

QUEENSLAND RACING COMMISSION OF INQUIRY

Commissions of Inquiry Act 1950

SUBMISSIONS

Part 8

Other matters – Term of Reference 3(h)

Any other relevant matter relating to the relevant period or otherwise that the Commissioner considers necessary.

1. In the address given to the Commission in public hearing on 15 July 2013, Counsel Assisting the Inquiry provided the following clarification in relation to this term of reference: “No other specific matters have so far been identified as necessary. However, the reference to “the *Relevant Period* or otherwise” makes clear, if there were otherwise any doubt, that the scope of the inquiry extends to events beyond the confines of the *Relevant Period* as necessary; it is plainly necessary where such events aid the investigation of matters occurring within the *Relevant Period*.”
2. The Order in Council establishing this Commission of Inquiry¹ also stipulated, “In making recommendations the Commissioner should consider any recommended legislative and/or organisational changes to promote good corporate governance, integrity and a transparent and accountable culture for the new control body for racing in Queensland – the Queensland All Codes Racing Industry Board established under the *Racing Act 2002* (trading as Racing Queensland).”
3. Notwithstanding the clarification referred to above and it being open to the Commissioner to make recommendations as to possible legislative and/or organisational changes, Counsel Assisting the Inquiry has not identified any further

¹ Commission of Inquiry (No. 1) 2013 dated 23 May 2013.

Submissions (Part 8)

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issues for investigation that affect the parties on whose behalf these submissions are made. In the absence of any clear identification of further issues, and absent any opportunity to respond to specific allegations that may be raised, it is submitted that no adverse findings can be made against these parties under this last term of reference.

4. The fact that no action has been taken by Product Co, since the change in the board in 2012, in relation to pursuing any possible claim against Tatts was raised on several occasions during the public sittings. If the Commission does not accept our submissions that the conduct of the board of Product Co and QRL/RQL was entirely appropriate (as to which, see our Part 3 of our submissions which deal with Term of Reference 3(f)), then it is submitted that the excuses offered by Mr Dixon in his supplementary statement² for no action having yet been taken warrant further comment. Senior Counsel Assisting stated that he would be inquiring into such matters but does not appear to have done so. The following points should be noted:
 - a. The contention that the new board was not aware of the Grace Advice until it was brought to the attention of Mr Dixon by Mr Andrews in August 2012³ warrants further inquiry because the acting CEO, Adam Carter, is noted as having been in attendance at various meetings at which the Grace Advice was discussed or referred to⁴. If the issue was seen as so important then it is curious that such an important issue was not brought to the attention of the new board much sooner. Unfortunately, the Commission chose not to call Mr Adam Carter in the public sittings;
 - b. The manner in which Mr Dixon appears to have raised the further advice the board obtained when discussing the matter with officers of Tatts in the meeting on 11 September 2012⁵ suggests that the board has waived legal professional privilege on that advice and so a copy of that advice should be sought;
 - c. The “imminent transition of RQL to Racing Queensland from 1 May 2013” and the “subsequent establishment of the Commission”⁶ which was not ordered until 23 May 2013 does not explain the delay from September 2012,

² Supplementary statement of K Dixon dated 24 September 2013, paragraph 44

³ Supplementary statement of K Dixon dated 24 September 2013, paragraph 41

⁴ For example, QRL board minutes dated 23 June 2009 at page 13 (RQL.101.003.4421), the Product Co board minutes of 5 March 2009 (Bentley 111) and the Product Co board minutes of 4 June 2009 (Bentley 118)

⁵ Supplementary statement of K Dixon dated 24 September 2013, paragraph 43 and annexure ‘KJD 39’

⁶ Supplementary statement of K Dixon dated 24 September 2013, paragraph 44

especially given Senior Counsel Assisting's often stated concern during the public sittings that the delay was costing \$500,000.00 per month;

- d. The transition to a new control body is in fact irrelevant when one considers that the party that would take any action, if action was warranted, would be Product Co, in respect of which there has been no constitutional change.