



Racing Penalties Appeal Tribunal 2013/14 Annual Report

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STATEMENT OF COMPLIANCE

Hon. Terry Waldron, MLA
MINISTER FOR SPORT AND RECREATION; RACING AND GAMING

In accordance with section 61 of the *Financial Management Act 2006*, I submit, for your information and presentation to Parliament, the Annual Report of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 30 June 2014.

The Annual Report has been prepared in accordance with the provisions of the *Financial Management Act 2006*.



Dan Mossenson
CHAIRPERSON

15 September 2014

OVERVIEW OF AGENCY

EXECUTIVE SUMMARY

It is with pleasure that I present the Annual Report of the Racing Penalties Appeal Tribunal for the year ended 30 June 2014.

The report details the significant issues that the Tribunal faced throughout the reporting period, and is designed to satisfy the Tribunal's statutory reporting requirements.

During the reporting period, the Tribunal continued to maintain industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals against Racing and Wagering Western Australia's stewards' determinations. Through its activities, the Tribunal ensures the integrity of the State's racing industry is not compromised.

During the financial year, five appeals were carried over from the previous reporting period, and 11 new appeals were lodged with the Tribunal. The Tribunal determined 13 appeals, while one was carried over into the next year.

All appeal determinations can be viewed at www.rpat.wa.gov.au

I acknowledge and thank the members of the Tribunal for their contribution during the year.



Dan Mossenson
CHAIRPERSON

OPERATIONAL STRUCTURE

ENABLING LEGISLATION

The Racing Penalties Appeal Tribunal is established under the *Racing Penalties (Appeals) Act 1990*. The Tribunal was established to confer jurisdiction in respect to appeals against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of thoroughbred racing, harness racing and greyhound racing, and for related purposes.

PURPOSE OF THE TRIBUNAL

The aim of the *Racing Penalties (Appeals) Act 1990* is to create and maintain industry confidence in the enforcement of the various racing rules by providing an impartial judicial forum for the hearing of appeals.

Executive support for the Tribunal is provided by the Department of Racing, Gaming and Liquor. The Department recoups the cost of providing these services from the Tribunal. The Tribunal is funded from the profits of Racing and Wagering Western Australia (RWVA).

RESPONSIBLE MINISTER

As at 30 June 2014, the Minister responsible for the Racing and Gaming Portfolio was the Honourable Terry Waldron MLA, Minister for Sport and Recreation; Racing and Gaming.

APPEALS WHICH MAY BE HEARD BY THE TRIBUNAL

A person who is aggrieved by a determination of RWVA, a steward or a committee of a racing club may appeal to the Tribunal within 14 days of the determination date. The Tribunal can hear the following matters:

- the imposition of any suspension or disqualification, whether of a runner or of a person;
- the imposition of a fine; or
- the giving of a notice of the kind commonly referred to as a warning-off.

Additionally, the Tribunal may grant leave to appeal in relation to a limited range of other matters.

APPEALS WHICH ARE OUTSIDE THE JURISDICTION OF THE TRIBUNAL

The jurisdiction of the Tribunal does not extend to a determination of a steward, a racing club, or a committee in matters regarding:

- any protest or objection against a placed runner arising out of any incident occurring during the running of a race;
- the eligibility of a runner to take part in, or the conditions under which a runner takes part in, any race; or
- any question or dispute as to a bet.

These matters are dealt with by RWWA.

DETERMINATION OF APPEALS

The Tribunal is required to hear and determine an appeal based on the evidence of the original hearing, but may allow new evidence to be given or experts to be called to assist in its deliberations.

When determining an appeal, the Tribunal may make the following orders:

- refund or repayment of any stakes paid in respect of a race to which the appeal relates;
- refer the matter to RWWA, the stewards or the committee of the appropriate racing club for rehearing;
- confirm, vary, or set aside the determination or finding appealed against or any order or penalty imposed to which it relates;
- recommend or require that RWWA, the stewards or the committee of the appropriate racing club take further action in relation to any person; or
- such other order as the member presiding may think proper.

Decisions of the Tribunal are final and binding.

ADMINISTERED LEGISLATION

The Tribunal is responsible for administering the *Racing Penalties (Appeals) Act 1990*.

OTHER KEY LEGISLATION IMPACTING ON THE TRIBUNAL'S ACTIVITIES

The Tribunal complied with the following relevant written laws in the performance of its functions:

- *Auditor General Act 2006;*
- *Corruption and Crime Commission Act 2003;*
- *Disability Services Act 1993;*
- *Electoral Act 1907;*
- *Equal Opportunity Act 1984;*
- *Electronic Transactions Act 2003;*
- *Financial Management Act 2006;*
- *Freedom of Information Act 1992;*
- *Industrial Relations Act 1979;*
- *Public Interest Disclosure Act 2003;*
- *Public Sector Management Act 1994;*
- *Salaries and Allowances Act 1975;*
- *State Records Act 2000; and*
- *State Supply Commission Act 1991.*

ADMINISTRATIVE STRUCTURE

Sections 5 and 6 of the *Racing Penalties (Appeals) Act 1990* provide that the Tribunal shall consist of a Chairperson and a panel of members, each appointed by the Minister. The Schedule to the Act specifies terms of appointment shall not exceed three years, with eligibility for reappointment. The Tribunal, constituted by the Chairperson (or the Acting Chairperson or member presiding), and two members sitting together hear appeals. An appeal may be heard by the Chairperson, Acting Chairperson or member presiding sitting alone where the Regulations so provide.

The composition of the Tribunal as at 30 June 2014 was as follows:

Mr Dan Mossenson - Inaugural Chairperson

Mr Dan Mossenson was admitted to practise law in 1970 and specialises in liquor licensing, hospitality and tourism law. Mr Mossenson became a partner of Lavan and Walsh in 1973, subsequently a founding partner of Phillips Fox and Lavan Legal, and currently is the emeritus Partner of Lavan Legal.

Mr Mossenson chaired both the WA State Government Gaming Inquiry in 1984 and the Land Valuation Tribunal of Western Australia from 1985 to 1997, was founding

Vice-Chairman of the National Association for Gambling Studies, board member of the Australian Institute of Gambling Studies, the Indian Ocean Tourism Organisation and the Tourism Council Western Australia Limited and its predecessor body for 14 years. Mr Mossenson is the Immediate Past President of the Perth Hebrew Congregation Inc, board member of Yirra Yaakin Aboriginal Corporation and founder and secretary of the Small Bar Association of W.A. Inc.

Mr Patrick Hogan - Inaugural Member

Mr Patrick Hogan is a barrister admitted to the Supreme Court of Western Australia and the High Court of Australia in June 1982. Mr Hogan worked as a barrister and solicitor with the Legal Aid Commission of Western Australia practising in civil and criminal law, then in private practice as a barrister with Howard Chambers.

Mr Hogan was appointed as a part-time Magistrate of the Children's Court of Western Australia in September 1999 and President of the Gender Reassignment Board of Western Australia in 2007.

Mr John Prior - Member

Mr John Prior is a barrister practising with Francis Burt Chambers Perth, specialising in criminal and civil litigation in the areas of sports law and liquor licensing.

Mr Prior has served on many committees including President of the Criminal Lawyers' Association of Western Australia, Convenor of the Law Society of Western Australia Criminal Law Committee, Magistrates' Courts Liaison Committee, Ministry of Justice Advisory Council, Reduction of Delay in Criminal Jurisdiction of the District Court, Unrepresented Litigants Scheme Committee Supreme Court and chaired the Ministerial Taskforce on Drug Law Reform. Mr Prior is also a Commissioner of the Legal Aid Commission of Western Australia.

Ms Karen Farley SC - Member

Ms Karen Farley is a senior appeal consultant at Legal Aid WA and has served on several boards and committees including Criminal Lawyers Association, Childcare Services Board and Boards of visitors to Heathcote and Alma St Centre. She is a member of the Criminal Law Committee of the Law Society and Legal Practice Board.

Ms Farley is also a Councillor of Peppermint Grove Shire and Deputy Chair of the Council of Management of St Hilda's ASG.

Mr Andrew Monisse - Member

Mr Andrew Monisse was admitted as a barrister and solicitor of the Supreme Court of Western Australia in December 1990 after completing articles at Mallesons Stephen Jaques. His employment experience has included working as a solicitor assisting counsel at the WA Inc Royal Commission in 1991 and as a prosecutor for the Commonwealth Department of Public Prosecutions in the Perth office between 1992 and 1998. Since July 2000 he has worked as a barrister. He practises predominantly in criminal law at Quarry Chambers. Mr Monisse is a member of the

Perth Legal Panel of the RAAF Specialist Reserve with the rank of Squadron Leader.

Mr Robert Nash - Member

Mr Robert Nash is a barrister admitted as a Practitioner of the Supreme Court of WA and the High Court of Australia, and also is a General Public Notary.

Mr Nash has served on several councils, committees and directorships, including Director of Bauxite Resources Ltd and North West Property Holdings Pty Ltd, Chairman of the WA Soccer Disciplinary Tribunal, Council Member of the Law Society of WA, Convenor Education Committee of Law Society of WA, Counsel Assisting the Royal Commission into the City of Wanneroo, Member of the Professional Conduct Committee of Law Society, Consultative Committee to the District Court on Civil Reforms in the District Court, the Ethics Committee of Law Society, Legal Panel of the Royal Australian Navy, resident tutor in law at St George's College, Council Member of WA Bar Association Council, Director WA Bar Chambers Ltd and Tutor in Civil Procedure at University of WA. He is also a Chairman of a public company and Head of the WA Navy Legal Panel.

Mr William Chesnutt - Member

Mr William Chesnutt is a barrister and solicitor engaged in conducting general litigation matters with exposure to a wide variety of commercial and criminal matters. Mr Chesnutt has tutored in company law and legal framework of business subjects.

PERFORMANCE MANAGEMENT FRAMEWORK

AGENCY LEVEL GOVERNMENT DESIRED OUTCOME

Broad government goals are supported by the Tribunal via specific outcomes. The Tribunal delivers services to achieve these outcomes. The following table illustrates the relationship between the Tribunal's services and desired outcomes, and the government goal the Tribunal contributes to.

GOVERNMENT GOAL	DESIRED OUTCOME OF THE TRIBUNAL	SERVICES DELIVERED BY THE TRIBUNAL
Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.	To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.	Processing appeals and applications in accordance with statutory obligations.

CHANGES TO OUTCOME BASED MANAGEMENT FRAMEWORK

The Tribunal's Outcome Based Management Framework did not change during 2013/14.

SHARED RESPONSIBILITIES WITH OTHER AGENCIES

The Tribunal did not share any responsibilities with other agencies in 2013/14.

AGENCY PERFORMANCE

REPORT ON OPERATIONS

Actual Results versus Budget Targets

FINANCIAL TARGETS	TARGET ¹ \$	ACTUAL \$	VARIATION ² \$
Total cost of services (expense limit) (sourced from Statement of Comprehensive Income)	\$270,400	\$207,356	(\$63,044)
Net cost of services (sourced from Statement of Comprehensive Income)	0	\$57,163	\$57,163
Total equity (sourced from Statement of Financial Position)	\$272,970	\$399,891	\$126,921
Net increase (decrease) in cash held (sourced from Statement of Cash Flows)	0	\$55,326	\$55,326
	No.	No.	No.
Approved full time equivalent (FTE) staff level ³	0	0	0

The table below provides a summary of key performance indicators for 2013/14. A detailed explanation is provided later in the report.

SUMMARY OF KEY PERFORMANCE INDICATORS	TARGET	ACTUAL	VARIATION ⁴
Total number of stay applications received	8	7	(1)
Number of stay applications determined same day	2	0	(2)
Indicator	25%	0	(25%)
Average cost of processing an appeal	18,027	23,040	5013

PERFORMANCE SUMMARY FOR 2013/14

During the year, five appeals were carried over from 2012/13 and 9 new appeals were lodged with the Tribunal. As at 30 June 2014, the Tribunal determined 9 appeals, including three from the previous year, with one appeal being carried over to 2014/15. These appeals, together with appeals from the previous year, are summarised by racing code as follows:

Racing Code	Appeals carried over to 2013/14	Appeals Lodged	Appeals Determined	Appeals carried over to 2014/15
Thoroughbred	1	3	2	1
Harness	4	2	2	0
Greyhound	0	4	2	0

The results of the determinations in respect of the racing codes for the years 2012/13 and 2013/14 are summarised below.

APPEAL RESULTS BY RACING CODE

Results	2012/13			2013/14		
	Thoroughbred	Harness	Greyhound	Thoroughbred	Harness	Greyhound
Allowed in Full	1	0	0	0	0	0
Allowed in Part (Penalty Reduced)	0	1	0	0	2	1
Referred Back to Stewards (RWWA)	0	0	0	0	0	0
Dismissed	0	1	0	2	0	1
Withdrawn	1	1	0	1	0	2
Leave to Appeal Refused	0	0	0	0	0	0
TOTAL	2	3	0	3	2	4

APPEALS CARRIED OVER TO 2014/15	Thoroughbred Racing	Harness Racing	Greyhound Racing
Reserved Decision	0	0	0
Reserved Decision on penalty only	0	0	0
Reasons to be published	0	0	0
Yet to be heard	1	0	0
Total	1	0	0

STAYS OF PROCEEDINGS

In 2013/14 there were seven applications for stays of proceedings, compared to three in the previous year. The Chairperson made the determinations as follows:

	2013/14		
Results	Thoroughbred	Harness	Greyhound
Stays Granted	0	0	0
Stays Refused	3	2	2
Withdrawn	0	0	0
TOTAL	3	2	2

The following table provides a summary of the number, nature and outcome of matters before the Tribunal during 2013/14. Full determinations are available on the Tribunal's website at www.rpat.wa.gov.au

APPLICATIONS HEARD AND DETERMINED IN 2013/14					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
760	Alexander Hearn	Appeal against 18 days suspension for breach of Rule 137(a) of the RWWA Rules of Thoroughbred Racing	8-Aug-13	06-Jan -14	Appeal dismissed
761	Shane Allen Edwards	Appeal imposing a disqualification for failing to attend the Stewards inquiry pursuant to AR175(f) of the Australian Rules of Thoroughbred Racing	4-Sep-13	4-Sep-13	Appeal dismissed
762	Wayne Jacobson	Appeal against a 9 month disqualification for breach of Rule 83(2)(a) of the Racing & Wagering Western Australia Rules of Greyhound Racing.	6-Nov-13	29-Jan-14	By a decision of majority, 9 month disqualification penalty varied to 6 months
765	Shane Loone	Appeal against 12 month disqualification and a penalty of \$1,500 for breach of Rule 194 of the Racing & Wagering Western Australia Rules of Harness Racing	10-Feb-14	2-May-14	12 month disqualification penalty varied to 5 months
766	Maria Petricevich	Appeal against twelve month disqualification and a penalty of \$1500 for breach of Rule 194 of the Racing & Wagering Western Australia Rules of Harness Racing and a 6 month disqualification for breach of Rule 289(3) of the Racing & Wagering Western Australia Rules of Harness Racing to be served concurrently.	10-Feb-14	2-May-14	6 month disqualification penalty (Rule 289(3)) varied to 3 months and 12 months disqualification penalty (Rule 194) varied to 5 months to be served

APPLICATIONS HEARD AND DETERMINED IN 2013/14					
Case No.	Name	Nature of Appeal	Hearing Date	Determination Date	Outcome
					concurrently.
767	Daniel Staeck	Appeal against thirteen day suspension for breach of Australian Rule of Thoroughbred Racing 137 (a). (*included only under withdrawn matters)	25-Feb-14	10-Jun-14	Appeal allowed to be withdrawn on payment of a fee of \$300.
768	Martin Stone	Appeal against three month disqualification for breach of Greyhound Racing Rule 86 (f) and a \$500 fine for breach of Rule 86(h).	24-Feb-14	8-Apr-14	Appeal dismissed

EXAMPLES OF APPEALS BEFORE THE TRIBUNAL

The Tribunal heard a number of appeals throughout the course of the reporting period. Below is an example of the types of matters which regularly come before the Tribunal.

APPEAL BY WAYNE JACOBSON

Appeal by Wayne Jacobson against the determination made by RWWA stewards of greyhound racing imposing a nine-month disqualification for breach of rule 83(2)(a) of the Racing and Wagering Western Australia Rules of Greyhound Racing.

Determination: The Tribunal determined Mr Jacobsen's disqualification period should be reduced to six months – with the chairman dissenting.

The appellant is a licensed public trainer of greyhounds and was the trainer of the greyhound ROCK ME PLEASE which won Race 1 at the Greyhounds Northam WA meeting on July 8, 2013.

On September 10, RWWA stewards conducted an inquiry after receiving a report from the Chem Centre, Perth indicating that the post-race urine sample of the dog contained the presence of a metabolite of Testosterone (known as "BaB Diol"). The sample analysis, which was not in dispute, indicated that the sample contained in excess of 20 nanograms per millilitre of BaB Diol. The evidence was that the actual result was 67 nanograms plus or minus 3 ng. Testosterone, although being a naturally occurring substance in greyhounds, constitutes a prohibited substance when found in an abnormally high amount. It is classified as an anabolic steroid and is performance enhancing in that it promotes bigger, larger, and stronger muscle and bone tissue in the body.

Rule 83(6) provides that where the BaB Diol metabolite is found at or below a concentration of 10 nanograms per millilitre in a sample of urine taken from a female greyhound bitch, it will not be in breach of Rule 83 (2).

Mr Jacobson did not challenge or contest the evidence that ROCK ME PLEASE had been presented with a prohibited substance. He explained that he had administered a substance called TESTOPROP in order to keep a number of bitches in his kennel, which were not racing, "off season". TESTOPROP contains Testosterone. He accepted that he must have made a mistake by accidentally administering it to ROCK ME PLEASE which should not have been included because it was scheduled to race. Mr Jacobsen said he would not have raced ROCK ME PLEASE if he had realised the dog had been administered the TESTOPROP. Stewards received evidence that there was no detected abnormal betting activity of ROCK ME PLEASE prior to the race.

Immediately following the Inquiry, stewards informed Mr Jacobson that they were charging him under Rule 83 (2) (a), in combination with Rule 83(3), for failing to present a greyhound free of any prohibited substances.

Mr Jacobson pleaded guilty to the charge.

In his defence, the Tribunal heard Mr Jacobson had been training greyhounds for 15 years and had been regularly swabbed without ever having a previous positive swab, in fact this was his first offence. The appellant said he took great pride in presenting his dogs “drug free” and had made a genuine mistake on this occasion. Training greyhounds was Mr Jacobson’s livelihood and he does not work outside the industry. He submitted that he had all “the usual” financial commitments including a mortgage of around \$190,000 over his house.

After deliberating, stewards gave reasons for their decision in which they stated that the offence was serious in that the prohibited substance found was potentially performance enhancing and the greyhound in this instance won the race. Further, they noted the recorded level of the substance was high, and were critical of the manner in which Mr Jacobson administered his kennels.

The chief steward noted that while the presentation of the greyhound with a prohibited substance may not have been intentional, it was apparent that no proper precautions were taken to prevent an accidental administration.

After considering Mr Jacobsen’s circumstances and the nature of the offence, stewards determined that an appropriate penalty was a nine-month disqualification of licence effective immediately.

The issue in this appeal was whether the penalty of nine months disqualification of the appellant was manifestly excessive in all the circumstances.

Mr Jacobson’s representative emphasised the appellant’s cooperation with the inquiry, his guilty plea at the first opportunity, his acceptance of responsibility, his unblemished long standing record in the industry, and the fact that there was no evidence to suggest any abnormal wagering on the race in question. He also alluded to Mr Jacobson’s financial situation given this was the appellant’s sole source of income.

The stewards’ legal representative reiterated what stewards had referred to in making their decision, and the fact that the industry had gone to significant lengths to highlight to trainers the risks involved in using TESTOPROP, and the fact that Mr Jacobson had acknowledged he was aware of the risks. He also referred to the lack of controls in the kennel, the lack of records and the lack of any proper dog control system.

At the hearing, cases were referred to from other racing jurisdictions that involved the use of BaB Diol. Two cases were cited from Greyhound Racing Victoria; in the first a

nine-month disqualification with three months suspended was handed down, while in the second a six-month disqualification with three months suspended was given.

The majority of Tribunal members agreed that it was difficult without seeing the full decisions of each case to formulate a full understanding of the circumstances of each offence under consideration. The information provided of the penalties imposed in Victoria and for the other racing codes in WA for offences of this kind suggests that the appropriate starting point for a presentation offence of this kind, where the trainer has no prior record of offending and has been in the industry for many years, would be in the order of nine months disqualification.

General deterrence in cases of this kind is an important factor in setting penalties. The message to the industry was the central consideration and focus of stewards in this case as is evidenced by their reasons.

However, although general deterrence is a highly significant factor in cases such as this, it is also important that trainers and industry participants who transgress the rules see the benefits of fully cooperating with stewards when being investigated. To send that message to industry participants is also in the interests of the administration of the racing industry generally.

The majority of Tribunal members felt that in this case stewards, in their desire to send a message of general deterrence to the industry, overlooked the need to also demonstrate the credit that a trainer will receive for their openness, preparedness to admit wrongdoing, and full cooperation with stewards in their inquiry.

The starting point for stewards, given they were dealing with a first offender who had a long standing unblemished involvement in the industry, should have been nine months disqualification, with a tangible discount to that penalty to acknowledge Mr Jacobsen's full and complete cooperation and frankness during the inquiry, and his subsequent plea of guilty at the first opportunity. The penalty must, however, still be seen by industry participants as severe in order to achieve general deterrence.

The chairman felt that nothing was presented on the appellant's behalf to cast any doubt that a fundamental rule had been breached. He said the description of the affect of the substance, its use and its substitutes could not be questioned, nor could the fact that the high concentration of the substance was an aggravating factor.

"I am more than satisfied that only a penalty of disqualification is appropriate for such a blatant offence with its adverse industry consequences.

"The licensed trainer admitted to having administered a substance to a racing animal due to a mistake which had occurred whilst he was treating other greyhounds. The administration was not done by the appellant deliberately. Nor was it done with the intention of gaining an advantage or otherwise cheating the system. The trainer knew or at least certainly should have known that the substance was prohibited in a racing

animal. Unfortunately, for a man responsible for many dogs so haphazard was his practice at his kennels that the mix-up which occurred arguably was as unsurprising as it was inevitable. The display of such indifference or carelessness whilst handling racing animals, coupled with the excessive level of the concentration of the substance which was way above the acceptable threshold, clearly are highly aggravating circumstances. The substance administered by the appellant clearly had the potential to be performance enhancing both in terms of muscle development and the desire to chase. The fact that the substance improved ROCK ME PLEASE's prospects of winning adds to the seriousness of the matter.

But, as stated previously, the stewards in setting the penalty did fail to identify a starting point or range of possible penalties. Nor did they as a consequence reveal the benefit of the significant mitigatory factors. As this was the first such case for this State, all the more should they have been alert as to the need to do so.

In his view, the nine-month disqualification penalty was excessive and should be varied making the penalty of nine months disqualification but qualified by having three months of it suspended for a period of 12 months.

Ultimately, the nine-month penalty was reduced to six months by a majority of two to one.

APPEAL BY SHANE LOONE AND MARIA PETRICEVICH

Appeal by Shane Loone against the determination made by the stewards of harness racing imposing a 12-month disqualification and a penalty of \$1500 for breach of Rule 194 of the Racing and Wagering Western Australia Rules of Harness Racing;

and

Appeal by Maria Petricevich against the determinations made by the stewards of harness racing imposing a 12-month disqualification and a penalty of \$1500 for breach of Rule 194 of the Racing and Wagering Western Australia Rules of Harness Racing, and a six-month disqualification for breach of Rule 289(3) of the Racing and Wagering Western Australia Rules of Harness Racing to be served concurrently.

These appeals were against the penalty only. In the case of Mr Loone, he appealed against a penalty of 12 months disqualification imposed for a breach of Harness Racing Rule 194. This breach concerned being in possession of substances or preparations that had not been registered, labelled, prescribed, dispensed or obtained in compliance with relevant State and Commonwealth legislation. Mr Loone pleaded not guilty to this charge. Following a hearing the stewards found the charge proven.

Ms Petricevich pleaded guilty to the same charge involving the same substances or preparations as Mr Loone's charge and also received a penalty of 12 months disqualification. Additionally, Ms Petricevich was charged with a breach of Harness Racing Rule 289(3) for performing artificial insemination when she was not registered with RWWA to undertake this procedure. She pleaded guilty to that charge and received six months disqualification concurrent with her disqualification for the breach of Rule 194. She also appealed that penalty on the ground that it was manifestly excessive.

All of these charges were made following an inspection on October 24, 2013 by a RWWA inspector and veterinarian of Mr Loone's stable. Mr Loone is a registered harness trainer and has trained a number of horses for racing at his stables. Ms Petricevich is a registered stable hand and was responsible for a number of brood mares that were kept at Mr Loone's stables for breeding purposes. Ms Preticevich's brood mare activities were separate to Mr Loone's training operations.

The inspection located a cupboard in the stables which contained some 130 veterinarian medicines and preparations. Many of these were Schedule 4 items which means they could only properly be obtained by a veterinarian prescribing them. None of the substances were labeled which suggested that none of them had been properly prescribed. It was not in dispute that most of them had not been. It was accepted by all parties that these substances were therapeutic in nature as distinct from performance enhancing.

Ms Petricevich, who was a trained and experienced veterinary nurse, worked at the Baldvis Veterinary Clinic and there was evidence before stewards that she had been taking medications from her employer without his knowledge. From there they were kept in the medicine cupboard at Mr Loone's stables. This medicine cupboard was jointly accessed by Mr Loone and Ms Petricevich to store and retrieve the substances in question for use on their various horses.

With the discovery of the contents of the medicine cupboard, a charge resulted against both Mr Loone and Ms Petricevich for breaching Rule 194. As stated above, Mr Loone pleaded not guilty to that charge and Ms Petricevich pleaded guilty.

Mr Loone's defence to the charge was essentially that he was not aware of the extent or nature of the substances Ms Petricevich had brought to the stables and stored in the medicine cupboard. He claimed he was only concerned with, and therefore only knew about, a small number of substances that he accessed for his own horses.

Stewards did not accept Mr Loone's claim of lack of knowledge and proceeded to find him guilty of the charge.

The appellants relied on five grounds of appeal against their 12 months disqualification.

The first ground was that stewards failed to take into account Mr Loone's explanation in mitigation of his penalty that the substances in question were not used for his racehorses, as distinct from Ms Petricevich's brood mares. It was submitted that the claims by Mr Loone and Ms Petricevich that the various substances were for use on her horses and not his was a significant mitigating factor in relation to Mr Loone. However, the stewards did not accept their evidence on the question of Mr Loone's knowledge of the substances, holding that they both deliberately tried to shift the blame for the presence of the substances almost entirely onto Ms Petricevich in an attempt to safeguard Mr Loone's trainer's licence.

While there were drugs found in the cupboard of a generic nature where their use could have been for both racehorses and brood mares, there was also evidence that many of the substances or items found such as the joint injection box were far more appropriate for the treatment of race horses than for brood mares as had been claimed. Accordingly, there was no mitigation to be found in Loone's claims that he did not use, or intend to use, all or any of the substances on the horses that he was responsible for. The gravamen of Rule 194 is the possession of unauthorised substances as distinct from the administration or intended administration of those substances. The seriousness of Mr Loone's offending was evident from him being a licensed trainer who had in his possession at his registered training establishment a large quantity of non-prescribed medications and substances which had an equine application. Ultimately it was his primary responsibility to ensure that this breach of Rule 194 did not occur regardless of Ms Petricevich's involvement in it.

The second ground of appeal was that the stewards erred by giving no reasons, or no adequate reasons, for concluding that disqualification was the only appropriate penalty. The stewards stated during the inquiry that the range of penalties open to them varied from a fine through to disqualification. They also informed the appellants that the large and unprecedented quantity of substances in their case put them into a different category from any of the precedents known to them.

The third ground of appeal was that the imposition of a penalty of disqualification was not warranted, however the Tribunal saw no error in stewards coming to the conclusion that the circumstances of this matter warranted disqualification.

The fourth ground of appeal was that 12 months disqualification was manifestly excessive. The Tribunal agreed with this assertion.

The fifth ground of appeal was that the stewards erred in not having regard, or sufficient regard, to other similar cases throughout Australia. The Tribunal did not accept that stewards erred in this respect.

Given the facts concerning their offending behavior, the Tribunal considered that six months was an appropriate starting point for both appellants. While Mr Loone did not have an unblemished record in the racing industry, training horses is his livelihood. While Ms Petricevich's guilty pleas are to be seen in the context of the assistance she

provided to her partner Mr Loone with the not guilty plea that he entered, she is nonetheless entitled to credit for them. Given the factors personal to them as identified in the stewards' inquiry, the Tribunal considered it appropriate to reduce their penalties to five months disqualification.

In relation to the appeal by Ms Petricevich against the six months disqualification for breaching Rule 289(3) by performing procedures for artificial breeding, the stewards found that some of the brood mares were inseminated before Ms Petricevich completed the qualifying artificial insemination course. After completing that course she sent her certificate to RWWA, and claimed she did not know she was required to do anything more.

Counsel for the stewards submitted that in dealing with Ms Petricevich's breach of Rule 289(3) it was necessary to "show the flag" in order to prevent a backyard industry of unqualified people engaging in artificial insemination. However, Ms Petricevich was not an entirely unqualified person given that she had undertaken the appropriate course and had considerable veterinary experience. Her error once she completed the course was simply that of failing to make proper application to become registered.

However, as Ms Petricevich was inseminating horses prior to completing the requisite course, a fine would have been an inadequate penalty. Prior to the hearing of this appeal, Ms Petricevich had already served more than three months concurrent disqualification for a breach of Rule 194. As this determination endorses a penalty of 5 months disqualification for that breach, the Tribunal considered that three months concurrent disqualification was the appropriate penalty in all the circumstances for her breach of Rule 289(3).

In conclusion, the Tribunal:

- allowed the appeal of Shane Loone against the penalty in respect of charge three, set it aside, and in lieu thereof impose five months disqualification period;
- allowed the appeal of Ms Petricevich against the penalty in respect of charge three, set it aside, and in lieu thereof imposed five months disqualification; and
- allowed the appeal of Ms Petricevich against the penalty in respect of charge four, set it aside, and in lieu thereof imposed three months disqualification to be served concurrently with the disqualification imposed in respect of charge three.

APPEAL BY MARTIN STONE

Appeal by Martin Stone against the determination made by the stewards of greyhound racing imposing both a three-month disqualification for breach of Greyhound Racing Rule 86 (f) and a \$500 fine for breach of Rule 86(h).

On January 23 2013, the stewards of greyhound racing held an inquiry into Mr Stone's conduct during the race meeting which took place at Mandurah Greyhounds on January

9. Mr Stone was called to the inquiry in his capacity as owner/trainer of OFF TO MANDALAY.

Mr Stone was advised he had the right not just to be present at the inquiry but to call evidence and cross examine any witnesses called to the proceedings.

A stewards' report explained that Mr Stone's greyhound had weighed in 1.4 kilograms under its last start performance which resulted in it being scratched. The report went on to state:

When Mr Stone walked into the steward's room the first thing I asked him to do was take a seat. Mr Stone refused and told me on several occasions to turn my recorder off. I asked Mr Stone several times to take a seat and said the recorder will not be turned off. I told Mr Stone that if he did not take a seat he could be in serious trouble, yet he still refused. I then gave Mr Stone a direct order to take a seat which again he failed to do ... Mr Stone then opened the steward's room door. I told him to please shut the door but shortly after he walked out and left the door wide open. Mr Stone failed to give any evidence during any stage of the inquiry and his unwillingness to cooperate made it extremely difficult for (stewards) to complete (their) duties ... Mr Stone's behaviour was nothing short of disrespectful and completely uncivil in his approach to stewards.

During the course of the inquiry, Mr Stone explained to the stewards that he was suffering from cerebral palsy and dyslexia and took pain killers daily. On the night of the race meeting in question, he said his mood was adversely affected as it was the anniversary of the death of his partner.

By way of response to allegations of improper conduct, Mr Stone explained to stewards problems that he had suffered with his health from a young age, including coordination difficulties and operations on his ears for drains and grommets. He added that sometimes when he raised his voice he did not appreciate he was doing it.

The Stewards reminded Mr Stone that he had joined the industry voluntarily. In his application to be licensed he acknowledged that he "... shall at all times conduct and present ... in a professional and proper manner and comply with RWWA's rules of greyhound racing, officials instructions and the powers afforded to them and in failing to do so can place ... his current and future involvement in the industry in jeopardy". The stewards then proceeded to lay two charges;

1. 86(f), section 1 – *A person (including an official) shall be guilty of an offence if the person ... engages in, publishes or causes to be published, broadcasts or causes to be broadcast, the use of any contemptuous, unseemly, improper, insulting, or offensive language, conduct or behaviour in any manner or form towards, or in relation to ... (a) steward; and*
2. 86(p) – *A person (including an official) shall be guilty of an offence if the person ... disobeys or fails to comply with the lawful order of a steward or other person or body having official duties in relation to greyhound racing.*

The second charge related to an incident on January 9, when Mr Stone failed to comply with a lawful order of a steward to leave the kennels when directed to do so.

Mr Stone pleaded not guilty to both charges. In his defence he argued that the law in relation to surveillance and electronic devices applied. Mr Stone claimed he had the legal right to refuse to be recorded because he could not get a copy of the recording. Further, because of his disability, there had been a breach of the Equal Opportunity Act. Although the appeal was confined to the findings of guilt, it is helpful to complete the picture of the inquiry process before stewards by referring to what transpired in relation to the penalties. Upon being requested to address the question of the sentence, Mr Stone responded by alleging the stewards had disregarded the *Surveillance Act* and the *Equal Opportunities Act*. A steward was accused of lying. The decision was described as discriminatory. Mr Stone claimed he was not seeking special treatment but simply wanted “understanding”. He went on to claim that he had previously cooperated with the stewards.

In the course of discussion which ensued, the stewards referred to a 1995 case where they had imposed a three month disqualification for a similar breach (refusal to allow a kennel inspection).

While addressing the range of penalties available, Mr Stone admitted he had erred technically “under the black and white RWWA rules” but at the same time persisted in his claim of innocence.

The stewards concluded that a disqualification of three months was an appropriate penalty on the first charge. As to the second charge of failing to comply with the lawful order which was a direct challenge on steward’s authority, a \$500 fine was imposed.

Mr Stone appealed against his convictions. The basis for the appeal was based on his belief that the law was not adhered to and he was in fact innocent.

At the same time, Mr Stone made application for a suspension of operation of the penalties. The stay application was opposed by the stewards.

At the appeal hearing Mr Stone asserted that he was not given a fair hearing at the inquiry, was denied the opportunity to call his witness and was “bamboozled”. Mr Stone argued at the original proceeding before the stewards during the race meeting he was abused and shouted at, he could not work out how the stewards were applying the rules, and the proceedings should not have been recorded without his permission.

Mr Stone claimed the stewards “got him stirred up” despite being aware of his disabilities, what had transpired at the hearing “was against the law”, and that he had encountered constant harassment.

By way of reply, the stewards stated the practice adopted by them in relation to Mr Stone at the relevant time was “standard practice”, and that every Australian

stewards room has recording devices. The opportunity for the stewards to explain proceedings did not eventuate as Mr Stone “marched out and completely ignored stewards”. Further, a debarred person cannot be in the restricted area of the kennel block.

After hearing the arguments presented at the appeal, the tribunal reserved its decision, and the reasons for dismissing the appeal are outlined below.

Given Mr Stone’s personal situation, more than the usual degree of tolerance and latitude was appropriate in this matter, coupled with the fact that Mr Stone did not have the benefit of any assistance at the hearing and possibly had failed to obtain any independent counsel or advice prior to that. But, the level of misbehaviour was so far from the norm that it seriously impacted on the ability of the stewards to perform their duties and meant they were prevented from properly controlling and running the race meeting. The Tribunal found that at all times when dealing with Mr Stone, the stewards were simply endeavouring to conduct the race meeting in an entirely appropriate and normal manner in the face of stiff resistance.

The Tribunal agreed with the comments and conclusions which the stewards made and found that nothing was presented by Mr Stone to challenge the findings and conclusions which the stewards reached in their reasons for conviction.

The appeal was dismissed, and both convictions confirmed.

SIGNIFICANT ISSUES AND TRENDS IMPACTING THE TRIBUNAL

CHANGES TO ACTS

There were no amendments to the *Racing Penalties (Appeals) Act 1990* for the year under review.

CHANGES TO REGULATIONS

The *Racing Penalties (Appeals) Amendment Regulations 2013* provided new fees and charges under the *Racing Penalties (Appeals) Act 1990*. The new fees and charges came into effect on 1 January 2014.

LIKELY DEVELOPMENTS AND FORECAST RESULTS OF OPERATIONS

It is expected that the workload of the Racing Penalties Appeal Tribunal for 2014/15 will remain steady. Indications are that the Tribunal is adequately resourced to efficiently carry out its functions.

DISCLOSURES AND LEGAL COMPLIANCE

FINANCIAL STATEMENTS

This part of the annual report provides the means by which Parliament and other interested parties can be informed, not only of what the Racing Penalties Appeal Tribunal has achieved during the financial year, but also of the reasons behind those achievements.

CERTIFICATION OF FINANCIAL STATEMENTS FOR THE YEAR ENDED 30 JUNE 2014

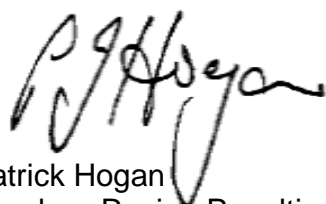
The accompanying financial statements of the Racing Penalties Appeal Tribunal of Western Australia have been prepared in compliance with the provisions of the *Financial Management Act 2006* from proper accounts and records to present fairly the financial transactions for the financial year ending 30 June 2014 and the financial position as at 30 June 2014.

At the date of signing, we are not aware of any circumstances which would render the particulars included in the financial statements misleading or inaccurate.



Terry Ng
Chief Finance Officer

8 September 2014



Patrick Hogan
Member, Racing Penalties
Appeal Tribunal of Western
Australia

8 September 2014



Dan Mossenson
Chairperson, Racing
Penalties Appeal
Tribunal of Western
Australia

8 September 2014

Racing Penalties Appeal Tribunal

Statement of Comprehensive Income

for the year ended 30 June 2014

	Note	2014 \$	2013 \$
COST OF SERVICES			
Expenses			
Tribunal members' expenses	13	25,260	38,971
Superannuation	13	2,354	3,496
Supplies and services		179,742	174,795
Total cost of services		207,356	217,262
Income			
<i>Revenue</i>			
Operating income	4	252,721	271,822
Interest revenue	5	11,798	13,881
Total Revenue		264,519	285,703
NET COST OF SERVICES	10	(57,163)	(68,441)
SURPLUS/(DEFICIT) FOR THE PERIOD		57,163	68,441
OTHER COMPREHENSIVE INCOME			
Total other comprehensive income		0	0
TOTAL COMPREHENSIVE INCOME FOR THE PERIOD		57,163	68,441

The Statement of Comprehensive Income should be read in conjunction with the accompanying notes.

Racing Penalties Appeal Tribunal

Statement of Financial Position

as at 30 June 2014

	Note	2014 \$	2013 \$
ASSETS			
Current Assets			
Cash and cash equivalents	6, 10	396,511	341,185
Receivables	7	<u>3,380</u>	<u>2,792</u>
Total Current Assets		<u>399,891</u>	<u>343,977</u>
TOTAL ASSETS		<u>399,891</u>	<u>343,977</u>
LIABILITIES			
Current Liabilities			
Payables	8	<u>0</u>	<u>1,249</u>
Total Current Liabilities		<u>0</u>	<u>1,249</u>
TOTAL LIABILITIES		<u>0</u>	<u>1,249</u>
NET ASSETS		<u>399,891</u>	<u>342,728</u>
EQUITY			
Accumulated surplus/(deficit)	9	<u>399,891</u>	<u>342,728</u>
TOTAL EQUITY		<u>399,891</u>	<u>342,728</u>

The Statement of Financial Position should be read in conjunction with the accompanying notes.

Racing Penalties Appeal Tribunal

Statement of Changes in Equity for the year ended 30 June 2014

	Note	Contributed equity \$	Reserves \$	Accumulated surplus/ (deficit) \$	Total equity \$
Balance at July 2012	9	0	0	274,287	274,287
Changes in accounting policy or correction of prior period errors		0	0	0	0
Restated balance at 1 July 2012		<u>0</u>	<u>0</u>	<u>274,287</u>	<u>274,287</u>
Surplus/(deficit)		0	0	68,441	68,441
Other comprehensive income		0	0	0	0
Total comprehensive income for the period		<u>0</u>	<u>0</u>	<u>68,441</u>	<u>68,441</u>
Transactions with owners in their capacity as owners:					
Other contributions by owners		0	0	0	0
Distributions to owners		0	0	0	0
Total		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Balance at 30 June 2013		<u>0</u>	<u>0</u>	<u>342,728</u>	<u>342,728</u>
Balance at 1 July 2013		<u>0</u>	<u>0</u>	<u>342,728</u>	<u>342,728</u>
Surplus/(deficit)		0	0	57,163	57,163
Other comprehensive income		0	0	0	0
Total comprehensive income for the period		<u>0</u>	<u>0</u>	<u>57,163</u>	<u>57,163</u>
Transactions with owners in their capacity as owners:					
Other contributions by owners		0	0	0	0
Distributions to owners		0	0	0	0
Total		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
Balance at 30 June 2014		<u>0</u>	<u>0</u>	<u>399,891</u>	<u>399,891</u>

The Statement of Changes in Equity should be read in conjunction with the accompanying notes.

Racing Penalties Appeal Tribunal

Statement of Cash Flows

for the year ended 30 June 2014

	Note	2014 \$	2013 \$
CASH FLOWS FROM OPERATING ACTIVITIES			
Payments			
Tribunal members' expenses		(26,826)	(39,418)
Superannuation		(2,460)	(3,548)
Supplies and services		(179,742)	(174,801)
GST paid on purchases		(1,117)	(14)
GST payments to taxation authority		(24,948)	(26,748)
Receipts			
Receipts from customers		252,721	271,822
Interest received		11,648	14,223
GST receipts on sales		24,948	26,748
GST receipts from taxation authority		1,102	47
Net cash provided by/(used in) operating activities	10	<u>55,326</u>	<u>68,311</u>
Net increase/(decrease) in cash and cash equivalents		55,326	68,311
Cash and cash equivalents at the beginning of the period		341,185	272,874
CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD	10	<u>396,511</u>	<u>341,185</u>

The Statement of Cash Flows should be read in conjunction with the accompanying notes.

**Racing Penalties Appeal Tribunal
Notes to the Financial Statements
for the year ended 30 June 2014**

Note 1. Australian Accounting Standards

General

The Authority's financial statements for the year ended 30 June 2014 have been prepared in accordance with Australian Accounting Standards. The term 'Australian Accounting Standards' includes Standards and Interpretations issued by the Australian Accounting Standard Board (AASB).

The Authority has adopted any applicable, new and revised Australian Accounting Standards from their operative dates.

Early adoption of standards

The Authority cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. There has been no early adoption of Australian Accounting Standards that have been issued or amended (but not operative) by the Authority for the annual reporting period ended 30 June 2014.

Note 2. Summary of significant accounting policies

(a) General statement

The Authority is a not-for-profit reporting entity that prepares general purpose financial statements in accordance with Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB as applied by the Treasurer's instructions. Several of these are modified by the Treasurer's instructions to vary application, disclosure, format and wording.

The *Financial Management Act 2006* and the Treasurer's instructions impose legislative provisions that govern the preparation of financial statements and take precedence over Australian Accounting Standards, the Framework, Statements of Accounting Concepts and other authoritative pronouncements of the AASB.

Where modification is required and has had a material or significant financial effect upon the reported results, details of that modification and the resulting financial effect are disclosed in the notes to the financial statements.

(b) Basis of preparation

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention.

The accounting policies adopted in the preparation of the financial statements have been consistently applied throughout all periods presented unless otherwise stated.

The financial statements are presented in Australian dollars and all values are rounded to the nearest dollar.

(c) Reporting entity

The reporting entity comprises the Authority only.

(d) Contributed equity

AASB Interpretation 1038 *Contributions by Owners Made to Wholly-Owned Public Sector Entities* requires transfers in the nature of equity contributions, other than as a result of a restructure of administrative arrangements, to be designated by the Government (the owner) as contributions by owners (at the time of, or prior to transfer) before such transfers can be recognised as equity contributions. Capital appropriations have been designated as contributions by owners by TI 955 *Contributions by Owners made to Wholly Owned Public Sector Entities* and have been credited directly to Contributed equity.

The transfer of net assets to/from other agencies, other than as a result of a restructure of administrative arrangements, are designated as contributions by owners where the transfers are non-discretionary and non-reciprocal.

(e) Income**Revenue recognition**

Revenue is recognised and measured at the fair value of consideration received or receivable. Operating income mainly comprises funding from the Racing and Wagering Western Australia, appeal fees and transcription fees. This income is received pursuant to the Racing Penalties (Appeals) Act 1990.

Revenue is recognised for the major business activities as follows:

Sale of goods

Revenue is recognised from the sale of goods and disposal of other assets when the significant risks and rewards of ownership transfer to the purchaser and can be measured reliably.

Provision of services

Revenue is recognised by reference to the stage of completion of the transaction.

Interest

Revenue is recognised as the interest accrues.

Grants, donations, gifts and other non-reciprocal contributions

Revenue is recognised at fair value when the Authority obtains control over the assets comprising the contributions, usually when cash is received.

Other non-reciprocal contributions that are not contributions by owners are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

(f) Services Performed for the Racing Penalties Appeal Tribunal by the Department of Racing, Gaming and Liquor

The Department of Racing, Gaming and Liquor provides support to the Racing Penalties Appeal Tribunal to enable the Tribunal to carry out its objectives. This support comprises most of the amount recorded in the Statement of Comprehensive Income under 'Supplies and services'. These expenses are in the nature of salaries and administration costs in providing these support services.

Recoups from the Tribunal to the Department of Racing, Gaming and Liquor are made on a monthly basis under a net appropriation determination.

(g) Financial instruments

In addition to cash, the Authority has two categories of financial instrument:

- * Receivables; and
- * Financial liabilities measured at amortised cost.

Financial instruments have been disaggregated into the following classes:

- * Financial Assets
 - Cash and cash equivalents
 - Receivables
- * Financial Liabilities
 - Payables

Initial recognition and measurement of financial instruments is at fair value which normally equates to the transaction cost or the face value. Subsequent measurement is at amortised cost using the effective interest method.

The fair value of short-term receivables and payables is the transaction cost or the face value because there is no interest rate applicable and subsequent measurement is not required as the effect of discounting is not material.

(h) Cash and Cash Equivalents

For the purpose of the Statement of Cash Flows, cash and cash equivalent assets comprise cash on hand.

(i) Receivables

Receivables are recognised at original invoice amount less an allowance for any uncollectible amounts (i.e. impairment). The collectability of receivables is reviewed on an ongoing basis and any receivables identified as uncollectible are written-off against the allowance account. The allowance for uncollectible amounts (doubtful debts) is raised when there is objective evidence that the Authority will not be able to collect the debts. The carrying amount is equivalent to fair value as it is due for settlement within 30 days.

(j) Payables

Payables are recognised at the amounts payable when the Authority becomes obliged to make future payments as a result of a purchase of assets or services. The carrying amount is equivalent to fair value, as settlement is generally within 30 days.

(k) Employee BenefitsAnnual and Long Service Leave

The Tribunal does not employ staff. The Tribunal utilises the staff and facilities of the Department of Racing, Gaming and Liquor. The cost of the services provided by the Department of Racing, Gaming and Liquor is recouped from the Tribunal as a service fee. Accordingly, provisions have not been made for annual and long service leave.

Superannuation

The Government Employees Superannuation Board (GESB) and other fund providers administer public sector superannuation arrangements in Western Australia in accordance with legislative requirements. Eligibility criteria for membership in particular schemes for public sector employees vary according to commencement and implementation dates.

Eligible employees contribute to the Pension Scheme, a defined benefit pension scheme closed to new members since 1987, or the Gold State Superannuation Scheme (GSS), a defined benefit lump sum scheme closed to new members since 1995.

Tribunal members commencing employment prior to 16 April 2007 who were not members of either the Pension Scheme or the GSS became non-contributory members of the West State Superannuation Scheme (WSS). Tribunal members commencing employment on or after 16 April 2007 became members of the GESB Super Scheme (GESBS). From 30 March 2012, existing members of the WSS or GESBS and new employees have been able to choose their preferred superannuation fund provider. The Authority makes contributions to GESB or other fund providers on behalf of employees in compliance with the *Commonwealth Government's Superannuation Guarantee (Administration) Act 1992*. Contributions to these accumulation schemes extinguish the Authority's liability for superannuation charges in respect of employees who are not members of the Pension Scheme or GSS.

The GSS is a defined benefit scheme for the purposes of employees and whole-of-government reporting. However, it is a defined contribution plan for agency purposes because the concurrent contributions (defined contributions) made by the Authority to GESB extinguishes the agency's obligations to the related superannuation liability.

The Authority has no liabilities under the Pension Scheme or the GSS. The liabilities for the unfunded Pension Scheme and the unfunded GSS transfer benefits attributable to members who transferred from the Pension Scheme, are assumed by the Treasurer. All other GSS obligations are funded by concurrent contributions made by the Authority to the GESB.

The GESB makes all benefit payments in respect of the Pension Scheme and GSS, and is recouped from the Treasurer for the employer's share.

(l) Superannuation expense

The superannuation expense in the Statement of Comprehensive Income comprises employer contributions paid to the GSS (concurrent contributions), WSS, the GESBS, and other superannuation funds.

(m) Comparative figures

Comparative figures are, where appropriate, reclassified to be comparable with the figures presented in the current financial year.

Note 3. Disclosure of changes in accounting policy and estimates

Initial application of an Australian Accounting Standard

The Authority has applied the following Australian Accounting Standards effective for annual reporting periods beginning on or after 1 July 2013 that impacted on the Authority.

AASB 13	<p><i>Fair Value Measurement</i></p> <p>This Standard defines fair value, sets out a framework for measuring fair value and requires additional disclosures for assets and liabilities measured at fair value. There is no financial impact.</p>
AASB 119	<p><i>Employee Benefits</i></p> <p>This Standard supersedes AASB 119 (October 2010), making changes to the recognition, presentation and disclosure requirements.</p> <p>The Authority assessed employee leave patterns to determine whether annual leave is a short-term or other long-term employee benefit. The resultant discounting of annual leave liabilities that were previously measured at the undiscounted amounts is not material.</p>
AASB 1048	<p><i>Interpretation of Standards</i></p> <p>This Standard supersedes AASB 1048 (June 2012), enabling references to the Interpretations in all other Standards to be updated by reissuing the service Standard. There is no financial impact.</p>
AASB 2011-8	<p><i>Amendments to Australian Accounting Standards arising from AASB 13 [AASB 1, 2, 3, 4, 5, 7, 9, 2009-11, 2010-7, 101, 102, 108, 110, 116, 117, 118, 119, 120, 121, 128, 131, 132, 133, 134, 136, 138, 139, 140, 141, 1004, 1023 & 1038 and Int 2, 4, 12, 13, 14, 17, 19, 131 & 132]</i></p> <p>This Standard replaces the existing definition and fair value guidance in other Australian Accounting Standards and Interpretations as the result of issuing AASB 13 in September 2011. There is no financial impact.</p>
AASB 2011-10	<p><i>Amendments to Australian Accounting Standards arising from AASB 119 (September 2011)[AASB 1, 8, 101, 124, 134, 1049 & 2011-8 and Int 14]</i></p> <p>This Standard makes amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 119 in September 2011. The resultant discounting of annual leave liabilities that were previously measured at the undiscounted amounts is not material.</p>
AASB 2012-2	<p><i>Amendments to Australian Accounting Standards – Disclosures – Offsetting Financial Assets and Financial Liabilities [AASB 7 & 132]</i></p> <p>This Standard amends the required disclosures in AASB 7 to include information that will enable users of an entity's financial statements to evaluate the effect or potential effect of netting arrangements, including rights of set-off associated with the entity's recognised financial assets and recognised financial liabilities, on the entity's financial position. There is no financial impact.</p>
AASB 2012-5	<p><i>Amendments to Australian Accounting Standards arising from Annual Improvements 2009-11 Cycle [AASB 1, 101, 116, 132 & 134 and Int 2]</i></p> <p>This Standard makes amendments to the Australian Accounting Standards and Interpretations as a consequence of the annual improvements process. There is no financial impact.</p>
AASB 2012-6	<p><i>Amendments to Australian Accounting Standards – Mandatory Effective Date of AASB 9 and Transition Disclosures [AASB 9, 2009-11, 2010-7, 2011-7 & 2011-8]</i></p> <p>This Standard amends the mandatory effective date of AASB 9 Financial Instruments to 1 January 2015 (instead of 1 January 2013). Further amendments are also made to numerous consequential amendments arising from AASB 9 that will now apply from 1 January 2015. There is no financial impact.</p>
AASB 2012-9	<p><i>Amendment to AASB 1048 arising from the Withdrawal of Australian Int 1039</i></p> <p>The withdrawal of Int 1039 Substantive Enactment of Major Tax Bills in Australia has no financial impact for the Authority during the reporting period and at balance date. Measurement of tax assets and liabilities continues to be measured in accordance with enacted or substantively enacted tax law pursuant to AASB 112.46-47.</p>

AASB 2012-10	<p><i>Amendments to Australian Accounting Standards – Transition Guidance and Other Amendments [AASB 1, 5, 7, 8, 10, 11, 12, 13, 101, 102, 108, 112, 118, 119, 127, 128, 132, 133, 134, 137, 1023, 1038, 1039, 1049 & 2011-7 and Int 12]</i></p> <p>The Standard introduces a number of editorial alterations and amends the mandatory application date of Standards for not for profit entities accounting for interests in other entities. There is no financial impact.</p>
AASB 2013-9	<p><i>Amendments to Australian Accounting Standards – Conceptual Framework, Materiality and Financial Instruments</i></p> <p>Part A of this omnibus Standard makes amendments to other Standards arising from revisions to the Australian Accounting Conceptual Framework for periods ending on or after 20 December 2013. Other Parts of this Standard become operative in later periods. There is no financial impact for Part A of the Standard.</p>

Future impact of Australian Accounting Standards not yet operative

The Authority cannot early adopt an Australian Accounting Standard unless specifically permitted by TI 1101 *Application of Australian Accounting Standards and Other Pronouncements*. Consequently, the Authority has not applied early any of the following Australian Accounting Standards that have been issued that may impact the Authority. Where applicable, the Authority plans to apply these Australian Accounting Standards from their application date.

		Operative for reporting periods beginning on/after
Int 21	<p><i>Levies</i></p> <p>This Interpretation clarifies the circumstances under which a liability to pay a government levy imposed should be recognised. There is no financial impact for the Authority at reporting date.</p>	1 Jan 2014
AASB 9	<p><i>Financial Instruments</i></p> <p>This Standard supersedes AASB 139 <i>Financial Instruments: Recognition and Measurement</i>, introducing a number of changes to accounting treatments.</p> <p>The mandatory application date of this Standard was amended to 1 January 2018. The Authority has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2018
AASB 10	<p><i>Consolidated Financial Statements</i></p> <p>This Standard, issued in August 2011, supersedes AASB 127 <i>Consolidated and Separate Financial Statements</i> and Int 112 <i>Consolidation – Special Purpose Entities</i>, introducing a number of changes to accounting treatments.</p> <p>Mandatory application of this Standard was deferred for not-for-profit entities by AASB 2012-10 <i>Amendments to Australian Accounting Standards – Transition Guidance and Other Amendments</i>. The adoption of the new Standard has no financial impact for the Model Statutory Authority as it does not impact accounting for related bodies and the</p>	1 Jan 2014
AASB 11	<p><i>Joint Arrangements</i></p> <p>This Standard, issued in August 2011, supersedes AASB 131 <i>Interests in Joint Ventures</i>, introduces new principles for determining the type of joint arrangement that exists, which are more aligned to the actual rights and obligations of the parties to the arrangement.</p> <p>Mandatory application of this Standard was deferred for not-for-profit entities by AASB 2012-10. There is no financial impact for the Model Statutory Authority as the new standard continues to require the recognition of the Authority's share of assets and share of liabilities for the unincorporated joint operation.</p>	1 Jan 2014
AASB 12	<p><i>Disclosure of Interests in Other Entities</i></p> <p>This Standard, issued in August 2011, supersedes disclosure requirements in AASB 127 <i>Consolidated and Separate Financial Statements</i>, AASB 128 <i>Investments in Associates</i> and AASB 131 <i>Interests in Joint Ventures</i>. Mandatory application was deferred for not-for-profit entities by AASB 2012-10. There is no financial impact.</p>	1 Jan 2014
AASB 14	<p><i>Regulatory Deferral Accounts</i></p> <p>The Authority has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2016

		Operative for reporting periods beginning on/after
AASB 127	<p><i>Separate Financial Statements</i></p> <p>This Standard, issued in August 2011, supersedes AASB 127 <i>Consolidated and Separate Financial Statements</i>, removing the consolidation requirements of the earlier standard whilst retaining accounting and disclosure requirements for the preparation of separate financial statements. Mandatory application was deferred for not-for-profit entities by AASB 2012-10. There is no financial impact.</p>	1 Jan 2014
AASB 128	<p><i>Investments in Associates and Joint Ventures</i></p> <p>This Standard, issued in August 2011 supersedes AASB 128 <i>Investments in Associates</i>, introducing a number of clarifications for the accounting treatments of changed ownership interest.</p> <p>Mandatory application was deferred for not-for-profit entities by AASB 2012-10. The adoption of the new Standard has no financial impact for the Model Statutory Authority as it does not hold investments in associates and the accounting treatments for joint operations is consistent with current practice.</p>	1 Jan 2014
AASB 1031	<p><i>Materiality</i></p> <p>This Standard supersedes AASB 1031 (February 2010), removing Australian guidance on materiality not available in IFRSs and refers to guidance on materiality in other Australian pronouncements. There is no financial impact.</p>	1 Jan 2014
AASB 1055	<p><i>Budgetary Reporting</i></p> <p>This Standard requires specific budgetary disclosures in the financial statements of not-for-profit entities within the General Government Sector. The Authority will be required to disclose additional budgetary information and explanations of major variances between actual and budgeted amounts, though there is no financial impact.</p>	1 Jul 2014
AASB 2009-11	<p><i>Amendments to Australian Accounting Standards arising from AASB 9 [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 121, 127, 128, 131, 132, 136, 139, 1023 & 1038 and Int 10 & 12]</i></p> <p>[modified by AASB 2010-7]</p>	1 Jan 2015
AASB 2010-7	<p><i>Amendments to Australian Accounting Standards arising from AASB 9 (December 2010) [AASB 1, 3, 4, 5, 7, 101, 102, 108, 112, 118, 120, 121, 127, 128, 131, 132, 136, 137, 139, 1023 & 1038 and Int 2, 5, 10, 12, 19 & 127]</i></p> <p>This Standard makes consequential amendments to other Australian Accounting Standards and Interpretations as a result of issuing AASB 9 in December 2010. The Authority has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2015
AASB 2011-7	<p><i>Amendments to Australian Accounting Standards arising from the Consolidation and Joint Arrangements Standards [AASB 1, 2, 3, 5, 7, 101, 107, 112, 118, 121, 124, 132, 133, 136, 138, 139, 1023 & 1038 and Int 5, 9, 16 & 17]</i></p> <p>This Standard gives effect to consequential changes arising from the issuance of AASB 10, AASB 11, AASB 127 <i>Separate Financial Statements</i> and AASB 128 <i>Investments in Associates and Joint Ventures</i>. For not-for-profit entities it applies to annual reporting period beginning on or after 1 January 2014. The Authority has not yet determined the application or the potential impact of the Standard.</p>	1 Jan 2014
AASB 2012-3	<p><i>Amendments to Australian Accounting Standards – Offsetting Financial Assets and Financial Liabilities [AASB 132]</i></p> <p>This Standard adds application guidance to AASB 132 to address inconsistencies identified in applying some of the offsetting criteria, including clarifying the meaning of “currently has a legally enforceable right of set-off” and that some gross settlement systems may be considered equivalent to net settlement.</p> <p>The model Authority does not routinely hold financial assets and financial liabilities that it intends to settle on a net basis, therefore there is no financial impact.</p>	1 Jan 2014

		Operative for reporting periods beginning on/after
AASB 2013-3	<i>Amendments to AASB 136 – Recoverable Amount Disclosures for Non-Financial Assets</i>	1 Jan 2014
	This Standard introduces editorial and disclosure changes. There is no financial impact.	
AASB 2013-4	<i>Amendments to Australian Accounting Standards – Novation of Derivatives and Continuation of Hedge Accounting [AASB 139]</i>	1 Jan 2014
	This Standard permits the continuation of hedge accounting in circumstances where a derivative, which has been designated as a hedging instrument, is novated from one counterparty to a central counterparty as a consequence of laws or regulations. The model Authority does not routinely enter into derivatives or hedges, therefore there is no financial impact.	
AASB 2013-8	<i>Amendments to Australian Accounting Standards - Australian Implementation Guidance for Not-for-Profit Entities – Control and Structured Entities [AASB 10, 12 & 1049]</i>	1 Jan 2014
	The amendments, issued in October 2013, provide significant guidance in determining whether a not-for-profit entity controls another entity when financial returns are not a key attribute of the investor's relationship. The Standard has no financial impact in its own right, rather the impact results from the adoption of the amended AASB 10.	
AASB 2013-9	<i>Amendments to Australian Accounting Standards - Conceptual Framework, Materiality and Financial Instruments</i>	1 Jan 2014 1 Jan 2017
	This omnibus Standard makes amendments to other Standards arising from the deletion of references to AASB 1031 in other Standards for periods beginning on or after 1 January 2014 (Part B), and, defers the application of AASB 9 to 1 January 2017 (Part C). The Authority has not yet determined the application or the potential impact of AASB 9, otherwise there is no financial impact for Part B.	
AASB 2014-1	<i>Amendments to Australian Accounting Standards</i>	1 Jul 2014 1 Jan 2015 1 Jan 2016 1 Jan 2018
	The Authority has not yet determined the application or the potential impact of the Standard.	

Note 4. Operating income

	2014	2013
	\$	\$
Fees and charges	3,298	4,342
Funding from Racing and Wagering Western Australia	249,423	267,480
	<u>252,721</u>	<u>271,822</u>

Note 5. Interest revenue

	2014	2013
	\$	\$
Interest revenue		
Commonwealth Bank of Australia	11,798	13,881
	<u>11,798</u>	<u>13,881</u>

Note 6. Cash and cash equivalents

	2014	2013
	\$	\$
Cash and cash equivalents are represented by funds held at the Commonwealth Bank of Australia	396,511	341,185
	<u>396,511</u>	<u>341,185</u>

Note 7. Receivables

	2014	2013
	\$	\$
<u>Current</u>		
Interest receivable	2,937	2,785
Other receivable	422	0
GST receivable	21	7
Total current	<u>3,380</u>	<u>2,792</u>

The Authority does not hold any collateral or other credit enhancements as security for receivables.

Note 8. Payables

	2014	2013
	\$	\$
<u>Current</u>		
Accrued expenses	0	1,249
Other payable	0	0
Total current	<u>0</u>	<u>1,249</u>

Note 9. Equity

The Government holds the equity interest in the Authority on behalf of the community. Equity represents the residual interest in the net assets of the Authority.

Contributed equity	2014	2013
	\$	\$
Balance at start of period	0	0
<u>Contributions by owners</u>		
Transfer of net assets from other agencies	0	0
Total contributions by owners	0	0
<u>Distributions to owners</u>		
Transfer of net assets to other agencies	0	0
Total distributions to owners	0	0
Balance at end of period	0	0
Accumulated surplus/(deficit)	2014	2013
	\$	\$
Balance at start of period	342,728	274,287
Result for the period	57,163	68,441
Income and expense recognised directly in equity	0	0
Balance at end of period	399,891	342,728
Total Equity at end of period	399,891	342,728

Note 10. Notes to the Statement of Cash Flows

	2014	2013
	\$	\$
Reconciliation of cash		
Cash at the end of the financial year as shown in the Statement of Cash Flows is reconciled to the related items in the Statement of Financial Position as follows:		
Cash and cash equivalents	396,511	341,185
	396,511	341,185
Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities	2014	2013
	\$	\$
Net cost of services	57,163	68,441
<u>(Increase)/decrease in assets</u>		
Receivables ^(a)	(574)	342
<u>Increase/(decrease) in liabilities</u>		
Payables ^(a)	(1,249)	(506)
Net GST receipts/(payments) ^(b)	(14)	34
Change in GST in receivables/payables ^(c)	0	0
Net cash provided by/(used in) operating activities	55,326	68,311

(a) Note that the Australian Taxation Office (ATO) receivable/payable in respect of GST and the receivable/payable in respect of the sale/purchase

of non-current assets are not included in these items as they do not form part of the reconciling items.

(b) This is the net GST paid/received, i.e. cash transactions.

(c) This reverses out the GST in receivables and payables.

Note 11. Financial instruments**(a) Financial risk management objectives and policies**

Financial instruments held by the Authority are cash and cash equivalents, receivables, and payables. The Authority has limited exposure to financial risks. The Authority's overall risk management program focuses on managing the risks identified below.

Credit risk

Credit risk arises when there is the possibility of the Authority's receivables defaulting on their contractual obligations resulting in financial loss to the Authority.

The maximum exposure to credit risk at end of the reporting period in relation to each class of recognised financial assets is the gross carrying amount of those assets inclusive of any allowance for impairment as shown in the table at note 11(c) 'Financial instruments disclosures' and note 7 'Receivables'.

Credit risk associated with the Authority's financial assets is minimal because the Authority trades only with recognised, creditworthy third parties. The Authority has policies in place to ensure that sales of products and services are made to customers with an appropriate credit history. In addition, receivable balances are monitored on an ongoing basis with the result that the Authority's exposure to bad debts is minimal. At the end of the reporting period there were no significant concentrations of credit risk.

Liquidity risk

Liquidity risk arises when the Authority is unable to meet its financial obligations as they fall due.

The Authority is exposed to liquidity risk through its trading in the normal course of business.

The Authority has appropriate procedures to manage cash flows by monitoring forecast cash flows to ensure that sufficient funds are available to meet its commitments.

Market risk

Market risk is the risk that changes in market prices such as foreign exchange rates and interest rates will affect the Authority's income or the value of its holdings of financial instruments. The Authority does not trade in foreign currency and is not materially exposed to other price risks. Other than as detailed in the interest rate sensitivity analysis table at Note 11(c), the Authority has no borrowings and its exposure to market risk for changes in interest rates relates primarily to cash and cash equivalents which are interest bearing.

(b) Categories of financial instruments

The carrying amounts of each of the following categories of financial assets and financial liabilities at the end of the reporting period are:

	2014	2013
	\$	\$
<u>Financial Assets</u>		
Cash and cash equivalents	396,511	341,185
Receivables ^(a)	3,359	2,785
<u>Financial Liabilities</u>		
Financial liabilities measured at amortised cost	0	1,249

(a) The amount of receivables excludes GST recoverable from the ATO (statutory receivable).

Racing Penalties Appeal Tribunal
Notes to the Financial Statements
for the year ended 30 June 2014

Note 11. (c) Financial instrument disclosures

Credit risk

The following table discloses the Authority's maximum exposure to credit risk and the ageing analysis of financial assets. The Authority's maximum exposure to credit risk at the end of the reporting period is the carrying amount of financial assets as shown below. The table discloses the ageing of financial assets that are past due but not impaired and impaired financial assets. The table is based on information provided to senior management of the Authority.

The Authority does not hold any collateral as security or other credit enhancements relating to the financial assets it holds.

Aged analysis of financial assets

	Carrying Amount	Not past due and not impaired	Past due but not impaired					Impaired financial assets
			Up to 1 month	1-3 months	3 months to 1 year	1-5 years	More than 5 years	
	\$	\$	\$	\$	\$	\$	\$	\$
2014								
Cash and cash equivalents	396,511	396,511						
Receivables ^(a)	3,359		3,359					
	399,870	396,511	3,359	0	0	0	0	0
2013								
Cash and cash equivalents	341,185	341,185						
Receivables ^(a)	2,785		2,785					
	343,970	341,185	2,785	0	0	0	0	0

^(a) The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

**Racing Penalties Appeal Tribunal
Notes to the Financial Statements
for the year ended 30 June 2014**

Note 11. (c) Financial instrument disclosures (contd)

Liquidity risk and interest rate exposure

The following table details the Authority's interest rate exposure and the contractual maturity analysis of financial assets and financial liabilities. The maturity analysis section includes interest and principal cash flows. The interest rate exposure section analyses only the carrying amounts of each item.

Interest rate exposure and maturity analysis of financial assets and financial liabilities

	Weighted Average Effective Interest Rate	Interest rate exposure				Nominal Amount	Maturity dates				
		Carrying Amount	Fixed interest rate	Variable interest rate	Non- interest bearing		Up to 1 month	1-3 months	3 months to 1 year	1-5 years	More than 5 years
	%	\$	\$	\$	\$	\$	\$	\$	\$	\$	
2014											
<u>Financial Assets</u>											
Cash and cash equivalent	2.81	396,511		396,511		396,511	396,511				
Receivables ^(a)		3,359			3,359	3,359	3,359				
		399,870	0	396,511	3,359	399,870	399,870	0	0	0	
<u>Financial Liabilities</u>											
Payables		0			0	0	0				
		0	0	0	0	0	0	0	0	0	

^(a) The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

Racing Penalties Appeal Tribunal
Notes to the Financial Statements
for the year ended 30 June 2014

Note 11. (c) Financial instrument disclosures (contd)

Liquidity risk and interest rate exposure

Interest rate exposure and maturity analysis of financial assets and financial liabilities

	Weighted Average Effective Interest Rate %	Interest rate exposure				Nominal Amount \$	Maturity dates				
		Carrying Amount \$	Fixed interest rate \$	Variable interest rate \$	Non- interest bearing \$		Up to 1 month \$	1-3 months \$	3 months to 1 year \$	1-5 years \$	More than 5 years \$
2013											
<u>Financial Assets</u>											
Cash and cash equivalent	3.40	341,185		341,185		341,185	341,185				
Receivables ^(a)		2,785			2,785	2,785	2,785				
		343,970	0	341,185	2,785	343,970	343,970	0	0	0	0
<u>Financial Liabilities</u>											
Payables		1,249			1,249	1,249	1,249				
		1,249	0	0	1,249	1,249	1,249	0	0	0	0

^(a) The amount of receivables excludes the GST recoverable from the ATO (statutory receivable).

**Racing Penalties Appeal Tribunal
Notes to the Financial Statements
for the year ended 30 June 2014**

Note 11. (c) Financial instrument disclosures (contd)

Interest rate sensitivity analysis

The following table represents a summary of the interest rate sensitivity of the Authority's financial assets and liabilities at the end of the reporting period on the surplus for the period and equity for a 1% change in interest rates. It is assumed that the change in interest rates is held constant throughout the reporting period.

	-100 basis points			+100 basis points	
	Carrying amount	Surplus	Equity	Surplus	Equity
2014	\$	\$	\$	\$	\$
<u>Financial Assets</u>					
Cash and cash equivalents	396,511	(3,965)	(3,965)	3,965	3,965
<u>Financial Liabilities</u>					
Total Increase/(Decrease)		(3,965)	(3,965)	3,965	3,965

	-100 basis points			+100 basis points	
	Carrying amount	Surplus	Equity	Surplus	Equity
2013	\$	\$	\$	\$	\$
<u>Financial Assets</u>					
Cash and cash equivalents	341,185	(3,412)	(3,412)	3,412	3,412
<u>Financial Liabilities</u>					
Total Increase/(Decrease)		(3,412)	(3,412)	3,412	3,412

Fairvalues

All financial assets and liabilities recognised in the Statement of Financial Position, whether they are carried at cost or fair value, are recognised at amounts that represent a reasonable approximation of fair value unless otherwise stated in the applicable notes.

Note 12. Explanatory statement

Significant variations between estimates and actual results for 2014 and between the actual results for 2013 and 2014 are shown below. Significant variations are considered to be those greater than 10% or \$20,000.

(i) Significant variances between estimated and actual result for 2014

	2014 Estimate \$	2014 Actual \$	Variation \$
Tribunal members' expenses	75,000	25,260	(49,740)
Superannuation	6,750	2,354	(4,396)

Tribunal members' expenses

The variance of \$49,740 was mainly due to less appeals being lodged and dealt with than estimated in 2014.

Superannuation

The variance of \$4,396 was due to the impact of the decrease in the Tribunal members' expenses in 2014.

(ii) Significant variances between actual results for 2013 and 2014

Variations which have been explained in part (i) of this note have not been repeated here in the interests of concise reporting.

	2014 \$	2013 \$	Variance \$
Interest revenue	11,798	13,881	2,083

Interest revenue

The decrease of \$2,083 was the result of lower interest rates throughout the year.

Note 13. Remuneration of members of the Accountable Authority

The number of members of the accountable authority, whose total of fees, salaries, superannuation, non-monetary benefits and other benefits for the financial year, fall within the following bands are:

	2014	2013
\$		
0 - 10,000	6	6
10,001 - 20,000	1	1
	\$	\$
Base remuneration and superannuation	27,614	42,467
Other benefits	0	0
The total remuneration of members of the accountable authority	<u>27,614</u>	<u>42,467</u>

The total remuneration includes the superannuation expense incurred by the Authority in respect of members of the accountable authority.

Note 14. Remuneration of auditor

Remuneration paid or payable to the Auditor General in respect of the audit for the current financial year is as follows:

	2014	2013
	\$	\$
Auditing the accounts, financial statements and key performance indicators	<u>10,550</u>	<u>10,300</u>

Note 15. Commitments

As at 30 June 2014 the Authority did not have any other material capital or expenditure commitments.

Note 16. Contingent liabilities and contingent assets

The Authority is not aware of any contingent liabilities and contingent assets as at the end of the reporting period.

Note 17. Events occurring after the end of the reporting period

We are not aware of any matters or circumstances that have arisen since the end of the financial year to the date of this report which has significantly affected or may significantly affect the activities of the Authority, the results of those activities or the state of affairs of the Authority in the ensuing or any subsequent financial year.

KEY PERFORMANCE INDICATOR INFORMATION

Key Performance Indicators (KPIs) are required by section 62 of the *Financial Management Act 2006* and are provided to assist interested parties such as Government, Parliament and community groups in assessing an agency's desired outcomes. KPIs measure the efficiency and effectiveness of an agency.

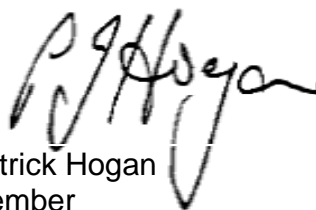
CERTIFICATION OF PERFORMANCE INDICATORS FOR THE RACING PENALTIES APPEAL TRIBUNAL FOR THE YEAR ENDED 30 JUNE 2014

We hereby certify that the key performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the performance of the Racing Penalties Appeal Tribunal, and fairly represent the performance of the Racing Penalties Appeal Tribunal for the financial year ended 30 June 2014.



Dan Mossenson
Chairperson
Racing Penalties Appeal Tribunal

10 September 2014



Patrick Hogan
Member
Racing Penalties Appeal Tribunal

9 September 2014

DETAILED INFORMATION IN SUPPORT OF KEY PERFORMANCE INDICATORS

Desired Outcome: To provide an appeal tribunal in relation to determinations made by racing industry stewards and controlling authorities.

Strategy: To ensure that a timely and effective appeal forum is provided at minimum cost to the racing industry.⁵

Under the *Racing Penalties (Appeals) Act 1990* (the Act), an appellant may apply for a suspension of the operation of a penalty at the time of lodging the appeal (a stay). It is essential to the racing codes, trainers, owners and the general public that these stay applications are dealt with expeditiously. These determinations impact directly on the eligibility of riders, drivers and runners to fulfil prior engagements.

The aim of the Racing Penalties Appeal Tribunal (the Tribunal) is to endeavour to finalise applications for stays on the same day as they are lodged. This is only potentially achievable when the appellant (or the appellant's counsel) and the stewards of the relevant code of racing are contactable on that day to provide submissions and the material is available to be forwarded in sufficient time to be dealt with that day by the Tribunal. In those cases where an appeal with a stay application is lodged at the registry later in the day there is virtually no prospect of it being determined until at least the next working day.

The time involved in determining a stay application, is governed by many factors including the availability of counsel for both parties, the provision of the transcript of the stewards' inquiry and other supporting information, legal proceedings in other jurisdictions and the complexity of matters required to be determined.

Key Effectiveness Indicator	2010-11 Actual	2011-12 Actual	2012-13 Actual	2013-14 Target	2013-14 Actual
Total number of stay applications received	2	8	3	8	7
Number of stay applications determined the same day	1	3	0	2	0
Indicator	50%	38%	0%	25%	0%

⁵ The effectiveness indicator for this activity is derived by dividing the number of stay applications determined the same day by the total number of stay applications received, then multiplying by 100.

The table below provides an explanation as to why the seven stay applications were not processed the same day and highlights that factors beyond the Tribunal's control were responsible for such a delay.

Appeal No	Applicant	Explanation
760	Alexander Hearn v RWWA Stewards of Thoroughbred Racing	Appeal was lodged at 2:30pm on Wednesday, 31 July 2013. Applicant did not respond to RWWA submissions until Thursday, 1 August 3:51pm. The application was determined same day at 4:54pm.
761	Shane Edwards v RWWA Stewards of Thoroughbred Racing	Appeal was lodged at 1:31pm on Thursday, 22 August 2013. The applicant who was overseas failed to lodge a response to RWWA submissions. The Tribunal determined to wait for a reasonable period (including weekend) before handing down the outcome to ensure procedural fairness. The application was determined on Tuesday, 27 August 2013 at 12:37pm.
764	Graham Berry v RWWA Stewards of Greyhound Racing	Appeal lodged at 1:54pm on Monday, 11 November 2013. Exchange of submissions were finalised at 9:24am on Tuesday, 19 November 2013. The application was determined same day at 9:29am.
765	Mr Shane Loone v RWWA Stewards of Harness Racing	Stay application lodged at 12.25pm on Tuesday, 3 December 2013. Exchange of submissions was finalised at 8:41am on Wednesday, 4 December 2013. The application was determined same day at 12:28pm.
766	Ms Maria Petricevich v RWWA Stewards of Harness Racing	Stay application lodged at 12.25pm on Tuesday, 3 December 2013. Exchange of submissions were finalised at 8:41am on Wednesday, 4 December 2013. The application was determined same day at 12:28pm.
767	Daniel Staeck v RWWA Stewards of Thoroughbred Racing	Stay application lodged on 23 December 2013 at 3:30 pm. Exchange of submissions finalised on Tuesday, 24 December 2013 at 4:00pm. Offices closed on 25-26 December 2013. Stay application determined on Friday, 27 December 2013 at 4:28pm.
768	Martin Stone v RWWA of Greyhound Racing	Appeal lodged at 12:15pm on Monday, 3 February 2014. Exchange of submissions was finalised at 11:02am on Tuesday, 4 February 2014. The application was determined same day at 12:35pm.

Service: To perform functions for the racing industry.

Service Description: To process appeals/applications in accordance with statutory obligations.

The Tribunal was created to maintain industry confidence in the enforcement of the various racing rules by providing the industry with an impartial quasi judicial forum for the hearing of appeals against a determination, or a finding comprised in or related to a determination, of an appropriate controlling authority, of a racing club, or of any committee or stewards.

The Tribunal is responsible for hearing and determining appeals against penalties imposed in disciplinary proceedings arising from, or in relation to, the conduct of greyhound racing, horse racing and harness racing.

A person who is aggrieved by a RWWA decision, or a determination made by a steward/stewards or a committee of a racing club, may make an appeal to the Tribunal within 14 days of the decision being handed down.

The Registrar of the Tribunal must ensure that appeals and stay applications are processed in accordance with the *Racing Penalties (Appeals) Act 1990* and the *Racing Penalties (Appeals) Regulations 1991*, whilst providing an effective and efficient service to the racing industry at minimal cost.

The average cost can change for each reporting year as a result of increases or reductions in the number of matters heard before the Tribunal, combined with annual increases to the total cost of providing services to the Tribunal to conduct its operations.

This means the more applications that are heard in a given year the less it costs to process each application. Conversely, if fewer applications are heard in a given year then it costs more on average to process a stay application.

The reason for the discrepancy between the estimated average costs of processing a stay application versus the actual cost of processing an application in 2013-14 is due to the decrease in the actual cost of services provided to the Tribunal as well as number of applications heard.

Key Effectiveness Indicator	2010-11 Actual	2011-12 Actual	2012-13 Actual	2013-14 Target	2013-14 Actual
Average cost of processing an appeal ⁶	\$23,038	\$24,560	\$24,140	\$18,027 ⁷	\$23,040 ⁸

⁶ The average processing cost for each financial year was derived by dividing the total cost of services to the Tribunal by the number of appeals heard

⁷ This is based on 2013-14 budgeted total cost of services of \$270,400 divided by a projected 15 applications heard.

⁸ This is based on 2013-14 actual total cost of services \$207,356 divided by 9 applications actually heard.



Auditor General

INDEPENDENT AUDITOR'S REPORT

To the Parliament of Western Australia

RACING PENALTIES APPEAL TRIBUNAL OF WESTERN AUSTRALIA

Report on the Financial Statements

I have audited the accounts and financial statements of the Racing Penalties Appeal Tribunal of Western Australia.

The financial statements comprise the Statement of Financial Position as at 30 June 2014, the Statement of Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows for the year then ended, and Notes comprising a summary of significant accounting policies and other explanatory information.

Tribunal's Responsibility for the Financial Statements

The Tribunal is responsible for keeping proper accounts, and the preparation and fair presentation of the financial statements in accordance with Australian Accounting Standards and the Treasurer's Instructions, and for such internal control as the Tribunal determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the financial statements based on my audit. The audit was conducted in accordance with Australian Auditing Standards. Those Standards require compliance with relevant ethical requirements relating to audit engagements and that the audit be planned and performed to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the Tribunal's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the appropriateness of the accounting policies used and the reasonableness of accounting estimates made by the Tribunal, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the financial statements are based on proper accounts and present fairly, in all material respects, the financial position of the Racing Penalties Appeal Tribunal of Western Australia at 30 June 2014 and its financial performance and cash flows for the year then ended. They are in accordance with Australian Accounting Standards and the Treasurer's Instructions.

Report on Controls

I have audited the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia during the year ended 30 June 2014.

Controls exercised by the Racing Penalties Appeal Tribunal of Western Australia are those policies and procedures established by the Tribunal to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions.

Tribunal's Responsibility for Controls

The Tribunal is responsible for maintaining an adequate system of internal control to ensure that the receipt, expenditure and investment of money, the acquisition and disposal of public and other property, and the incurring of liabilities are in accordance with the Financial Management Act 2006 and the Treasurer's Instructions, and other relevant written law.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the adequacy of controls to ensure that the Tribunal complies with the legislative provisions. The procedures selected depend on the auditor's judgement and include an evaluation of the design and implementation of relevant controls.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions during the year ended 30 June 2014.

Report on the Key Performance Indicators

I have audited the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2014.

The key performance indicators are the key effectiveness indicators and the key efficiency indicators that provide information on outcome achievement and service provision.

Tribunal's Responsibility for the Key Performance Indicators

The Tribunal is responsible for the preparation and fair presentation of the key performance indicators in accordance with the Financial Management Act 2006 and the Treasurer's Instructions and for such controls as the Tribunal determines necessary to ensure that the key performance indicators fairly represent indicated performance.

Auditor's Responsibility

As required by the Auditor General Act 2006, my responsibility is to express an opinion on the key performance indicators based on my audit conducted in accordance with Australian Auditing and Assurance Standards.

An audit involves performing procedures to obtain audit evidence about the key performance indicators. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the key performance indicators. In making these risk assessments the auditor considers internal control relevant to the Tribunal's preparation and fair presentation of the key performance indicators in order to design audit procedures that are appropriate in the circumstances. An audit also includes evaluating the relevance and appropriateness of the key performance indicators for measuring the extent of outcome achievement and service provision.

I believe that the audit evidence obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

In my opinion, the key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia are relevant and appropriate to assist users to assess the Tribunal's performance and fairly represent indicated performance for the year ended 30 June 2014.

Independence

In conducting this audit, I have complied with the independence requirements of the Auditor General Act 2006 and Australian Auditing and Assurance Standards, and other relevant ethical requirements.

Matters Relating to the Electronic Publication of the Audited Financial Statements and Key Performance Indicators

This auditor's report relates to the financial statements and key performance indicators of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 30 June 2014 included on the Tribunal's website. The Tribunal's management is responsible for the integrity of the Tribunal's website. This audit does not provide assurance on the integrity of the Tribunal's website. The auditor's report refers only to the financial statements and key performance indicators described above. It does not provide an opinion on any other information which may have been hyperlinked to/from these financial statements or key performance indicators. If users of the financial statements and key performance indicators are concerned with the inherent risks arising from publication on a website, they are advised to refer to the hard copy of the audited financial statements and key performance indicators to confirm the information contained in this website version of the financial statements and key performance indicators.



DON CUNNINGHAME
ASSISTANT AUDITOR GENERAL FINANCIAL AUDIT
Delegate of the Auditor General for Western Australia
Perth, Western Australia
16 September 2014

OTHER LEGAL AND GOVERNMENT POLICY REQUIREMENTS

ADVERTISING AND SPONSORSHIP

Section 175ZE of the *Electoral Act 1907* requires public agencies to report details of expenditure to organisation providing services in relation to advertising, market research, polling, direct mail and media advertising. The Tribunal did not incur expenditure of this nature in 2013/14.

OTHER GOVERNMENT POLICY REQUIREMENTS

The Tribunal meets its requirements through arrangements with the Department of Racing, Gaming and Liquor. The Department's Annual Report contains information on how the Department meets the following requirements:

- Disability Access and Inclusion Plan Outcomes.
- Compliance with Public Sector Standards and Ethical Codes.
- Recordkeeping Plans.
- Substantive Equality.
- Occupational Safety, Health and Injury Management.