

## Second Statement of Barry Thomas Dunphy

I, **Barry Thomas Dunphy**, Solicitor of Clayton Utz Lawyers, 71 Eagle Street Brisbane in the State of Queensland, state as follows:

1. I have previously provided a statement to the Commission dated 5 September 2013 (**First Statement**).
2. This statement is provided to supplement the information provided in my First Statement.
3. At paragraphs 25 and 26 of my First Statement I referred to a meeting I had with Mr Tuttle and Ms Murray of Racing Queensland and Ms Cray of Clayton Utz on 14 June 2011. I attached a hand written file note of that meeting to my First Statement as BTD-12. A typed transcription of that note prepared by me appears as attachment "**BTD-21**" to this statement. Where [?] appears, I have now been unable to provide a transcription of that word. [RQL.143.003.0005]
4. At paragraphs 30 and 31 of my First Statement I referred to a meeting I had with Mr Bentley, Mr Tuttle and Ms Murray on 4 July 2011. I attached a hand written file note of that meeting to my First Statement as BTD-13. A typed transcription of that note prepared by me appears as attachment "**BTD-22**" to this statement. Where [?] appears, I have now been unable to provide a transcription of that word. [RQL.146.003.0002]
5. At paragraph 52 of my First Statement I referred to a telephone call I received from Mr Bentley on 3 August 2011. I attached a hand written file note of that telephone discussion to my First Statement as BTD-18. A typed transcription of that note prepared by me appears as attachment "**BTD-23**" to this statement. [RQL.146.003.0001]
6. On the following morning being Tuesday, 5 July 2011 at 9.25am I sent an email to Robbie Walker of Clayton Utz (copied to Shae McCartney of Clayton Utz) where I provided an update and summarised the meeting that I had on 4 July 2011 in the following terms:

*"I then had a meeting with the Chair, the CEO and the Company Secretary early yesterday afternoon and the deal that is being considered by the Chair is that the four key staff will be offered the following arrangements to stay:*

  
Barry Thomas Dunphy

  
Witness

- *A significant uplift in salary from now until the 31st of January 2012. This is being negotiated this morning but the four staff want a 50% increase.*
- *All of their contracts to terminate on 31 January 2012. They want this to be a redundancy and for them to be paid the balance of their contract. This will either be until mid-year 2013 or even a longer period. Again this is being negotiated now.*
- *That as from 1 February to 1 July 2012 the four staff will then enter into temporary agreements to continue to work on. I don't know the salary that is being sought. They will then if they are offered and accept a new extended contract of employment, they will then payback the "redundancy payment".*

*The whole concept is based on the idea that the election will not be called early and that the four staff will effectively be paid out by the current Board before the election. They then intend to hang around on temporary contracts and will if Labor wins the election, then re-sign up on a permanent basis and repay the lump sum additional payment that was received in January 2012. The Board want to meet on Thursday morning to consider this proposal. Our urgent advice is therefore needed."*

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

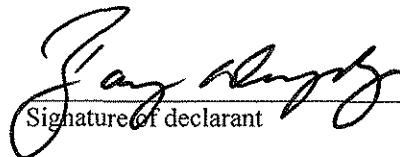
**Dated 12 September 2013**

**Signed and declared** by Barry Thomas Dunphy at  
Brisbane in the State of Queensland  
this 12th day of September 2013

Before me:



\_\_\_\_\_  
Signature of person before whom the declaration is  
made



\_\_\_\_\_  
Signature of declarant

*Matthew Glen Edwards Lawyers*

\_\_\_\_\_  
Full name and qualification of person before whom the  
declaration is made

"BT D-21"

CLAYTON UTZ

File Note

Pages \_\_\_ / \_\_\_

Name Dunphy Start Time 2.20 Finish Time \_\_\_\_\_ Date 14/06/11  
3.40

Client Racing Qld File No \_\_\_\_\_

Re \_\_\_\_\_

Mal Tuttle            Hedy Cray  
Shara Murray        BT D

1. What the Board wants to achieve

2. Set the scene

The Board has concern about the medium term

- Board wants a poison pill if there is a change of Gov
- Deal with the Brd and the Executives i.e. Labor Party Board
- Replacement of all of the Executives

3. Put a measure that provides key people a trigger or opportunity ie changes that flow from the LNP

The need to deal with this it almost go away.

Business as usual - shown the door.

A little unusual -

Where it is different

- Focus - whose behest
- Separation - if there is language ie
- what is the trigger

WT Additional considerations

- Approach as one
- Want to deal with the current Board
- Current Board

HC - Could be [?]

MT - Board not really prepared to pay the retention payment

- employee - has an option to deal with the existing Board

Empower the employee

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HC - Deliver what they need

- can we have certain employees to be voluntary separation

- They could apply

MT - Can we pick the people

- Vol redundancy schemes

- Redundancy schemes

Can't say no

MT - Exclusivity of the Licence

- Generated \$135m i.e. all money 75% of the money

- Essential nature of the people

HC - double edged sword

- Contents - term is not to 30 June 2014

- Legally best to do it

- Terminate them early

4. Deficit budgets this year and next year

- couldn't do it at the moment

WT - Misconduct - pay them out

Poor performance - not pay them out

HC - whittled away

- excluded from redundancy etc

MT - 2014

2013 - 2014

Either Terminated - timing balance of the term

Set Agreement - fixed term contract

Sept - Oct 2012 - 7 June 2014

3 / 12 / 6

21 months

1 July 2011

June 30  
2014

5. Generously treated - positions

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- be selective
- term - EAs - lesser term

- put them on a lesser term

- normal redundancy

MT - Some contracts to June 2013

(a) → Better [?] ie what they have

→ Draft the super critical one ie so essential for 2014

→ Notes - why

(b) Middle Road option ie - not poor performance  
but continuity  
ie could be a buffer

→ [?] until June 30 2012 + 2013

(c) EA's Three tiers

"BTD-22"

CLAYTON UTZ

File Note

Pages \_\_\_ / \_\_\_

Name \_\_\_\_\_ Start Time \_\_\_\_\_ Finish Time \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Client Racing Queensland File No \_\_\_\_\_

Re \_\_\_\_\_

#### Key Staff

(1) Not staying if LNP gets in

(2) Column piece

→ De stabilising the environment

→ some issues

→ speaking to key players

→ Column point

→ Contacted Bob Bentley

→ Jamie Orchard / Paul Brennan / Tuttle

S Murray

→ 4 key people

→ Need the staff for the run down

(3) Need to be people

Four people

4- 3% increase on TRV

Preference ie shifting on above [?]

- all staff

- [?] will renew that

- normal process

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(2) BB Paying the 4 people

50% as an incentive to stay

In addition - pay i.e. termination

redundancy i.e. to be effective of

Jan / 1 / Feb

→ Existing to 30 June 2014

→ Extend to 2014

- Extend the details

- 2014 serve to 12 months ie

to work it out

(3) From staff contract i.e 5 months

to end of the financial year

to June 30 - 1 July

If 4 staff were to be employed

→ Regarding the redundancy payment ie

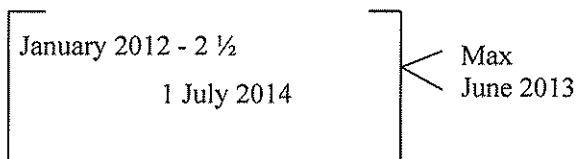
get it prior to 30 June

(4) Colour - of their eyes

Redundancy - preferable

- Brd

- Brd - service agreement



- 2013 - look at that

- 31/1/12 short term

- get it signed

- negotiations

- offer to do that

- put it in place now

5 month contract prior to 30 June 2012

[?] seems difficult

→ Paid back to the company

→ Tax implications - cost to the company - termination - tax issues



"BTD-23"

File Note

Pages \_\_\_ / \_\_\_

Name CLAYTON UTZ  
Dunphy Start Time 3.05 Finish Time \_\_\_\_\_ Date 3 / 8 / 11

Client Executive Contract File No \_\_\_\_\_

Re Q Racing

Bob Bentley (3869-9717)

(1) Called not there

Called Shara Murray 3.10

(1) They will take both advices on board and proceed

(2) BB wanted just to thank me for the advice

BD

Bob Bentley 3/08/11

(1) He is going to adopt the cap issue.

(2) He sees we basically agree but may like an amalgam of the trigger clauses from both advices

(3) I said that was fine he had both advices and we understand that he would make the call that is in the best commercial interests

BD