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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**

**9.31 AM, FRIDAY, 27 SEPTEMBER 2013**

**Continued from 26.9.13**

**DAY 8**

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**THE COMMISSION RESUMED**

**[9.31 am]**

5 COMMISSIONER WHITE: Mr Bell?

MR BELL: The next witness, Commissioner, is Mr Ludwig, please?

10 **MR WILLIAM PATRICK LUDWIG, SWORN**

**[9.31 am]**

**EXAMINATION-IN-CHIEF BY MR BELL**

**[9.32 am]**

15 COMMISSIONER WHITE: Thank you, Mr Bell.

MR BELL: Is your full name, William Patrick Ludwig?---That's correct.

20 And have you provided two statements to the commission? The first was sworn the 26<sup>th</sup> of July this year and the second the 11<sup>th</sup> of September this year?---I think that's correct.

And you also provided a document in response to a requirement to provide documents. Can you recall that?---No.

25 What happened was the commission provided you with a requirement to provide any documents that you had about the relevant matters?---I got that but I didn't have any documents.

30 No. You had one document. You had a document called the deed of indemnity, insurance and access?---Oh yeah. I didn't think I had that but I found it, yes.

And that document was the document that was entered into on the 5<sup>th</sup> of August 2011 by Racing Queensland and you?---Yeah, I - - -

35 That's right?---If you say that's right, well, that's right. I haven't got it in front of me but.

40 No. But it was about – can you recall it's the document that provided that Racing Queensland had to keep insurance in case something like this happened?---Mm.

So that your legal fees would be covered by the insurance?---Yep.

45 Okay. Mr Ludwig, do you recall back a little before Racing Queensland which became the amalgamated control body for the three codes, you were a director of Queensland Racing for Thoroughbreds only?---Yeah.

And in that regard, do you recall that Queensland Racing had in place a code of conduct? Do you know what that means?---Yeah, I think so, yes.

5 Okay. I'll show you that document and see if you can recall it please. It's – the document is at tab 2. You see on the front page it's got Queensland Racing?---Yep.

Code of conduct and ethics. See that? You got me so far? Code of conduct and ethics?---Where are you?

10 Just on the front page like that – just like the heading?---Yeah, yeah I've got that.

And then if you turn over you see the message from the chairman on the first page?---Yeah.

15 Okay. And then if you turn over to the next page you see it's got objectives at the top of the page?---Yep.

20 Okay. Underneath that you see introduction and you can see it says that every Queensland Racing Limited official must act in accordance with this code. Do you see that?---Yeah.

And the next dot point is, "Act with the highest standards of professionalism, probity, diligence and integrity." Do you see that?---Yes.

25 And then the next heading says, "To whom does the code of conduct and ethics apply", and the next line is, "This code applies to all Queensland Racing Limited officials." Now, do you recall that it was a code that applied to you as a director?---Well, I wasn't an official.

30 Well, in the code, you see, you're defined as an official being a director?---Mm, all right.

But you don't remember this document?---No.

35 Well, did you conduct yourself as a director of Queensland Racing with professionalism, probity, diligence and integrity?---Yes, I believe I did.

40 Okay. And if you turn over to the next page which is 5 of 15 in the bottom left hand corner, you'll see under 2.3, the board and chief operating manager responsibilities. Have you got that?---Yeah.

45 Okay. "The board and the chief operating manager must", and I'm looking at the third dot point, "lead by example in observing this code. Ensure that the highest standards conveyed through this code are evident throughout the organisation contributing to an integrity based culture". See that?---Mm mm.

What does that mean?---Well, it means you've got to be diligent about the performance of the board.

5 Okay. What's integrity mean?---Integrity? It means honesty.

Okay. And then if you turn over to the next page, please, which is 6 of 15. Tell me when you've got that? It's in the bottom left hand corner. It says 6 of 15. Have you got that?---Which one?

10 6 of 15?---Yeah.

Okay. And you see about the top of the page it says, conflicts of interest?---Yep.

15 Okay. Was there any conflicts of interest in your mind during your period as a director of Queensland Racing – of anybody on the board?---No.

Okay. If you turn over the page, again and I'm not on 8 of 15, please. The heading is 4.1.2, respect for the law and the QRL system of governance. Have you got that part?---Yes.

20 "All Queensland Limited racing officials must comply with all relevant laws, comply with all QRL policies, comply with all QRL procedures". Now, that appears at least to apply to you during your time as a director of Queensland Racing. See what I mean?---Yeah.

25 Okay. But you didn't know about this document, I'm taking, did you?---I knew about it, yes.

30 Did you ever read it?---No.

Okay. And then underneath those four dot points, "Compliance means observing the letter and the spirit of the law policy procedure or lawful request as well as managing your activities in a manner consistent with QRL as a good corporate citizen." Do you see that?---Yeah.

35 Did you do that while you were director of Queensland Racing?---Yes, I did.

40 And then, if you go over one more page please to the one that's got 11 of 15 in the bottom left hand corner. It's number 6.1.1. Do you have that one?---Yeah.

45 "Performing duties – all Queensland Racing officials must perform all duties associated with their position, diligently, impartially, conscientiously with proper care and attention in a civil manner and to the best of their ability. All Queensland Racing officials must", and the first dot point says, "perform their duties in such a way that QRL will be held in high regard by the community and the industry." Do you recall, during your time as a director of Queensland Racing, you complied with that?---Yes, I did.

Okay. And then over to page 13 of 15, please, Mr Ludwig? It's at the foot of the page as part 6, ethical decision making. Have you got that part?---Yes.

5 And then the dot points – the point of the code of conduct is to suggest that officials ask these questions of themselves before they do things. Dot point 1, “Is the action or decision legal? Does it comply with our values?” And then the fourth one, “How will it look in the newspapers or media” And the sixth one, “If you know it's wrong, don't do it.” See those things?---Yeah.

10 They're sensible questions, are they not?---Yeah.

Would you agree with that?---Yeah, they are.

15 Now, just go over to the final page please, Mr Ludwig, to prove my point – on 15 of 15. Have you got that?---Yeah.

20 And the second definition there, it says, “Queensland Racing Limited official”, and you see, “Queensland Racing Limited official includes board members of Queensland Racing Limited.” So it seems like the intent was that this code applies to you, doesn't it?---Yeah.

Okay. I'll just have you hand that back, please. Could Mr Ludwig see his second statement, please, which is the one sworn the 11<sup>th</sup> of September '13?---Yep.

25 Mr Ludwig, do you mind going to paragraph 7 please which is on the second page of your statement? I'll just let you read it and then I'll ask you a question?---Yep.

30 In the last sentence you're pointing out there that the only entitlement that the Country Racing Committee had to vote was to vote at a class A members meeting, aren't you?---Mm.

They had no – as you point out in the second last sentence, they had no entitlement to vote at a general meeting?---That's correct.

35 Okay. Were you conscious of that back in 2008?---Yes.

Okay. Now, if you go over to paragraph 13, please? I'll just let you read that and then I'll ask you a question?---Yep.

40 Okay. In the last sentence you swear that you believed that you were entitled to vote in favour of the constitutional changes, don't you?---Yep.

45 And I take it from what we've looked at in paragraph 7, that is for Country Racing Committee, that would be voting in favour of about a class A members meeting, wouldn't it?---Yes. I'd say, yes.

Well, you're saying so there, I thought, in paragraph 7?---Yes. All right, then.

Okay. Could Mr Ludwig see the bundle with the tab 187 in it, please? On the right hand side of the documents – right hand side of the document, you see it looks like a proxy form, doesn't it?---Yep.

5 And your signature's on it, isn't it?---That's right.

Okay - - -

10 MR WILSON: Commissioner, I – before we go there can I renew my submission that the circumstances in which the proxy were executed are without the terms of reference.

COMMISSIONER WHITE: Yes, thank you, Mr Wilson. We're just - - -

15 MR BELL: So Mr - - -

COMMISSIONER WHITE: We're just – we're just noting that. Thank you. I've made a – a general ruling that I'm persuaded that it's sufficiently relevant to the inquiry.

20

MR WILSON: As I understood, Commissioner, counsel assisting raised it as going to a matter about ministerial oversight, as a complaint was made down the track.

MR BELL: And the code of conduct.

25

COMMISSIONER WHITE: And the code, of course. Yes.

MR WILSON: The code of conduct of QRL. We're talking here about the circumstances of [indistinct] getting a proxy for Country Racing Queensland – or  
30 Country Racing Committee, I should say.

COMMISSIONER WHITE: Yes.

MR WILSON: So we say the – those issues are certainly without the terms of  
35 reference.

COMMISSIONER WHITE: All right. Thank you. Mr Bell, you should respond to Mr Wilson.

40 MR BELL: Yes.

COMMISSIONER WHITE: He's made a slightly fresh – fresh - - -

MR BELL: The – the conduct of a director – the only reason that Mr Ludwig was  
45 on the board of Country Race Meeting was because the legislation, the Racing Act, required that a person from the board be appointed to it as chairman. Mr Ludwig was appointed to it as chairman. His conduct in relation to that role was associated

5 with his directorship of the board of Queensland Racing. The code of conduct applies to members of that board. As such, the question of the way this event was handled by him, as chairman and as a director, is relevant to the terms of reference because it's addressing the question of whether there was compliance with policies, such as the code of conduct.

COMMISSIONER WHITE: Thank you.

10 MR BELL: Mr Ludwig, if you look at the document - - -

COMMISSIONER WHITE: Oh, yes. I'm - I'm going to permit the - the questioning of Mr Ludwig. I'm - I'm persuaded that it is sufficiently encompassed by the terms of reference.

15 MR WILSON: As long as our clear objection is noted, Commissioner.

COMMISSIONER WHITE: Yes. It is. Thank you.

20 MR BELL: Mr Ludwig, just looking at the document on the right-hand side, that's the proxy with your signature on it, isn't it?---Yep.

25 And in particular, you see in the fourth line it says - it states the proxy - sorry. The third line: "As the proxy to vote for the Queensland Country Racing Committee Brisbane at the general meeting of the company, to be held on the 6<sup>th</sup> of August." You see that?---Yeah.

So that's not the meeting that you voted at, is it?---I can't recall.

30 Well, you say in your statement that the only meeting that you could vote at was a meeting of the Class A members, and you point out that you couldn't vote at the general meeting. It was only at the Class A members meeting, you see?---I can't recall.

35 Well, let's just go back to your statement. I'll just tell you - I'll recite what you swore. You - you swore, in paragraph 7, "While the members of the CRC were entitled to appoint two member representatives, their role, under the constitution of QRL, was only to vote for the appointment of a Class A representative. They had no vote at general meeting of QRL itself." You said that?---That's right.

40 Okay?---That's how I understood it. Yeah.

45 Just look back at the proxy. It's a proxy that you have signed, presumably on behalf of the members of that committee, to give yourself, at first instance, the proxy for their vote "at the general meeting of the company". You see that? So that's wrong, isn't it?---Well, I did question why I had to put a proxy in but it was explained to me that the vote I had was for Queensland Country Racing only and the Class A

members were the two delegates or whatever they wanted to call themselves. But that's a long time ago and I can't recall it all now.

5 No need to recall anything. Just look at the proxy, the piece of paper that you signed?---Yeah. Well, that's right. Yeah. I signed it.

Yeah. And it says "to vote for the Country Racing Committee Brisbane at the general meeting of the company, to be held on the 6<sup>th</sup> of August"?---Yep.

10 Now, you did not vote at the general meeting because you couldn't vote on behalf of this committee at the meeting, as you point out in your affidavit. You could only vote at a Class A members meeting to appoint a representative. That's what you point out in your affidavit, don't you?---Well, it's a bit confusing, no doubt.

15 Secondly, have a look at the proxy again. You see it's dated 30 July 2008 and you sign it yourself. You see that?---Yeah.

In the constitution of Queensland Racing, that can't happen, that a individual signs it for a committee. Did you know that?---No. I didn't.

20 Did you know that what was required under article 14(a) was that the only person who could sign it was a representative authorised in writing for the committee. Did you have authority in writing of the committee?---No. I didn't.

25 So why didn't you take care to check that you did?---Well, I was – Shara was doing this and I just went along with her instructions.

Yes. But you were the director who was taking and giving the proxy for these eight country associations, weren't you?---Well, the Queensland – that would've been –  
30 Queensland Country Racing Association was very vague in its – in its directions or whatever you want to call it because the only time that, you know, they – you've been raving – they've been raving on I didn't call a meeting. As I understood it, if two people had have asked me to call a meeting, I would've and then they could've directed me one way or other to vote.

35 Okay. Could Mr Ludwig see the legislation requirements, please, which are in the Racing Act. I'll show that to him now, please.

40 Mr Ludwig, did you appreciate there was actually provisions in the legislation about this?---Yes.

Okay. Well, did you look to see what was necessary so that you could comply with them, in accordance with the code of conduct or not?---Well, I'd read the – whatever you want to call it but there wasn't much instruction in the legislation. It was very  
45 vague and I certainly didn't have any request to call a meeting. None at all.



Well, I'm thinking what you're saying to me – see if I've got it right, Mr Ludwig – unless one of the country associations rang you up and said "I don't know there's a meeting about to happen but I want you to call one to tell me what to do about a constitutional change" – is that the way it operated?---Well, that's the way the  
5 legislation read. If I'd have had two requests, I would have been advised – obliged to call a meeting and I would've but I never got any requests.

Mr Ludwig, how does that work as a matter of logic? Forget about the legalistic  
- - -?---Oh, it was very, very vague.

10 Just wait a second. Just forget about the legalistic stuff. If Bentley puts on the table a constitutional change that's going to involve you getting an extended term as a director and also to get rid of this independent recruitment agency idea – that was the constitutional change that you had in mind – wasn't it necessary to show members –  
15 that means who, under the legislation, are members of Queensland Racing – what was on the table for consideration?---Well, I was of the view that the – that they'd had – I never had any – any influence at all with the administration of Queensland Racing Country. I just chaired the meetings.

20 That's right. That's right?---I just chaired the meetings.

That's right?---And - - -

25 So that means you wouldn't go and vote for them. All you were to do was chair the meeting. That's right, isn't it, because you're not one of the members voted as a representative onto an association, are you? You're just the chairman appointed by Queensland Racing to the committee?---Yes.

30 Okay. Well, that's different from being somebody who knows what they want. You're just a chairman. Do you see what I mean?---Yeah. I know what you mean. Yeah.

Well, it's pretty important because, you see, it's like somebody saying, "I've got the authority to vote yes for all these people in Queensland Country but I'm not going to  
35 ask them do they want me to vote yes"?---Well - - -

That's what it's like, you see?---Yeah. You see, there was no requirement on me to ask them.

40 Well, let's have a look?---All right. Have a look.

I'll take you to the legislation. Let's have a look together. Have you got it there? Just hand it up to Mr Ludwig, please.

45 COMMISSIONER WHITE: I've got it – have you got it open at part – part 5, Mr McDonald? I think – I suspect that's where we need to. Is that right, Mr Bell?

MR BELL: Yes.

COMMISSIONER WHITE: Part 5. That's on page 56. I should've been more precise.

5

MR BELL: Mr Ludwig, we'll go at whatever pace you want. If I'm rushing too fast, you tell me?---All right.

This is part 5: "Provisions relating to entities involving thoroughbred racing. Division 1: Country Racing Associations." You've got me so far?---Yep.

10

Section 61 establishes eight associations. You see that?---Yeah. That's - - -

And that – if you look at the description of the area it covers, it clearly was intended to cover constituents or stakeholders in racing in the country of Queensland?---That's correct.

15

Yeah. And so by this means, the legislation was, wasn't it, meaning to give country a say, don't you think? Well, if you doubt me on that, please tell me?---Well, why would it be there if it wasn't for that reason, to give them a say?

20

Well, I'm wondering whether you knew that?---I knew that. Yes.

Okay. Good?---I mean, I – I went to meetings with them.

25

So it's easy – you could've answered me "yes", Mr Ludwig, and then it's quicker. "Yes. I knew that this was so country people" - - -?---Well, I – I knew - - -

" - - - would have a vote"?---Yes. I knew.

30

Okay. And did you appreciate that the reason the legislation had this in it was to give country people who were stakeholders in racing a vote? Did you understand that?---Well, I understood that, as the chairman, I had the vote.

Mr Ludwig - - -?---And whether that's right or wrong, that's what I understood.

35

- - - just stay – just stay with my questions at the moment and we'll come to that proposition in a minute. Don't you accept that the associations that I'm showing you in section 61 was established by the Racing Act specifically to give these people a vote in the affairs of Queensland Racing? That's - - -?---Well, I don't know that it says that particularly.

40

Well, let me show you how it says it? But do you see first that they're the associations?---Yes.

45

And you accept that that's across country Queensland, isn't it?---Yes.

Okay. And then if you go to section 62, the composition of each country racing association and it defines that they've got to have elections. Do you see that?---That's right.

5 So that, that seems like the thinking under the legislation is that a proper representative of each association would come forth from that voting process. Pretty democratic stuff, isn't it?---Oh, yeah.

Beg your pardon?---Yes.

10

Yeah. And then if you go to 63. A country racing association's functions are (a) to provide advice to the committee about race meetings held by each member's club of the Country Racing Association (b) To nominate to the chairperson of Thoroughbred control body which is Queensland Racing, Mr Bentley, a person to be a member of the committee. So it's pretty formal in that each association's got to tell Bentley who it is, is their rep. See that?---That's what it says.

15

Yep. And (c) To prepare submissions for the committee about the funding that each member club of the Country Racing Association requires to hold races on which the TABQ does not, or is unlikely to offer wagering. We up date so far?---Yep.

20

Okay. And then you see in 64, the powers – the country racing – (a) Country Racing Association has power to do all things necessary or convenient to perform its functions?---Yep.

25

Okay. Now then, you'll see in 64A there's more information about the member of the committee but I wanted to take you to division 2 and this is where you come in. "Queensland Country Racing Committee". That's section 66 it starts, see that?---Yeah.

30

And it's established by this Act. It didn't just come out of the air. And the functions are in 67. You see that?---Yeah.

And then if you go over the page, at 68 – section 68. You'll see in section 68 (1), the committee consists of nine members being eight, (a) eight persons nominated to the chairperson of Thoroughbred control body, Mr Bentley, by the Country Racing Associations earlier mentioned – the eight of them. (b) one person nominated by the thoroughbred control body, namely Queensland Racing. And if you look at subsection 4, the person nominated by the thoroughbred control body, that's Queensland Racing, is the chairperson of the committee – that's you?---That's right.

35

40

See how that comes about?---Yep.

But as you said earlier, the electorate isn't you. You're the chairman. They're the electorate. They're the people coming with the views of Queensland Racing from the country, aren't they?---Mm.

45

Are we good so far?---Yep, whatever.

Beg your pardon?---I mean - - -

5 Did you say whatever?---Well, look – well, look if they'd have had a view - - -

Did you just say whatever?---Yes.

10 What does that mean?---Well, it means whatever you want. I – I – look, my position was this. I did no wrong. You seem to be running the Courier Mail's case to me. That's what you're doing.

15 COMMISSIONER WHITE: Mr Bentley – Mr Bentley, these are entirely sensible questions of counsel for you?---Well, I don't think they are. I think I'm being unfairly treated.

20 And why is that?---Well, I think that any of this outcome will jeopardise my opportunity to have a judge and jury address this issue with my litigation against the Courier Mail. Because that's what it's about.

Well, that's news to be, Mr - - -?---Pardon?

Its news to me, Mr Ludwig?---I can't hear you.

25 This is an inquiry into certain matters in terms of reference. It's of complete indifference to the inquiry what private litigation might be going on outside this inquiry?---Well, what are you saying? That the Courier Mail solicitors won't take any notice of this.

30 MR BELL: They can't, Mr Ludwig. They can't use evidence that you give here in any criminal or civil proceedings. You don't have to worry. Are you worried about disclosing what happened, are you?---No.

35 Well, what are you worried about?---Well, look. I did nothing wrong.

But how do we know that? You're telling us that. Why can't we have a look at what happened?---Look, I did nothing wrong.

40 Why can't we have a look at what happened?---Well, everybody had a look at it, you know, and I mean, I – you know, the Fraud Squad.

They didn't, you know. I'll show you. They didn't?---They did.

45 No, they didn't?---They had a look. Hey, they had a look. They turned the office of Queensland Racing upside down very aggressively.

Let me tell you - - -?---they had an interview with me and they didn't press charges or whatever else they were supposed to do.

5 This is not a criminal inquiry, Mr Ludwig. This is about whether you as a director of Queensland Racing were complying with the code of conduct we just looked at?---Well, I'm sorry, I was because - - -

That's a much higher standard, Mr Ludwig, than being a criminal or not, you see. Do you understand that?---Yes.

10 Okay. Well, do you appreciate that the commission is legally obliged to make inquiries about what happened, you see?---All right.

So that's what I'm doing?---Good.

15 Okay. Well, do you want to answer the questions?---What's the question?

20 Have another look at the legislation and don't just say to me, whatever. I'm looking for your real answer – what you think about it and what you thought at the time, you see?---Yeah.

So we were talking about division 2 which is at the foot of page 58, section 66. You see that the legislation established the Queensland Country Racing Committee at section 66?---Where's this?

25 Section 66?---Oh, yeah.

You see that?---Yes.

30 That's what you were the chairman of, wasn't it?---Yes, yes.

And the members, other than you, were the eight associations represented?---Yes.

35 Okay. And they were to represent all the people, weren't they?---That's correct.

Okay. And then in 67 you see the functions?---Yep.

40 Okay. And I was showing you section 68 which shows that in section 68 there's the eight persons who are nominated by the associations and also the chairman, who's nominated by Queensland Racing to be it – and that's you at the time?---Yes.

Now, if you go over to section 6 – 73, please which is over a few pages?---Which one?

45 73?---Yeah.

You see section 73 (1) – would you read that out, please?---Meetings of a thoroughbred entity must be held at a time and place the chairman of the thoroughbred entity decides.

5 Right. Now, that's you, isn't it?---That was me, yeah.

Okay. So it's you who has an obligation to decide when meetings will happen?---Yes.

10 But you are obliged to do it, you see, because you're the chairman?---That's right.

You can't just have none. Look at (2), section 73 subsection 2 (a) (2) A thoroughbred entity must meet as often as is necessary for it to perform its functions and (2) for the committee at least four times a year. You got me?---Yeah.

15

Okay. Did you call four meetings a year?---Well, I had very little to do with the administration. There was a guy called – he was the go – secretary if you like of Queensland Country Racing.

20 Truscott?---Truscott. And he sent out the agendas, told me when the meeting was and I come down and chaired the meeting. So if I didn't, you know, in your eyes, comply exactly with that, I was doing what the administrator wanted.

25 Okay. I understand that. Well, what about this? When the constitutional question came up that Bentley wanted for you and for him to have a longer term, did you check that a meeting was to called so the associations representative could tell you what they think about it Did you do that?---No, I didn't.

30 Now, that's amazing isn't it?---No.

It is amazing, Mr Ludwig. It would be amazing for the people out there in the country that their representatives don't get a say because you don't call a meeting?---Well, look – it wasn't amazing at all because their reaction was – after that meeting where we voted on the constitution and that – I had a meeting very soon after with the – with Queensland Country Racing Association. None of them mentioned this issue about the vote. None of them.

40 That's astounding, Mr Ludwig, to me because they appointed a lawyer - - -?---Well, I'm telling you it might be astounding but it's the truth.

They appointed a lawyer, didn't they, who wrote immediately complaining about how they weren't notified?---No. They – they appointed – what happened after that meeting there was a meeting with Mike Horan, Bill Carter, Randall Ferrier and after that another diatribe came from Bill Carter to the minister that fraud may have been committed. So fraud inquiry. But at no stage – at no stage at that meeting after I had after the vote, they never mentioned it. So they weren't interested until somebody got at them.

45

Well, what about this? Let's look at the substance of it instead of when the complaints arose. All the commission had to do was say to each of them, could you put a sworn statement in please, whether you got notice of a meeting so that you could have your say. They all said no. And then when asked, did you authorise Mr Ludwig to vote on your behalf – no, all no. And thirdly, when asked, did you authorise him to vote in favour of him and Mr Bentley and others having a longer term – they all said no. How can that be? They swore on oath that?---Even if – even if the proposition that you're putting had've taken place and all those procedures went through, I don't know of anybody – if it was my vote as the chairman, can I instruct me how to vote.

I thought you thought that. That's amazing?---No, it's not.

So you mean you have a – you have a committee that's got nine members. And the chairman goes, "I'm in favour of the constitutional change." And all other eight go "we're not." But you can still rule the day. That's how you saw it; didn't you?--- If that had have been – hypothetically, if that had have happened, that could've been the outcome.

That's amazing?--- No, it's not.

Mr Ludwig, you really believe that; do you?--- Oh - - -

That you thought that you didn't have to listen to what those eight people said?--- They never – my understanding was they'd have – two of them had have asked me to call a meeting, I would have.

Forget about that. Come back to my proposition?--- No, I'm not forgetting about that. But I never - - -

Yes, come back to my proposition?--- I never got asked to call a meeting; right?

Forget about that, Mr Ludwig. Come back to what you said to me. Your position is that as chairman, it didn't matter what they said. You could vote the way you saw fit?--- I said that's hypothetically the way – the way things would pan out. I mean, I don't know of anybody – you know, there's elections that have just gone. People complain about people being direct on how to vote; aren't they?

I don't understand what you're saying, frankly, Mr Ludwig. What I'm - - -?--- I don't know of anybody that can – if you go to the ballot box and someone's directed you how to vote, are you obliged to do that; follow their instructions? Or have you got an independent vote?

Well, I thought everybody had their own independent vote. They could vote the way they wanted?--- Well, good.

Yeah?--- That's – that's what we - - -

And on your committee, there were nine votes. And only one - - -?--- No, there weren't.

- - - got a go at it?--- There weren't nine votes at all.

5

There weren't?--- Well, if there'd have been a meeting there might have been but there wasn't a meeting.

I've got you. I understand where you stand there. So even though - - -

10

COMMISSIONER WHITE: Are you going to ask Mr Ludwig what he understands by a proxy, Mr Bell, at some stage?

MR BELL: Yes, I am going to do that.

15

COMMISSIONER WHITE: Right, thank you.

MR BELL: Could Mr Ludwig see the Queensland Racing Limited constitution, please. Which is at the rider 230 in my bundle 1?--- Sorry?

20

Volume 2. This is the constitution, if you go to the first page, of Queensland Racing that was current at the time, the time we're talking about in 2008. Do you see that?--- Yeah.

25 Okay. And then if you look on the first page, you see the index over the page. And then on the right of that you'll see class A members at the foot of the page are defined. Do you see that?--- Yes.

30 "Class A members means each of the following;". And then "(c), the Queensland Country Racing Committee."?--- Yep.

35 Okay. So looking at that, if you were going to have a class A members meeting, I take it that you understood that there would be somebody for Queensland Country Racing Committee at that meeting, as well as representatives of those other members. Do you understand that?--- Yeah.

Okay. Then turn over to - - -?--- I think there was, actually.

40 Yeah, okay. And you were the one for Queensland Country Racing Committee; weren't you?--- No, at that class A meeting I think Mr Peoples was there by phone.

Yeah, Mr Ludwig, the person who had a vote at that meeting; who was that? For Queensland Country Racing Committee?--- At the Class A meeting?

45 Yeah. The only place where this committee could have a vote, at the Class A meeting appointing a representative; who was it who had a vote?--- Me.



Clearly enough it was you?--- Yeah.

5 Wasn't it? So look at page 9, please. See 11.1 talking about proceedings at general meeting. "No business can be transacted at any general – annual general meeting or general meeting unless a corum of members is present in person or by proxy"; see that?--- Yeah.

10 And then if you look at 11.2(d), "At a meeting of a class of members," such as class A members, "of the company, the corum for that motion only shall be the majority of the members of that class present in person or by proxy"; see that?--- Yes.

15 And then if you turn over the page to 14, you'll see the provisions about proxy. It says, "A proxy must (a) be in writing under the hand of the appointor or of the appointor's attorney duly authorised in writing." Now, this committee was a committee not an individual, of course, as you know. And so it was essential for there to be authority in writing for somebody to have a proxy that would be valid. You see that? Did you check that that was what was necessary before you signed the document you did sign?--- What I did – I questioned Shara Murray about it. She was organising the whole structure of the meeting. From my understanding of proxies, if 20 you attend the meeting – well, you don't need a proxy. But then she explained to me that I was representing Queensland Country Racing as an entity, not as a person. So it was necessary for me to have a proxy?--- Okay.

25 So I signed the proxy?--- I see, I've got it. I've got you. So did you ring on the telephone any of the other members of the committee - - -?--- No.

- - - before doing that?--- No, it wasn't my job to ring them. They were to ring me if they wanted a meeting. That's what it says.

30 And where does it say that?--- Well, it says if any two members of the committee ask for a meeting, I was obliged to have one; right? Never ever did I hear from any of them, only after the ball.

35 Okay.

COMMISSIONER WHITE: I think Mr Ludwig must be referring to section - - -?--- Pardon?

40 - - - 73(2)(b).

MR BELL: Yes.

45 COMMISSIONER WHITE: And it does require three members actually, Mr Ludwig.

MR BELL: Yeah. But the point is, Mr Ludwig – the real point is that you're saying, and I think I understand you clearly now. You appreciated that as chairman,

5 unless they called a meeting, you could vote as you wished?--- Well, I was convinced – I'd had a lot of – I'd had a tour of a lot of the country racing associations. And there was forums that Bob and I went to. And I discussed and Bob discussed it with them, the changes. Now, I never got any complaints. Never got one. If I had have - - -

What – what changes did you discuss?--- The changes to the constitution.

10 Well, what did you say?--- Well, I explained to a couple of them – I said look – I said oh, this is – extends the meeting. I said yeah, but it – the term of office, it meant nothing; you know? This furphy about oh, you know, there'd me more money in it or something. You know, I mean the money was never a question for me.

15 No, I accept that?--- Never a question.

The money was never a question. But could you tell me, please, what you explained to the people you did talk to in the country and who it was you talked to?--- Oh, look, my memory's not that good; you know? I mean, it was – they were big forums; you know? 30 and 40 and 50 people, 100 people at some of them.

20 And what did you say?--- What did I say?

About the constitutional changes?--- I just said these changes to the constitution – I didn't go into any great detail with them.

25 Okay. If you look back at 14, then, of my constitution here?--- Whereabouts?

14?--- Proxies.

30 Proxies. In (a), you see a proxy, to be valid, must be in writing under the hand of the appointor. Appointor is the committee so it'd have to have all of the people signing, I suspect. Or of the appointor's attorney, duly authorised in writing. That means if you wanted to sign it for the committee, you needed to have their authority in writing. See, that's what it says; see that?--- Well, I wasn't aware of that.

35 No, I know. And your point is that you didn't read this or take account of it; did you?--- No, I didn't read that.

40 Yeah?--- I – you know, I was quite clear that if I'd have been requested by two of them to have a meeting, I would have; you know? I wasn't frightened of having a meeting with them, for god's sake.

But you saw that as their responsibility?---It was.

45 Yeah?---It was, clearly.

I see?---The two of them had to write to me and ask for a meeting and they didn't.

I see. Just think of the logic of what you're saying, Mr Ludwig. If the representative of western Queensland is sitting out there in Longreach, he doesn't know what's going on in the office out at Deagon - - -?---Nor do I.

5 - - - on the 8<sup>th</sup> of August that's going to be a meeting about constitutional change?---Well - - -

He doesn't know it's going to go on unless you tell him?---In between meetings I have very rarely had any contact with those guys, because Collie Truscott was the go  
10 - he was the man that - - -

Okay. Well, I've checked that?---You have?

Yeah. I've checked it; I'll tell you what happened. Nobody served those people out  
15 there, any of those associations. The only people served with the notice was you and Truscott. Did you check with him that they'd been served?---No. I didn't, because I would've expected that he did.

Well, you see the problem here is the system, for one reason or another, broke down  
20 but you didn't check whether they had notice, did you?---Well, I would - you know, for all the meetings I had - and Collie Truscott organised them or what the agenda's out there - I didn't check every time there was a meeting called, whether he did it right or wrong or otherwise. I just rocked up at the meeting.

Okay. But here's the problem here that makes it special, Mr Ludwig. When nobody  
25 does anything about this constitution, you don't hear anything from them one way or the other. You just sign the form for them, which form says, "We're going to vote in favour. I don't care what you think; I'm going to vote in favour of this because it's good for me"?---Well, that - they're your words, not mine.

30 Well, it looks like - - -?---Well, it looks like, but it wasn't.

- - - it was good for you and good for Bentley, so you signed it?---It wasn't good for  
35 me or good for Bentley.

It was good for you?---Why?

It was, because it extended your term?---Oh, listen. If I'd have known the political  
40 ramifications of what I got to in this sport, I would've been happy to get out of it.

Well you see, it's not that; it was the way you conducted yourself that got you into  
that - - -?---No. It wasn't.

- - - not the role?---I - look, I did nothing wrong. I did nothing wrong, nothing at all.  
45 I wasn't - there was nobody asked me to call a meeting, nobody. If they had have, I would've. Well you know, you - you've got Mr Truscott or you've found out all of that. Did any of them ask me to call a meeting? Did you fucking find that out?

Mr Ludwig, what happened was – I’ll tell you what happened. Shara Murray said to the lawyers who were acting for Queensland Racing that she had spoken to the members and they had confirmed that you, Mr Ludwig, had authority to sign the proxy. How could that have happened?---Hey?

5

How could that have happened?---Well, I only took the advice of Shara, right, when she said I had to sign the proxy, and I did that.

Mr Ludwig, when you signed the proxy, not having had a meeting of the committee of which you were chairman, I just don’t see how you can decide to write on the proxy, “We vote in favour”?---Well - - -

I just don’t get how you could possibly think that?---Well, that was my view and I didn’t have any views to the contrary from any of the country racing associations, nothing.

15

Okay. I want to show you something else, please. Could Mr Ludwig see his statement, please.

20 COMMISSIONER WHITE: The first or second one, Mr Bell?

MR BELL: The second one, please, Commissioner.

COMMISSIONER WHITE: Yes.

25

MR BELL: Mr Ludwig, have you got your statement?---Yeah.

Okay. Paragraph 16 on the last page, please?---Yep.

30 Yeah. Your point is that you believed, do you, that this has been thoroughly investigated by ASIC, CMC and the police?---Well, yes.

But you see, I can – I’m going to show you that that’s not the case at all. What happened was ASIC said, “We can’t look at this” - - -?---Yeah. I realise that.

35

- - - “it’s not in our jurisdiction”?---I realise that.

Well, when did you realise that?---Well - - -

40 When did you realise that?---I realised it pretty early, because I didn’t think ASIC had – and I didn’t think the CMC had the authority either.

That’s right. They didn’t investigate it either?---No. No, but the police did.

45 The police investigated only whether you could be charged and convicted of fraud, and they said there wasn’t enough evidence for that?---Well, you’ve got more evidence, have you?

Well, I've got evidence that you breached your duty as a director?---No. I didn't.

You didn't even care about that code of conduct. You weren't trying to do the right thing by those country people at all. You just wanted the constitutional changes  
5 passed, didn't you?---No. That's not true.

You and Mr Bentley – come on, Mr Ludwig. You and Mr Bentley had an agenda to extend that term and you just were pushing it through, weren't you?---No.

10 Well, it looks that way, doesn't it?---No.

It does look that way?---Well, it might to you but it didn't to me.

Mr Ludwig, I wanted to ask you something else, please. Do you remember when  
15 you were a director of Racing Queensland and the other director, Ms Watson, got the chop off the board? Do you remember that?---Yeah.

Okay. Do you remember why she got the chop?---Vaguely, yes.

20 What was it?---Well, there was a meeting about the - - -

Do you want me to show you? Is it better if I show you the minutes?---Yeah. It would be. Yeah.

25 Okay. Let's do that. Could Mr Ludwig see – certainly in my folder it's 3 – 142A, please.

I'll just tell you what this is first, Mr Ludwig. It's the minute of the Racing  
30 Queensland members meeting, 6<sup>th</sup> December 2010. I'll just let you have a look at that. You okay? Do you know what it is? You see at the end of it you can see the motion was put: the removal of Ms Watson from office as a director of the company. And you voted in favour of getting rid of her, didn't you?---Yes.

35 And then if you look back on the prior page you see that Ms Watson left the meeting and then Mr Bentley advanced the argument in favour of his motion to remove her. Remember that?---Well - - -

Not really?---I just don't remember that.

40 Okay. Well, the point is, I think, Mr Ludwig, that you can recall that when the first meeting ever of Racing Queensland occurred on the 1<sup>st</sup> of July 2010, Bentley mentioned that Racing Queensland was going to develop a strategic plan, a plan for infrastructure improvement. You remember that?---Yeah.

45 And after that time, do you recall that on the 24<sup>th</sup> of September – some time later, four months later – at a board meeting on a Friday, Mr Bentley revealed the strategic plan to the board? Do you recall that?---Mmm.

Okay. Let me just show you that minute, please. That's at 137 in that bundle, which is about two over. This is, you see, a minute of the RQL board meeting, 24 September 2010. And you see there that you're present?---Yep.

5 And then if you turn over the page to 2, you see "Strategic Asset Management Plan: The chairman advised all board members that the information before them today was strictly confidential and that any board member found breaching the board confidentiality, the chairman would seek their resignation. This message was also conveyed to Lette by email and telephone, owing to his inability to attend." Do you  
10 recall that now?---Yes. I do recall something about that, but - - -

Did you know about the plan before this day? Can you remember?---Look, what – the plan for the infrastructure was developed through an audit process about workplace health and safety with all those country meetings, and I was particularly  
15 concerned that going to those meetings, country race meetings, to see that there was very little attention given to workplace health and safety. So my interest was that the majority of the infrastructure was to country racing. Those facilities would have been upgraded.

20 You see, my question's about Watson, and I'm pointing here that on the meeting of the 24<sup>th</sup> of September, it looks like Bentley's revealing the plan as to which place would get fixed up. You know what I mean. Do you remember that?---Well, it looks like that, but I don't know whether – you know, I can't recall that.

25 Okay. Well, what he – do you recall that this was the subject of why Watson got the chop, because the chairman, Mr Bentley, advised all the members it was strictly confidential? See that?---Yes, and it was.

30 Yeah. Yeah. Strictly confidential?---Yeah.

Why was it strictly confidential?---Well, because there were winners and losers, if you like.

35 I understand?---And if it had got out, those that felt that they were going to miss out would've caused, you know, a fair bit of angst, so it was necessary for us to keep it under wraps until such times as we had the go-ahead from the government.

40 I see. So the point was to hide it from the people in Queensland - - -?---Wasn't to hide it at all.

Well, what's "confidential" mean?---Well, it means – it means to keep it quiet.

Yeah. Well, same thing?---Yeah. Personally - - -

45 I'm right, aren't I?--- - - - but it doesn't mean to say you've got to hide it.

Okay. Well, what's the difference?---Well, the difference is if that had have got into the press before we'd have got the government's go-ahead, we would've got a lot of complaints, like we got as soon as Ms Watson went and seen her Greyhound people. They come back with all the complaints in the world because it didn't suit them.

5

Mr Ludwig, the point of Ms Watson getting the chop was not about Greyhound people. That happened later. It was because she wrote a letter to Mr Bentley and to the minister - - -?---Yeah.

10 - - - and to the head of the Office about it?---Yeah. And that was leaked, I think, too.

Well, the point is that in her writing to Mr Bentley, there was nothing confidential breach about that because he was the one who was revealing it to her?--- But she cc'd it to other people.

15

She didn't. She denied that, Mr Ludwig?--- Well - - -

COMMISSIONER WHITE: It was cc'd to the minister?--- To the minister.

20 Yes. And to the Office of Racing?--- And as I understand it then, there was – she must have discussed it with some other people because the greyhound people came out and complained that they weren't – it wasn't what – the result that they wanted.

25 MR BELL: Mr Ludwig, you see, the point was, I think; wasn't it? That Bentley wanted to get it passed by government before anybody learned. That's right; isn't it? Anybody out there, a stakeholder, learnt about it?--- Well, I don't know that that's the case. I don't know that that was the case at all. However - - -

30 Well, you were just saying that, Mr Ludwig?--- It was important – well, yeah. Wait. It was important that we didn't have a rehash by stakeholders coming back and pulling it to pieces and saying this isn't good and that's not good. So it was necessary, until we got the okay from the government, to keep it as quiet as we could.

35 Okay. So you see, when Watson writes back to Mr Bentley whinging about the fact that it had changed from her expectations for greyhounds; what was wrong with that? Writing back to him?--- She was at the meeting and she voted in favour of the - - -

40 Yes, she did?--- Yeah.

She did. But talk to me - - -?--- Well then when she went home – when she got home, I think – and she was got at by the racing people and she wrote back and changed her mind.

45

Yeah, that's right?--- Yeah.

But the point I'm asking you is what's wrong with her writing to Mr Bentley and complaining about the fact - - -?--- There's nothing – well, she was at the meeting. She should've – if she had complaints then, she should've raised them at that meeting.

5

She did. She did raise them?--- And she voted in favour.

She did raise them?--- Oh, she did not.

10 She did raise them. It's even recorded in the minutes she raised them, and the harness man raised it too?--- The harness man didn't vote.

The harness man you know raised that he didn't like it, Mr Lette; didn't he?--- But he went along with it.

15

Yeah. He didn't like it; did he?--- Well - - -

What could they do, Mr Ludwig?--- It wasn't up to me to say whether he liked it or he didn't like it; you know? I mean, he had plenty of opportunities at the meeting.

20

What opportunity did he have at the meeting?--- Well, he was there; wasn't he?

Okay. So they got two votes, those people who hated it?--- They didn't say they hated it. They voted for it.

25

Ms Watson said she did?--- Hey?

She said it was no consideration for what was promised earlier to greyhound in it. You know what, Mr Ludwig? The amazing thing is the evidence seems like you were at a meeting with Mr Bentley, with the government, advancing the plan before the board even knew about it?--- That's not the case.

30

I think it is. Do you want me to show you?--- Well, I don't know – look, as I said, my concern – I went to a couple of meetings with the government because of workplace health and safety. I was absolutely convinced that if we'd have had an accident, Queensland Racing would've suffered badly if we'd have known what was going on and we couldn't get the support of government. So it was in the best interests of the – of Queensland Racing to convince the government to give us some money, because the clubs had no money. None of them.

35

40

But didn't the other members of the board have a entitlement to have a say first?--- Well - - -

Not really?--- It wasn't as if we took the plan and – you know? I mean, we just had a discussion with the minister.

45



Well, it was more than that. But you see, Mr Ludwig, I just want to address the question about people having a say. You've explained the point about not letting the stakeholders have a say because they'll make a muck of it. What about the board having a say?--- Well, the board did have a say.

5

Mr Ludwig, before you go to government and advance it into government where they approve it, what about having a say for Watson and Lette before that happens?--- Well, I thought they did.

10 They didn't. You see, you were already seeing people with Mr Bentley before they were even shown the plan. How amazing is that? Don't you find that amazing? Bentley's saying - - -?--- I don't recall that.

15 Bentley and you are saying to the government "here's Racing Queensland's plan", not telling the government that the poor old board didn't even know anything about the plan yet?--- Well, that's not true.

It is correct?--- That's not.

20 I'll show you. Let me show you about it. Could Mr Ludwig see tab 287, please. This is a - do you remember Mr Kenneth John Smith? Ken Smith at the government?--- Yeah.

At the premier's office?--- Yeah.

25

Okay. This is his sworn statement. And if you go over to paragraph 39, which is on page 8. What it says is, "I attended a meeting with then-Premier Anna Bligh, then-Deputy Premier Paul Lucas, then-Treasurer Andrew Fraser and then-minister responsible for racing Peter Lawlor, Bob Bentley, Bill Ludwig and staff from the Premier's Office on the 28<sup>th</sup> of August 2010. The meeting was about the Racing Strategic Plan. Discussions included proposals for significant rationalisation of facilities." Now, I can tell you that the meeting when Mr Bentley said, "I'm going to reveal to you, board members, the plan today" was a month after this?--- Well - - -

35 How do you explain that?--- I don't recall exactly what - - -

MR WILSON: Excuse me. Is it being suggested to mister - - -

WITNESS: - - - was discussed at that meeting.

40

COMMISSIONER WHITE: Just a minute, Mr Bentley.

MR WILSON: Is it being suggested to Mr Ludwig that the - - -

45 COMMISSIONER WHITE: Mr Ludwig, I'm sorry.

MR WILSON: The plan that was presented to the meeting on the 24<sup>th</sup> of September was shown at this meeting? Because there's a difference between discussions and disclosure of the plan. And I think it's being - - -

5 COMMISSIONER WHITE: All right. Well, we'll see if Mr Bell wants to explore that a little further with Mr Ludwig.

MR BELL: Now, Mr Ludwig, you were at that meeting, weren't you, with Mr Bentley?--- Yeah.

10

And pretty – well, the most high up people in government?--- Yes.

Okay. So you don't go to the Premier unless you've got your plan straight; do you?--- Well, the plan wasn't developed then. We went – we had a general  
15 discussion, as I recall, about the needs of Queensland Racing in terms of infrastructure. The need to put money in. That's what I can recall was discussed at that meeting.

No, that was a year earlier; you see? A year earlier, you were discussing money and they said yes to that. This is after a long time when Bentley had organised with the  
20 staff at Racing Queensland to look at all the different places all over Queensland and formulate a plan. The plan involved developing and then selling Albion; didn't it? You remember that?--- Well, there were a few plans. There wasn't just one, I can tell you that.

25

No this was the plan, you see, that was the plan that involved rationalisation including selling Albion. Do you recall that?--- Well as I said, there were more than one plan. There was a few plans. Albion may have been one of them but there were others.

30

There were others. But by the 18<sup>th</sup> of August 2010 when you and Bentley went to the Premier and the other important people from government, it's highly likely, is it not, that you had a plan that was pretty well fixed in your head?--- Not necessarily.

35 No, not necessarily, I accept. But I'm suggesting to - - -?--- Well, you can suggest all you like.

- - - you wouldn't go to the Premier with it?--- But I don't recall us actually - - -

40 Okay?--- Having a plan at that meeting.

Well, I'm showing you what this man says. And he says the meeting was about the racing strategic plan?--- Yeah.

45 Discussions included proposals for significant rationalisation of facilities; you see that?--- Yes, that's right.

5 And then what happened after that, I'm going to tell you, is again before the board came to know of this. There was another meeting on the 2<sup>nd</sup> of September which you were not present at. On this occasion, the documents revealed what is said to be the proposed strategic plan and then, even though there was a board meeting the next day, Bentley didn't say anything and you didn't say anything?---I wasn't there.

10 You were there at the first meeting that we've talked about here in August. See this meeting? You didn't reveal that to the board members when you were at the meeting on the 3<sup>rd</sup> of September?---Why would I? Like, you know, I – I mean, if it wasn't on the agenda - - -

You're kidding, aren't you?---No. I'm not kidding at all.

15 Didn't you - - -?---You know, I mean, for god's sake, as I said, there were more than one structural plans. There was – there was a few propositions that were put forward. In terms of that whole mess at – that Queensland Racing was in needed to be reorganised and get rid of a lot of the meetings that were redundant and not making any progress for the industry at large.

20 Nobody's arguing with you about that, Mr Ludwig. There's no argument about that. What I'm talking about is the fact that you, as one of the board members, and Bentley, as another, are doing stuff but you're not telling the other members of the board?---Oh, that's not – that's not right.

25 Well, let me show you the minutes - - -?---Well - - -

- - - and we'll see. Let's have a look at the minute together. It's at 238 – 283, I should say. Would you help him find that, please?---Yep.

30 You see, at the time of this meeting – I'll just remind you that man I showed you then said that you were at a meeting with the premier, the deputy premier, the treasurer, etcetera, you remember, in August?---In August?

35 Yeah. The 18<sup>th</sup> of August was that. Do you want to go back and have a look at that statement? So on the 18<sup>th</sup> of August, there's a meeting when you're with all those high up people, then I'm telling you there was another meeting on the 2<sup>nd</sup> of September, the day before this that you weren't at that Bentley was at with government, where they revealed the plan – where he revealed the plan and then here's the minutes of the meeting of the directors. You can see you're there and  
40 Bentley's there?---Yep.

45 And if you look through these minutes, nobody reveals that there are government talking about it. Yesterday – Bentley doesn't say “yesterday, I was at the government” and Ludwig doesn't say “we saw the premier a couple of weeks ago”?---Why would I?

Well, I thought they were your co-board members and you had a – what we call in the law a funny thing called a fiduciary duty, meaning - - -?--- [indistinct]

5 Do you know what that is?---I know what it is. Yes.

Okay. What is it?---What - - -

What is it?---Fiduciary duty - - -

10 Yeah. What's that?--- - - - is to be – it's a duty to the board.

Yeah. What's that mean, but? What duty?---Well, general duties.

15 Like what?---Like – like to participate in the discussions, right, and vote. That's the duties that you have as a board member. Now, if I wasn't at that second meeting, how do I know what's going on?

20 You were at the first one, you see; that's my point?---I was at the first one. Yeah. It's there.

Okay. So you go along to the meeting and you've got all these people who are on the board, appointed by the government to be on it, and decide things with you - - -?---They weren't appointed by the government.

25 - - - and you don't tell them about it, you see?---They weren't appointed by the government.

30 They were. The legislation came in and appointed you all to Racing Queensland?---Oh, that's right. Yeah. They did, too.

Yeah. So the government appointees to the board, who are supposed to make the decisions, ain't getting the knowledge from you and Bentley?---Well - - -

35 Why do you wobble your head like that?---Well, look, I mean, you – you know, I've – I just can't follow your – your logic.

No. I can't follow yours, either?---Well, I can't follow yours so I give up.

40 Well, let me make mine simple. Let me make simple, Mr Ludwig. When you're sitting on a board with other, aren't you supposed to make decisions together?---And we did.

45 Well, you and Bentley were with the government. Why didn't you tell the other board members you were with the government?---I don't know whether we did or we didn't.

No. You didn't. I can tell you you didn't?---Well, all right. Well, if you say we didn't, you must know.

5 Yeah. I do know?---Well, I don't.

I suggest to you you didn't, you see – and not only that – you know the funny thing is I think you did it – not tell them – because you knew there'd be a ruckus from Harness and from Greyhound?---Oh, look - - -

10 Just as – just as there was?---You've got – you've got a vivid imagination, brother.

Well, that's what happened?---Well, I don't that it did.

15 That's not too vivid. It did happen, didn't it?---Well, you know, you can make all the suggestions you like.

That's not a suggestion?---And I don't – well, I mean, I just don't get what you're – you're on about.

20 Okay. Let me tell you straight and make it easy. This is what I'm on about. When it did get revealed, it ended up in a ruckus, didn't it? Harness sued Racing Queensland, didn't they?---Well, they voted for it.

25 But they sued Racing Queensland, didn't they? Did they?---I'm not sure about that. Don't know.

30 You know that what happened was race – Harness put on a turn about the fact that Albion was going to be sold and wasn't going to be theirs anymore. Do you remember that?---Oh, I remember something about that. Yeah.

Yeah. And – and you remember that Greyhound put on a turn about Logan going out the window?---Yeah.

35 And you know why? Because they weren't consulted when it was being developed?---Oh, well – well, that's not my understanding at all.

Did you think they were consulted?---Yes.

40 When?---Well, I don't know but, I mean - - -

That's just a silly answer?--- - - - they had the opportunity to have some input. They had two people on the board, for god's sake.

45 Okay. When were they told about the plan for the first time?---I don't know.

Okay. Well, I'm telling you it's the 24<sup>th</sup> of September; that's a Friday?---Well, they may have – I don't know whether they knew before then - - -

They didn't?--- - - - or after that.

They didn't know before then?---How do you know?

5 Because what Bentley says at the meeting is "you've got to keep this confidential"?---Yeah. That's right, too.

10 "Don't tell anybody. I'm going to reveal the plan." That's why I'm certain, Mr Ludwig, they didn't know?---And when they did find out, all hell broke loose, didn't it?

Yeah. That's right. And you and Mr Bentley knew it would happen and that's why you didn't tell them?---Oh, that's - - -

15 You wanted it passed through the government first so there was no ruckus, even without the board, didn't you?---That's not right. That's not true.

20 Did you go to government without board approval, all agreeing that that should happen on other occasions, Mr Ludwig?---My - the - you know, I meet - I met - I met with the government a couple of times but my interest was that we needed finance, we needed resources to address the issue of workplace health and safety. That was why I was there.

25 Yes. I know that?---Well - - -

30 My question isn't about that. I know why you were there. My question is about how come you didn't tell the rest of the board and I think I know because you're not giving me a sensible answer back?---Well, look, I don't know why. You know, there was no - you know, I wasn't keeping secrets.

You sure?---Yes.

35 Why? Why didn't you say to Watson, for example, "I was at the premier's two weeks ago"?---Oh - - -

Why didn't you say that?---Why would I?

That's a sensible question?---Why would I?

40 Well, I know you say that funny way, "Why would I?" That's like a child. What do you mean?---Well, I mean - well - well, I don't discuss meetings - you know, I go to a lot of meetings. I don't discuss it with everybody.

45 No. But this was the person you were representing when you were sitting there in the room. Don't you get that?---I was - - -

You weren't there on your own venture. This was Racing Queensland's venture?---Exactly. Yes. All right.

5 That's the stakeholders of all of Queensland in racing, not just yours and Bentley's, is it?---Well, that's true. We were looking – we were looking after the whole of the industry.

10 But not telling even the board?---Oh, I – I don't get your – your drift at all. I – you know, you're beyond – you've lost me.

Really?---Yeah.

15 Tell me why?---Well, I don't see – I don't see what you're – you know, what the purpose of that would be. Whether we told the board, whether we didn't tell the board, whether we had a meeting with the premier, whether we didn't - - -

Okay. I'll - - -?--- - - - you know - - -

20 I'll make it clear. I'll make it really clear for you and if I fail, you tell me. What I'm talking about, you see, is that when you have eight people or six people on a board and the company of which this is the board is going to the government to try and get something, normally, it's the board's decision as a group, not just the chairman's decision?---Well, if you say that. It's – normally - - -

25 Well, what do you think?---I don't know whether that's true or not.

30 Okay. Well, that's a bit silly. So you mean any board member – Watson could go off to the government and say, "Hey, we're going to develop Logan. Racing Queensland's going to develop Logan by itself." "No problem." "Can you approve the funding?" They're going to assume, you see, that you and Bentley are behind it?---You've lost me. You really have.

35 You see, there's two occasions here we've talked about. The first occasion is with that committee that you represented as chairman. You didn't check with them whether they wanted to vote in favour or not, did - - -?---They didn't ask me.

40 No. They didn't ask you. And secondly, you go to the government with this plan with Bentley to see the premier and all these very important people and you haven't told Watson or Lette or any of these other people sitting on the board with you and you don't even tell them afterwards until Bentley reveals it on the 24<sup>th</sup> of September. It's really odd?---No. It's not.

45 Is that what – how you do business often?---Well, I just don't recall exactly, you know, why we – what was discussed with the – with the – the main purpose of that meeting was to try and get some inkling from the government whether they'd fund us. That was what we were after. If they'd have said no, well, we'd have been wasting our time going back to the board, wouldn't we?

No. The money was already approved, Mr Ludwig?---Oh - - -

What they wanted was to see your plan for the money?---Yep.

5 And when I say “your plan”, I don’t mean yours personally; I’m mean Racing Queensland’s - - -?---Yep.

- - - plan approved by the board. I think you’ve got my point, haven’t you?---I’ve got your point.

10

Yeah. I want to talk to you about something close to your heart: employment. Do you remember the employment contracts that the board approved in – on the 5<sup>th</sup> of August 2011?---Yep.

15 That was the same day that you got this deed of indemnity signed off by Racing Queensland to indemnify you – and Bentley got one too, and the other board members – to indemnify you should you be liable for any money for breaching your duty as directors. Do you remember that one?---Well, yes. I was surprised that we didn’t have a deed of indemnity, as we were directors of a company.

20

Well, you did have one; you just got a new one, you see? You did have one earlier?---Did we?

25 Yeah. But this one was reviewed over some time, you see, to get a new policy, a good policy that lasted for seven years. But what’s interesting is it was entered into on the same day that these contracts, these new contracts were entered into for these people?---I don’t know what the consequent – you know, why that would be.

30 Well, you see the connection might be that you and Bentley and others on the board were concerned that you were giving the people far too much?---I don’t believe we were.

Really?---Yeah.

35 Well, do you remember what the changes are? Would you like me to show you or do you recall?---Well, I recall this: that – that the board was underpaying them.

40 Yes?---No question, and why we realised that was my – you know, my interest was that the board shouldn’t be seen as a bad employer, and to get their contracts and see that they’re paid appropriately. Now, that was my interest.

Okay. So that would involve what, putting their pay up, would it?---Pardon?

45 Putting their pay up would have fixed that?---Yes. It did.

Anything else?---No.



So when you put somebody's pay up, that normally means you want to keep them, doesn't it?---Well, yes.

5 So the idea in putting the pay up, do you recall, was to keep these people there at Racing Queensland as they were important?---Well, yes. Well, I mean it rectified, obviously, a deficiency in their remuneration.

10 I see. And how did you work out it was – you were paying too little?---Well, I think – well, I asked Bob to get some advice or some relativities from New South Wales and Victoria about the appropriate rates of pay that these people would've been paid, and I think that's how we came up with the money. But I wasn't involved in the actual discussions, you know - - -

15 I understand?--- - - - about the amounts.

I understand, but did he come back and tell you something, did he?---No.

20 Yeah. He must have come back and said, "Down New South Wales and Victoria, they're getting paid more"?---Well - - -

Is that what he came back - - -?--- - - - he didn't come and say that to me personally. Right?

25 Okay. Well, what happened?---Well, you know, when I was advised that we were underpaying and we – we – that was addressed and I was – you know, I was quite convinced that that was the right thing to do, because I didn't want Queensland Racing to be seen as a bad employer.

30 I've got you, but - - -?---

COMMISSIONER WHITE: Mr Ludwig, you and Mr Bentley constituted the remuneration committee - - -?---Yeah.

35 - - - of the board, did you not?---Yeah.

MR BELL: Yes. And so after you said to Bob, "Go and get some information," he came back and reported to you that "We're paying them" - - -?---He didn't report to me at all.

40 Well, I thought you were on the committee with him?---Yes, but once – once I – he didn't come back and report to me. I was on the committee and I suggested that he goes and gets that advice - - -

45 Yeah?--- - - - and I think he did, because that's how they come back - - -

I understand?--- - - - with the amount. All right. Well, what are you asking for?

Did he come back and tell you what happened?---No. He didn't.

So why did you conclude they were underpaid?---Well, I realised when we got that advice - - -

5

Well, that's what I just said, Mr Ludwig?--- - - - that we were underpaying them.

Yeah. So he comes back to you and says, "Hey" - - -?---Well, all right. Well, he come back to the board perhaps, the lot of us.

10

Well, whatever. Whatever?---Whatever.

But I was asking you about that, you see. So he tells you something about what Sydney and Victoria are paying their people, does he?---Well, not directly. He just said that we were far behind the industry norms.

15

I see. Can we check that somewhere so that - - -?---Well, I don't know. You can if you like.

20

Okay. But you see, you don't remember any record of this, do you?---I remember the 30 per cent. Right?

Yeah. That's not an inquiry of New South Wales or Victoria, is it?---Well, I don't know, but I would've imagined that if they'd have got advice back from those other two states that that would've been the amount that we were underpaying.

25

See, most people keep records of this stuff so you can look at it later to see that it's transparent and a good decision. But we can't find any records. In fact, the 30 per cent looks like it was decided upon before the call down south. That's a bit odd, isn't it?---Oh well, I don't know about that.

30

No. I know?---You know, you're saying that.

I know, but I'm saying to you what do you know, because you were on the committee?---No more than what I've just told you.

35

Okay. So there's you and Bentley on the committee and you didn't know anything about what information he got from New South Wales and Victoria. That's it, hey?---Well, not - not exactly. No. I don't think I did.

40

Okay. Now, there were other changes to the employment agreements than just the up in pay, wasn't there?---Mmm.

What was the other change? If you want me to show you the agreement I'll show you?---I can't recall. The only thing I was interested in was the - the deficiency in wages, to fix that up.

45

Okay. Well, you see, if you were interested in that, no doubt that you thought, “What are we going to pay them now? Okay. I hear that sounds right.” Is that what you did?---Yeah.

5 And what did you compare it with – “That sounds right” – to make that answer: “Yes. That’s right”?---Well - - -

Can’t you remember?---Can’t recall.

10 See, you didn’t compare it with anything, you see. That’s what really happened; nobody compared it with anything. That’s odd, isn’t it? Odd way to go about business?---No.

No? I thought this would be your area, but what the – what another man, Mr  
15 Hanmer, called it was “benchmarking” – comparing, you know?---Mmm.

Do – you didn’t do any comparing on the remuneration subcommittee, did you?---Well, I think when the advice came out that we were well below industry standards, that that was my interest, because I’ve had a lot to do over my lifetime  
20 with bad employers and I didn’t want Queensland Racing to be seen as a bad employer that didn’t pay the right rate.

Okay. I understand that. Anyway, you know, the question’s a little bit over on the side. I’m just saying that so that people look later to see your decision was justified,  
25 Bentley didn’t show you any – didn’t keep any record of the information he got down south?---I don’t know.

You don’t know. Okay. So I need to show you this agreement, because there were other changes to the employment agreements too. Can I show you that, please.  
30 Okay. She’s got it there for you; it’s at my folder number 4, document number 217, please. Have you got the offer of employment to Tuttle?---Where? Where are you at?

Okay. I was just looking at the front where it says, “Racing” - - -?---Oh, yeah. Offer  
35 of employment.

- - - “Queensland and Tuttle”?---Yeah. Yeah. Confidential – all right.

Okay. Beg your pardon?---Yep.  
40

Okay. And then turn over the page, please, to the one that’s got “15. Termination of Employment” on it?---Whereabouts?

It’s over about four pages. Can you help him, please, to – clause 15.  
45

I’m looking at 15.2?---Yes.

5 Do you recall that that was added in to the new contracts for these four? 15.2 – it’s called “Material Adverse Change”. I’ll explain what I mean. This clause 15.2 wasn’t in their old contracts and as you said, they got a 30 per cent uplift – Tuttle, Reid, Orchard and Brennan. They got a 30 per cent uplift but they also got this clause, and I just wanted to talk to you about this clause. Do you recall that this was one of the other parts of the new offer, a material adverse change?---No.

10 Okay. Well, what it means is, as you can see, within 14 days of the occurrence of a material adverse change you, Mr Tuttle, may resign from your employment with Racing Queensland by giving seven days written notice. The notice period may be waived by Mr Bentley, the chairman of RQL, in his discretion; it says, “at the chairman’s discretion”. If you resign by reason of a material adverse change, you will be entitled to (a) a payment of a sum equivalent to the TRB you would have been entitled to receive had you remained employed until the end of the term referred to in clause 2.4 and – of this contract, however, not exceeding a sum equivalent to 14 months. So what that part means is if he elects to go this way, he continues to get paid for 14 months without - - -?---Well, it’s a redundancy provision.

20 Exactly. Exactly?---Yeah.

You understand them, don’t you?---Yeah.

Redundancy normally means when the role has gone, doesn’t it?---Well - - -

25 Well, you tell me. You know a lot more about it than me?---The role of redundancies has changed very, very much over the years.

30 Okay?---What you say is right. Once the role was different, but now it – it just seems to be a departure one way or the other.

Okay?---There doesn’t seem to be any – any of those fundamental reasons that the role’s changed or anything, you know, because redundancies are negotiated and nine times out of 10 they’re paid out.

35 Okay. So when an employer is sort of assessing whether it’s worthwhile keeping an employee on, he’s got to assess what the employee’s demanding, hasn’t he, and they have that negotiation?---Mmm.

40 Don’t you think? That’s right, isn’t it?---Yeah. Well, that’s the way negotiations happen. Yeah.

45 Yeah. And so 15.2 – if Tuttle was asking for this, what he was saying is, “Look, if I want to go, I want to go with 14 months pay after I go,” in effect, isn’t he? Don’t you reckon?---Mmm.

Okay. And then (b) he says and his severance payment and (c) says any accrued but unpaid entitlements. One understands that. Now, the big point that I wanted to

5 discuss with you is what is a material adverse change? And you see in the next line:  
“For the purpose of this clause, material adverse change means a change in the  
Queensland State Government, RQL ceasing to be an approved control body,” and so  
on. Now, the part I’m interested in is one of the changes would be a change in  
government, you see there?---Well, I didn’t – I didn’t pay much attention to that - - -

Okay?--- - - - because I didn’t think there’d be a change of government.

10 Didn’t you?---No.

Did you think there was risk that the LNP might win?---No. My - - -

15 Okay?---My organisation had put a fair amount of effort, resources into that  
campaign and as I said, I thought we’d win.

Your expectations then were dashed as it turned out?--- Hey?

20 When the LNP won, it proved you’d been wrong in what you’d predicted?--- Well,  
that was still the view I had.

Well, I know. But you were wrong, weren’t you, as it turned out?--- Well, as it  
turned out, yes.

25 Yeah. You see, I thought these - - -?--- But I didn’t know that before the election;  
did I?

30 Okay. I thought these staff were given these new contracts because they were  
worried about their security as employees because of the threat of this LNP coming  
in and - - -?--- Yeah, well that’s part of the business, I think.

I beg your pardon?--- That’s – I think that was a reasonable assumption as to their  
fears.

35 Yeah?--- Because there was a lot of threats made to them which I thought were very  
unconscionable. Because you’d threaten me but you shouldn’t threaten the staff.

Yeah, I understand. But not - - -?--- Like the LNP were.

40 Yeah, I understand. My point is that I thought that the idea was, “We’ll pay them  
some more to keep them, they’re so important. And all these threats coming from  
the LNP and other people, let’s give them some real security so their families can be  
protected.” Is that the way your thinking was?--- Well as I said, I accepted that they  
needed some security which – they were being threatened.

45 Security of employment you mean; don’t you?--- Of employment, yes.

Okay. that means to keep their job?--- Yeah.

Yeah. And when the LNP come in, they keep their job?--- Well - - -

That's what you're trying to stiffen up?--- I didn't think the LNP would come in, quite frankly. I thought that - - -

5

Okay?--- Labour would win.

But that's what they were thinking. They were worried about that. That's what you had to deal with?--- Well, I didn't discuss it with them personally.

10

Well, did you think about it in your head?--- No.

You didn't. What did you think about?--- Because I was concentrating on – Labour would win the election.

15

What did you think about in your head when you thought, "Will I vote yes to these new contracts or will I vote no"? What did you think about?--- Well, the only thing I was concerned about was the remuneration being fixed. Because as I said, it would've been a very bad look for Queensland Racing if we'd have been fingered as being a bad employer.

20

Okay, I understand. But my point is, you see, it's not such a good look either if you put a clause in like this that says, "You can take 14 months as if redundant if the government changes."?--- Well - - -

25

Which is – hey? Don't you agree?--- I didn't think it would ever happen.

Well, you might not. But that's what's in the contract?--- Well, yeah. But I didn't give much thought to that. Because I said as long as the money was fixed up, that was my concern.

30

I see?--- Because I didn't want to be seen – Queensland Racing as a bad employer because I had a lot of experience in my life with bad employers and the stigma that follows that.

35

It must've been hard in a sense for you, you tell me whether it was or it wasn't, acting as an employer in this situation. Was it hard for you?--- No.

So what was – did you understand your duty – who were you duty bound to in negotiating or having a decision made on these new contracts? What was your duty?--- My duty was to the – Queensland Racing.

40

Yeah. And what duty was that?--- To make sure that they were paid properly.

And what's properly mean?--- Well, to fix up the remuneration because it was pretty obvious that they were inadequately paid for the work that they were doing.

45

What about this: if you could've had them be given an offer of a 30 per cent uplift so that they were paid the right pay level. In your judgment, would that have been adequate for these people?--- Well, it certainly would've been better than what they had.

5

I know that.

COMMISSIONER WHITE: That's not the question, Mr Ludwig. Do you think  
---?--- Well ---

10

--- it would've been ---?--- I didn't ---

--- adequate?--- I didn't -- you know, that's something that didn't go through my mind; you know? The only thing I was really interested in was the remuneration. That they got fixed up because it became pretty obvious that they were being far underpaid.

15

But, Mr Ludwig, did you actually address the issue of how much ---?--- I can't hear you.

20

--- rate -- did you address the issue of how much Racing Queensland Limited might be required to pay out in the event that this clause came to pass?--- Yes. But you had to balance that out with the bad press they would've got and the bad -- the bad reputation that Queensland Racing would've got if it had have been seen to be underpaying its employees.

25

Well, Mr Bell asked you did you think a 30 per cent uplift was adequate. And then we got a ---?--- Yes.

30

--- speech about bad press. Did you think it was adequate?--- It was adequate, yes.s

Right, thank you.

MR BELL: Okay. Now, once they had got their 30 per cent uplift in pay; why give them any more?--- Well, redundancies are still separate and apart from the actual remuneration, your take home pay.

35

Fair enough?--- I'd say this was -- redundancies were something that I didn't pay a lot of attention to, obviously.

40

Well, that's okay. But I want to ask you about it now, you see. Because somebody might conclude that by not thinking about it but voting in favour of it, you breached your duty as a director. That's what somebody might conclude, you see, later?--- Well, they might've concluded if we hadn't have that we were bad employers.

45

Okay, that's true. But when they got the 30 per cent uplift, we can take that out of the equation; can't we? You've just said that?--- Yeah.

Okay. Now, I'm talking about you as a director thinking about putting in this other clause where they could go home and get 14 months pay if the government changed. Why did you think - - -?--- But I didn't think - - -

5 - - - that that was a good idea?--- The government would ever change.

I know. But why did you think that was a good clause to put in?--- Well, redundancy clauses are often seen to be a bit generous, because – I can give you an example. Where you can negotiate the best redundancy and you can; you know? But if the  
10 company goes broke, they haven't got to pay it anyway.

No, that's right?--- Yeah.

15 Because they can't pay it, of course?--- Well – but that's - - -

If it goes broke, it can't get - - -?--- So in fact, you know, some employers will agree to – you know, to extraordinary redundancies because they know if it - - -

20 Okay?--- Comes to a point they'll just shut the show down.

Well, this company looked like it agreed to an extraordinary redundancy here?--- Well, I don't think they were extraordinary.

25 Well, tell me why. That's what I want to know?--- Well, you know, because they weren't – you know, that was a redundancy. And as I said earlier, I was only really interested in the take home pay - - -

Yeah, okay?--- That these people were worried about.

30 Okay. I'll just put it to you squarely so you have a chance, if you want to, to say anything. The effect of this clause is, for Tuttle and the other three, that if the government changed – if the government changed, they could go home and get 14 months pay; you see? Even though they'd already had the uplift of 30 per cent that you said was required?--- But the - - -

35 Why was that added in? Have you got anything to say about why that was necessary?--- Well, you know, the big if was if the government changed.

40 Yeah, exactly?--- And my view was that it wouldn't.

Exactly. Well, I know it was. But why give them this clause that if it does, you can go home?--- Well as I said, redundancies – you know, there can be components in a redundancy that aren't necessarily going to be affected.

45 Well, you see, when you're on the side which would be foreign for you – and I understand it – being the employer. You're coming at it from a different angle,



aren't you, than your normal position in your life?--- I'm an -- I'm an employer as well.

5 Okay. Well, good. So when you've got that hat on as an employer, the considerations are a bit different. You're supposed to think, aren't you, of the people you're representing; is that right? Say you've got a company with five shareholders in it. You've got to represent your five shareholders and do the best for them; haven't you?--- Yes, but you've also got to be fair.

10 Have you?--- Yes.

I see. So if, for example, these four employees would've been satisfied with 30 per cent only uplift, you'd still give them this clause anyway to go home if the government changed?--- As I said, I didn't take a lot of notice of that because I didn't think we'd lose government.

15 I was going to ask you about this. You tell me whether you can recall. At the board meeting, when the decision was made to give these people this, there were two legal advices provided to the board members. Did you have a look at them or not?--- I don't believe I did.

Okay. Well in the board minutes, it said all the directors got them. But if they got them, you didn't read them. But you could -- --?--- I don't think so.

25 Would you like me to show them to you?--- Well, if you wish.

Okay, I will?--- Righto. I don't know what that's going to help.

30 Sorry?--- Is it going to help?

Well, I hope so. It might help -- --?--- Well, tell me what -- --

It might help -- --?--- Tell me what you -- --

35 -- -- you. It might help you if you say you looked at them; you see? That's why I want to give you a go?--- Well, I don't know whether I did.

40 Okay. Well, have a look at the document behind divider 202, please. Commissioner, is it a convenient time to have a short break?

COMMISSIONER WHITE: I think it would be.

MR BELL: Thank you.

45 COMMISSIONER WHITE: We started a bit early. We'll take a break for 15 minutes, Mr Ludwig. And so we'll come back at half past 11?--- Mmhmm.

**THE COMMISSION ADJOURNED** [11.14 am]

5 **THE COMMISSION RESUMED** [11.32 am]

**WILLIAM PATRICK LUDWIG, CONTINUING** [11.32]

10 **EXAMINATION-IN-CHIEF BY MR BELL**

MR BELL: Could Mr Ludwig see the document in folder 4 at tab 213, please,  
which is a minute of the meeting of Racing Queensland on the 5<sup>th</sup> of August - - -

15 COMMISSIONER WHITE: Yes.

MR BELL: - - - 2011.

20 Mr Ludwig, I thought I'd show you the minute of the meeting of what I – the  
meeting I was talking about. You see that's the 5<sup>th</sup> of August at the top?---Yep.

And you can see there that you were present, I think, at the meeting?---Yes.

25 And then if you don't mind, go over to page 5, please. In the top right-corner, you'll  
see a number 5. And what seems to have happened at the meeting, under 2.5,  
Employment Agreements, Redundancy Policy, a number of motions were – were put  
and passed. The first one is number 1: "The board meeting of the 6<sup>th</sup> of May '11 be  
rescinded." You got me?---Where's that?

30 That's number 1 underneath the heading – you see the heading 2.5, Employment  
Agreements?---Oh, yeah.

35 And you see number 1: "Board minute of 6 May to be rescinded?" Have you got  
that?---Yep.

40 Okay. And then it says, "The board to rescind the board resolution of 6 May 2011  
board meeting." And that records the remuneration and nominations committee  
meeting minute and recommendations. Over to the next page – and that was  
unanimously – that motion was unanimously approved, meaning what you'd decided  
earlier was rescinded. And then if you turn over the page, please. Number 2: you'll  
see variation to employment contracts. You've got me there?---Yeah.

45 And you'll see it says there, underneath that heading "the board confirmed that they  
had received and read the following legal advice" and then there's three legal advices  
referred to there?---Yep.

5 And I wanted to give you the opportunity to look at them to see whether you can recall whether you received them or read them or both. So firstly, could I show you the Norton Rose advice of the 20<sup>th</sup> of July. Just to show you a copy, that's what seems to be referred to there, Mr Ludwig. Do you recall whether or not you received that?---Oh, I can't recall.

Okay. But in any event, you recall, at some point, reading these legal advices or not?---I can't recall actually reading them.

10 Okay?---This one, anyway.

Then the next one you see there in the line is (b) Clayton Utz, 1<sup>st</sup> of August and that one's in the bundle. If I could ask you to turn over please to the document at 212. You see that one from Clayton Utz?---Yeah.

15 See there 1<sup>st</sup> August – and again, I suppose – do I take it that you can't recall whether you got it or you didn't?---Pardon?

20 You can't recall whether you read it or not?---No.

And you can't recall whether you got it. Let me just show you one thing in it, please. If you turn over to the second page of it, about three lines down – the fourth line starts, "Our reason for raising this point is that the timing of the next state general election is really quite flexible and uncertain. In our opinion, the next state general election could be as early as September 2011 or as late as June 2012." Do you see that?---Yeah.

25 Well, this letter was written on the 1<sup>st</sup> of August and the board's sitting on the 5<sup>th</sup> of August so the election could come as early as three weeks time from when we're sitting there thinking. See what I mean?---That's only Clayton Utz saying that.

No. That's right?---I mean - - -

35 It is?---You know – and who are they?

I agree with you. Who are they?---Who are they?

40 So when was the election going to be called?---Well, you know, no one knew. I certainly didn't know and they didn't know either.

No?---So I mean, why would they give advice when they knew nothing about what was – you know – you know, in my experience with governments, they go as long as possible – as long as they possibly can and even then some if it's available to them.

45 Well, these ones didn't on this occasion. You see, it could've gone as late as June. But they didn't go to June; they went to March?---Well – yeah. But I mean, nobody knew that. Clayton Utz didn't know it.

No. But have a look at the – they’re just giving a range, you see. Have a look at the range. They’re saying, “(b)” - - -?---I mean, who are they to be giving these ranges? You know, are they experts in - - -

5 I think they’re talking about constitutional law, Mr Ludwig?---About what?

Constitutional law: it’s the law of when the election can happen?---Oh, yes.

The - - -?---Well – yeah. Well, I mean, we knew - - -

10

That’s all their - - -?---We knew that it – it would not necessarily be, in these terms, early or late.

No.

15

COMMISSIONER WHITE: That’s the range of - - -

WITNESS: In my view, it was the later the better.

20 MR BELL: I think - - -

COMMISSIONER WHITE: Mr Ludwig, that was just the possible range of dates that were available; that’s all they’re saying there?---All right.

25 MR BELL: Okay. So you see the point - - -

COMMISSIONER WHITE: All right. Just the range.

30 MR BELL: So constitution - - -?---Well, I don’t know where they got their information from.

Okay. Well, the constitutional lawyers are saying here to the board, “Our advice is that the law is they can have it as early as September or as late as June but nobody knows when”?---Oh.

35

You know. So my point to ask you is do you remember thinking there that this lawyer was giving advice to your board, saying that this election might be as early as three weeks ago, constitutional law-wise? Do you remember that?---No.

40 You don’t remember reading that?---I mean, I just think it was a nonsense.

Okay. Fair enough. Well, it looks like this legal advice anyway – that’s what it’s saying, whether or not you think it’s nonsense. If you look at (c), the next paragraph for me please?---Yeah. (c). Yeah.

45

Yeah. (c). In the third line: “However, we recommend that all of the additional triggers ought to have a significant impact in the role or duties of each of the four

executives. We would not recommend that one of the triggering events that activate payment be a mere change in state government alone, as that event of itself may or may not have implications for the employment of the four senior executives.” Do you remember reading that - - -?---No.

5

- - - or thinking about that?---No.

Okay. You see – you understand the point the lawyers saying, anyway. He’s saying from the legal perspective, you shouldn’t – from a legal perspective as a board member, give them an offer of employment that involves them being able to grab what we’d call redundancy just on a change of government alone. That’s what the advice is saying?---Well, as I said, I didn’t think that the redundancies would ever be activated because I didn’t think we’d lose government.

15 I understand that but I’m talking about the legal advice saying don’t offer them, in fact, what you did offer. Did you think about that at the time?---I didn’t read that.

Okay. Was there any discussions about that point, do you recall?---I don’t believe so.

20

Okay. Anyway, just looking back at it now, the board’s legal advice, at least in that one, said, “Don’t give them this thing about the state government change because that wouldn’t work, legally.” You know?---Well, that’s what it says but I mean - - -

25 Yeah. But do you want to - - -?---As I said to you, I don’t – I don’t believe – I didn’t believe that the redundancies would ever be activated - - -

No. That’s okay?--- - - - because I didn’t think we’d ever lose government.

30 You’ve said that a few times?---All right. Well, that’s - - -

You don’t need to tell me again; I’ve got it?---Have you? Well, good.

35 Yeah. Now, here’s my point; see if you can get it. So we’re talking, you see? Here’s my point. With the board saying “don’t do that”, have you got any explanation why the board did it?---The board didn’t say not to do it.

No. The lawyer did?---Oh, the lawyer.

40 Yeah?---Well, you haven’t got to take their advice, as you well know.

No. You don’t. But I’m just asking you why they wouldn’t – why you didn’t take their advice. That’s all I’m asking you?---Well, we weren’t compelled to and we didn’t.

45

No. That’s true. But why didn’t you?---Well, as I said, my view was that we weren’t going to lose government and the redundancies would never be activated.

Okay?---That was – that was my position.

5 Anyway, I've – I've given you an opportunity to answer. You've answered it, haven't you? You don't want another go? Because I don't think you really answered my question, see. That's why I've said that?---Well, I'm not too sure on what your question is.

10 Okay. Let me tell. You see, when your on a board and you pay money to get legal advice from a law firm like Clayton Utz, you normally have a look at the legal advice, which you didn't, and if it said "don't do something", it's often a good idea to think about why you are going to do it anyway. You see – do you agree with that so far?---Well, yes. But you don't – you don't necessarily have to take the advice.

15 No. But then you might get into trouble later, you see, with the law, mightn't you?---Well, there's nothing to say the advice is correct.

20 No. That's right. But you might get into trouble if you don't listen to what the lawyer says is legal?---Right. Yes. You might do this and you might do what. You know, there's no might's about it. You don't have to take the advice of – you know, and my view is that I go along with the - - -

Majority?---The legal – the health fraternity – they say you should get a second opinion, you know. So never, ever just go along with the one opinion in any event.

25 Okay, so you're meaning that you should get two legal advices like you get two medical advices. Is that what you're saying?---Well - - -

30 Well, you did – you had three?---If I was getting an advice from you I'd certainly get a second one.

35 I don't blame you. I don't blame you at all. I'd better show you the third advice to see how you go with that one. Do you mind having a look at the one from Norton Rose of the 3<sup>rd</sup> of August 2011, please. This is the third one that was given to the board, you see. And I'm giving it to you so you have a chance to tell me whether you can recall receiving it or reading it?---I don't think I - - -

See there's – c, that one is?---All right. Well, I don't recall – I might've – I might've had a look at it but I don't recall the whole – no.

40 Okay. Just put that aside. I just wanted to ask you about two more legal advices to see whether you got them or you can remember whether you got them. Because they're important for the commission. One of them is behind the divider 202, please. You'll see that that's an email, I think, on the front and if you turn over the page to the next page?---This the one with draft written on it.

45 Yeah, with draft?---Yeah.

Do you recall whether you ever saw that one? You can flip over the pages as you want to, to try and remember?---No, I can't recall.

5 Okay. And then there's one more which is at 207, please, Mr Ludwig? And it's dated the 15 July from Norton Rose and you can see it's a draft stamp on it too?---Yeah.

Do you recall receiving that one?---I can't recall exactly, no.

10 Okay?---I could've but I mean, I'm getting a bit ancient and I don't, you know, my memory's not that hot.

15 No, okay. I understand. Here's my question. See, what we understand happened was that the solicitor's Norton Rose were giving some advice about this thing – about the question about employment and the terms that should be offered. And it looks as if Tuttle and Shara Reid went along to the lawyers to tell them what you, the board, wanted. Did you know that?---I don't know.

20 Okay. But that wouldn't be right, would it? To do that, I mean, because they're the people you're negotiating with. When you're negotiating for a whole lot of employees, you don't let the employer look at the legal advice you're getting, do you?---Depends, you know. I mean it very – they were negotiating their outcomes as I understand it and I wasn't involved in that directly.

25 Yeah, okay. Now, I wanted to turn to another topic, then, which is going to be my last topic with you, Mr Ludwig. This – would you mind having a look at the document behind divider 80 which is my folder, number 2, please. I'll just give you some background while this comes up, Mr Ludwig. What happened was – you recall that New South Wales brought in this Race Fields Legislation in about 2008?  
30 Remember that stuff?---Yeah.

35 And what happened was, it looked like what had happened in the past was going to change. New South Wales was going to start charging Tatts for using New South Wales Race Fields Legislation. Do you remember – race fields information, I should say?---Yes. A gentleman's agreement or something had been hacked.

Yeah?---Yeah, I remember a bit about that.

40 But was this your – I'm sort of gathering this is not your area, in the sense that this wasn't one of your areas of interest. Is that silly to say that or is that how it was?---Well, I did have an interest in making those SP bookmakers pay some money.

45 Yeah?---Right. That was a great interest of mine because they were just parasites on the industry.

Yeah, absolutely. I understand. Well, what happened, you see, is that – I'll just tell you what happened. When New South Wales started to chase the parasites, they also

caught Tatts, who wasn't a parasite but see it was already paying. You know what I mean?---Yeah.

5 Okay. But it caught them too and they were getting charged. And an issue arose about whether they could on-charge that to Queensland Racing and Product Co?---Yeah.

Do you remember all that stuff?---There was a bit about that, yeah, yeah.

10 Okay, well what happened in the end was – if you have a look at this document? This advice from David Grace of Cooper Grace and Ward was obtained by Queensland Racing and it seems to say when you get into it that Tatts aren't entitled to make that charge against Queensland Racing. Do you recall that coming up?---Oh, I do recall a bit about that, yeah.

15 Do you – well, what happened about that? Can you remember the advice, for example?---No. I don't remember the advice personally. But I mean, I know that the – that, you know, there was a lot of walls up in air until New South Wales was settled and we didn't know exactly what the outcome was going to be because once  
20 the gentlemen's agreement was.

Gone?---Gone. Anybody's guess was.

25 Yeah. But when – it did go away, didn't it? And what happened was when New South Wales started charging Tatts they started on-charging your company, Queensland Racing. Do you remember that?---No, I don't.

30 Okay. Well, that's what happened. Well, what happened – about October/November 2008, they started charging about \$500,000 a month to Queensland Racing and the harness and the other one, greyhounds, and I'm asking you these questions because you were a director of Queensland Racing and also a director of Product Co, weren't you?---Yeah.

35 So can you recall the issue arising that Lambert started to talk about saying, "Hey, we got this advice saying Tatts can't do this. We've got to do something about it." Do you remember anything about that?---Oh, I remember that there was some – some controversy about Tatts being not pursued in the same manner as the SP bookmakers.

40 Okay. But more importantly, you see – I'm talking about how the money was being charged to Queensland Racing and to thoroughbreds and Product Co, you know what I mean?---Mm.

45 So it was a bit more important than sort of talking about the industry, as far as you were concerned, no doubt? Wasn't it? It's a lot of money?---Yeah. I was, yeah, you know – I recall that there was some questions about whether we should take on Tatts, if you like.



Perfect. That's exactly the topic?---And my view was, you know, they'd run you all the way to the High Court and you'd be two or three years before you got an outcome and we were probably – it wasn't worth spending the money because I've been to the High Court a couple of times myself.

5

Okay?---\$500 a month wouldn't have been a down payment.

\$500,000 a month?---\$500,000 wouldn't have been a down payment in the High Court. It cost me over a million every time.

10

A million a month?---Hey?

A million a month?---No. A million dollars but as I said it would've went on and on and I – until there was some settlement and some clarity I didn't think that it would've been worthwhile pursuing Tatts.

15

Okay. So - - -?---Because they'd have resisted, you know, There's no question about that.

20

Yeah. And was there some clarity that eventually came? And some settlement?---Well, I don't know what the outcome of that was.

You see, like you, I'm thinking there must have been two options for you people. One was to go to Tatts and reach a settlement – sort of, sort it out. Or two, take them on and spend the money and the legal thing?---Yeah.

25

I'm just trying to understand from you – do you recall any decision being made about either option or anything like that?---Well, I think the only thing I said, you know, was what I've just mentioned that I didn't think it would've been worthwhile for Queensland Racing to pursue them in the court.

30

Okay. Even at \$500,000 a month that it was costing?---Well, as I said, you know – \$500,000 a month. It's only a – it's a down payment if you go to the High Court.

35

COMMISSIONER WHITE: I think that's big money even for the – going to the High Court, Mr Ludwig?---Well, I've been there a couple of times and - - -

This is a month – this is not a – this isn't just one - - -?---Yeah, but I mean it was only the one month, wasn't it?

40

MR BELL: No. It went on for four years. It was 91 million in the end – during the time you were a director, you see?---Yeah. But I mean, there was no clarity whether they – whether we had to – whether they had to pay that or not, was there?

45

No. That's the point. You should've sorted that out, don't you think?---Well, I think that they tried to come to an agreement, didn't we?

Did they? I don't know; I'm asking you. What do you remember?---I don't remember a lot about it. The only thing is I knew that it wasn't worthwhile us taking Tatts on.

5 Okay. And did you discuss that with all of the board, to try and get to a - - -?---Well, I think we did, you know.

Yeah?--- I mean there was some discussion about it.

10 What about with Bob?---Hey?

Did you discuss it with Bob?---No. I don't think so.

15 Why not?---Well, it wasn't – you know, he wasn't – he wasn't involved.

Yeah. I know, but he was a pretty important person in the whole thing?---Well, it – he wasn't involved in those decisions.

20 Is that right?---Yeah.

So you never discussed your decision not to do anything with him?---No.

25 Did you discuss it with anybody else?---Only – only Tony and you know, the – the board of - - -

Product Co?--- - - - Product Co. Yeah. That's all.

30 Yeah. Okay. Well, I've got to take you to a few documents, but I'm thinking you do remember that Mr Lambert, one of the directors, he was stating to push for some action to be taken, wasn't he?---He – he did – he did indicate that that was what he wanted to do.

35 Yeah. And Andrews in the end was pushing the same way – Andrews, I mean?---Well, he did – I think they did – they did have that view.

Okay. But anyway, that was a view different to yours - - -?---Yeah.

- - - and different to the majority of the board?---Mmm.

40 Okay. And you remember the reason why the majority held this view was because it'd be too costly to take on Tatts?---Well, that was my personal view. Yes.

Okay. Did others say the same thing?---I don't know.

45 But you must have discussed the logic of the decision?---Yes. Well - - -

What did they say? What did Hanmer say, and those guys?---Oh, I don't know. You know, I mean you should ask him.

5 I did. I did?---Well, what did he say?

I'm not going to tell you?---Well – well – well - - -

I'm trying to work out what happened at the time?--- - - - how am I to know? How am I to know, then?

10

Well, you tell me what happened at the time, then?---Well, I can't recall exactly - - -

Okay?--- - - - what happened at the time.

15 Righto. Well listen, turn over to document 90, please – document behind the divider 90. This is a board meeting minute of Product Co. You see that?---Yep.

4<sup>th</sup> of December?---Yep.

20 And you see that if you turn over the page to the second page, you see “2.1 Race Fields Legislation: The board agreed that it was discussed at some length whether the role of Product Co should continue. It was unanimously agreed that the benefits of the existing arrangement outweighed any alternatives, and Product Co will continue.” Because there was some talk about Product Co not being in this position  
25 anymore, was there?---Oh [indistinct] say that.

What about 2.2 there? You see, just to try and refresh your memory, that's a letter from David Grace of Cooper Grace Ward. That's the one I just showed you  
- - -?---Yeah.

30

- - - and we can go back to it if you want. “Mr Hanmer updated the meeting on advice he had sought from alternative legal practitioners and the Racing Office and on the letter received from Cooper Grace Ward. This letter, already previously circulated to all members, addressed to Queensland Racing, is code-specific.

35

However, its contents were noted by the board.” Did you get a copy of that advice?---Well, I might've read it there at the time. I don't know.

Okay?---Can't recall.

40 But anyway, it looks like what happened was the board considered that they did have advice from Grace and Grace said, “Tatts can't do this legally.” See?---Well, I – I – if that was their advice, you know, I mean it was – it wasn't – it wasn't tested - - -

No. But shouldn't - - -?--- - - - it wasn't tested advice - - -

45

No. No?--- - - - it was just advice.

No. But I suggest to you it should have been tested?---Well – but it wasn't.

5 What about getting a QC or one of those people to do an advice to make sure that Grace was right or wrong? That's not expensive?---Yeah. Well, because at the time there was a fair amount of confusion about the New South Wales outcomes, about the effect that that would have in Queensland. And we had a litany of SP bookmakers rock up to tell us they didn't have to pay anything, that they could just be parasites on the industry and not pay, but they turned up with QCs to tell us that. So if we'd have taken that advice we wouldn't have recouped any money from the SPers, would be?  
10

No. Well, that's a different thing, and I understand your point about QC. But my point is that the advice that your company received from its lawyer that it used all the time was, "Tatts shouldn't be doing this"?---But it was only – that was only his view.  
15

Yeah, but what more can you get? Why – who else's view did you have?---Well, as I said earlier, if we'd have – if we'd have wanted to take Tatts on – if we'd pursued his advice - - -

20 Yeah?--- - - - it would've been into the court. They'd have run us forever, up to the High Court. The costs would've been enormous. Don't think it would've been a good look for Queensland Racing.

But what say you won?---Oh, that's problematic a little bit. You know, you don't  
25 whether you're going to win or lose. I mean - - -

No, but - - -?--- - - - Tatts is a pretty tough organisation.

30 You see, Grace was saying you'd win and if he's right and you won, you wouldn't pay \$91 million over the next five years?---Well – well - - -

That's pretty important?---He – he – that was his view.

35 Yeah. That's not bad?---So - - -

You used – the company used him all the way through, all the years - - -?---Yep.

40 - - - about \$250,000 worth of legal fees a year?---[indistinct] Well, that just shows you. They don't come cheap, do they - - -

No. They don't?--- - - - you guys?

45 Especially when you're doing a lot of legal work, but my point is – I'll leave it at this, then. Your point is that yes, you had the advice, and yes, you knew Grace said you'd win against Tatts, but you decided not to take Tatts on?---I didn't say yes, that we would win against Tatts at all.

No. He said that?---He said that. Yeah, but not me - - -

Yeah. Okay?--- - - - because it was - - -

5 What's the value of your opinion on this, Mr Ludwig?---Well, it was just as good as his, because there – because my view was I've had a lot of experience with - - -

Law?--- - - - law.

10 Okay?---And they're not always correct, so until it's tested you can't really rely on that advice.

Okay. I agree with you. Why not test it?---Well, we didn't.

15 No. I know?---Now, why we didn't I'm not – don't know, but I didn't think it was necessary because I had it in my mind that if we took Tatts on, they would give us a big run-around. We'd be up to the High Court. They wouldn't give in easy. So my view was we'd have been better off trying to settle with them.

20 Did you – well, did you try and settle with them?---Well, I don't know whether we did or we didn't. I think they did; I think Tony tried.

Okay. Did he tell you that, did he?---Well, I recall that I think he did.

25 Okay. And he couldn't get a settlement with them?---Well, I don't know. I don't know if he had - - -

Well, obviously he couldn't, because it would've been settled, you know?---Well, yeah.

30

But I've got you, anyway. So – right. Let's have a look at number 111. I haven't got many to go, Mr Ludwig, and thank you for sitting there for so long. This is the next Product Co board meeting minute, which is about – the last one was in December. This one's March 2009, the next year. You see that?---Yep.

35

Okay. And then we've got David Grace. You see his name; he's along at this meeting. Down there in the - - -?---Yeah.

And then I see that Bill Ludwig's there, in the second?---That's right.

40

Okay. And then over the page, if you don't mind, onto the third page you see a heading "2.1.3 Product and Program Agreement"?---Yep.

45 "The board noted Mr Grace's letter to Malcolm Tuttle of the Queensland – of Queensland Racing Limited dated 18 November." That's the one I showed you before. You remember the advice?---Yeah.

5 “Lambert and Andrews noted advice from Mr Grace, if correct, raised fundamental issues that needed to be formally resolved either by senior counsel’s advice or by obtaining advice from government with its intention of the Product and Program Agreement.” Do you remember that?---Yep. And I think we went to government and asked the racing department what we should do.

10 Yeah. And it turned out a dead end. Do you remember that?---Well, I remember – you know, that we decided to go and ask them, but I don’t know what happened to it after that.

15 Okay. Well, I’m telling you it came to a dead end and then nothing ever happened after that. That was sort of odd. Well, you shrug your shoulders but - - -?---Well, I – I don’t know. You’re asking me hypothetical questions that I’ve got no idea - - -

20 Okay?--- - - - whether it came to a dead end or not. They’re your words, not mine.

25 Funny, but I’m asking you because you’re the one who was put in charge of being responsible with the other directors for this stuff?---Yeah. Well, I was the – I was one director. Right?

30 You were. Yeah. That’s why you’re sitting there in the chair. You were one of the directors looking after people’s interests?---That’s right.

35 Yeah. And I’m asking you what happened when that was a dead end, and you’re saying to me, “Well, what did happen”?---Well - - -

I’m asking you what happened?---Obviously, nothing happened.

40 Correct. So Tatts wins?---Why didn’t you ask me that in the first place instead of carrying on?

45 Okay. Tatts wins, then, don’t they?---Well, if you want to put it that way. Yes.

50 Okay. Good. So the board resolved to go and talk to or communicate with the Office of Racing?---Yeah.

55 I want to show you something else about that meeting. If you go to 112, the next document, please. This thing here is a – this is a note of Mr Grace, who was there at the meeting; you see?--- Yeah.

60 And if you turn over the page, the important part’s number 4. He says – he’s recording what was said; you see? He says, “We then turned to discuss our letter of the 18<sup>th</sup> of November, in relation to the impact of the 2008 amendments on the arrangements with UNiTAB. Michael Lambert raised the issue of what was to be done and what the board’s position was. General discussion followed. And you see – you have a read of those three dot points and I’ll ask you a question on that. Can you recall that part of the discussion at that meeting?--- Not specifically, no.

Okay. Well the point of it, you see, is that Grace certainly records here that he said, "You've got to think of your directors duties, gentlemen."?--- Yeah, well - - -

5 What?--- What he was doing was backing up his advice, which isn't uncommon for solicitors.

Yeah. But he was also telling you to think about what your duty to Queensland Racing and Product Co was; wasn't he?--- Yeah.

10 And he said, "I advise that, having given a letter of advice to Queensland Racing and that matter had not been taken into the board of Product Co. And the board of Product Co having been aware of our views on the interpretation of the act and its interaction with the Product and Program Agreement, the board would be unwise to ignore the advice. Because auditors looking at accounts may, if they became aware of the advice, query the directors' treatment of the contractual arrangements. It was therefore necessary to address the issue. And if it was not intended to take an adversarial role with UNiTAB, then to consider whether the existing agreement should be changed in order to remove any ambiguity that may exist." You see that?--- Mmm.

20 So he's saying to you and others, "Look, let's try and work out what the intent was that the government had in 1999 and then go to UNiTAB and talk about it. Or you've got to do something about the legal position otherwise." Isn't he?--- Well - - -

25 It seems - - -?--- I think he was just buttering up his own advice more than anything.

Okay. But he was also saying you've got to take action; wasn't he?--- Well, he's saying that retrospectively because his first advice was that and then he's backed it up again. Well, we didn't.

There's no - there's no good us arguing - - -?--- We went to the government and asked them.

35 There's no good us arguing about this. The point of my questioning is you recall, don't you, that what was confronting Product Co's board was they had to do something about this. That's right; isn't it?--- What are you saying.

40 They - that you - he was saying to you, "Mr Ludwig and everybody else there" - - -?--- Yeah.

- - - "you've got to do something about this. You can't just sit and do nothing."?--- Well, I don't think we were.

45 But that's what he was saying; wasn't he? Do you recall that?--- Well, according to you that's what he was saying.

Well, that's according to the note?--- Well, the note, yes. But I said he's only backing up his own advice.

5 Yeah. Well, we're back to that. But I – do you want to have one more go at answering my question? That what he was saying to the board and what you knew was you had to take some action?--- Not necessarily.

10 Okay. So then, if you go to 117 in the bundle, please. Eventually what happens is this letter comes back from the government from the Office of Racing, you can see. Do you – and look in the first paragraph, the last two lines. “I would recommend that Queensland Race Product Co obtains its own legal advice on the issue you have raised.” That's what Mr Kelly's saying back, you know?--- Mmm.

15 So the chairman, Mr Hanmer, there receives that letter. And no doubt told you and the other directors about it. Do you recall that? Saying that - - -?--- No.

- - - this letter had come back?--- I don't recall that.

20 Well in any event, it looks like that's what happened; doesn't it?--- It does.

Yeah?--- Well - - -

25 And - - -?--- We did go to the government and – and this letter evidently came back. But I don't recall seeing that letter.

That's okay. But now looking at it, it looks like the government were recommending that Product Co get its own legal advice if it – see what I mean?--- Yeah.

30 Yeah. So that – that idea of going to the government and finding out the commercial intention was a dead end. So then he was saying go to the legal advice, then. See the other option?--- Yeah. Well, it looks like the government was just flicking it on.

35 Exactly. Exactly. But you didn't have anywhere to go with that down with the government. You had to do something with the legal advice side; you see?--- I – I didn't see this letter.

40 No. But you talked about the content of it; didn't you? Forget about the letter. You talked about the fact that the government thing was a dead end and the government said, “Go and get legal advice, Product Co.”?--- Yeah.

Was that okay?--- Well, that's what the letter says.

45 Yeah, and that's what you would've discussed at the meeting; wouldn't you?--- Well, I don't know. I can't recall.

Okay?--- Because I can't recall the letter.



Okay. 119, please, Mr Ludwig. Oh, sorry. 118, please, Mr Ludwig. I missed one?--- Yep.

5 That's the – this is the minute of Product Co on the 4<sup>th</sup> of June 2009. I just wanted to show you on the first page there 1.3, confirmation of minutes. And you see what happened at this meeting was there must've been discussion about the earlier March meeting minutes. And you see there the last three lines, "Delete paragraph" - - -?--- I wasn't at the meeting.

10 Yeah, okay. But you see the – I want you to look at the last three lines. It says, "Delete paragraph"?--- Where?

Last three lines on page 1?--- Yeah.

15 "Delete paragraph. Mr Lambert and Mr Andrews – where it had been recorded that Mr Lambert and Mr Andrews noted that they fundamentally agree with the advice provided by Grace. And as such, action should be taken against UNiTAB. And replace that with something else" And over the page, you see that they obviously moved at this meeting to have those minutes that you record in the meeting that you  
20 were at in March to say, "Lambert and Andrews noted the advice of Mr Grace. If correct, raised fundamental issues that needed to be formally resolved either by senior counsel's advice or by obtaining advice from government with its intention of the Product and Program Agreement." That – they're getting picky about what's in the – recorded in the minutes that they were saying?--- Well, I don't know. I wasn't  
25 there.

No. But you were at the - - -?--- Only reading that – oh well, I've read that, yeah.

30 Okay. So then if you go to 119, please. And then Tony writes to the Office of Racing again on the 4<sup>th</sup> of June. And this is what he writes?--- Yep.

Okay. So he's writing off again to the same place by the look of it; isn't he? Okay. And then you – if you go over to 120, please. The document at 120. You see there that Shara Murray sends a letter for Tony to you. I'll just let you read that?---  
35 Where's this?

This – this email thing is a – if you – are you at 121? I'm sorry. 121 please, Mr Ludwig. I'm sorry?--- Oh. Yep.

40 It looks like that Tony is saying to you and other directors that, "Look, we didn't get that advice on Product Co. That's Queensland Racing's advice." That sort of thing?--- Well, that's what she's saying.

45 Yeah. That's what – well, it's from Tony. It's meant to be from Tony, even though she sent it. But do you see anything funny about that?--- No.

I mean, what's it matter? For you, what's it matter that it's got – addressed to Queensland Racing or Product Co? You know?--- Well, you know, – well, both member of both - - -

5 Yeah?--- Product Co and the board.

Exactly. You're members of both?--- Yeah.

10 So what – why would you care who it's addressed to? You know what I mean. I don't understand Tony's point there. Was that a funny point?--- Hey?

Did you – did you think that was an odd point he was putting in there?--- Well, it's his point. You'd have to ask him.

15 I did ask him, yeah?--- I – I didn't take that much notice of - - -

I'm just thinking?--- That's the first time I've seen that letter anyway.

Well, look - - -

20

COMMISSIONER WHITE: Even though it's addressed to you, Mr Ludwig?--- Pardon?

It's addressed to you?--- Addressed to me.

25

Yes. To - - -?--- Yeah, but I don't – I don't know whether I got it. You know, whether I've seen it. I mean, it would've come to my office.

MR BELL: Righto?--- And - - -

30

Anyway, looking at it - - -?--- I could've seen it. But anyhow, what's - - -

Okay. Looking at it now, it's a bit of an odd thing don't you think to say, "Look, that was Queensland Racing not Product Co." What's the – what's that all mean to you?--- No, you'd have to ask Tony.

35

Okay. It's a funny Tony point?--- Well, it's – I don't know what he was thinking when he's written that; you know? But - - -

40 Okay.

COMMISSIONER WHITE: As a member of the board of Product Co, Mr Ludwig, you'd seen – you knew about that advice, whether it was addressed to Queensland Racing or not. That's the fact; isn't it?--- Oh, well. Yeah. If it's the same advice.

45

MR BELL: Yeah, it's the same advice.

COMMISSIONER WHITE: Yes. Yes, it's the same advice?--- I don't know whether he's talking about the same advice or not.

He is?--- He is?

5

He is.

MR BELL: Yeah?--- Well - - -

10 COMMISSIONER WHITE: Product Co knew about it anyway?---Well, I – I can't – I haven't got an explanation for that.

MR BELL: No, no. You don't have to have one. I'm just asking you to comment. It seems a bit odd to say that when you're all on the same boards?---No. I mean, I  
15 don't want to comment on – you know, on other people's actions.

Okay?---You know, I mean, what's the point?

20 Okay. Fair enough. Could Mr Ludwig see 333, please, in Mr – and what's this – supplementary folder, please.

I wanted to show you the minutes of the meeting of Queensland Racing on the 26<sup>th</sup> of June 2009, please, Mr Ludwig. Have you got that there?---26<sup>th</sup> of June. Yeah.

25 Yes, please. And you see there that you're present?---Yep.

Okay. And then if you turn over to page 13, which is the last page, please. I'm sorry. It's the second last page but it's got 13 on the top right-hand corner?---Yep.

30 And then you see 10.4; have you got that?---Yeah.

Okay. "Product and Program Agreement, Race Fields Legislation. Lambert previously circulated a paper on the advice Queensland Racing had originally received from Cooper Grace Ward Lawyers on the 18<sup>th</sup> of November." That's the  
35 same one again – he's raising again. "In essence, this advice related to the distinction between the right of access to race information and the right to use that information for wagering purposes. Mr Lambert informed the board he had spoken to Mike Kelly at the Office of Racing and, on Mr Kelly's advice, QRLs executives should write to the minister, seeking clarification of clause 10 of The Product and  
40 Program Agreement." Now, that motion you see there seems to have been carried, meaning it was resolved by the board to do that?---It says what?

It looks like the motion – somebody moved – Tony moved the motion and Bill Andrews seconded it to do that – to write to the minister. See that?---Yeah.

45

Do you recall anything about that?---Not a great deal.

Okay. So then what happens is, as it turns out, if you go to 337, please, Tony writes another letter but he doesn't write it to the minister. He writes it to Mike Kelly. Do you know why that happened?---No.

5 He had a bit of a close business relationship with Mr Kelly, did he?---Hey?

Tony talked to Kelly all the time, did he, do you know?---Well – yeah. Kelly was sort of the – the government person - - -

10 Yeah. Okay?--- - - - to go to.

So that means he did have a lot of talks with him?---Well, I'd suspect he did. Yes.

Did you have a lot talks with him, too – Kelly, I mean?---Kelly – not necessarily.

15 No?---Only when he came to a meeting.

Okay. But did Tony tell you that he had a good relationship or good rapport with him?---No. He never mentioned anything.

20 Okay. Anyway, that letter was sent even though the board had resolved to do something different, you see. It resolved to send it to the minister. So then if I ask you to go to 345, please – and this is the next Race Product Co minute, 18 September. And then if you just have a look at 1.3 [indistinct] - - -?---Well, I wasn't  
25 at this meeting.

No. I see that. This is just another thing about the Lambert and Andrews raising this question that I was just addressing with you. You would've got these minutes later, of course, being a member of the board.

30 COMMISSIONER WHITE: Mr Ludwig, if you weren't present at a board meeting of Product Co, for example, would you read the minutes when they would come - - -?---No.

35 - - - to inform yourself of what had gone on at the board meeting?---Not – not necessarily. At the next meeting, if it – if the minutes were in the – I never took the board meet papers home, you know. Whatever was there, I just left because - - -

40 MR BELL: Yeah. I got it. But they'd send you the ones for the next meeting, wouldn't they?---Pardon?

Before the – wouldn't they give you a copy - - -?---I don't know. I can't say for sure. You know, not necessarily. I - - -

45 No. I'm just – we're just investigating the procedure, you see, what normally happened?---Yeah.

Normally, they'd send you a bundle before the board meeting, wouldn't they?---Yeah.

5 And you – you would look at it if you wanted to or not?---Yep.

Okay. And then when you got to the board meeting, you'd leave it there - - -?---Yeah.

10 - - - like a lot of people do. I understand. But the question here is – that's just why I'm raising this with you. It looks like Lambert and Andrews are pointing out something about hey, the resolution was to send it to the government. You see what I mean. You can see what they – what they resolution was. So you can't remember that?---No.

15 Okay. And then you remember that in December 2009, Lambert and Andrews then left. They were gone - - -?---What – what is it?

- - - from the board forever?---Hey?

20 Remember Lambert and Andrews left the board and were gone?---Yeah.

Yeah. Because Lambert got picked by the chairman to go off the board; do you remember that?---Well, I don't know whether - - -

25 Okay. And then Andrews tried to get re-elected, but didn't?---Yeah.

Remember that?---Yeah. I remember that.

30 Okay. So then after they're gone, do you recall whether anything happened about what they were trying to push all the time – this advice or take some legal action?---No.

35 Well, nothing happened, you see. Have you got any explanation for why nothing happened?---No.

Okay. Just have a look at this last document, please, which is in folder – my folder number 2. It's document 132?---133?

40 132, please. 132?---What's this? Kelly's letter?

Yeah?---Oh, yeah. Wait till I read it.

Just have a read of it?---Yep.

45 Yeah. So that was a dead end, wasn't it, in the end?---Well - - -

Nothing came out of that. You can see that there?---It appeared that way. Yeah.

So when that came back that that was the response from the government guy, from Mike Kelly, do you recall, after Lambert and Andrews left, anybody pushing to get legal advice or take action?---No. I don't recall any of that - - -

5 Okay?--- - - - after that.

So then Tatts just - - -?---I don't even - I don't - that's the first time I've seen that letter, actually.

10 Okay. Then Tatts - okay. Is that right? That didn't come back to the board or - - -?---I don't think I seen it. No.

Okay?---It wasn't addressed to me; it's addressed to Malcolm Tuttle.

15 No. That's right. But we know that that was Product Co that was seeking that information from the government, you see. That's why I thought it would come back to the board?---Well, Malcolm wasn't on - he - he wasn't with Product Co.

20 No. But it was bought - that was the Product Co business. It was the business - they'd asked for this information from Kelly?---Right.

Remember I just showed you the resolution?---Yeah.

25 And then when the resolution is to write to Kelly, they write to Kelly and he comes back and gives a response six months later, and here it is and it says "dead end"?---Well, it took him a good while.

30 Yeah. I'm with you. And the point is, if it was a dead end, then 500,000 a month keeps getting charged to Product Co for this stuff and nobody does anything. I'm suggesting to you that that was great for Tatts but not so good for the stakeholders in Queensland, was it?---Well, as I said earlier, I don't think it would've been in the board's best interest to take on Tatts over the issue.

35 Okay?---It would've been better to settle it.

Well, I - I agree. Did you push settlement with them?---Well, I didn't personally. No.

40 Okay. Why not?---Well, the - I didn't see that that was my place.

Okay?---You know, it would've been an important decision to pursue a settlement.

45 Okay. And how does it come about at - your experience with boards, if - if you as a member of the board think it's a good idea to seek settlement, don't you put up a motion and say, "Tony, I move that we try and settle this with Tatts"?---Well, I thought we were doing that.

Well – no. But I can’t find any – any discussion of it in there, you see?---Well - - -

But you think that happened. You - - -?---I think it did. Yeah.

5 You think Tony tried. Okay. Okay. Thank you, Mr Ludwig?---That it?

Yep. That’s it?---Okay.

10 COMMISSIONER WHITE: Could Mr Ludwig be released from further attendance  
- - -

MR BELL: I think so. Thank you.

15 COMMISSIONER WHITE: - - - or should we just put him on the back burner?

MR BELL: Yes. Back burner might be - - -

COMMISSIONER WHITE: Yes.

20 MR BELL: Treat everybody equally, please.

WITNESS: Am I dismissed?

25 COMMISSIONER WHITE: Not quite, Mr Ludwig. I wouldn’t actually dismiss  
you?---Well, I’m – I’m trying – I’m trying to retire. You know, I’ve got some plans  
and if I’ve got to wait around for the next three months on hold - - -

30 You won’t be on hold, Mr Ludwig. As your lawyers know, you are invited to put in  
any supplementary material you want in response. As you also know, inquiries  
continually discover new information as they progress. If anything arises – and  
counsel hasn’t suggested that it’s likely to but if anything arises, you might be asked  
to come back to deal with the point. There’s no likelihood of it at the moment.  
That’s why I’m not releasing you and, of course, there is that open invitation for  
supplementary statements if you wish to do so. But otherwise, you are free to go  
35 now?---Thank you.

**WITNESS STOOD DOWN**

**[12.27 pm]**

40

MR BELL: Commissioner, I thought it was important to - - -

COMMISSIONER WHITE: You can step down now, Mr Ludwig?---Thank you.

45 MR BELL: I thought it was important to, in this public forum, to bring up to date  
where the commission stands with its present intention about witnesses for the public  
hearings going forward. I mentioned yesterday, I think, that the commission had

resolved at this stage to not proceed to have Mr Ryan, Mr Milner, Ms Watson and Mr Lette come forward to give evidence. For three of those four people that remains the case. But for Mr Lette, the commission has resolved that they will need to have Mr Lette come and give evidence and arrangements are being made for that to occur.  
5 Also, since the last occasion, the commission's also resolved to have Mr Seymour come and give evidence at public hearings. And it's important that I announce that now.

Also, I should announce, in relation to Ms Shara Murray, who – that was her maiden name. It became Reid. I can announce that her health is not sufficient for her to be able to give evidence in public hearings.  
10

COMMISSIONER WHITE: Yes. Thank you, Mr Bell.

15 MR BELL: In relation to proceeding from here, it's the intention, Commissioner, to call on Monday morning; Mr Lambert and Mr Andrews and then Mr Tuttle. And then following them; Mr Brennan and Mr Snowdon. After that we will move to another topic involving government and that then involves the other witnesses on the list, you know are; Mr Kelly, Ms Perrett and the former treasurer Mr Fraser, Mr  
20 Mulherin and Mr Lawlor. And it will be after that, that the commission will be in a position to call Mr Lette and Mr Seymour. I say that because the information is that Mr Lette is away until the 13<sup>th</sup> of October and so it's after that we hope to be in a position to have him give evidence.

25 COMMISSIONER WHITE: Yes. Thank you, Mr Bell.

MR BELL: Thank you, Commissioner.

COMMISSIONER WHITE: That's all right. Is that sufficient for your purposes, Mr Wilson? So far as any of those witnesses are your clients?  
30

MR WILSON: Oh, yes. Commissioner, I just wanted to raise - - -

COMMISSIONER WHITE: Something else?  
35

MR WILSON: One matter and then something that's just been said.

COMMISSIONER WHITE: Yes.

40 MR WILSON: During Mr Bell's cross-examination of Mr – examination of Mr Ludwig, there was some questions asked about the deed of indemnity on the 5<sup>th</sup> of August.

COMMISSIONER WHITE: Yes.  
45

MR WILSON: Know about that. But it was also either suggested to him or it was said that there was an earlier deed of indemnity. We've been asking for that and it



hasn't been produced and we again ask through you, Commissioner, for the deeds of indemnity to be - - -

5 COMMISSIONER WHITE: The original ones?

MR WILSON: Yes.

COMMISSIONER WHITE: Or the ones that were in place before the new ones came on the 5<sup>th</sup> of August.  
10

MR WILSON: Correct.

COMMISSIONER WHITE: Yes. Are we in a position to supply those, Mr Bell?

15 MR BELL: We're not at the moment but as I've said to Mr Wilson informally which I'll now say now formally, we'll investigate the matter and produce them if we can, as soon as possible.

COMMISSIONER WHITE: All right. They're being sought? We don't have them  
20 in our possession, I take it, at the moment?

MR BELL: We don't have them in our possession as far as I know.

COMMISSIONER WHITE: All right.  
25

MR BELL: I should say we don't have – I haven't seen, actually, Mr Ludwig's but I have seen documents that indicate that a review was being undertaken of what then existed and presumably, that's a DNA policy for the board, of course.

30 COMMISSIONER WHITE: You'd think so. You would expect that there would've been one in place.

MR BELL: Yeah.

35 COMMISSIONER WHITE: Because they've been board members for a very long time.

MR WILSON: That's why I've been asking for them.

40 COMMISSIONER WHITE: Yes. Well, as you know, we're reliant upon people producing them to us.

MR WILSON: I – I fully appreciate that, Commissioner.

45 COMMISSIONER WHITE: Yes.

MR WILSON: I just thought the appropriate way to raise it was through you.

COMMISSIONER WHITE: I understand that, Mr Wilson. It's on the record and you know that you've now got my ear.

5 MR WILSON: The other matter, Commissioner, which is a bit on the run given what Mr Bell's just said is – I understood that Mr Lette and Mr Seymour are probably going to be in the week starting the 14<sup>th</sup> of October?

MR BELL: I think so.

10 MR WILSON: Whether the – currently, the deadline for submissions is the 11<sup>th</sup> of October. Whether that's going to be - - -

COMMISSIONER WHITE: Almost certainly it will be - - -

15 MR WILSON: - - - revised.

COMMISSIONER WHITE: We will have a look at doing a new timetable, Mr Wilson.

20 MR WILSON: Thank you.

COMMISSIONER WHITE: It's so fluid and I know it's a bit difficult for everybody, this date shift, but as soon as possible we'll get out the new timetable.

25 MR WILSON: Thank you. As I said it's raised on the run because we've only just found that out.

COMMISSIONER WHITE: Sure. yes.

30 MR BELL: Yes. I mean, the reason for the delay in calling Mr Lette is because of his convenience as we understand it. If I can get him earlier, we will. But to say that we don't – so far as counsel assisting is concerned, Commissioner, we don't want anybody to be encouraged into thinking that there will be an extension. So if everybody works on the basis that the 11<sup>th</sup> of October remains the date – if we can  
35 extend it, we will, of course.

COMMISSIONER WHITE: Yes.

40 MR BELL: But I'm concerned, Commissioner, to push out too far because it'll be a lot of time taken in the next stage of the inquiry of course and we've got to allow enough time for that too.

45 COMMISSIONER WHITE: Indeed we do. It only relates to those two witnesses, of course, that's pushing it out and it may be, if there's anything in there – neither of them are your clients of course, Mr Wilson.

5 MR WILSON: It's only this, Commissioner. We have no trouble at all with 11 October for the statements – supplementary statements adhering to that. It's just that obviously it makes sense to put in the submission for when the evidence is all finished rather than piecemeal.

COMMISSIONER WHITE: Thank you. I'd hope you'd be done and just a little space to put it in. Fortunately - - -

10 MR WILSON: Well, that may be the case.

COMMISSIONER WHITE: Yeah. Well, let's have a look at it but perhaps as Mr Bell said, work the 11<sup>th</sup> of October and we'll just see how, how we review it this afternoon.

15 MR WILSON: I just thought it was better raised earlier rather than later.

COMMISSIONER WHITE: Oh, yes. I hope you're already writing. Are there any other matters that any other of the legal representatives want to raise? No. All right. Adjourned to Monday at 10 o'clock, thanks.

20

**MATTER ADJOURNED at 12.34 pm UNTIL  
MONDAY, 30 SEPTEMBER 2013**