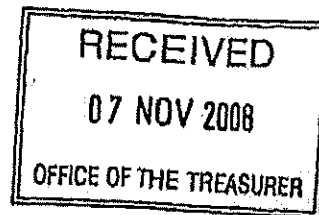


101 Hawdon Street
Wilston 4051

5 November 08

Hon. Andrew Fraser MP
Treasurer and Minister for Racing
GPO Box 611
Brisbane Q 4001



Dear Minister,

Re Queensland Racing Limited

I refer to my letter to you dated 19 August 2008, which I presume you have received, since media reports state that you had referred it to the CMC and ASIC, both of which agencies have declined jurisdiction to investigate - each for its own unconvincing reasons.

As a result, the conduct of certain directors and officers of QRL, the statutory Control Body for thoroughbred racing in Queensland, remains uninvestigated. In this context therefore, your statement on 28 October 2008 that - "The Board of QRL retains my confidence" is, to say the least, curious, but not unexpected.

May I suggest Minister that it is always preferable to stick to the facts rather than allow the facts to become submerged in or obscured by media and political comment. Let me remind you again therefore of the known facts concerning the QCRC and the unauthorized use of its "proxy".

- Each of the 8 members of QCRC assert that they were not given nor did they receive from any person (including the Chair QCRC) nor were they told of the Notice of the General Meeting of QRL (of which QCRC is a Class A member) which meeting was called to consider proposed amendments to the QRL Constitution;
- Nor was QCRC made aware by the Chair, a director of QRL, of the proposed agenda for that QRL meeting;
- Nor was QCRC informed by its Chair or any QRL director or officer of the QRL requirement (albeit stated wrongly) that the QCRC was required to appoint a proxy for the relevant QRL meeting;
- Nor did QCRC ever consider the issue of appointing a proxy;

- Nor did QCRC appoint or authorize the Chair QCRC, a director of QRL Mr Ludwig, to act as the proxy of QCRC at the relevant meeting;
- Nor did QCRC direct or authorize Mr Ludwig, either in writing or otherwise, or any other person to register the QCRC "vote" at the meeting in favour of the proposed resolutions to amend the Constitution of QRL.

Please understand that the QRL meeting referred to above was the meeting of members of QRL held pursuant to Clause 12.2(a)(ii) of the Constitution because of the requirements of Section 246B of the Corporations Act. This caveat is essential because on the same day there were 3 meetings held at QRL, including a meeting of Class A Member Representatives (see Clause 7 of the QRL Constitution), which was held for a different purpose, namely, to appoint a substitute Authorised Class A Representative (see Clause 13.1 of the QRL Constitution) since Mr Bob McHarg had become unavailable. Messrs Peoples and Brosnan were the 2 QCRC Member Representatives who attended that meeting (by telephone) and at that meeting Mr Neville Stewart was appointed the Class A members Authorized Representative in place of Mr McHarg. There was no other business transacted at that meeting and neither Mr Peoples nor Mr Brosnan attended the QRL meeting of Class A members of which they were unaware and which was called to vote on the proposed amendments to the QRL Constitution. The QCRC "vote" recorded at this meeting was the vote of the unauthorized "proxy" Mr Ludwig who purported to exercise, unauthorized, the QCRC vote on the proposed amendments.

This caveat is also necessary because in a media statement by the Chair QRL dated 10 October 2008 and headed "Horan's comments Irresponsible" (published on the QRL website), it is stated:-

"The Committee (sic, a reference to QCRC) was provided with full notice of the General Meeting in accordance with the Constitution and indeed member representatives of that Committee Mr Brosnan on one occasion and Mr Peoples on numerous occasions, had telephone conversations with QRL Legal Counsel/Company Secretary about the nature of the meeting prior to it occurring."

This statement is duplicitous. The reference in the above statement is to the meeting of Member Representatives of Class A Members referred to earlier, which meeting was attended by Messrs Peoples and Brosnan not to the relevant meeting of Class A Members which was attended only by the "proxy" Mr Ludwig, the Chair of QCRC but of which all members of QCRC assert they had no knowledge and that they had never authorized or directed a proxy to Mr Ludwig.

I return to the facts of the case.

The ASIC letter of 22 October 2008 refers to the "proxy forms that were given by A Class Members" and which ASIC had "viewed". The 8 members of QCRC assert that

they had never executed such a proxy nor had they authorized anyone else to execute such a proxy nor had they as a Committee ever resolved to authorize or to grant a proxy to any person, including Mr Ludwig, for the purposes of the relevant meeting.

You will of course know that a favourable vote at the relevant meeting was designed to extend the tenure, remuneration and other benefits of Mr Ludwig and the other QRL directors.

The members of the Committee did not execute nor have they ever seen the "proxy" form and an attempt by solicitors to obtain it from QRL has been unsuccessful.

Based on the above facts and the valid inferences to be drawn therefrom, other serious questions arise:

- Which person(s) executed the "instrument appointing a proxy" (see Clause 14 of QRL Constitution) which purported to be the "QCRC proxy"?
- What evidence, written or otherwise, authorizing the execution of the "instrument" was given to the Company or any officer thereof, prior to the holding of the relevant meeting?
- Who deposited the instrument (and by what process did that occur) at the registered office of the Company, as required by Clause 14.5 of the QRL Constitution?

The ASIC letter confirms that the relevant vote was exercised at the meeting by the "proxy" in accordance with the directions purportedly given by the instrument appointing the proxy. Others at the meeting confirm that the purported QCRC "proxy" was Mr Ludwig and that he voted in favour of the proposed amendments as the alleged proxy of QCRC.

You can further assume that no member of QCRC has yet been interviewed by any official in respect of any of the facts and circumstances surrounding the allegedly unauthorized QCRC proxy which Mr Ludwig purported to exercise at the relevant meeting.

In the light of the above, therefore, I request that you as the Minister responsible for the operation of the Racing Act and in view of your statutory responsibilities and obligations in respect of the Control Body (QRL) to whom a Control Body Approval was granted by the Minister, urgently refer this matter including this letter and other relevant material in your possession, to the Commissioner of Police to determine whether any and which person(s) has/have committed any breach of the Criminal Code or other relevant statutory offence.

In this respect your attention is drawn to Section 494 of the Criminal Code.

494 Making Documents without Authority.

Any person who, with intent to defraud

- (a) without lawful authority or excuse makes, signs or executes, for or in the name of or on account of another person, whether by procuration or otherwise, any document; or
- (b) knowingly utters any document so made signed or executed by another person

is guilty of a crime.

In Welham v DPP 1961 AC103, it was held:-

"intent to defraud" means to practice a fraud on someone or other, it being sufficient if anyone may be prejudiced by the fraud. If therefore there is an intention to deprive another of a right or to cause him to act in any way to his detriment or prejudice or contrary to what would otherwise be his duty, an intent to defraud is established notwithstanding no intention to cause pecuniary or economic loss."

If therefore a person has executed the "instrument appointing a proxy" in the name of QCRC, without the lawful authority of QCRC, with intent to defraud, that person has, prima facie, committed a serious criminal offence. So too has the person, who "utters" any document so made, signed or executed by another.

Therefore the questions: who made, signed or executed without lawful authority the instrument of proxy in the name of QCRC? and who uttered that document by forwarding the same to the Company for the purposes of the relevant meeting? are serious questions as are the whole of the circumstances surrounding the execution and the uttering of the instrument of proxy. These serious questions which cover the conduct of QRL personnel require the most thorough investigation.

Such investigations should be carried out by the Commissioner of Police since there is prima facie evidence of a breach of the Criminal Code. The Commissioner is therefore best equipped to investigate such breach or any other relevant breach of the law.

In respect of the need to establish an "intent to defraud" it should be noted that the Company and its officers, particularly its Secretary, were clearly subject to the duty of ensuring the integrity of the Constitutional processes of QRL required for a valid meeting of members of the Company. The execution and later presentation of a false unauthorized proxy to the Secretary and the admission by her of the unauthorized

"proxy" to the meeting and to vote caused the Secretary to act contrary to what was otherwise her duty.

Therefore the elements of the offence are seemingly satisfied. The prima facie evidence therefore requires proper investigation by the Commissioner of Police.

Reference has also been made in earlier correspondence to the proxies held by the Chairman of QRL and its Secretary in respect of the Breeders, Owners, Trainers, Jockeys Association and of the Mackay Turf Club and to the circumstances relating to the grant of those proxies. Furthermore you may or may not know that QRL provides both to the Owners and Breeders Associations (but not to other stakeholders), free of charge, not only meeting facilities but also administrative support in respect of Association affairs. Whether that is appropriate conduct, in the circumstances of this case, for a so called independent statutory Control Body is another matter you may consider relevant.

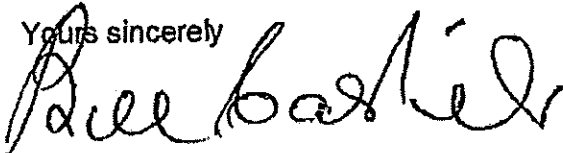
I have in the past asked you to undertake a wholesale review of the operations of QRL. Typically there has been no response.

If the Control Body is to retain your "confidence", an independent review of QRL decisions concerning metropolitan racing infrastructure at Eagle Farm and Doomben, the Gold Coast, Caloundra and Toowoomba as well as training infrastructure proposed for the so called Deagon Training Centre (DTC) would be extremely useful.

On the basis that such a review included meaningful consultation with industry stakeholders, you may then be able to better consider, and if so, to what extent, QRL retains your confidence.

Your urgent response within 7 days would seem to be appropriate.

Yours sincerely

A handwritten signature in cursive script, appearing to read "W.J. Carter".

Hon. W.J. Carter QC

cc The Honourable The Premier

(

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