



## INTERNAL REVIEW DECISION

### (Internal Review Decision Notice in response to an Application for Internal Review)

PART 1: Details of Internal Review	
Internal Review Number:	Internal Review 0015-19
Applicant's Name:	Benjamin Currie
Original Decision:	Suspension made under Australian Rule of Racing 8(z)
Original Decision Makers:	P Chadwick, N Boyle, P Zimmerman
Date of Original Decision:	18 February 2019
Internal Review Decision:	Original decision confirmed
Internal Review Decision-Maker:	Mr Kane Ashby, Queensland Racing Integrity Commission
Date of Internal Review Decision:	18 March 2019
PART 3: Summary of Internal Review Application	
<p>The Applicant, Mr Benjamin Currie, is a licensed trainer within the thoroughbred racing industry in Queensland.</p> <p>On 15 February 2019, the Queensland Racing Integrity Commission (QRIC) sent to the Applicant's solicitor a letter which issued seven (7) charges under the Australian Rules of Racing and provided particulars of the charges and the facts to be relied upon. A further letter was sent on 15 February 2019, advising the Applicant was required to attend an inquiry on 18 February 2019, in respect of the 7 charges and to provide reasons why the stewards ought not exercise their powers pursuant to Australian Rule of Racing 8 (z), in particular the power to:</p> <ol style="list-style-type: none"><li>pursuant to AR 8(z)(a); to suspend his licence to train;</li><li>pursuant to AR 8(z)(b), to prevent any horse owned (or part-owned) or leased by him from participating in any race or official trial;</li><li>pursuant to AR 8(z)(d), to decline to receive any nomination or entry for a horse trained by him; and</li><li>pursuant to AR 8(z)(d), in respect of the nominations or entries which have been received, to reject those nominations or entries.</li></ol> <p>Subsequent to the Stewards' inquiry conducted on 18 February 2019, the Stewards considered the submissions tendered in respect of the 7 charges and determined that until the hearing of the 7 charges laid on 15 February 2019, made the following orders:</p> <p><i>"(a) pursuant to AR 8(z)(a), Mr Benjamin Currie, your trainer's licence be suspended effective immediately;</i></p> <p><i>(b) pursuant to AR 8(z)(b), to prevent any horse owned (or part-owned) or leased by Mr Benjamin Currie from participating in any race or official trial;</i></p>	



*(c) pursuant to AR 8(z)(d), to decline to receive any nomination or entry for a horse owned (or part-owned) or leased by Mr Benjamin Currie;*

*(d) pursuant to AR 8(z)(d), in respect of nominations either paid or owned (or part-owned) or leased by Mr Benjamin Currie, which have been received, to reject those nominations or entries,*

*(e) pursuant to AR 8 (z)(c), in respect to transfer of ownership of horses owned (or part owned) or leased by Mr Benjamin Currie and/stable returns for the transfer of horses Trained by Benjamin Currie, are subject to the approval of the Chief Stipendiary Steward*

*(f) pursuant to AR 8 (z)(c), in respect to horses currently under your care that you ensure that in the interim for a period of 10 days you provide adequate care, to these horses pending other suitable arrangements for their care or transfer. Should you require any further extension of time for their care or transfer, an application may be made to the Chief Stipendiary Steward”<sup>1</sup>*

The Applicant sought a review of the order made by the stewards and the Applicant provided the following submissions in support of his Application:

*“1. The orders made by the stewards pursuant to AR8(z) should be stayed as the Applicant was denied procedural fairness by the stewards failing to grant him an adjournment to enable him to properly prepare his case in circumstances where the show cause notice was issued on the afternoon of 15 February 2019 by email with a hearing to commence at 10:00 am on 18 February 2019.*

*2. The charges in QRIC's letter of 15 February 2019 are invalid and cannot be sustained as they are purported to be laid by two or more stewards when in fact they were laid by one steward, Mr Peter Chadwick.*

*3. Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid absent the authority delegated by the Principal Racing Authority.*

*4. Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid as the stewards have not formed any reasonably available opinion as required by the rule.*

*5. Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid on the grounds of apprehended bias of the stewards resulting from the QRIC press release of 15 February 2019 and prior discussions relating to the matter between the Chair of the panel and the Commissioner.*

*6. The stewards cannot be comfortably satisfied Mr Currie's continued participation in racing might pose an unacceptable risk to, prejudice or undermine the image, interests or integrity of racing.*

*7. On the evidence available there is no basis for any reasonable opinion on the part of the stewards that the welfare of thoroughbred horses was prejudiced by the continued participation of Mr Currie as a racehorse trainer.”*

The Applicant provided in support of Ground 1 a copy of the QRIC Standard for Licensing Scheme Thoroughbreds vV2.00 and relied upon paragraph B1.9 which provides:

<sup>1</sup> Transcript of Stewards decision, dated 18 February 2019, page 2-3.



*“The person who receives the show cause notice must be given a period of time, no less than twenty-eight (28) days from the date of receiving the notice, to provide submissions to the Commission regarding the content of the notice and proposed actions contained in the notice”.*

The outcome sought by the Applicant is that the orders made pursuant to AR8(z) be set aside.

#### **PART 4: Reasons for Internal Review Decision**

The Applicant is seeking a review of Queensland Racing Integrity Commissions (QRIC) steward’s decision to suspend the Applicants trainers licence pursuant to Australian Rule of Racing 8 (z) effective from 18 February 2019. The decision to suspend the Applicants licence stemmed from QRIC written correspondence to the Applicants legal representation on 15 February 2019, particular to the aforementioned (7) charges, which included a request for the Applicant to attend a stewards inquiry on 18 February 2019, to provide reasons why the stewards ought not exercise their powers pursuant to Australian Rules of Racing 8(z).<sup>2</sup>

For Clarity Australian Rule of Racing 8 (z) reads:

*Notwithstanding anything contained within these Rules, and not in limitation of any power conferred by these Rules, where a person has been charged with a breach of these Rules (or a local rule of a Principal Racing Authority) or a person has been charged with the commission of an indictable criminal offence, the Stewards pursuant to the authority delegated by the Principal Racing Authority, if of the opinion that the continued participation of that person in racing might pose an unacceptable risk to, prejudice or undermine the image, interests or integrity of racing, may:*

- (a) suspend any licence, registration, right, or privilege granted under these Rules to that person;*
- (b) prevent any horse owned (or part-owned) or leased by that person from participating in any race or official trial;*
- (c) order that any registration of the transfer of ownership and/or training of a horse related to that person not be effected;*
- (d) make any other direction or order related to the person which is in the interests of racing,*

*pending the hearing and determination of the charge under these Rules, the relevant local rule or the relevant criminal charge.*

The Applicants solicitor, Mr Michael O’Connor, O’Connor Ruddy & Garrett Solicitors subsequently responded to the QRIC correspondence on 16 February 2019, in part stating *“It is noted the latest alleged rule breaches are said to have occurred two and three years ago. Because of the historical nature of the alleged charges sufficient time is required to take my clients instructions and to make relevant enquiries. Please provide a brief of the evidence upon which you rely. I request the show cause hearing scheduled for Monday next be adjourned for two weeks to allow my client sufficient time to prepare submissions as to why you would not make the orders foreshadowed in your emails.”* The QRIC subsequently responded to Mr O’Connor’s correspondence on 17 February 2019, in part stating *“I acknowledges receipt of your email at 12.43pm in 16<sup>th</sup> February 2019, After considering the matter I wish to advise you that the inquiry will proceed as scheduled at 10.00am on Monday 18 February –”*<sup>3</sup>

<sup>2</sup> Exhibit 1.

<sup>3</sup> Exhibit 2.



The Stewards permitted Mr Jim Murdoch QC, instructed by Mr O'Connor to legally represent the Applicant at the Stewards inquiry. Mr Murdoch's submissions on behalf of the Applicant in essence relied upon the authority of the Stewards panel namely; Mr Chadwick, Mr Neil Boyle and Mr Paul Zimmerman to determine the matter under the Australian Rules of Racing. The propriety of the charges and show cause letter, and QRIC media release demonstrate an apprehension of bias. Mr Murdoch further relied upon the historical nature of the charges and alleged lobbying by QRIC in an attempt to effectively remove the Applicant from the industry.

Mr Murdoch in evidence stated the charges and show cause letters were framed in the 'plural' with the word "we refer" and then "we have", etc. Mr Murdoch stated *"What we've got is that through the whole of the letter – and every charge is prefaced with "the stewards", "the stewards", "stewards", "stewards". I'll get to the point. The letter's a misrepresentation. It quite falsely asserts that stewards have reached a view, and given the, frankly, falsity of it, the signatory --- The signatory takes responsibility. It's a serious omission. It carries over into the show cause letter, again which is "we refer", and it's not merely our taking advantage of a mistype because the inference from the letter was that there had been a meeting of stewards who had considered the relevant matters and had determined that charges would be laid. Now, that clearly did not happen. It's further misleading, frankly, because through the letter there are numerous references to "QRIC investigative stewards have reviewed", etc, etc, etc. So that we have a situation where the correspondence, on its face, asserts that stewards have laid the charges. Stewards did not. One person did. The charges, with the greatest of respect, are bogus and the matter shouldn't proceed any further. And I would respectfully invite you to consider that."* Mr Chadwick, Acting Director Stewards, Licensing and Registration Chief Stipendiary Steward – Thoroughbreds accepted the plural assertions in the aforementioned letters stating *"It was probably me in terms of framing the letter – and I won't use the Royal we, but it wasn't meant to be like there was the panel as such. So it should have been referred to as "I", that's correct."*<sup>4</sup>

Mr Murdoch in part stated the show cause letter suggests that an opinion has already been formed particularly by Mr Chadwick as the Applicant is required to show cause why the powers pursuant to Australian Rule of Racing 8(z) *the discretionary powers* – that pose an unacceptable risk, prejudice or undermine the image, interests or integrity of racing shouldn't be exercised. Mr Murdoch stated Mr Zimmerman and Mr Boyle were not part of the show cause letter and hence could not have formed an opinion. Mr Murdoch added a show cause letter could not have issued unless Mr Chadwick had formed one of those opinions noted with in Australian Rule of Racing 8(z). Mr Chadwick in response to such assertions stated *"it's basically merely asking to address whether we should or should not invoke the powers under this rule. And that may be that it may be whether it's unacceptable risk, prejudice or undermine the image or interests of racing. We haven't formed that opinion yet. We are asking Mr Currie to just tell us is there reasons why none of those are applicable."* Mr Murdoch stated *"It's a two-stage process. See, before (a), (b), (c), (d), you've got "may". So you've got a discretion as to whether you make any of those orders. But before you get to exercise the discretion whether to make orders or not, you've first got to be of a particular opinion. And the letter tells us what of those discretionary powers you're looking at: (a), (b), (d). But the letter doesn't tell us which of the opinions the stewards have formed."* Mr Chadwick replied *"And that technically is what this hearing is for, for Mr Currie to put before us, so we can consider it, what our opinion is in the matter and whether we accept that any of those matters are applicable and, if so, we then move on to the next part whether we invoke any of parts (a), (b), (c) and (d), and that's where we sit. We are here to see what Mr Currie has to put before us, bearing in mind there were seven charges laid against him of significant nature. And, as the rule says, is that "when a person has been charged" and that's*

<sup>4</sup> Transcript of Stewards inquiry dated 18 February 2019 page 9 and 10.



where we sit. A person has been charged and we now have to consider ----- whether 8(z) is applicable in the circumstances in the fact that he has been charged.”<sup>5</sup>

Mr Murdoch added “8(z) just gets you in the front door of the rule – the sub rule (z). When you go from that, the stewards have to have an opinion before they consider whether to exercise any of those powers. But, anyway, what we’re told is that the show cause has been issued without the stewards having one of those opinions. Are you able to tell us which of those various categories he is required to answer?” to which Mr Chadwick replied “At this stage we haven’t made an opinion. Because if you note, it is “of the opinion that the continued participation of that person in racing might pose an unacceptable risk to, prejudice or undermine the image, interests or integrity of racing”. Where we are is basically here for Mr Currie to put before us, bearing in mind that he has received seven significant charges, as to whether he doesn’t fall into that category, he doesn’t believe that any of those are applicable, we will then take on board his submissions and look at it and then formulate an opinion whether that is the case or whether any one of those is actually determined. And if that is the case, we will then move down to (a), (b), (c) and (d). But at this point in time we have not formulated the opinion.”<sup>6</sup>

Mr Murdoch questioned the tone of QRIC media release into the aforementioned seven (7) charges was at the time such charges were communicated to Mr O’Connor.<sup>7</sup> Mr Murdoch stated “--there’s nothing in the show cause letter that says anything about serious animal welfare breaches. Then it goes on (the media release) in the fourth paragraph: “The very serious nature of the animal welfare allegations”. Now, could I respectfully ask is that something you advised Mr Barnett, Mr Chadwick?” to which Mr Chadwick replied “No. --I did not contribute to that media release.”<sup>8</sup>

Mr Murdoch added “You see, they’re broad-ranging allegations that have been made by the Commissioner and it foreshadows that the Integrity Commission has already formed certain views and it is most unfair that on a Friday afternoon the charges are laid, the show cause is issued, a media release comes out pre-empting the findings that will be made today and where, when we request a period of time to conduct investigations, that we’re denied the opportunity. Now, animal welfare is something where we ought to be entitled to make inquiries and get expert assistance”.<sup>9</sup>

Mr Murdoch made submissions to the Stewards that the charges were so materially flawed that they should be considered null and void together with the show cause notice that followed the issued charges on 15 February 2019. Mr Murdoch invited the Stewards to consider that submission and irrespective of whether the Stewards accepted the submission, he requested a 2 week adjournment be considered based on the historical nature of the charges and time to take instructions and prepare submissions.<sup>10</sup>

Subsequent to an adjournment to consider Mr Murdoch’s submissions, Mr Chadwick stated “We are of the opinion that the charges are valid and reasonable and they are not, as in the words used earlier, bogus charges. In regard to your submissions that the charges are historic in nature, they are based on the facts to be relied upon, which are contained in the charge letter, which includes alleged text messages extracted from mobile phones, including your client’s. These were provided to you and your client on the afternoon of Friday, 15 February 2019. In regard to any apprehension of bias, stewards have yet to formulate an opinion in regards to the provisions of 8(z). This inquiry

<sup>5</sup> Transcript of Stewards inquiry dated 18 February 2019 page 10 and 11.

<sup>6</sup> Transcript of Stewards inquiry dated 18 February 2019 page 11.

<sup>7</sup> Exhibit 3.

<sup>8</sup> Transcript of Stewards inquiry dated 18 February 2019 page 12.

<sup>9</sup> Transcript of Stewards inquiry dated 18 February 2019 page 12 and 13.

<sup>10</sup> Transcript of Stewards inquiry dated 18 February 2019 page 13.



today is to give you and your client the opportunity to present submissions to assist the stewards in this inquiry. In regard to the press release, I and any of the members of this panel today did not provide any input into the release that was issued. In regard to considering an adjournment, we are of the opinion that there is sufficient material for you and your client to provide submissions regarding the matters before this inquiry today which pertain to whether the stewards ought not exercise their powers under 8(z) and as such we will now proceed today and for you, Mr Currie, to now provide submissions in regard to this matter.<sup>11</sup>

Mr Murdoch stated Australian Rule of Racing 8(z), is a particularly oppressive rule and different from the other rules that set out the powers of the stewards. The rule in part states “the Stewards pursuant to the authority delegated by the Principal Racing Authority”. Mr Murdoch requested stewards reveal the authority received from the Principal Racing Authority specific to the aforementioned rule.

Subsequent to an adjournment to consider Mr Murdoch’s further submissions, Mr Chadwick referred to the QRIC Standard for the Powers under the Rules of Racing issued by the Queensland Racing Integrity Commission which in part was read to the inquiry stating:

*“In particular, if I can draw your attention to Part 6, which are how the Rules of Racing are to be interpreted. 6.1:*

*“The Standard will apply to the powers, functions and responsibilities given to the ‘Principal Racing Authority’, ‘Controlling Body’, ‘Control Body’ or ‘Racing Queensland’ under the Rules of Racing for each code.”*

*It goes on to talk about the functions of the Commission. 6.3 over the page, in particular:*

*“Without limiting subsection 6.2, in applying the rules of racing for a code of racing, a reference to the ‘Principal Racing Authority’, ‘control body’, ‘controlling body’ or ‘Racing Queensland’ in a rule about a matter relevant to the performance of a function of the Commission is taken to be a reference to the Commission.”*

*As I said, I tender the entire document in its entirety. There are some sections which I’ve particularly highlighted. After taking into account the Standard, in particular to the reference, we believe we have jurisdiction under AR.8(z) and therefore intend to proceed with the matter”<sup>12</sup>*

Mr Murdoch noted “There’s nothing in section 10 of the Racing Integrity Act, that is the section that you directed our attention to in Part 6 of that Standard, which provides a specific delegation as required by AR.8(z). I thought I made it very clear in our submission that 8(z) requires a particular delegation to do the things in 8(z). I mean, what you’ve shown me are general standards in relation to the general powers of stewards. But this rule 8(z) is quite different from the other powers of the stewards because this one requires a particular delegation to exercise the functions under 8(z).” Mr Chadwick subsequently referred to an appointment letter of Mr Neil Boyle which was read into evidence stating;

*“Dear Mr Boyle*

*As you are aware the Racing Integrity Act 2016 was passed by the Queensland Parliament on 21 April 2016 establishing the Queensland Racing Integrity Commission.*

<sup>11</sup> Transcript of Stewards inquiry dated 18 February 2019 page 16.

<sup>12</sup> Exhibit 4(Standard for the Powers under the Rules of Racing); Transcript of Stewards inquiry dated 18 February 2019 page 18 and 19.



*As per the powers given to me under the Racing Integrity Act 2016, I appoint you as a steward under the Local Rules of Racing (Thoroughbred), Local Rule 21A, Local Rules of Racing (Greyhound Racing) 5A(6) and Australian Harness Racing Rules adopted by Racing Queensland.*

*As a steward, you are to exercise all the powers vested in the stewards by the racing rules.*

*Your appointment as a steward for the Commission takes effect on 1 July 2016 until you enter or otherwise advise in writing end your employment with the Commission.*

*The employment as a steward is separate to your employment terms and conditions as outlined in the employment contract with the Commission.*

*I trust this information is of assistance to you.”*

*This is a letter of appointment for us to act under the Rules of Racing.<sup>13</sup>*

Mr Murdoch stated *“That’s an appointment to act under the Rules of Racing. But it says nothing about a delegation. This rule requires a delegation. Quite different. And the delegation has to come from the Principal Racing Authority, which is defined under the rules. So, there’s nothing in this QRIC Standard ----- that constitutes a delegation for the purposes of 8(z) and there’s nothing in Mr Boyle’s appointment which constitutes a delegation from the Principal Racing Authority.”* Mr Chadwick added *“In regards to the matter, however, stewards have looked at the matter and we believe we have the proper authority to act under the rule specified and as such we’ll proceed from this point.”<sup>14</sup>*

Mr Murdoch stated *“Mr Currie is entitled to a fair hearing and he is entitled to a hearing by persons who are completely free of any external influence or pre-judgment.”* to which Mr Chadwick replied *“Mr Murdoch, I can assure you that I have no pre-judgment, nor have I any external influences. I will base my decision on the facts of the matter before us and the submissions that you place on behalf of Mr Currie. -- I acknowledge the fact that paragraph 4, (of QRIC media release) to which you draw attention, however, I can assure you that, as I’ve stated, I am here to sit in accordance with the rules, I am here to sit to listen to the evidence and the submissions placed before you and to make fair and proper judgment based on the opinion based on the submissions. Mr Boyle and Mr Zimmermann denied having any conversation with the Commissioner.<sup>15</sup>*

Mr Murdoch added *“The consequences for our client are particularly serious. He is entitled to a fair hearing and he’s entitled to know that when he gets a hearing that it has the appearance of a fair hearing. And the very fact that you’ve had discussions with the Chair about this matter is enough to taint it, particularly given the way in which the Chair has taken to the public medium with statements which very clearly suggest pre-determination. You might say that’s the work only of the Chair or the media department; that might be so. You’ve told us that you didn’t have any participation in drafting the media release. But the point is the Chair has, the Commissioner has. And, Mr Chadwick, you’ve been in discussions with Mr Barnett. So, the link is there, the contamination of the process is there. It will not be a fair hearing if you continue. And your participation has, with respect, tainted the involvement of your two fellow panel members. And it pains me to have to raise this objection, but I have to. And it’s not of our making. This practice of media releases, slurring people, tainting them, prejudging matters is quite inappropriate. It mitigates against people getting a fair hearing. And in this matter it is especially bad. It leads to a very clear inference that QRIC has already determined that they have no choice – no choice – but to get our client out of the industry. So, the very fact that you’ve had discussions with Barnett is enough. He’s the one who’s attributed his name to this press release. So we*

<sup>13</sup> Exhibit 5.

<sup>14</sup> Transcript of Stewards inquiry dated 18 February 2019 page 19, 20 and 21.

<sup>15</sup> Transcript of Stewards inquiry dated 18 February 2019 page 22, 23 and 24



would ask that you, the legal term is, recuse yourselves. I've earlier used the expression disqualify. But our client apprehends that he will not get a fair hearing with the panel as presently constituted. So I'd invite you to consider that".<sup>16</sup>

Subsequent to an adjournment to consider Mr Murdoch's further submissions, Mr Chadwick stated "We believe that the matter is obviously of an important nature in terms of the integrity and reputation of the industry to be considered and to give your client the opportunity to represent himself in regards to 8(z). We also note that the "over-the-top allegations in the press release", as we stated before, none of us were party to the press release and were involved in any of those statements. In regards to any communication with Mr Barnett, at the end of the day I am under no direction to go one way or the other with Mr Currie. It will be made with a fair conscience and fair mind and we have not formulated any opinion at this particular point in time. In regards to lobbying, myself and none of the other members of the panel have received any lobbying from any individual outside the industry to lobby against your client, so to speak. -- You've asked us to recuse ourselves, or particularly myself, and the other members of the panel. Having considered the submissions and looking at the entirety of the matter, we believe that we are of open mind and fair opinion to be able to make a judgment based on the facts or submissions that your client and yourself wish to place before us and we therefore intend to proceed with the inquiry."<sup>17</sup>

The Applicants complete review submissions are outlined in Part 3 of this Decision.

The submissions in part stated "The orders made by the stewards pursuant to AR8(z) should be stayed as the Applicant was denied procedural fairness by the stewards failing to grant him an adjournment to enable him to properly prepare his case in circumstances where the show cause notice was issued on the afternoon of 15 February 2019 by email with a hearing was to commence at 10:00am on 18 February 2019." The Applicant legal representative relied upon Queensland Racing Integrity Commission Standard for Licensing Scheme (Thoroughbreds) sub-section B1.9 Show Cause Notice which reads:

"The Commission may issue a show cause notice to a licence holder requiring them to attend a hearing and demonstrate why they should not be suspended, cancelled or have conditions imposed. Examples of reasons for this include:

- recommendations from an inquiry by Stewards;
- evidence or allegations of a failure by the licence holder to comply with a requirement or condition of their licence or a requirement under the racing legislation, a standard, including this Standard for a Licensing Scheme or the Rules of Racing; or
- any reason that may otherwise be grounds for an immediate suspension of the licence.

The person who receives the show cause notice must be given a period of time, no less than twenty-eight (28) days from the date of receiving the notice, to provide submissions to the Commission regarding the content of the notice and proposed actions contained in the notice.

The Commission must consider all relevant submissions made by the person within the relevant show cause period stated in the show cause notice."

<sup>16</sup> Transcript of Stewards inquiry dated 18 February 2019 page 26.

<sup>17</sup> Transcript of Stewards inquiry dated 18 February 2019 page 25, 26, 27 and 28.



The reviewer notes the QRIC letter dated 15 February 2019 to O'Connor Ruddy & Garrett Solicitors was a request for the Applicant to attend an 'inquiry' to give reasons why the stewards ought not exercise their powers pursuant to Australian Rule of Racing 8(z). The reviewer finds no reference in the aforementioned letter that refers to 'show cause' and as such accepts the stewards were exercising their powers under the Australian Rules of Racing and not the Standard for Licensing Scheme (Thoroughbreds) and therefore finds the aforementioned twenty-eight (28) days is not valid. The reviewer further acknowledges the Applicant was permitted legal representation during the inquiry and taking into account the aforementioned factors is not completely satisfied the Applicant was denied procedural fairness in the circumstances.

The Applicants legal representative submitted "The charges in QRIC's letter of 15 February 2019 are invalid and cannot be sustained as they are purported to be laid by two or more stewards when in fact they were laid by one steward, Mr Peter Chadwick."<sup>18</sup>

The reviewer accepts the submissions that the charges and letter to attend an inquiry were purported to be laid by two or more stewards when in fact the signatory of the aforementioned letter was Mr Chadwick. Such assertions was accepted by Mr Chadwick during the inquiry. The reviewer finds it reasonable to infer the wording of the charges and letter to attend an inquiry, in the plural, was an honest administrative error and not a significant error capable of invalidating the charges issued. The reviewer finds that such findings is supported by Mr Boyle and Mr Zimmerman evidence that neither had any knowledge or input into the charges or letter to attend the inquiry.

The Applicants legal representative submitted "Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid absent the authority delegated by the Principal Racing Authority."<sup>19</sup>

The reviewer is satisfied on the evidence presented that a reference to the authority delegated by the Principle Racing Authority to act pursuant to Australian Rule of Racing 8(z) is to be taken as a reference to the Commission. The Commission as per the generic letter to all stewards, in particular the appointment letter submitted in evidence to Mr Boyle, delegated all powers vested in the stewards by the racing rules, which in part stated:

*"As you are aware the Racing Integrity Act 2016 was passed by the Queensland Parliament on 21 April 2016 establishing the Queensland Racing Integrity Commission.*

*As per the powers given to me under the Racing Integrity Act 2016, I appoint you as a steward under the Local Rules of Racing (Thoroughbred), Local Rule 21A, Local Rules of Racing (Greyhound Racing) 5A(6) and Australian Harness Racing Rules adopted by Racing Queensland.*

*As a steward, you are to exercise all the powers vested in the stewards by the racing rules.*

*Your appointment as a steward for the Commission takes effect on 1 July 2016 until you enter or otherwise advise in writing end your employment with the Commission.*

*The employment as a steward is separate to your employment terms and conditions as outlined in the employment contract with the Commission.*

<sup>18</sup> Application for internal Review dated 19 February 2019, Ground for review 2.

<sup>19</sup> Application for internal Review dated 19 February 2019, Ground for review 3.



*I trust this information is of assistance to you.*<sup>20</sup>

*The Stewards concluded "This is a letter of appointment for us to act under the Rules of Racing."*<sup>21</sup>

The reviewer is satisfied on the evidence the stewards were delegated the appropriate authority to act under the Australian Rules of Racing as specified, including the powers referred to Australian Rule of Racing 8(z).

The Applicants legal representative submitted *"Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid as the stewards have not formed any reasonable available opinion as requested by the rules"*<sup>22</sup>

The reviewer finds there is no requirement placed upon stewards under Australian Rule of Racing 8 (z) to form any reasonable opinion prior to the commencement of the steward's inquiry and determination of the evidence. The steward's inquiry is an opportunity for the Applicant to provide any evidence against the particulars relied upon by stewards in the aforementioned (7) charges to determine whether the continued participation of the Applicant might pose an unacceptable risk to, prejudice or undermine the image, interests or integrity of racing.

The Applicants legal representative submitted *"Any ruling by the stewards purporting to act pursuant to AR8(z) is invalid on the grounds of apprehended bias of the stewards resulting from the QRIC press release of 15 February 2019 and prior discussions relating to the matter between the Chair of the panel and Commissioner."*<sup>23</sup>

The reviewer acknowledges it's not an unusual practice (particularly given the high profile status in the subject review) that following the outcome of a steward's inquiry or investigation, a media release is issued forthwith. The reviewer accepts the Stewards presiding over the inquiry had no involvement in the media release nor is there any evidence that such media release impacted their ability to remain impartial and adjudicate the evidence on its merits. The reviewer finds any submission of apprehended bias on the steward's part is no more than hearsay and finds no direct evidence that meets the requisite standard to support such an allegation.

The Applicants legal representative submitted *"The stewards cannot be comfortably satisfied Mr Currie's continued participation in racing might pose an unacceptable risk to prejudice or undermine the image, interests or integrity of racing."*<sup>24</sup>

The reviewer accepts the power to suspend a licence pursuant to Australian Rule of Racing 8(z) pending the outcome of the aforementioned charges in the subject review is highly dependent on the gravity of the evidence submitted and serious nature of the alleged offence. The reviewer accepts historically, charges (1), (2), (5), (6) and (7) in the subject review, although serious in nature would not typically result in a licence being suspended pending the outcome and determination of the alleged charges. Notwithstanding, charges (3) and (4) in the subject review pursuant to Australian Rules of Racing 175(n), in particular the use or instruction to use an electric or electronic apparatus to a horse which is designed to deliver an electric shock is of the most serious offence considering its use has no place within the racing industry and accordingly is detrimental to the image, interests, integrity and welfare of the sport. As such the continued participation of the Applicant pending the outcome of the aforementioned

<sup>20</sup> Exhibit 5.

<sup>21</sup> Transcript of Stewards inquiry dated 18 February 2019 page 20.

<sup>22</sup> Application for internal Review dated 19 February 2019, Ground for review 4.

<sup>23</sup> Application for internal Review 19 February 2019, Ground for review 5.

<sup>24</sup> Application for internal Review 19 February 2019, Ground for review 6.



charges needs to be carefully weighed up against the gravity of evidence and that of the image, interests, integrity and welfare of the sport.

The explanation provided by Mr Murdoch particular to the most serious charge pursuant to Australian Rule of Racing 175 (n) stated *“Well, it (harped up) could mean the horse was given a rousing gallop under the whip. It could mean any number of things. But it’s a slang expression that we’d submit in racing can mean lots of things.”*<sup>25</sup> The reviewer notes the Applicant did not provide any evidence or explanation on the meaning of the word ‘harped up’ in relation to charges 3 and 4 pursuant to Australian Rule of Racing 175 (n).

The reviewer accepts each case is treated on its merits and set of circumstances.

The reviewer acknowledges the seriousness of the charges, in particular the alleged use or instruction to use an electric or electronic apparatus to a horse which is designed to deliver an electric shock. Notwithstanding, the reviewer acknowledges such charges are yet to be proven and the subject review is particular to the decision to suspend the Applicants trainers licence pursuant to Australian Rule of Racing 8 (z) pending the outcome of the aforementioned (7) charges. In carefully considering the evidence and taking into account the aforementioned factors, in particular the Applicants failure to provide any direct evidence or explanation for the term ‘harped up’ as noted in the facts relied upon, finds the continued participation of the Applicant poses an unacceptable risk to, prejudice or undermine the image, interests or integrity of racing. Accordingly, the reviewer is satisfied the decision to suspend the Applicants trainers licence pursuant to Australian Rule of Racing 8 (z) pending the outcome of the aforementioned (7) charges is proven.

## PART 5: Review Rights following Internal Review Decision

In accordance with section 246 of the *Racing Integrity Act 2016*, as the applicant for an internal review of the original decision, you are able to apply to the Queensland Civil and Administrative Tribunal (QCAT) for an external review of the internal review decision.

An external review is commenced by lodging the appropriate forms with QCAT. In accordance with section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*, an application for an external review of an internal review decision is to be made within 28 days from the day this internal review decision notice is provided to the applicant.

For further information regarding the processes for an external review of the decision, please contact QCAT:

### Queensland Civil and Administrative Tribunal

Registry Location: Level 9, 259 Queen Street, BRISBANE QLD 4001  
Postal Address: GPO Box 1639, BRISBANE QLD 4001  
Phone: 1300 753 228  
Email: [enquiries@qcat.qld.gov.au](mailto:enquiries@qcat.qld.gov.au)

<sup>25</sup> Transcript of Stewards inquiry dated 18 February 2019 page 30 and 31.