I think – I think that situation with Logan and Albion park was – was in formulation before.

30 Have a look at – we'll go back to this board minute because – 137. Now, under 2, strategic asset management plan – you introduced it by saying, strictly confidential – any board member found breaching board confidentiality you'd seek their resignation?---Yes.

35 Okay. So they were going to learn something new they didn't know before?---Yes.

That's right, isn't it?---That's correct.

And remember, Mr Lette wasn't at this meeting, was he?---No, he wasn't.

40 No. But if you go halfway down the page you'll see Ms Kerry Watson expressed her concern that the Logan greyhound track would not be proceeding?---Yes.

45 Okay. Now, what happened, I suggest to you, was this was the first occasion when Watson learned that Logan wasn't proceeding?---I'd say that's possibly correct.

Yeah. And Lette wasn't there but he was soon to learn that he received in the mail or by delivery, the plan for the meeting on the following Tuesday?---Yes.

5 Okay. So these two people, for example, and the other board members who had no knowledge beforehand – and I can't referred to Mr Ludwig because he was there with you – but at least those two board members had one business day to consider the plan, didn't they – the Monday?---Well, if you want to call the – the – put it that way – I mean, they had the whole weekend to do it.

10 Well, you're right. You're right. This plan that had been developed before the 1st of July and you'd been seeing government about it – these people, particularly the person who used to once represent greyhound, Watson, and the person who used to once represent harness had this put on them and they had to make a decision by the Tuesday?---Yes.

15 Okay. Could you explain to me please, Mr Bentley, why it was that in the months; July, August, September – those three months – no discussion occurred with Watson or Lette about the plan?---They knew a plan was being developed.

I know that?---Yes.

20 Did you discuss with Lette – Lette, Albion's looking like it's not going to happen, we're going to have to sell it?---No. No, I don't think so.

Why not?---Because I thought that, I mean, that Lette – and I'm sure that Lette probably would've objected at that stage and there was nothing - - -

25 And you didn't want that, did you?---No.

Because it was your plan and you wanted to see it go through?---Yes. Well, not – I – it was my plan, yes.

30 And also for Watson, the same. You knew - - -?---When I say it's my plan, I took the responsibility of it. I mean, not necessarily all my ideas.

35 No. But you know, the funny thing is nobody – no executive in that company and certainly not a consultant like Snowdon is going to make the decision, we're going to sell Albion and that's going to be part of the plan. It's going to involve you. It's a big decision?---I wouldn't say, that I mean, mean – that sort of situation. I mean, those sort of recommendations and those sort of thoughts wouldn't necessarily come from – from me. I mean, they would've come from some of the executive as well. I mean, it's not all my suggestion but I didn't disagree with them.

40 But Mr Bentley, nobody in that company is going to suggest to you, we're going to sell Albion. It's going to come from you at a very early times?---No.

45 Okay. When you first learned about that as an option, did you discuss it with Lette, your co-director?---No. No, I didn't.

Did you owe him a duty to give him full disclosure?---Oh, I don't – don't think so at that particular stage.

5 No. I didn't think you did. You see, lawyers might think that when you're a director you have a duty to give people the story – other directors I mean?---I gave them – when the plan was finished they had the full story.

Exactly: it was finished, and it was with the government going to cabinet before they even learned about it?---No, that's not correct.
10

Isn't it?---No, I don't think that's correct.

And not only that, when Watson expresses her objection in a letter to the Premier – to the Minister, the Minister for Racing, and Kelly, the Office of Racing, and to you, upfront, she gets sacked for it?---I think that's stretching it a little bit far.
15

It's pretty close?---No.

Because when – look closely at the argument that you advance - - -?---What's – I've read – I roughly said through the minutes Watson said she was disappointed, didn't she?
20

She did?---Expressed a concern [indistinct] - - -

25 She did, and then she voted for the plan - - -?---Correct.

- - - you remember on the later date?---That's correct.

And then started to ark up later, but she didn't ark up any more than writing to you?---And ccing the Minister.
30

Yeah, and the ccing the Minister?---I mean, that - - -

You knew everything about it already?--- - - - shows – and that shows a divided board, and that was the reasons for my statement in 2, the first paragraph in 2; don't do those sort of things. I mean, that – I mean it's a kiss of death if you've got a – infighting like that in a board. Fight all you like inside the boardroom, but not outside.
35

I understand, but the problem is you've got to balance that, do you think, Mr Bentley, with getting genuine consent from the board, developing the plan together as a team?---I think that this was genuine. I mean, they gave genuine consent. Lette said he liked the plan, but disagreed with the sale of Albion Park. I mean, there was no plan without the sale of Albion Park.
40

45 Well, in fact there was, because you know that in the end you were blocked selling Albion Park by the government, and that you had a plan?---That's correct - - -

Yeah, a new plan?--- - - - and that plan had – the existing plan had to be modified to
- - -

5 It did?--- - - - accommodate that situation.

Exactly?---So it's a different situation.

10 But the people who really wanted to have a say are stakeholder in the industry –
stakeholders in the industry – who really wanted to have a say had to go to
government to block it, didn't they?---Yes. Well, they caused a lot of trouble, I mean
– and - - -

15 Caused you a lot of trouble, that's right?--- - - - and, politically, caused me a lot of
trouble, yes.

It might have caused them a little trouble too?---And they won.

They did win, didn't they?---Yes.

20 They went to the Premier, didn't they?---Yes, they did.

And that's how it got blocked up?---Yes.

25 Yeah, but, you know, the funny thing is the reason there was such a kafuffle about it,
Mr Bentley, was you didn't consult even your board in developing the idea. That's
odd, isn't it?---Not in the circumstances I don't think so, no.

30 And I think you mean these circumstances, that is, you can't get anything through
with these people in racing unless you get it done with government first?---No. I
think that a – we've had so many projects that we try to achieve for the industry - - -

35 I know?--- - - - scuttled before they even got off the ground, and I didn't want to see
an opportunity where we got \$110,000,000 from the government scuttled before we
started.

40 You know, I understand your point exactly, but the problem with the way you go
about things, Mr Bentley, is you're supposed to be complying with your duties to
disclose things to people who are involved, even if it scuttles it. That's the
proposition I put to you?---Well, I didn't take that attitude, counsellor.

I know you didn't, and, in fact, for you the ends justified the means, didn't it?---Not
necessarily, no.

45 It did a bit?---No, I don't think so. I mean - - -

You thought you could achieve nothing if you told these idiots who were on the
board with you?---I never ever considered people who are idiots on a board.

You sure?---Positive.

5 What about the people who were in other codes than thoroughbred racing: did you think that they were of the calibre as thoroughbred racing people?---During the production of – sorry, I was going to answer a different question. Would you repeat your question please?

10 Yeah. Did you consider the people who followed greyhound racing to be of the same importance as thoroughbred racing people?---Yes, I did, and I think you'd find my actions are consistent with that view.

15 Well, certainly not in relation to harness racing's wish to have a say in Albion?---Harness racing: some of the stakeholders were giving me a dreadful time anyway about lots of other things other than Albion Park.

Would you mind going to 141 please? 141 is a letter to you from Kerry Watson dated the 30th of October. That's the one I've been talking about, isn't it?---It is.

20 Okay. You have a read of it, and I'll ask you a question about it, please?---Yes, that is the letter that Kerry Watson wrote.

25 And I want to - - -?---And there would have been absolutely no problem, counsellor. I mean if it was – she just wrote it to me, but ccing the Minister: if I were to have received that letter, we would have put it straight on a board meeting and had a special board meeting.

But I think that's been - - -?---The fact she sent it to the government was the issue, not the letter.

30 Why is that? It was one - - -?---Well, if you're getting a hundred – if you're looking, searching, for 110, 120 million from the bank, I mean the – it's a kiss of death. I mean, if you've got a board that's squabbling on the outside.

35 I've got it. Now, let me ask you this then: I thought you were going to say if a board member went to the government with her individual view on something, that'd be bad?---Under the circumstances, I considered it to be bad. I mean, she – there's a – she had every – ample opportunity. She could have come back to the board if she – made a decision. She could have come back to the board, and I can absolutely assure you that the whole thing would have been reconsidered. It didn't need to go into the public arena of what she wanted to do and what she was saying, and that was the issue: it's gone into the public arena.

There's two things about that. Just answer my question first?---I thought I did.

45 What I said to you was this: I thought you were going to object to the fact that she, as one director, went to the government, rather than going as a board. Is that – was

that an objection?---No. I objected to her have a problem with something that the board was doing - - -

5 Yes?--- - - - and instead of addressing it through the board and asking for a board meeting, she ccs the government.

And what about you - - -?---There was no need to do that.

10 What about you going with your proposal to the government and having it developed to the point of going to cabinet without consulting her? How was that? That's not bad. That's individual board man going by himself, isn't it?---Yeah, but that's not -- that's something for the benefit of the industry, not - - -

15 In whose judgment?---I think a plan for 110 million for badly needed facilities is a good thing for the industry.

Yeah. Look, I accept - - -?---And that was the -- and that's the course I took.

20 I know?---I didn't do it for any other reason, for self-engrandment or whatever you would like to call it.

I understand?---I did it for the industry.

25 Your difficulty is, Mr Bentley, in this one, is that you can't see that her view is of any value because it disagreed with your view?---I am not of that view at all. I am of a view the way she did it, or he did it, or anybody. It's not a matter of greyhounds or gender: it's the fact that -- I mean, that she did it this way instead of coming to me or requesting a board meeting and we could have opened the whole thing up again.

30 I don't think so, Mr Bentley?---Well, I do.

She had no power, and you know that. We're playing a game here?---We're not - - -

35 She was one vote - - -?---I object to that counsellor. I mean, I'm saying to you what would have happened if she would've come, and that would have happened.

40 Yes. What would have happened if she would have come?---What would have happened? I mean, we would have convened a meeting. I'm not saying she would have won, but she would at least have been able to air her problem.

Anyway, the point I'm making to you is this: you were objecting to board members disclosing their personal view without going to board, going by the normal process, weren't you?---On this particular issue - - -

45 Okay. You did the same thing, because you had already been to government selling your view without consulting her?---To come back to the board I had to go to

government to get it – to make sure that what I was putting was correct, and it was infeasible and been able to be done.

5 But, you see - - -?---And there it is, the plan for the board to have a look at. Do you want to go ahead? I mean, I think - - -

We started this discussion, Mr Bentley, on the basis you told me the steps were develop a plan, see whether the board approved it, and then go to government?---And that's exactly what had happened.

10 No, you didn't. You went to government before you went to your board?---I am - - -

And you gave your board one business day to think about it?---No. I'm – there's a weekend as well. I mean, the weekend's more - - -

15 And the weekend as well, I'm sorry?--- - - - The weekend to consider something that's a lot more valuable than one business day.

20 You're right: a weekend as well. Yes, I see?---And I may as – and I don't know whether I asked them whether it was sufficient time or not. I don't know whether that was – I did that or not, but I thought they could at least consider it properly in a full weekend.

25 I see. So they got a whole lot of paper. Put yourself in the boots of Mrs Watson?---One moment before we go any further.

Yes?---There was a full board meeting, and we went through the whole proposal.

30 You did?---Correct.

Yes, on the Friday?---Right, and then they got the plans and everything else that goes with it.

35 They did?---And everything else that goes with it was part of the – was a part of the funding.

They did?---Because there's no plan unless we had a reasonable chance of getting the money out of Treasury. It was putting it to them.

40 Yeah, but in any event, poor old Lette wasn't even at that meeting, but got it in the mail on the Friday night no doubt?---Well, we did every effort to get him there, right?

45 Okay. So Friday night he gets it, and his Albion expectation was dashed. So he was very upset by that, wasn't he?---I don't remember him being very upset, but he did express it. I mean, he liked the plan, but he didn't like the idea of Albion.

Correct, and they sued over it, didn't they? That's pretty upset?---I – yeah, I don't know whether it was Lette who sued, but - - -

5 Well, Harnes sued?---Yes, they – sure, they did, and the case was settled I believe.

Now, my point was to go to Watson's letter, please. Now, did you say you had read it?---Yes, I had read it.

10 Okay. Just looking at - - -?---Sorry, not – first one for this.

I'll show you the – did you say you wanted to read it first?---No.

15 Okay. Just show you in the first paragraph, "This document was prepared with no input," meaning – I'll just start again, I'm sorry – "Referring to the strategic asset plan that was presented to the directors on the 24th, this document was prepared with no input from myself at all with regard to the greyhound racing industry." That's what she says [indistinct]. Is that odd? A director - - -?---I don't know whether that's exactly correct. A lot of the things that – pretty well most of the things that were incorporated in the original plan for Logan, were also incorporated in the new
20 strategic plan. So, indirectly, there was other people from the greyhound industry that I did talk to about it, but not saying exactly what was going to happen about tracks and sizes and things like that. I'm sure that Contour and a few of those people did talk to them about the different aspects of it, but as for having a direct, here you are, what do you think, no.

25 See, if I was the Premier and the chairman of a control body in Queensland walked into me and said he's RQL's plan and it's detailed with plans and everything and consultants have been through it, I would certainly think that that document have come from the board members, wouldn't you?---Well, it did.

30 No, it didn't, because you gave it to them, and it was going to cabinet before they'd even seen it?---It wasn't going to cabinet before they saw it.

I think you said that?---No, I didn't.

35 Do you want to have a look at your statement?---I'd like to.

Okay?---Would you refer me to the part?

40 I'll try and find it for you. 14: just hold on one second. Just bear with me one second while I find the board meeting. Let me come back to you on that. I'll show you where you said it. One thing is for sure in the government office's statements. It's clear that it was with cabinet before it went to the board. Can you understand that?--- I think I've said I believe was the case. That those meetings with Bradley
45 and everything like that were primarily about would we get a QDIC loan. We needed a loan against Albion Park. It was part of the plan that had to go to the board.

And the final plan went to the board after we were reasonably assured that that would – that would work.

5 Now, going back to what's in the statement – I assure you I'll come back to where you said that. I'm not leaving it, it's just I can't find it now. In the letter in the second paragraph, she says, "I wish to draw your attention to the letter I wrote to Mike Kelly", who was in the Office of Racing, "on the 31st of December, copy attached, which supports in principle the formation of one control body to govern the racing industry in Queensland." And you can recall - - -?--- Yes.

10

- - - seeing that at the time?--- Oh, I don't know whether I saw the letter. But - - -

Well, it was attached to this letter. I'll take you to it right now. 291, please?--- All right. I can't mark this – oh, it doesn't matter.

15

That's okay?--- It's all right.

20 Well, we'll come back to that, yes. I see what you're saying. 291, please. This is the letter from Carrie Watson, 31st December 2009, to Mike Kelly of Office of Racing. What she wrote was, "I wish to advise that the Greyhounds Queensland board of directors supports in principle the formation of one control body to govern the racing industry in Queensland, provided there are adequate safeguards in place for the minor codes, appropriate employment guarantees are agreed and covering all existing control body staff, and that the present business plans for greyhounds can still be implemented." You see that?--- Yes.

25

And also 290, please. This was a minute she referred to where the three chairmen – chairpersons of the three control bodies met on the 23rd of December 2009 - - -?--- Yes, I remember that meeting.

30

- - - to discuss amalgamation. And you see in the third paragraph, you offered – second paragraph, you offered to chair the meeting?--- Yes.

35 And then the next paragraph provided a background on the issues paper; do you see that?--- Yes.

40 And you see that Kelly speaks about all the chairs of the control bodies must be made aware at the meeting of the 18th that the government's preferred outcome was for one control body?--- Yes.

40

And there was discussion about it being necessary for there to be consent to one control body?--- Correct.

45 Okay. Now - - -?--- In fact, I think I wrote those minutes.

Yes. And what happened was, as I said to you, after that meeting on the 31st Watson, which is at 291, wrote that letter to Mike Kelly. And she raised this with you later - - -?--- Yes.

5 - - - in the letter of the 30th of October 2010. I'll come back to you about that. And then if you go to the document at 292, please. Have you got that one?--- Yes.

So whatever she thought in her head, she was frightened, at least by these letters, of getting squashed by agreeing to an amalgamation because she would only have one
10 vote for greyhounds where there'd be much more for the thoroughbred code?---
Counsel, there was no doubt at all at the time. There was an intention of that meeting that Logan would go ahead and Albion Park would stay where it is.

Okay. And so, you see, to come back to my point, Mr Bentley, and then to leave it.
15 My point is that you could surely understand when you got her letter of the 30th of October, when she mounted her argument, that you could understand her being upset with it being on the Friday thrown on her that Logan was not going to occur?---
Counsellor, I've said that – I said it and I'll say it again, that it was the way she handled it, not the fact that she wrote the letter.

20 Okay. And then if you go to that letter of the 30th, I'll just finish it, please. 30th of October '10 which is at 141. At the second last paragraph on the page, "The board of greyhound decided to support the amalgamation of the three codes into one control body after much deliberation, but namely because we believed that we had an iron
25 clad promise in writing that the Logan facility was guaranteed to proceed. As I stated at the board meeting on the 28th of September, I have no problems with the strategic asset plan in general. But I do not think it is in the best interests of greyhounds to do away with the Logan complex and replace it with Deagon for all the reasons I have previously addressed with you." So we know when you get this
30 letter, and you believe that she's breached board direction which you gave of confidentiality, that she was stating a case that she believed was iron clad at the time the amalgamation occurred; don't you?--- There is – look, there was no risk at the time that we were going to proceed with the Logan facility.

35 And not only that, when she - - -?--- And whilst she might - - -

Yeah, go ahead?--- While she is – she is saying about the Logan facility, the greyhound fraternity are split fairly all over the place. Not everyone wanted the Logan facility either. I mean, some of them wanted to – wanted to go to Deagon.
40 Some of them wanted to go to Ipswich. So – but the content of what she says there – I don't know about the iron clad. But there was no risk that Racing Queensland, as me sitting there – or mind you, it was not Racing Queensland, it was me myself saying that as far as I was concerned, Logan was going ahead. And that was the case, and same with Albion Park.

45 Yeah. And the problem, you see, to finish this, Mr Bentley, was this: when you started developing the plan, at some point it must have become plain to you that you

believed that the executive was saying Logan was not going to go ahead for greyhounds?--- Yeah, and I think there was good reason that I put in my second statement.

5 Well, whatever. There must've been a point which that happened. Yet you didn't tell Ms Watson that?--- I think it was – would've been premature to tell her that until we developed the plan.

10 I understand that. But you didn't tell her; did you?--- No, we didn't tell her. No.
And you went to government before you'd even told her that?--- No, we didn't go to government with the – the total plan went to the board, then went to the government. I think I've said that three times.

15 Okay. Now, do I have to go back over those meetings that we went through where you went to government first?--- You can if you wish to, sir.

Well, don't you accept them - - -?--- Because I won't be changing my position on it.

20 Do you accept they're accurate that you did go to government?--- I - - -

You saw the premier about it?--- I – yeah, we saw the premier but we didn't go with the completed plan. This is part of the discussions to lead up to a complete plan that the board could approve to go to government.

25 All right?--- The rest of it was preliminary – preliminary work to get to that point.

Mr Bentley - - -?--- Now, I'm not going to - - -

30 - - - I'll tell you this?--- Change from that.

Don't change, because I know you won't. But what you have to do when you go away if you want to have any power in your argument is to look at the documents the government have discovered that you gave them with RQL on the front and the plan
35 apparently developed. Look what they say and see what you have to say about what they've said and what documents they've provided to show that it was just an idea of yours, not the board's that you were representing?--- When I went – those meetings sure, it hadn't gone to the board in that particular form. But the purpose of those meetings was that they are funding and there was a lot of property meetings with the
40 government. That – not only those two, there was other ones as well to get to a point that I could present to the board something that was credible, able to be done and had a reasonable chance of success.

45 COMMISSIONER: Could I ask you this, Mr Bentley. I noticed that most of those meetings with government officials, treasury and so on, Mr Ludwig tended to - - -?--- Yes/

- - - attend with you, a fellow director. Did you request him not to discuss these matters with other members of the board?--- Yes, I did.

Thank you.

5

MR BELL: Was that because you thought that the others couldn't be trusted with the confidentiality?--- No. I mean, Bill Ludwig was very handy with his position of being able to get a meeting at short notice with the government.

10 No, no. You've not answered my question. What I was asking about is the reason you told Ludwig, "Don't tell your fellow board members please, Bill" was because, was it, you didn't trust the other board members with confidentiality?--- Oh, no. It was the fact that Bill was at these meetings.

15 No, no. The commissioner asked you a question and you answered it. Her question was did you tell Mr Ludwig not to tell the other board members, and you answered yes. Now, my question is - - -?---Yes. I - I did. I said - I mean it - - -

20 My question is why did you do that? Was it because you didn't trust the members with the confidential information?---No. We wanted to make sure that confidentiality was remained until such time as we had something concrete to go out.

Exactly. So you didn't trust the other board members like you trusted Bill?---No. It's not that I didn't trust the other board members.

25

Sorry?---It's not that I didn't trust the other board members.

Well, why didn't you tell them?---There was nothing to really discuss with them.

30 There was enough to discuss with the government?---Yeah, but I wanted to bring a complete plan. I didn't want a - half - half-baked half - half-pie situation.

35 Mr Bentley - so you develop it with the premier. You waste his time in developing a plan before you waste the time of the board?---The plan that - as I said to you before, the plan needed funding and it - and it had a funding package in it. It had the sale of Albion Park, which was sensitive. We had to get a few things in line before we actually finished the plan to take to the board to take to the government.

40 How would Watson go with this? If you'd achieved your objective and got funding of your plan, how's she going to go trying to block it then? What say the board then had voted against it - - -?---Well, she had an - she had an - - -

- - - once you'd got funding from the government?---She had an opportunity.

45 No, no?---The board - the board - - -

Talk about what I just said to you?---The board supported it to go to government.

Just talk about what I said to you. You're telling me that you went to government first, went to the premier first, went to the treasurer first, to ensure you had funding for a plan, because they insisted on a plan?---Yes.

5 Am I right?---It's correct.

Okay. How could it possibly be that you had a viable option of pulling out of that plan because Watson and others didn't like it once you'd got the funding approved?---Well, the plan, right - - -

10

The plan?--- - - - with those meetings attached, went to the board. The board considered it. They had – they had an opportunity to object there and then. Maybe the – the period of time was a little short. I don't know. I mean no one complained about the time either before or after. That was the time then if they wanted to stop and say hey, we don't want you to go to the government, by any one of them, and then we would have to reconsider it.

15

Okay. So you're not going to answer my question, are you?---I thought I did.

20

No. You didn't at all. Here's my question: if you go to the premier and the treasurer seeking funding for a plan before you go to the board - - -?---No, no. I didn't seek – go to government to seek funding for the plan. We – there was pieces that we wanted to go to government to - - -

25

Sorry?---There was pieces of the funding that we needed to feed into the plan.

What pieces?---Well, the – the chance of a getting a – a QIDC loan, I think, was – was one – was part of one meeting.

30

Is that all you went to them for?---I – I – at this stage I couldn't tell you.

Well, it doesn't - - -?---I'd have – I'd have to research it.

Beg your pardon?---I'd have to a look.

35

Okay. Let's go back, because I'm not going to leave this until I get your clear position on it. The first one is at 287, please?---Yes.

40

In paragraph 39 on sheet – on page 8: “I attended a meeting with the premier Anna Bligh, then deputy premier Paul Lucas, treasurer Andrew Fraser, and then minister responsible for racing Peter Lawlor, Bob Bentley, Bill Ludwig and staff from the premier's office on the 18th of August. The meeting was about the racing strategic plan”?---Yes.

45

“Discussions included proposal for significant realisation of facilities”?---That's correct.

Okay. What was that meeting about?---I think that meeting was possibly about the – and I’m – I’m only – I’m not sure, but I’d say, reading, that that would have been about probably the sale of Albion Park.

5 Yes, exactly?---Yeah.

Perfect. You hadn’t been to the board yet?---No.

10 Okay?---But I’m saying those are the issues that had to – had to be discussed first before I could get the completed plan.

15 Mr Bentley, so you go to the premier, the treasurer, the deputy premier and the minister and go to them with a hypothetical: “I haven’t got board approval yet but look, could you guys think whether this has worked for you”?---Well, they were the – they were the – they were the funders. I mean they were the bank.

They were. They were, but you know you normally go to the bank, don’t you, once you’ve got a plan?---Yeah. That’s a little bit different to this.

20 It sure is?---I mean they knew what I was working on. I mean these are bits and pieces of issues that needed clarification before the – excuse me, your Honour – before the final plan.

25 286, please, in paragraph 43: “The first meeting was on the 2nd of September 2010, attended by Gerard Bradley and Robert Bentley. At this meeting RQL proposed a strategic asset plan which proposed numerous and various plans for racing infrastructure around the state.” What was that meeting about?---We’re giving them a rundown of what we thought we might be trying to do.

30 Well, he got it all wrong. He thought it was RQL proposing it; it was Bob Bentley proposing it. Why would he have got that impression?---I – I’d have to ask him. I don’t know.

35 Well, it might have been what you said to him?---Well, it would have been an RQL plan in the end.

And the second meeting on the 10th where “RQL presented a proposal to free up funds through the redevelopment and future sale of Albion”?---That’s correct.

40 Yeah. And then he - - ?---Counsellor, I wanted to present a complete plan to the board and then that – that complete plan then would go to the government after their approval. This is all lead-up to – to actually getting the thing done.

45 I know that. 285, please?---And there was probably a lot of other meetings as well. Yes.

5 This is Gerard Bradley in paragraph 61. He remembers two meetings too: the first meeting with you and Mr Ludwig, with the premier, and the second one – in paragraph 61: “The second was on the 10th of September with the members of Racing Queensland” – or he thought that – “when RQL” – which he got wrong – “presented a strategic asset plan for Queensland – all codes – to free up funds in a detailed proposal to sell or develop Albion”?---Yes.

10 Not approved by the board?---No. I still keep coming back to what I said before. I mean it was the final – final nail to be down before we got the final plan to give – give to the board to take to government. This is not the – this wasn’t the final thing. It’s not much good going somewhere if it’s not approved. It’s not going – no chance of being approved.

15 “Not good going somewhere until it’s finally approved”?---No. I’m sorry. I mean I stumbled through the words.

20 Okay. Have another go?---What I’m saying – that I wanted to make sure that the plan I took to the board and finally to the government, if it was approved, was complete and had a reasonable chance of success. And these - - -

I see?--- - - - meetings were part of that.

25 Okay. After this you’ll go away and have a close look at these, please, because the way they look to me and the submission I might be making depending on the further evidence you and others give is this: that you paid no regard to the fact that you did not have the approval of your board. You were advancing this to government on the basis that it had been approved by the board?---No.

30 And that, in fact, you’ve represented it as the plan of RQL – all codes racing control body, meaning greyhounds and also harness?---It hadn’t – it hadn’t been to the board. That is for sure. There’s no – there’s no buts or maybes.

35 And not only that, that when you did put it to the board on the Friday, you gave them one business day and a weekend to approve it, because you knew there was no avoiding enough directors putting their hand up for yes with you - - -?---I don’t - - -

- - - regardless of what the greyhounds or the harness thought?---All I can say – that’s not correct.

40 I suggest to you the reason the meeting was arranged the way it was – was such a quick comeback and they had such a short time – was to avoid the government coming to know that there were people who mightn’t like this plan?---No. That’s not - - -

45 That’s why she got the - - -?---That’s not – that’s not correct. I mean that - - -

That's why she got the chop. She got the chop because she didn't go with the plan?---That is not correct. I think I've said to you - - -

5 Are you sure?---Absolutely positive.

So she tells three people who already know all about the plan and you chop her because she revealed confidential information?---I told you I chopped her for one reason and one reason only: that – I mean what she did was unforgivable.

10 You mean - - -?---Nothing to - - -?---

- - - she showed dissent?---Nothing to do - - -

15 She showed dissent?---No. She didn't show dissent. She had an – she should have said something on the day if she didn't want to do that. Even a – even a - - -

She did say something on the day?---Even before it went to the government she could have come back to the board and it – and her concerns could have been addressed.

20 I don't think so, Mr Bentley?---Well, I do.

25 You were way down the track past having her object to Logan not going ahead. You'd spent a lot of money with Snowden and all the development. You'd been to the premier. It was all past the post by then. She had no say and you didn't care that she would have a say either, did you?---No. I - - -

30 You didn't want her to have a say?---I think I did want the board to have a say. I wanted the board to – to – to endorse the plan, definitely.

Anyway, so far we've talked about what happened to Watson. She got removed from the board on your motion, didn't she?---Yes. She did.

35 And what she got removed from the board for was disclosing confidential information to people who already knew what the information was?---No. I don't think – I don't think that's correct.

What else?---I mean that may be the wording of the thing, but that wasn't the intent.

40 Okay. Now, let's have a look what happened to Mr Ludwig, because I showed you this morning your letter to ASIC showing what your agenda was to be open and transparent and careful and keep the confidence in the industry for its control body. You remember that letter? I showed you that paragraph?---Yes.

45 Now, let's see what you did when an issue arose in relation to Mr Ludwig?---Could you tell me the issue.

Yeah. I'll tell you about the issue right now. What happened with Mr Ludwig was for one reason or another, people raised what he had done in relation to a proxy, didn't they?---Counsellor, I'm not across this.

5 I'll bring you right across it?---I'm happy – yeah.

Because I'm going to show you the statement you gave to the police and you'll remember everything you said about it in a minute?---Thank you.

10 And I'll show you your correspondence about it too, and what I'm trying to address here, Mr Bentley, is the massive distinction in the way you treated his conduct to the way you treated Watson's.

MR WILSON: Commissioner, we reiterate what we've raised in correspondence:
15 that the issue of the proxy is not within the terms of reference.

COMMISSIONER WHITE: That of course is indeed the case, Mr Wilson, but it relates to the wider issue, I think, that Mr Bell raised. But I must let him speak for himself, of course.
20

MR BELL: No. It does, your Honour. It does, Commissioner. Exactly as you say – what I just said to Mr Bentley is the way in which he treated, at least on one view, dissenters who were on the board from that which he treated somebody else on the board whose conduct certainly deserved at least investigation. And here we'll soon
25 see, I think, that his position was that – in the end – that he would not investigate Mr Ludwig – indeed paid his legal costs in relation to an investigation by somebody else. The distinction between the two tends to demonstrate that what he says is his reason for taking action against Watson – what he says is the reason for what happened in the interference of re-election of Mr Andrews and what he said about Mr Ludwig all
30 depends upon whether or not they support him or not. So that's the point. It's about corporate governance of Queensland Racing and the way in which Mr Bentley involved himself and his integrity in the way he did those things.

MR WILSON: Commissioner, that's why we raised it. The terms of reference
35 don't deal with corporate governance of Queensland Racing. They deal with corporate governance of Racing Queensland Limited which is why it's entirely appropriate for my learned friend to explore the issue of Ms Watson's termination. The issue of Mr Ludwig doesn't even get to the stage of corporate governance of Queensland Racing because it involved country racing committees - - -
40

MR BELL: Let me be clear. I wasn't clear enough for Mr Wilson. Let me be clear. It's the distinction in his conduct, that is Mr Bentley's conduct in the way he treated Ms Watson in respect of him being chairman of Racing Queensland with the conduct that he exercised in relation to Mr Ludwig. So what this evidence is relevant to is
45 to test whether or not he was genuine in the reasons he gave for the way he treated her and if the position in relation to Mr Ludwig assists the Commission's deliberations about his integrity and what he's saying about these things. It's relevant. Of course

5 it's relevant. It's part of the investigation. And to add to that investigation, my learned friend Mr Wilson will appreciate, isn't of the same nature as relevance in relation to litigation. We're well aware of the terms of reference and in particular Mr Bentley's conduct in terms of corporate governance within Racing Queensland and also in relation to the practices within Queensland Racing – as well relevant to our inquiry.

10 MR WILSON: Well, we put on the record, Commissioner, our objection to questions being asked about corporate governance of Queensland Racing. We can't object, and we've made quite clear the term of reference 3 (c) talks about corporate governance of Racing Queensland and that's why we've had all this evidence that's just passed before you. But now we're getting into an entirely different matter.

15 COMMISSIONER WHITE: Indeed. Thanks, Mr Wilson. One of the necessary aspects, I think, of the terms of reference is that they don't actually sit isolated in time. A whole story, as far as I can see it, is contextual and in order to understand how these things have come to pass and how they impact upon each other – it is to my mind necessary to probe a little more deeply. Now, it may be that strictly speaking you are correct but I would find it very difficult to understand the dynamics of many of the issues without indeed going back – I was about to say to the first race meeting in 1843 but perhaps not entirely necessary to do that – but certainly it's informed by things like the 1891 Queensland Principal Club for example. The context is very important but furthermore, the issue of how Mr Bentley managed this matter with Ms Watson may be informed by reference to how he managed another director's apparent issue. So I'm going to permit this line of questioning, thank you.
20
25 MR BELL: Mr Bentley, would you mind going to - - -

COMMISSIONER WHITE: Just before that – I noticed you stretching your back.

30 WITNESS: I've just got a hip problem, your Honour, that's all.

COMMISSIONER WHITE: Sympathies.

35 WITNESS: It feels better now. I'm right now.

COMMISSIONER WHITE: All the more senior people present, no doubt, sympathise with you, Mr Bentley. Do you want to walk around a bit?

40 WITNESS: No. I'm fine, thank you.

COMMISSIONER WHITE: Righto.

MR BELL: 186 please, Mr Bentley?---Yeah. I got it.

45 Just before we go – we were talking - - -

COMMISSIONER WHITE: Was that 180?

MR BELL: 186, please.

COMMISSIONER WHITE: Thank you.

5 WITNESS: Letter from Cooper Grace Ward?

MR BELL: Yes, please. 6th June 2008 to Mr Andrew Herbert, a barrister, from David Grace. Just before we leave the topic we were discussing I wanted to ask you this – would you mind reading this letter and I'll ask you a question please?---Yes.
10 I've read it. I'm not - - -

Okay. What happened – I'll see if I can help a little bit – it's just one question I wanted to ask you. In 2008 attempts were made to inform members by reference to obtaining a opinion of a senior barrister, Mr D.F. Jackson QC with Mr Herbert as his junior, in relation to proposed changes to the constitution of QRL, Queensland
15 Racing?---Yes.

And those changes involved, as I said, some time earlier extending the initial term so that there was continuity of the directors and seeking to delete the requirement to
20 have an independent recruitment agent work in making a shortlist?---Was that part of it? Does it say that there?

That was part of it. But we don't need to go there. I'm not going to bother you with the detail or ask you to recollect in detail. All I wanted you to look at was in the first
25 paragraph what has occurred by this time is that Mr Jackson had provided, it would seem – was about to provide, it would seem, advice and so we had a – he was asked to provide an advice on the instructions of Mr Grace and Mr Grace writes to the junior barrister here saying the following, "The chairman had raised with me when I sent to you and Mr Jackson the brief as to why I had mentioned the fact that the
30 constitution provides for the appointment of seven directors. That two vacancies exist under the constitution that have not been filled. I replied that it was to provide you as counsel with the complete picture of the board's composition and how that related to the provisions of the constitution. He advised me that he did not want this highlighted to the members as it may only start some agitation for the appointment of
35 new directors."?---Did I say that?

That's what - - -?---They attribute it to me?

Yeah. That's been attributed to you that what you did was you saw the advice in
40 draft and said, "We don't need agitation about further directors even though it's in the constitution. Can you take it out", or to that effect?---Okay. Well, I'll take your word that that's what I said. I don't – I don't recall - - -

COMMISSIONER WHITE: I must say, Mr Bell, I thought I read – I read that as the
45 instructions to counsel as including - - -

MR BELL: Okay, yes. The instructions to counsel.

COMMISSIONER WHITE: - - - rather than that counsel provided a draft advice.

MR BELL: Well, you're right. I, with respect, Commissioner – what – there's two parts to it. The first part was the brief and the second part was her reply, "I replied that it was to provide counsel" and then she records, at least, the chairman, Mr Bentley, "He advised me that he did not want this highlighted in the instructions", I suppose is you're pointing out to me. My point is just to address with Mr Bentley – you didn't want the members to know or have it highlighted to them that they could vote for two new further directors?---I can't remember this but would you just say that again slowly for me and just - - -

Here's the point. The – Mr Grace has indicated to the barristers in his brief that there's two vacant spots for other directors in the constitution should the members want them. And you, it seems to report here, didn't want that highlighted to the members because you were concerned that it might start them agitating for appointment of new directors?---Yes.

Okay. Now, that seems odd, doesn't it, for a chairman to vet what is going out to members. You see what I mean?---Well, I - - -

Members meaning the people who get to vote?---I don't remember this. Right. And - - -

No. I knew you probably wouldn't remember but assuming that he, Mr Grace, has got it right?---Well, why – why I'm sort of hesitating here is because I wanted the board increased to seven and I think you'll find that I've said that in that last court case that, I mean, I was – I told Bill Andrews that – that I was looking to increase it to seven and the board would support him, right – if he cared to nominate.

Well, in 2008 this record seems to suggest – not 2009 - - -?--- I'm not arguing about this.

No, okay. Anyway, my point is that – was this your practice, to vet what information went out to members?--- No. Not normally, no.

You see, because their constitution is a fundamental right as to what they can vote for. You see what I mean?--- No, I don't think I did and I don't remember this.

But I saw when this was being prepared, this advice, that you were very much concerned with and involved in the form of it and what was going to go out to members?--- As I say, I can't – it's back to 2008. I can't – can't recall.

Okay. Anyway, we were going to talk about the treatment of Mr Ludwig. And I must first start, please, with the legislation that's relevant so that I give you a fair opportunity about it. Have you got a copy of the Racing Act there before you now, please?--- Which version? There's two versions that – my assistant has told me.

5 Pass it up and I'll pick the right one. So this version, for those who haven't got a copy, is the version current in 2006, 7 and 8, 9. And it changed later, of course, as we know when in 2010, of course, the amalgamation happened. So I don't want to talk about that because we're back when the proxy issue arose. I want to talk about this in 2008?--- Right.

And the first thing I wanted to talk about was refer to you section 61, please, Mr Bentley?--- Is there a page on that?

10 Yes, it's 56. Have you got section 61 there, please?--- Yes.

Okay. Just talking about the way the legislation was in place at the relevant time. And these were provisions, in part 5, relating to entities involved in thoroughbred racing, the Country Racing Associations. You can see that in division 1?--- Yes.

15 And then in section 61, there's a number of associations, you see. And these were Country Racing Associations established for the purpose of having a say, I think, in the constitution?--- Correct.

20 And you see that in 63B, please, a Country Racing Association's functions are to nominate to the chairperson of thoroughbred control body a person to be a member of the committee. And what was to occur under the thinking of the legislation was these associations would vote for a representative, and the representative would join the country - - -?--- Among themselves.

25 Yeah, among themselves. And then you'll see over on division 2, please, over the page, the Queensland Country Racing Committee. Do you see that?--- Yes.

30 And it was established by the legislation. And this committee was to be represented as members of Queensland Racing. And look at section 68 for real definition of it, please. The Committee consists of nine members, being eight persons nominated to the chairperson of the thoroughbred control body, which is you, by the Country Racing Associations. Do you see that?--- Yeah.

35 So somewhere in the records they, those eight associations, were to nominate people to be on the committee. And then B, one person nominated by the control body who was to be chairman if you look at sub 4. Section 68, sub 4. "The person nominated by the control body is the chairperson"; see that?--- That's on page - - -

40 No, that's on 68, subsection 4. Have you got section 68 there?--- 68, yes.

Okay. So - - -?--- Composition of Committee.

45 Section 68 says Composition of Committee; you see that?--- Yeah. Counsellor, can I ask you a question?

Yeah, sure?--- I thought that this was superseded.

Yeah, it was superseded?--- Because there was - - -

It went out in 2010 when the amalgamation occurred?--- Yeah, that's right.

5 When the class A members were got rid of; you remember that?--- Okay. I thought that amendment that – I know it was somewhere in the legislation it says that I can't be chair of the country racing.

Yeah?--- Is that – is that in this part?

10

Yes, I think so?--- Right. Does it - - -

What - - -?--- I'm just trying to get my mind around it.

15 No, that's good. That's exactly what we want. But section 68, my point really is that the committee – you remember the committees I showed – you remember the associations - - -?--- I do.

20 - - - I showed you before, there were eight of them. And in section 68(1)(a), their eight nominees to you would be members of the committee; you see what I mean?--- Yes.

And then B you, I mean the control body meaning QRL, would nominate one person to be the chairman?--- Yes.

25

And as it turned out, we know that was Mr Ludwig; do you recall that? He was chairman of the - - -?--- I'm not trying to be difficult. I'm just - - -

No, I understand?--- Because I didn't have a lot to do with this so I don't - - -

30

I know you didn't. I want to give you the background, you see?--- Yeah, sure.

So that when I ask you questions, it's not unfair. So this is called the Queensland Country Racing Committee. And Ludwig was appointed by the control body, by QRL, to be the chairman. That was one role he had?--- That's correct.

35

And there were eight other people on that committee. And they were nominated by those eight different associations throughout Queensland. Capricornia, Central West, Downs and so on. You know what I mean?--- That's correct.

40

Yeah?--- So far.

That's right. And you see, the point of it is even though I know later you felt this didn't work, let's just address the fact that it existed at the time in 2008, and it was in the legislation. And the reason that existed was that government were insisting, from 2006 when QRL was set up, that this committee exist and it have a say by being part

45

of the A class shareholders in QRL, which I'll show you now. You're okay so far?--- I'm – so far.

5 Okay. So then could Mr Bentley have the constitution, please, which is in what I've got as volume 1. The document number is 2.30, please. Just looking at the first page, you see there's an index. If you turn over, you may have it already. There's an index on the left and then on the right you see clause 1 under the heading "Constitution of Queensland Racing Limited." Are you – can you help him go to page 1, please. It's got "Constitution – Queensland Racing."?--- All right.

10 Right. And you see down there, class A members means each of the following?--- Yes.

15 Okay. So the class A members of the company of which you were the chairman were made up of those bodies, clubs and committees and associations there; you see that?--- Yes.

And in particular, if you look at C, the Queensland Country Racing Committee; see that?--- Yes.

20 And the Queensland Country Racing Committee is the one that was set up in the legislation that I showed you?--- Yep.

Okay?--- And Bill Ludwig got be chairman.

25 He was chairman, he was appointed - - -?--- Yeah, but that – is that – was he appointed or was it by legislation?

30 He was appointed by you, by your body meaning Queensland Racing board of directors?--- And that's in - - -

That's certainly the case?--- Yeah, but is it correct.

35 Yeah, it's correct. Yeah?--- Yeah. Because the way I was reading it, they have to elect their chairman.

No, the legislation says that Queensland Racing has to - - -?--- Right.

40 - - - appoint the chairman?--- Okay.

So what happens is all these country people are here. There's eight of them coming to a meeting. And this one guy, the chairman, comes from the control body from Queensland Racing?--- Yes.

45 And he - - -

5 COMMISSIONER: Mr Bell, could I just intervene. Ms Cunningham, would you just identify for Mr Bentley, because I know he wants to see it in black and white, section 68. Section 68(i)(b). That's the committee. There'll be one person nominated by the thoroughbred control - - -?--- Thank you, your Honour.

- - - body. And then if you go down to 68(iv), the person nominated is the chairperson of the committee?--- Okay. Thank you.

10 Got it?--- I'm just a bit scratchy on that old legislation. Thank you.

I'm not surprised. Sorry, Mr Bell.

15 MR BELL: No, that's good. Thank you. So what we're doing now is I'm taking you over to the constitution of Queensland Racing that was approved by the government, you recall?--- Yes.

20 And this is what your company, Queensland – I shouldn't say your company. The company operated under. And you'll see under clause 7 on page 6, the class A members have a right to appoint member representatives as follows; do you see that?--- Yes.

And then C, Queensland Country Racing Committee has the right to appoint two representatives; you see that?--- Correct.

25 Okay. Now, if I ask please to go over to what I call article 11 or clause 11 of the constitution, please. And what it involves, in 11.1, you'll see, is no business – “no business can be transacted at an annual general meeting or a general meeting unless a quorum of members is present in person or by proxy.” You see that?---Yes.

30 And I know from your experience as a board member you know what proxy is?---Yes.

35 And then in 11.2(d), “At a meeting of a class of members of the company, the quorum for that motion only shall be the majority of the members of that class, present in person or by proxy.” So if you have a meeting, one person can take a lot of proxies - - -?---That's correct.

- - - at the end of the day, even though it's one and so on?---Yes.

40 You know the stuff?---I've had a bit of experience in that racing.

45 Yeah. I thought you would so I'm sorry to go over that. And then over the page to clause 14, where the constitution talks about proxies. You'll see in 14, “A proxy must (a) be in writing under the hand of the appointor or the appointor's attorney, duly authorised in writing.” Now, just let me address that with you. If even a non-lawyer – and I say “even” because this is for non-lawyers, of course. It's for company people. What that means is if somebody's going to come along with a

proxy and it's David's proxy – well, if it's signed by David, you can understand that's cool. But it's for an association, they need to put in here “or the appointor's attorney, duly authorised in writing”. Do you see what I mean?---Yes. I understand. I understand that.

5

So for the Country Racing Committee, to have a proxy, you'd think they'd need some duly authorised things signed, you know?---That's what it says.

Yeah. And then the other thing that it requires is in (b) – 14(b): “The members name and the meeting at which the proxy may be used.” That means, if your proxy's going to be Bill Ludwig, it's got to have Bill Ludwig in it, you see??---Yes.

10

And then the meeting the A Class Members meeting, if he's going to be the proxy for the Country Racing Committee, for example – and then 14.2: “An instrument appointing a proxy may specify the manner in which the proxy is to vote”, meaning yes or no. See what I mean?---Yes.

15

Okay. So that's the constitution which was operating at the time that Mr Ludwig was called upon as chairman to consider whether he was doing the right thing in attending a meeting of the A Class Members to vote on the constitutional changes that were promoted for Queensland Racing, and they are the two I mentioned to you before: get rid of the independent person making the shortlist and let's extend the term for Ludwig, Bentley, Hanmer and the other directors – Andrews and so on. So what happens is a lot of care, I know, was taken to ensure that this was done properly and I know that, for example, you were trying to insist on care being taken so no mess-ups - - -?---I'll take your word.

20

25

I think that's right?---Yeah. I – I only have a very faint memory of all this.

30

Okay. So don't worry; I'm not going to ask you questions about the constitution?---No. But you can – you can understand, with everything else that's going on as well - - -

35

Okay?--- - - - that this wasn't a big part of my - - -

No. I – I understand?--- - - - my – my life.

40

Okay. I really do understand. Now, my question is this: do you recall that what happened was an issue was raised about whether or not a proxy was validly used for that Country Racing Committee by Mr Ludwig?---Yes. I do.

Okay. And what happened was it was – became a bit of a ruckus in the press, of course, and also came back to you; can you recall that?---I – I - - -

45

Came back to you in the sense that you were asked what you knew and so on?---Yes. Yeah. That's correct.

Okay?---Well, it was more than a bit of a ruckus.

Okay. And so what happened was, in the end, the police came. They were – it was serious enough the police were investigating it; do you recall that?---I don't.

5

Okay?---But, I mean, I understand that what you're asking is – probably did happen.

Okay. Well, what happened was the police came and they wanted to have you come in and give a statement and so you did come in and give a statement; do you recall that? I'll show you your statement?---No. I don't.

10

This is a document at 188?---Okay. Obviously, I've given a statement. I don't recall it but - - -

15

No. I – I see. Well, let's – let's just talk about this first. This is a statement that you signed. If you look at the pages at the bottom, you see your signature there?---Yes.

And then right over at the back, you see that you give this statement on the basis of an oath in that it is true to the best of your knowledge and belief; you see that?---Yes.

20

Okay. So the police are asking you questions; you're answering them. They give you a statement; you eventually sign off on it. Okay? Now, let me show you something else and I'll bring you back to the statement. If you go to the next document, which is 187 – do you see 187 on the right-hand side? It looks like it's a proxy document signed by Mr Ludwig?---Yes. I do.

25

30 July of 2008: have you got that?---Correct.

30

Okay. Now, what it says is, Queensland Racing – “Queensland Country Racing Committee Brisbane, being an A Class Member of the company, appoint William Ludwig or, in his absence, Shara Murray of Kallangur, as the proxy to vote for the Queensland Country Racing Committee of Brisbane at the general meeting of the company, to be held on the 6th of August 2008, and at any adjournment of that meeting.” Do you see that?---Yes.

35

Now, let me tell you, there's a lot of problems with it. The first problem I identify when I look at it is he wasn't to go to the general meeting of the company. He was going to go, if he was proxy validly appointed, to the A Class Members meeting?---Okay.

40

But anyway, let's jump over that. So this was an invalid proxy to start with. The second problem with it is, if you have a look, this is form is to be used in favour of the resolution – that means the changes to the constitution – where he would have a longer term, as would you, and to get rid of the independent recruitment consultant. Okay?---Yeah. I – okay.

45

Okay. Now, look. He signs it, you see. He signs his own proxy; see what I mean. Now, whether or not anybody understands legally whether that's a problem or not doesn't matter. The point is that it was proxy that became the issue that you were being asked questions about by the police?---Correct.

5

Okay. So that's why I showed it to you. And if you just go back to your statement, please, and in paragraph 35, which is on page 9 at the bottom right-hand corner, you say, "I was not present at the meeting held on the 6th of August for A Class Members representatives to elect Mr Stewart as the Class A authorised representative." See what I mean? So you weren't there; so that's fine. Do you see what I mean? That – that's at the A Class meeting?--- [indistinct] A Class.

10

Okay. So "I was present to cast the directed proxy vote for the ATA and the QBAA at the Class A Members meeting." Okay?---That's correct.

15

There's a difference?---That's correct.

Okay. You got that – the difference?---Yes.

20

Okay. Now, if you go over the page in your statement – I'm sorry – to – just have a look at 34 so I don't go away from it. "Prior to the 6th of August, the QRL had resolved to vote in favour of all motions, following approval from ASIC. On the 6th of August, there were four meetings held: the A Class meeting, to elect a member representative to replace Bob McHarg", is it?---Yeah. Harg. Yeah.

25

"And elect Neville Stewart as the A Class authorised representative. The next meeting was the A Class Members meeting to make a decision and then the B Class, etcetera." Now, you rightly say in 35, I think, that you weren't at the A Class Members representatives meeting to elect Mr Stewart?---Yes.

30

But once he was elected, then you went to the A Class meeting. You see what I mean?---That's correct.

35

Now, over the page again, you'll see this becomes easier, I hope, at 47. Now, this is a heading just at 46. It doesn't look like a heading but I think 46 is meant to be the heading Proxy Ludwig for QCRC, Queensland Country Racing Committee. 47: "I have not personally viewed the proxy vote of the QCRC. I do not know the circumstances behind Mr Ludwig being appointed the proxy holder for the QCRC. I assume, if no meeting was called by members, then he would presume that he had the authority to vote." Do you see that?---Yeah.

40

Okay. I don't know – did you think that, that was relevant at the time of making it to the police that whatever he thought, he thought he might have been as chairman okay to get the proxy and go down to the meeting?---I can't - - -

45

Okay, don't worry?---I'm not trying to be evasive.

No, no. I understand. So you don't know why you said that but it doesn't matter. So the point is, you see, that - - -?---Excuse me.

5 Yes?---I do sort of remember a little bit about that. I think that Bill Ludwig had always maintained that he had the authority to vote. I think that was his position.

Well, that – this is what I wanted to ask - - -?---That's what I think, right.

10 Okay. That's what I want to ask you about, you see, in a second and I will come back to it because I hear what you say. You see, what happened was – if I ask you to go to 189, please. 189. Cooper Grace and Ward were very much involved in making this work and they write to Shara. “Some of the proxy forms are only signed by one person. We confirm your advice” – that means Shara's advice, “that you have spoken to representatives of each of the following bodies: (1) Queensland Country
15 Racing Committee”. See that?---Yes.

20 It's okay. So that would mean, to somebody reading it, that Shara has rung the lawyer and said, “Look, I've done what you said. I've spoken to the Queensland Country Racing Committee and I confirm that Mr Ludwig has authority with that proxy”?---That's what it says.

Yeah. So what happens is then, if I can take you to it – at 190 – now this was a letter from you to the treasurer, wasn't it?---Yes.

25 You can see that?---Yeah.

30 Now, what you're doing is addressing a member in parliament's position taken and speech made in relation to this issue about Mr Ludwig and the proxy. Are we good so far?---I suspect – I wouldn't have made. I think that would've been made in – I call it coward's corner – but questions without - - -

Okay. Fair enough?---Where they get up and they can defame everybody.

35 Anyway. Yes, I understand. So the point here is that you're commenting on it to the treasurer because it's important that the Queensland Government appreciate your position as the head of the control body. Do you see what I mean?---Yes.

40 And that's a very important point with this question because as chairman, as I pointed out to you earlier, you represented to ASIC in that letter when talking about Andrews that you felt a high responsibility for transparency and so on, didn't you?---Yes.

45 Okay. So that's what you're doing here. And let's look at – if I ask you to go – you read it all first if you wish. You tell me which way you want to do it. I'll take you to parts or you can read it all first?---Well, could I read it?

Yes, definitely?---Do you want me to comment as we go or I'll answer your questions?

5 No. I'm going to ask you some particular questions, please?---Okay. That information would have been supplied to me by the executive.

Okay. But you were willing to take responsibility for it, weren't you?---Yes. Yes. Yeah. I'm not going to back away from it, no.

10 You tell me when you're ready?---Yeah, that's -- yeah, I -- I take responsibility for that letter.

15 Okay. Now, what I want to address with you is this: if you look on the first page in bold, you record something that Horan said. It says, "Members of the Queensland Country Racing Committee were not advised that the special general meeting was on, were not advised of its content and were not advised of the change in the proxy arrangements." See that?---Yes.

20 Now, if Horan said that, would it not be a good idea to ask the members of the committee whether that was true or not as step 1?---Yeah.

Step 1- wouldn't that be a good idea?---Yeah. I'd say so.

25 You didn't do that?---No. I know.

30 In fact, the commission did that and they all said, "No. We didn't get it." Simple -- eight of them: "We didn't get it. We've all sworn on oath they didn't get it." Now, what do you say? This statement is completely incorrect. It is false and designed to mislead the Queensland racing industry. Now, all I ask, Mr - - -?---That was my belief at the time.

I know, but - - -?---And okay. I didn't -- I didn't -- I accept that I didn't make inquiries.

35 Okay. I'll tell you -- here's the point: as the chairman of the control body responsible for the industry in Queensland of thoroughbred racing, you've got eight people out there in country racing saying, "Hey, we didn't get any notice of this and we didn't sign any proxy." Wouldn't you think the control body might ask them? Did they? Wouldn't you think they would?---Not to my knowledge.

40 No. But that'd be fair, wouldn't it, to just ring and say, "Did you get notice? This is a bit odd"?---Yeah.

45 Well, it didn't happen?---Someone -- someone should've rung. Yeah.

Beg your pardon?---Someone should've rung.

Someone should've rung and somebody should've rung under the direction of you before making these hostile responses to Mr Horan's statement, wouldn't you think?---Yeah. I've made some – a lot of hostile statements.

5 Yeah?---Pretty sick of it.

But what's really surprising to me, Mr Bentley, which I want you to comment on, is you tell the police that, "I didn't know whether or not they got notice"?---Well, didn't I just say that - - -

10

Yeah. But what's surprising to me is they're saying, and Horan's saying, "They didn't get notice." And you're saying, "I didn't inquire whether they got notice. I made no questions." So whose view did you accept or whose version did you accept?---I don't know whose version I accepted.

15

Okay. We'll come back to that in a sec, but turn over the page now to the bottom of page 3 of the letter. You see in bold it says, coming towards the bottom of the page, about 10 lines up, "Mr Horan said the Queensland Country Racing Committee had not made a decision about how they wanted to vote. They had not made a decision about where their proxy vote should go." Now, you say, "QRL provided full notice to QCRC and delegates of the QCRC were provided with ample time to make a decision and request a meeting and seek details as to how to exercise their vote." See that?---Yes. I said that.

20

25 Yeah. But that's not right. None of the eight got notice, you see, and in fact, when I look at Shara Reid's statement she gave to the police, she confirms that. It's amazing, because what I'm hearing, you see, is a very authoritative response to assertions made that people didn't get their rightful vote at the constitutional meeting where you would get another five years or three-year term. They didn't get a vote but Ludwig grabbed it and signed his own proxy – which was invalid anyway – and purported to vote yes. In fact, what happened was you stood even harder on them – that they had no rights?---Beg your pardon?

30

You stood even harder on them, with the treasurer, saying, "That's all rubbish"?---Well, that was my understanding at the time and I didn't – as I say, I – I didn't make the inquiries.

35

No. But an understanding from a responsible member of the community who's running an industry as chairman, surely you'd ask both sides, not just one side, "Hey, did this happen? Can we check that. Can I have some information on that," because the eight people, when you asked them, they say, "No. I didn't get notice." And they were writing new letters through their lawyer saying, "We didn't get notice, Bob"?---Were they writing me letters?

40

45 Yeah. Mr Ferrier, the lawyer at Clarke and Kann, wrote you letters and you wrote back aggressive correspondence saying, "Rubbish"?---Okay.

I just don't understand why you're like that on that occasion?---I didn't check. I just admitted I didn't check.

5 Yeah. Let me see if I can get you the answer to it. What happened was Mr Ludwig's position was being brought into question here. His integrity was being brought into question because you see, the contention was by the lawyer who wrote to you – Ferrier, Clarke and Kann – and to the minister, the treasurer and in parliament, that these people didn't get a go and Ludwig took it from them by signing his own proxy. See what I mean? And instead of investigating it, asking even the first question –
10 “Hey, did you get a notice of this? We wanted you to have a say in this constitutional change” – you just come down hard on Ludwig's side?---Yeah.

Really hard – I don't get that?---I want to ask you a question, if I could.

15 Yes?---Is this following the trip that we made around to the country – country people?

Yes. I think it was after that, and what Mr Ludwig seems to say in his statement to the commission is that he travelled around the country and he asked people and
20 nobody seemed to object. The question I'm going to ask him, so you can tell him, is this: “What did you ask them”?---I don't know.

“What constitution changes were you asking them about at that time? What were the terms of the constitutional changes? Did you show them the writing so that they
25 could think about it, and then didn't you call them together so they could discuss it, as meetings are made for?” Did he ask them to do that?---I - - -

Did he tell you that they did that?---No.

30 Did he tell you as chairman, chairman on your committee – on your board, “I called a meeting. They discussed it at full and in the end they gave me the proxy to vote yes.” Did you discuss that with him?---No.

Why not?---I don't know.
35

Yeah. But what you did do was – which is really surprising – is you decided that Queensland Racing should pay his legal costs in defending the allegations without even asking those people. Why did you do that?---I didn't know that I did until now.

40 Yeah. I talked about Shara's statement; I wanted to show it to you so you know what I'm referring to, please. It's at 293. At paragraph 46, please – you remember I said to you those eight representatives said they didn't get notice of the meeting? You remember that?---Yes.

45 Okay. In 46, Shara says, “When sending the material to an organisation, I send it to the top two people. For example, BTC, QTC and CEO and chairman receive. With

the QCRC I normally send material to the chairman, Bill Ludwig, and the country liaison officer, Col Truscott. See that?---Yes.

5 So Bill would get it and Col would get it. And Col's based in the office, isn't he?---In Rockhampton.

Yeah. "For this second meeting, I arranged for these two people to receive the notice of meeting." And then in 47, in the last two lines: "I expected he would pass on the notice to the members of QCRC, and I faxed the documents to him as the
10 committee." See that? So my point is Shara may have done what she normally did in relation to this constitutional notice being given. But when the poor little people out there in the country, the eight of them said, "Hey, we didn't get that notice," nobody actually looks into it – whether they did and why Col didn't give it to them?---Yep.

15 They don't even ask, but they're smashed in – to the treasurer. It's a tough way to go about business, isn't it?---Okay.

Righto?---I accept – I accept your comments.

20 Okay. Now, see if you'll accept this one. Would you mind going to your issue paper, which is at 228, please. This is a very important document that you wrote to Mr – to the minister for racing, Peter Lawlor MP, in, I think, about May of 2009. And it was one that was a game-changer in the sense that it was the state of the
25 funding that was necessary for the infrastructure scheme, wasn't it?---Yes.

So this issue paper you sent to the minister – and if I could ask you to go right over, please, to page 40. At the foot, you'll see what you've talked about there above is this issue I'm talking about, proxy and outcome. This is what you say. "Following
30 initial complaints by a QTC committee man, Mr David Dawson, and a follow up by Mr Bill Carter, the election process of QRL was referred to ASIC, the Crime and Misconduct Commission and the Queensland Police Fraud and Corporate Crime Group for investigation; you see that?--- Yes.

35 And then you tell the minister, "All three agencies cleared the conduct of QLR, its directors and executive officers." You see that?--- Yes.

That wasn't true; was it?--- I thought it was.

40 Let me show you why it's not true. If you go to 191, please. This is a letter from the Crime and Misconduct Commission dated the 28th of August 2008. And you see in the second paragraph he says – Mr Needham says, the chairperson of the CMC
- - -?--- I have – my letter I'm looking at is to Gerald Bradley.

45 Yeah, it's addressed to Gerald Bradley?--- Oh, okay.

My point is you see here in the second paragraph, "Having considered section 59 of the Racing Act and the material provided, I am of the opinion that this matter is not within the jurisdiction of the CMC." You see that?--- Yes.

5 That's not the same as clearing Mr Ludwig; is it?--- No.

Okay. And then further down in the second last paragraph, this is really important. "In that regard, I note that QRL is an eligible corporation registered under the Corporations Act, which is within the jurisdiction of ASIC. I also note that there are
10 provisions under the Racing Act for the Chief Executive to investigate the suitability of a control body to continue to manage the code of racing." You see that?--- Yes.

Now, there is no way, I suggest to you, that you were justified in writing that the CMC cleared Mr Ludwig?--- Yeah, I don't think it's not intentional. It's not
15 intended to mislead, I can assure you.

Well, let me tell you what it means. You see, what you're saying to Mr Lawlor with the issues paper is these complaints were made and it was cleared, meaning we did
20 nothing wrong. You'd have to agree with that, Mr Bentley?--- Yes, I do.

Yeah. But in fact, we've looked at the CMC. They didn't clear it because they said, "Oh, we can't look at it. We don't have jurisdiction. So that's not a clearance."?---
No.

25 Am I right?--- Yes.

Okay. Let's have a look at what ASIC said at 192. You see, this is a letter from ASIC to Mr Bradley of the 22nd of October 2008?--- Yes.

30 Have you got that? And then if you go over to page 2, it says "ASIC's Decision". In the second paragraph under that heading, "As noted during our meeting, there are several aspects of the conduct identified in the material that do not fall within ASIC jurisdiction." And then next paragraph, "ASIC's decision not to commence a formal investigation should not be interpreted as a conclusion that no misconduct can be
35 made out, or that ASIC has in some way approved the conduct." See that part?--- Yes.

And then if you go to the next page, under the heading "Queensland Country Racing Committee Proxy", the second paragraph. "As you will be aware, the QCRC is a
40 committee established under section 66 of the Racing Act. The operation, functioning and management of QCRC are not matters that fall within the laws that ASIC regulates. As such, ASIC does not have the jurisdiction to consider the alleged misconduct of persons acting in their capacity as QCRC members."?--- Yep.

45 Not cleared, you agree?--- I agree.

- 5 Certainly not cleared. And let's have a look what the police did, who you claimed cleared it too, please. If you go to 194. This was a media release from the police. What they did was they received a letter written by the Honourable W.J. Carter QC to the treasurer. "Members of the Queensland Police Service, Fraud and Corporate Crime Group conducted an investigation into this allegation that was completed in December '08. The brief of evidence and the investigation report was referred for independent assessment to the Honourable Mr Tim Carmody SC, who was agreed with the police finding. The investigation found insufficient evidence to pursue charges against anyone involved." You see that?--- Yes.
- 10 That's not a clearance either. For your purposes - - -?--- I'd say it was close to clearance as the other two.
- 15 I'm not sure it is, you see. Not to be able to prosecute somebody for fraud is, don't you think, different to the level of conduct we all expect of directors of the Queensland racing control body; wouldn't you agree?--- Commissioner, I agree with what you've said before. That statement that I've made; right? It wasn't intentionally to mislead, I can assure you of that.
- 20 See, what happened was – what happened was Mr Ludwig's conduct was brought into question by people who were involved in the industry. Stakeholders who were entitled to a vote. And when it was called into conduct, you represented that they were – that Ludwig was cleared when he wasn't. That's pretty misleading?--- Well, the way you put it, yes.
- 25 Okay. Forget about the way I put it. Just answer my question. It's pretty misleading to anybody; isn't it?--- What I wrote in the - - -
- 30 Yeah?--- Issues paper.
- 35 Yeah?--- It's not correct. You picked – yeah.
- Don't you like misleading? Is that - - -?--- Well, I didn't intend to – I didn't intentionally intend to mislead. I've written it, I have to accept responsibility for it.
- 40 Yeah, you do. But what's interesting is to say that it's not misleading or you deny it's misleading. Now, I might understand what you're saying, but I'm not really understanding why you're not saying, "Yes, what I said was untrue."?--- No.
- 45 Are you saying - - -?--- He hasn't – because, right, what you're saying is not untrue. He was not cleared, he just wasn't investigated. Is that what you're saying?
- Yeah, that's what I'm saying?--- That's correct.
- 45 But the point of there being no investigation compared with he has been cleared, Ludwig has been cleared as have we all at Queensland Racing on this issue when that idiot out there, that stakeholder's making complaints. That's rubbish. We've been

cleared on this. Please, government, approve something more for us. It looked very good?--- Yeah, well as I say, I wasn't intentionally there to mislead.

5 Well, what was your intention?--- Well, I had to have an answer to the question.

I beg your pardon?--- I have to have an answer as part of the program.

10 No, you had to advance the position that you wanted to advance. So you gave misleading information; didn't you?--- I – as I said, I might've done but it wasn't intentional.

I don't understand what's not intentional. I didn't mean what? What didn't you mean to happen?--- I said I didn't – didn't think that was intentional.

15 You see, Mr Bentley, saying that word all the time. It's like saying "I've got a conflict" every time. When there's something hard, you just butt out of it. "I didn't mean it". What do you mean you didn't mean it?--- I wrote it and I accept that I wrote it.

20 Yeah. And take responsibility for it then?--- I just did.

And say that what you wrote was wrong, untrue. Why don't you man up to it and do that?--- Yeah, I've said that. I admitted to it.

25 It was untrue, what you wrote to the treasurer - - -?--- Yes.

Wasn't it?--- Yes.

30 Okay, thank you. Is that a convenient time, Commissioner?

COMMISSIONER: It is, thank you, Mr Bell. If you can adjourn till 10 tomorrow.

35 **MATTER ADJOURNED at 4.32 pm UNTIL TUESDAY, 24 NOVEMBER 2013**