



**RACING PENALTIES APPEAL TRIBUNAL  
OF WESTERN AUSTRALIA**

**ANNUAL REPORT**

**2004-2005**

# STATEMENT OF COMPLIANCE

HON MARK MCGOWAN MLA  
MINISTER FOR TOURISM; RACING AND GAMING;  
YOUTH; PEEL AND THE SOUTH WEST

## RACING PENALTIES APPEAL TRIBUNAL ANNUAL REPORT 2004-2005

In accordance with section 66 of the *Financial Administration and Audit Act 1985*, we hereby submit for your information and presentation to Parliament, the Annual Report of the Racing Penalties Appeal Tribunal of Western Australia for the year ended 31 July 2005.

The report has been prepared in accordance with the provisions of the *Financial Administration and Audit Act 1985*.

The report summarises the Tribunal's functions and objectives, presents an overview of achievements and includes financial statements for the year.

The Tribunal's success in meeting its objectives has been significantly influenced by the dedication and commitment of the employees of the Department of Racing, Gaming and Liquor. We take this opportunity on behalf of the Tribunal to express appreciation for their efforts.



Dan Mossenson  
**CHAIRPERSON**, RACING PENALTIES  
APPEAL TRIBUNAL  
29 September 2005



Karen Farley  
**MEMBER**, RACING PENALTIES  
APPEAL TRIBUNAL  
29 September 2005

**STATEMENT OF COMPLIANCE  
WITH RELEVANT LAW**

**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 of 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.

**LEGISLATION ADMINISTERED**

*Racing Penalties (Appeals) Act 1990.*

**LEGISLATION IMPACTING ON ACTIVITIES**

In the performance of its functions, the Tribunal complies with the following relevant written laws:

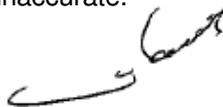
- *Corruption and Crime Commission Act 2003;*
- *Disability Services Act 1993;*
- *Electoral Act 1907;*
- *Financial Administration and Audit Act 1985;*
- *Freedom of Information Act 1992;*
- *Industrial Relations Act 1979;*
- *Parliamentary Commissioner Act 1971;*
- *Public Interest Disclosure Act;*
- *Public Sector Management Act 1994;*
- *Salaries and Allowances Act 1975;*
- *State Records Act 2000;*
- *State Supply Commission Act 1991;* and

in its financial administration, the Tribunal has complied with the requirements of the *Financial Administration and Audit Act 1985* and every other relevant written law, and exercised controls which provide reasonable assurance that the receipt and expenditure of moneys, and the acquisition and disposal of public property and incurring of liabilities have been in accordance with legislative provisions.

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



Dan Mossenson  
**CHAIRPERSON, RACING PENALTIES  
APPEAL TRIBUNAL**  
29 September 2005



Terry Ng  
**PRINCIPAL ACCOUNTING OFFICER**

29 September 2005



Karen Farley  
**MEMBER, RACING PENALTIES  
APPEAL TRIBUNAL**  
29 September 2005

**CONTENTS**

1. *The Tribunal*
2. *Tribunal Membership*
3. *Report on Operations*
4. *Budget Information*
5. *Service Delivery Targets*
6. *Financial Statements*
7. *Performance Indicators*

## **1. THE TRIBUNAL**

### **Purpose of the Tribunal**

*The Racing Penalties (Appeals) Act 1990* (the Act) was enacted in November 1990 to establish the Racing Penalties Appeal Tribunal. The Act came into operation on 15 April 1991. The aim of the legislation 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.

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).

### **Equity, Access and Customer Focus**

The Tribunal does not employ staff but has a net appropriation agreement with the Department of Racing, Gaming and Liquor relating to the functions carried out on behalf of the Tribunal by staff of that agency.

As such, the Tribunal does not maintain plans for –

- *Equal Employment Opportunity;*
- *Public Sector Standards;*
- *Language Services; and*
- *Disability Services,*

and relies on the relevant plans of the Department of Racing, Gaming and Liquor. Accordingly, the Tribunal does not report on the outcomes of those plans. Details of the relevant plans and outcomes are available in the Department's Annual Report.

### **Responsible Minister**

The Honourable Mark McGowan, MLA, Minister for Tourism; Racing and Gaming; Youth; Peel and the South West.

### **Appeals which may be heard by the Tribunal**

A person who is aggrieved by a determination of RWVA, of a steward, of a racing club, or of a committee, may, within 14 days after the making of the determination, appeal to the Tribunal. The matters that can be appealed against are those determinations or findings -

- (a) imposing any suspension or disqualification, whether of a runner or of a person;
- (b) imposing a fine;
- (c) which results, or may result, in the giving of a notice of the kind commonly referred to as a warning-off; or
- (d) in relation to any other matter, where the Tribunal gives leave to appeal.

**1. THE TRIBUNAL (cont.)**

**Determination of Appeals**

The Tribunal is required to hear and determine an appeal upon the evidence of the original hearing but may allow new evidence or call on experts to assist in its deliberations.

When determining an appeal, the Tribunal may -

- order the refund or repayment of any stakes paid in respect of a race to which the appeal relates;
- refer the matter to RWVA or the appropriate racing club, committee or stewards 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 RWVA or the appropriate racing club, committee or stewards take further action in relation to any person; and
- make such other order as the member presiding may think proper.

Decisions of the Tribunal are final and binding.

2. **TRIBUNAL MEMBERSHIP**

Sections 5 and 6 of the Act 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. Where the Regulations provide, an appeal may be heard by the Chairperson, acting Chairperson or presiding member sitting alone.

The composition of the Tribunal as at 31 July 2005 is as follows:

Mr Dan Mossenson (current term expires 28 February 2006)	<b>Inaugural Chairperson</b> - initial appointment 1990
Mr Patrick Hogan (current term expires 28 February 2006)	<b>Inaugural Member</b> - initial appointment 1991
Mr John Prior (current term expires 28 February 2006)	<b>Member</b> - initial appointment 1994
Ms Karen Farley (current term expires 28 February 2008)	<b>Member</b> - initial appointment 1997
Mr Andrew Monisse (current term expires 28 February 2008)	<b>Member</b> - initial appointment 1997
Mr Robert Nash (current term expires 28 February 2008)	<b>Member</b> - initial appointment 1997
Mr Steven Pynt (current term expires 28 February 2008)	<b>Member</b> - initial appointment 1997
Mr William Chesnutt (current term expires 28 February 2006)	<b>Member</b> - initial appointment 2000

The appointment of Ms Gillian Braddock SC as a member of the Tribunal expired on 1 January 2005 upon the commencement of the State Administrative Tribunal. Ms Braddock did not seek reappointment.

Mr Doug Smith was appointed **Registrar** and **executive officer** on 6 November 1995.

**3. REPORT ON OPERATIONS**

**Appeals**

This year 21 appeals were lodged with the Tribunal and two were carried over from the previous year. During the year, the Tribunal determined 22 appeals with one pending at the end of this year. These appeals, together with appeals from the previous year, are summarised by racing code as follows:

<b>Appeals Lodged and Determined</b>							
Racing Code	Appeals Lodged 2003/04	Appeals Determined 2003/04	Hearing Days Occupied 2003/04	Appeals Carried Over To 2004/05	Appeals Lodged 2004/05	Appeals Determined 2004/05	Hearing Days Occupied 2004/05
Thoroughbred	7	8	6.00	0	11	12	5.00
Harness	6	7	3.50	1	7	7	3.00
Greyhound	2	2	1.00	0	3	3	0.50
<b>Total</b>	<b>15</b>	<b>17</b>	<b>10.50</b>	<b>1</b>	<b>21</b>	<b>22</b>	<b>8.50</b>

The results of the determinations for the respective racing codes for the years 2004/05 and 2003/04 are summarised below. The appeal awaiting determination is the Lindsay Harper matter in harness racing. Mr Harper was disqualified for seven years for breach of Rule 231 and five years for breach of Rule 243 with the penalties to be served concurrently.

<b>2004/05 Appeal Results</b>			
	Thoroughbred Racing	Harness Racing	Greyhound Racing
Allowed in Full	0	2	0
Allowed in Part (Penalty Reduced)	1	0	0
Referred Back to Stewards (RWWA)	0	0	0
Dismissed	9	5	1
Withdrawn	2	0	2
<b>Total</b>	<b>12</b>	<b>7</b>	<b>3</b>

**3. REPORT ON OPERATIONS (cont.)**

<b>2003/04 Appeal Results</b>			
	Thoroughbred Racing	Harness Racing	Greyhound Racing
Allowed in Full	1	1	0
Allowed in Part (Penalty Reduced)	0	1	0
Referred Back to Stewards (RWWA)	1	0	0
Dismissed	5	5	2
Withdrawn	1	0	0
<b>Total</b>	<b>8</b>	<b>7</b>	<b>2</b>

<b>2004/05 Appeals Awaiting Determination</b>			
	Thoroughbred Racing	Harness Racing	Greyhound Racing
Reserved Decision	0	0	0
Yet to be Heard	0	1	0
<b>Total</b>	<b>0</b>	<b>1</b>	<b>0</b>

**Stays of Proceedings**

Section 17(7) of the Act deals with the suspension of the operation of any order or pecuniary or other penalty imposed, or any consequence arising from any determination or finding. This stay of proceedings provision brings into consideration factors such as prejudice to an appellant due to the passage of time from a conviction until the Tribunal has determined the appeal and circumstances where the appellant's capacity to earn a livelihood is interrupted.

An application for a suspension of the operation of a penalty must be in writing. The Stewards of the relevant code are invited to respond and provide written submissions. A stay of proceedings is generally granted when the Stewards do not oppose the application. In those instances where the Stewards oppose the granting of an application, the Registrar invites the appellant to respond to the submission made by the Stewards.

The Chairperson determines each application on all of the available material. Where a suspension of the operation of a penalty is granted, the Chairperson also determines the conditions under which the stay will operate.

**3. REPORT ON OPERATIONS (cont.)**

In 2004/05, there were 11 applications for stays of proceedings compared to eight the previous year. The Chairperson made the determinations as follows:

<b>2004/05 Applications for Stays of Proceedings</b>		
Racing Code	Stays Granted	Stays Refused
Thoroughbred	2	2
Harness	3	2
Greyhound	0	2
<b>Total</b>	<b>5</b>	<b>6</b>

<b>2003/04 Applications for Stays of Proceedings</b>		
Racing Code	Stays Granted	Stays Refused
Thoroughbred	2	4
Harness	2	0
Greyhound	0	0
<b>Total</b>	<b>4</b>	<b>4</b>

**Matters Heard and Determined by the Tribunal**

The following is a summary of the matters heard and determined by the Tribunal and the results of those determinations during 2004/05 by reference to each racing code.

***Thoroughbred Racing***

Trainers

Stephen Wolfe  
*Appeal 613*                      Disqualification for 12 months for a prohibited substance detected in a horse presented for an official trial – appeal dismissed, penalty confirmed.

Sharon Miller  
*Appeal 622*                      Fine of \$5,000 for being a party to a jockey betting – appeal dismissed, penalty confirmed.

Barrie Carpenter  
*Appeal 624*                      Disqualification for 6 months for a prohibited substance detected in a horse presented for a race – appeal dismissed, penalty confirmed.

**3. REPORT ON OPERATIONS (cont.)**

Jockeys/Apprentices

Clint Harvey <i>Appeal 618</i>	Suspension for 21 days for careless riding in a race – appeal dismissed, penalty confirmed.
Clint Harvey <i>Appeal 619</i>	Suspension for 20 days for careless riding in a race – appeal dismissed, penalty confirmed. Refer Appeal 618. Penalty to be served concurrently with 21 day suspension.
Stephen Miller <i>Appeal 621</i>	Suspension for six months for betting - appeal dismissed, penalty confirmed. Penalty to also apply to all other licences held in thoroughbred and harness racing.
David O’Heare <i>Appeal 625</i>	Fine of \$500 for swearing at the completion of a race – appeal dismissed, penalty confirmed.
Dion Luciani <i>Appeal 626</i>	Suspension for 12 days for careless riding in a race – appeal as to conviction dismissed, penalty varied to six days suspension.
Neil Chapman <i>Appeal 627</i>	Suspension for four weeks for improper riding in a race – appeal dismissed, penalty confirmed.
Dominic Tourneur <i>Appeal 631</i>	Suspension for 33 days (three Geraldton meetings) for careless riding in a race – appeal as to conviction dismissed, penalty varied to 38 days suspension to reflect three Geraldton meetings.

***Harness Racing***

Trainer

Kevin Nolan <i>Appeal 632</i>	Disqualified for 12 months for a prohibited substance detected in a horse presented for a race – appeal dismissed, penalty confirmed.
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Drivers

Mark Reed <i>Appeal 614</i>	Convicted for having drugs of abuse in his body when carrying out a licensed activity at a race meeting. No penalty imposed by the Stewards. Appeal upheld, conviction quashed.
Lindsay Harper <i>Appeal 617</i>	Suspension for 28 days for causing interference in a race – appeal upheld, conviction quashed.
David Young <i>Appeal 620</i>	Suspension for 14 days for causing interference in a race – appeal dismissed, penalty confirmed.

**3. REPORT ON OPERATIONS (cont.)**

Martin Wilson <i>Appeal 628</i>	Suspension for 28 days for careless driving by mistaking the laps in a race – appeal dismissed, penalty confirmed.
Terence Naylor <i>Appeal 633</i>	Fine of \$50 for not ensuring his driver's jacket remained fastened during an official trial – appeal dismissed, penalty confirmed.
Sheri Sheehy <i>Appeal 636</i>	Suspension for 21 days for causing interference in a race – appeal dismissed, penalty confirmed.

***Greyhound Racing***

Trainer

Barry Thompson <i>Appeal 623</i>	Suspension of MISS TINKERBELLE for 28 days at Mandurah Greyhounds for fighting during a race – appeal dismissed, penalty confirmed.
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**Significant Cases Determined**

***S J Wolfe v RWWA Stewards of Thoroughbred Racing***

This appeal was reported in the 2003/04 Annual Report. Following two separate appeals to the Tribunal, this matter has now been finally determined. The background to the case is repeated here.

Mr Wolfe was the trainer of the unraced two-year-old SAVAGE CABBAGE which competed in an Official Barrier Trial over 400 metres at Belmont Park Racecourse on 28 October 2002. Nearing the winning post the horse fell. Jockey Jason Oliver sustained fatal injuries from the fall. SAVAGE CABBAGE suffered a catastrophic fracture to its off foreleg and was euthanased.

A post-mortem urine sample taken from the horse disclosed the presence of the prohibited substances Phenylbutazone and Oxyphenbutazone. The forelegs of the euthanased horse were removed by the Veterinary Steward and later taken to Murdoch University for examination.

Mr Wolfe advised the Chairman of Stewards on the afternoon of the trial that his partner had administered "20 mls of bute" to SAVAGE CABBAGE on the previous Wednesday afternoon to alleviate swelling in a back leg. Following an inquiry, the Stewards on 5 December 2002 disqualified Mr Wolfe for two years for presenting the horse to trial with prohibited substances in its system. The Stewards' findings, based on the evidence of analysts, was that a large dose of Phenylbutazone had been administered to the horse closer to the trial than claimed by Mr Wolfe.

**3. REPORT ON OPERATIONS (cont.)**

Mr Wolfe appealed to the Tribunal on 6 December 2002 and applied for a stay of proceedings which was refused. Mr Wolfe immediately sought and that day obtained an order from the Supreme Court of Western Australia staying the disqualification decision until further order of the Supreme Court.

The Tribunal heard the appeal on 25 February 2003 and reserved its decision. Prior to the Tribunal handing down its decision, solicitors for the appellant sought to reconvene the appeal proceedings to hear fresh evidence which was claimed to have come to light subsequent to the February hearing. At the further hearing, which was convened on 20 May 2003, leave was granted to the appellant to reopen the case. After hearing further evidence the Tribunal again reserved its decision.

On 1 December 2003, the Tribunal, by a unanimous decision, dismissed the appeal against conviction. By a majority decision, the Tribunal quashed the penalty of two years disqualification and referred the matter back to the Stewards to redetermine the appropriate penalty to be imposed after taking into account the reasons of the majority and such further relevant evidence, if any, as the Stewards thought fit.

On 19 April 2004, the Stewards after three sittings disqualified Mr Wolfe for 12 months.

Mr Wolfe again appealed to the Tribunal and sought a stay of proceedings. Following a formal hearing, the Chairperson granted Mr Wolfe a stay of proceedings until the hearing of the appeal.

The Tribunal heard the matter on 26 July 2004 and reserved its decision. Mr Wolfe's stay of proceedings was extended. On 5 October 2004 the Tribunal by a unanimous decision dismissed the appeal and confirmed the disqualification for 12 months. The suspension of operation of the penalty automatically ceased.

**Legislation Impacting on the Tribunal**

State Administrative Tribunal

The *State Administrative Tribunal Act 2004* and the *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004* were assented to on 23 November 2004. The *State Administrative Tribunal Act 2004* established the State Administrative Tribunal (SAT) to review certain administrative decisions and deal with certain other matters, and for related purposes.

The Racing Penalties Appeal Tribunal was excluded from the legislation enacting the establishment of SAT.

**Tribunal Library**

To assist persons who may wish to utilise the appeal process the Registrar maintains an up to date index of all determinations made since the Tribunal commenced operations in 1991. This index is available for perusal free of charge. To streamline research, the index is divided into the following sections:

**3. REPORT ON OPERATIONS (cont.)**

Section 1	Thoroughbred Racing
Section 2	Harness Racing
Section 3	Greyhound Racing

In respect of the two horse racing codes, the index is further divided into the following sub-sections:

- (i) Conduct
- (ii) Prohibited Substances
- (iii) Protests
- (iv) Leave to Appeal
- (v) Nominal Index

In respect of the greyhound racing code, the index is divided as above except for protests.

In addition, there is a summary of the issues and results in respect of all appeal/application determinations including the relevant rule and prohibited substance (if applicable).

The index is now available on the web site of the Department of Racing, Gaming and Liquor at [www.rgl.wa.gov.au](http://www.rgl.wa.gov.au).

Any person may peruse the full determinations of the Tribunal free of charge. A small fee is payable for photocopies.

A copy of every determination is forwarded to the Supreme Court of Western Australia Library.

Available for perusal free of charge are the Racing Appeals Reports. These reports are a digest of rulings, observations and comments of Australian and New Zealand statutory appeals tribunals for the three codes of racing. Photocopies are available on request (subject to copyright laws) on payment of a small fee.

**4. BUDGET INFORMATION**

**Summary Information**

	Estimate 2005/06 \$	Estimate 2004/05 \$	Actual 2004/05 \$	Actual 2003/04 \$
Expenses from Ordinary Activities				
Fees Paid to Tribunal Members	54,505	59,120	29,010	54,704
Other Expenses from Ordinary Activities	129,365	121,046	111,116	112,411
<b>Total Cost of Services</b>	<b>183,870</b>	<b>180,166</b>	<b>146,626</b>	<b>167,115</b>
Revenues from Operating Activities				
Operating Income	143,772	189,825	187,351	131,564
Interest	3,387	1,769	5,287	1,345
<b>Total Revenues from Ordinary Activities</b>	<b>147,159</b>	<b>191,594</b>	<b>192,638</b>	<b>132,909</b>
<b>Net Cost of Services</b>	<b>36,711</b>	<b>(11,428)</b>	<b>(52,012)</b>	<b>34,206</b>
<b>Total Changes in Equity Other Than Those Resulting from Transactions with WA State Government as Owners</b>	<b>(36,711)</b>	<b>11,428</b>	<b>52,012</b>	<b>(34,206)</b>

**GOVERNMENT EXPENDITURE 2004/05  
- COMPLIANCE WITH SECTION 175ZE OF THE ELECTORAL ACT 1907**

During the reporting year, the Tribunal expended \$95 on advertising.

**5. SERVICE DELIVERY TARGETS**

During the reporting year, targets for service delivery were established in respect of quantity, quality, timeliness and cost.

**Quantity**

Number of appeals processed

2004/05 Target	2004/05 Actual
32	22

**Quality**

% of appellants who did not lodge a complaint in relation to the appeal process

2004/05 Target	2004/05 Actual
100%	100%

**Timeliness**

% of applications for stays of proceedings determined on day of lodgement

2004/05 Target	2004/05 Actual
75%	36%

**Cost**

Average cost of processing an appeal

2004/05 Target	2004/05 Actual
\$5,630	\$6,642

**6. FINANCIAL STATEMENTS**

**CONTENTS**

1. *Key Aspects of the Financial Statements*
2. *Financial Statements*
3. *Notes to the Financial Statements*
4. *Statement of Certification*
5. *Opinion of the Auditor General*

**6. FINANCIAL STATEMENTS (cont.)**

**Key Aspects of the Financial Statements**

As at 31 July 2005, the 'Change in Net Assets' showed a surplus of \$52,012. It was partly attributable to a significant decrease in the Tribunal members' expenses due to less time spent by Tribunal members on a reduced number of appeals. There was also a significant increase in the funding from Racing and Wagering Western Australia.

6. **FINANCIAL STATEMENTS (cont.)**

**Racing Penalties Appeal Tribunal**  
**Statement of Financial Performance**  
*for the year ended 31 July 2005*

	Note	2005 \$	2004 \$
<b>COST OF SERVICES</b>			
<b>Expenses from ordinary activities</b>			
Tribunal members' expenses	9	29,010	54,704
Superannuation	9	2,610	4,923
Supplies and services		109,006	107,488
Total cost of services		<u>140,626</u>	<u>167,115</u>
<b>Revenues from ordinary activities</b>			
<i>Revenue from operating activities</i>			
Operating income		187,351	131,564
<i>Revenue from non-operating activities</i>			
Interest revenue		5,287	1,345
Total revenues from ordinary activities		<u>192,638</u>	<u>132,909</u>
<b>NET COST OF SERVICES</b>	8 (b)	<u>(52,012)</u>	<u>34,206</u>
<b>CHANGE IN NET ASSETS</b>		<u>52,012</u>	<u>(34,206)</u>
<b>TOTAL CHANGES IN EQUITY OTHER THAN THOSE RESULTING FROM TRANSACTIONS WITH WA STATE GOVERNMENT AS OWNERS</b>			
		<u>52,012</u>	<u>(34,206)</u>

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

6. **FINANCIAL STATEMENTS (cont.)**

**Racing Penalties Appeal Tribunal**

**Statement of Financial Position**

*as at 31 July 2005*

	Note	2005 \$	2004 \$
<b>Current Assets</b>			
Cash assets	2	42,238	1,128
Receivables	3	0	76
Other assets	4	513	106
<b>Total Current Assets</b>		<u>42,751</u>	<u>1,310</u>
<b>Total Assets</b>		<u>42,751</u>	<u>1,310</u>
<b>Current Liabilities</b>			
Payables	5	1,502	6,734
Other liabilities	6	540	5,879
<b>Total Current Liabilities</b>		<u>2,042</u>	<u>12,613</u>
<b>Total Liabilities</b>		<u>2,042</u>	<u>12,613</u>
<b>NET ASSETS</b>		<u>40,709</u>	<u>(11,303)</u>
<b>Equity</b>			
Accumulated surplus/(deficit)	7	<u>40,709</u>	<u>(11,303)</u>
<b>TOTAL EQUITY</b>		<u>40,709</u>	<u>(11,303)</u>

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

6. **FINANCIAL STATEMENTS (cont.)**

**Racing Penalties Appeal Tribunal**

**Statement of Cash Flows**

*for the year ended 31 July 2005*

	Note	2005 \$	2004 \$
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<b>Payments</b>			
Tribunal members' expenses		(34,395)	(48,824)
Superannuation		(3,096)	(4,394)
Supplies and services		(113,705)	(110,422)
GST paid on purchases		(531)	(812)
GST payments to taxation authority		(9)	0
<b>Receipts</b>			
Receipts from customers		187,420	131,495
Interest received		4,881	1,654
GST receipts on sales		7	0
GST receipts from taxation authority		538	840
<b>Net cash provided by/(used in) operating activities</b>	8 (b)	<u>41,110</u>	<u>(30,463)</u>
<b>Net increase/(decrease) in cash held</b>		<b>41,110</b>	<b>(30,463)</b>
Cash assets at the beginning of the financial year		<u>1,128</u>	<u>31,591</u>
<b>Cash assets at the end of the financial year</b>	8 (a)	<u><u>42,238</u></u>	<u><u>1,128</u></u>

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

## 6. FINANCIAL STATEMENTS (cont.)

**Racing Penalties Appeal Tribunal**  
**Notes to the Financial Statements**  
*for the year ended 31 July 2005*

### 1. SIGNIFICANT ACCOUNTING POLICIES

The financial year of the Racing Penalties Appeal Tribunal is 1 August to 31 July, as determined by the Racing Penalties (Appeals) Act 1990.

The following accounting policies have been adopted in the preparation of the financial statements. Unless otherwise stated, these policies are consistent with those adopted in the previous year.

#### **General Statement**

The financial statements constitute a general purpose financial report which has been prepared in accordance with Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and Urgent Issues Group (UIG) Consensus Views 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 Administration and Audit Act and the Treasurer's Instructions are legislative provisions governing the preparation of financial statements and take precedence over Accounting Standards, Statements of Accounting Concepts and other authoritative pronouncements of the Australian Accounting Standards Board, and UIG Consensus Views. The modifications are intended to fulfil the requirements of general application to the public sector, together with the need for greater disclosure and also to satisfy accountability requirements.

If any such modification has a material or significant financial effect upon the reported results, details of that modification and where practicable, the resulting financial effect, are disclosed in individual notes to these financial statements.

#### **Basis of Accounting**

The financial statements have been prepared on the accrual basis of accounting using the historical cost convention, except for certain assets and liabilities which, as noted, are measured at fair value.

#### **(a) 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 Financial Performance 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 agreement.

#### **(b) Cash**

For the purpose of the Statement of Cash Flows, cash includes cash assets.

#### **(c) Receivables**

Receivables are recognised at the amounts receivable and they are due for settlement no more than 30 days from the date of recognition.

Collectability of receivables is reviewed on an ongoing basis. Debts which are known to be uncollectable are written off. A provision for doubtful debts is raised where some doubts as to collection exist and in any event where the debt is more than 60 days overdue.

**6. FINANCIAL STATEMENTS (cont.)**

**(d) Payables**

Payables, including accruals not yet billed, are recognised when the Tribunal becomes obliged to make future payments as a result of a purchase of goods or services. Payables are generally settled within 30 days.

**(e) Insurance**

Personal accident insurance for Tribunal members is arranged through Riskcover by the Department of Racing, Gaming and Liquor.

**(f) Employee benefits**

**(i) Annual and Long Service Leave**

The Racing Penalties Appeal 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.

**(ii) Superannuation**

The Tribunal members of the Racing Penalties Appeal Tribunal are non-contributory members of the West State Superannuation Scheme, an accumulation fund complying with the Commonwealth Government's Superannuation Guarantee (Administration) Act 1992. The superannuation expense comprises employer contributions in respect of Tribunal members which are payable to the West State Superannuation Scheme by the Tribunal.

The liabilities for superannuation charges under the West State Superannuation Scheme are extinguished by payment of employer contributions to the Government Employees Superannuation Board (GESB).

The note disclosure required by paragraph 6.10 of AASB 1028 (being the employer's share of the difference between employees' accrued superannuation benefits and the attributable net market value of plan assets) has not been provided. State scheme deficiencies are recognised by the State in its whole of government reporting. The GESB's records are not structured to provide the information for the Tribunal. Accordingly, deriving the information for the Tribunal is impractical under current arrangements, and thus any benefits thereof would be exceeded by the cost of obtaining the information.

**(g) Operating income**

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.

**6. FINANCIAL STATEMENTS (cont.)**

**(h) Comparative figures**

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

**(i) Rounding of amounts**

Amounts in the financial statements have been rounded to the nearest dollar.

	2005 \$	2004 \$
<b>2. CASH ASSETS</b>		
Cash assets are represented by funds held at the Commonwealth Bank of Australia	<u>42,238</u>	<u>1,128</u>
<b>3. RECEIVABLES</b>		
Receivables for goods and services supplied	<u>0</u>	<u>76</u>
	<u>0</u>	<u>76</u>
<b>4. OTHER ASSETS</b>		
Interest receivable	<u>513</u>	<u>106</u>
<b>5. PAYABLES</b>		
Payables for goods and services received	1,502	6,732
GST payable	<u>0</u>	<u>2</u>
	<u>1,502</u>	<u>6,734</u>
<b>6. OTHER LIABILITIES</b>		
Current		
Accrued expenses	<u>540</u>	<u>5,879</u>
<b>7. EQUITY</b>		
Accumulated surplus/(deficit)		
Opening balance	(11,303)	22,903
Change in net assets	<u>52,012</u>	<u>(34,206)</u>
Closing balance	<u>40,709</u>	<u>(11,303)</u>

**6. FINANCIAL STATEMENTS (cont.)**

	2005	2004
	\$	\$
<b>8. NOTES TO THE STATEMENT OF CASH FLOWS</b>		
<b>(a) Reconciliation of cash</b>		
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 assets	42,238	1,128
	<u>42,238</u>	<u>1,128</u>
<b>(b) Reconciliation of net cost of services to net cash flows provided by/(used in) operating activities</b>		
Net cost of services	52,012	(34,206)
(Increase)/decrease in assets:		
Receivables	76	(76)
Other assets	(407)	309
Increase/(decrease) in liabilities:		
Payables	(5,230)	(2,407)
Other liabilities	(5,339)	5,879
Net GST receipts/(payments)	5	(29)
Change in GST in receivables/payables	(7)	67
Net cash provided by/(used in) operating activities	<u>41,110</u>	<u>(30,463)</u>

**9. REMUNERATION OF MEMBERS OF THE ACCOUNTABLE AUTHORITY**

The number of members of the Accountable Authority whose total of fees, salaries, superannuation and other benefits for the financial year, fall within the following bands are:

\$		
0 - 10,000	7	7
20,001 - 30,000	1	0
40,001 - 50,000	0	1

The total remuneration of the members of the Accountable Authority is:	<u>31,620</u>	<u>59,627</u>
--	---------------	---------------

The superannuation included here represents the superannuation expense incurred by the Authority in respect of members of the Accountable Authority.

No members of the Accountable Authority are members of the Pension Scheme.

**10. ADDITIONAL FINANCIAL INSTRUMENTS DISCLOSURES**

**a) Interest rate risk exposure**

The Tribunal's exposure to interest rate risk and effective interest rates on financial instruments are:

	Weighted average effective interest rate	Floating interest rate	Non-interest bearing	Total 31 July 2005	Total 31 July 2004
		\$	\$	\$	\$
<b>i) Financial assets</b>					
Cash assets	5.485%	42,238		42,238	1,128
Receivables			0	0	76
Other assets			513	513	106
<b>Total financial assets</b>		<b>42,238</b>	<b>513</b>	<b>42,751</b>	<b>1,310</b>
<b>ii) Financial liabilities</b>					
Payables			1,502	1,502	6,734
<b>Total financial liabilities</b>			<b>1,502</b>	<b>1,502</b>	<b>6,734</b>

**b) Credit risk exposure**

All financial assets are unsecured. Amounts owing by other government agencies are guaranteed and therefore no credit risk exists in respect of those amounts. In respect of other financial assets the carrying amounts represent the Tribunal's maximum exposure to credit risk in relation to those assets.

**6. FINANCIAL STATEMENTS (cont.)**

**11. EXPLANATORY STATEMENT**

**(i) Significant variations between actual revenues and expenditures for the financial year and revenues and expenditures for the immediately preceding financial year**

Details and reasons for significant variations between actual results with the corresponding items of the preceding year are detailed below. Significant variations are considered to be those greater than 5% or \$20,000.

	<b>2005</b>	<b>2004</b>
	<b>\$</b>	<b>\$</b>
<i>Tribunal members' expenses</i>	29,010	54,704
The decrease of \$25,694 was due to less time spent by Tribunal members on a reduced number of appeals.		
<i>Superannuation</i>	2,610	4,923
The variance of \$2,313 was attributed to the decrease in fees paid to Tribunal members.		
<i>Operating income</i>	187,351	131,564
The increase of \$55,787 was mainly due to a higher contribution from Racing and Wagering Western Australia.		
<i>Interest revenue</i>	5,287	1,345
The increase of \$3,942 was the result of a higher bank balance throughout the year plus increasing interest rates.		

**(ii) Significant variations between estimates and actual results for the financial year**

Section 42 of the Financial Administration and Audit Act requires statutory authorities to prepare annual budget estimates. Treasurer's Instruction 945 requires an explanation of significant variations between these estimates and actual results. Significant variations are considered to be those greater than 5% of budget or \$20,000.

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

**12. REMUNERATION OF AUDITOR**

The total of audit fees paid or due and payable to the auditors of the Tribunal for the financial year is as follows:

Fees to the Auditor General:		
- for external audit	<u>5,500</u>	<u>5,000</u>

**6. FINANCIAL STATEMENTS (cont.)**

**13. SERVICE OF THE ACCOUNTABLE AUTHORITY**

The only service of the Tribunal is *Functions Performed for the Racing Industry*. The information disclosed in the Statement of Financial Performance represent all details of expenses and revenues from ordinary activities for this service.

**14. OTHER COMMITMENTS**

As at 31 July 2005 the Tribunal did not have any other material capital or expenditure commitments.

**15. CONTINGENT LIABILITIES AND CONTINGENT ASSETS**

The Tribunal is not aware of any contingent liabilities and assets as at balance date.

**16. EVENTS OCCURRING AFTER REPORTING DATE**

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 Tribunal, the results of those activities or the state of affairs of the Tribunal in the ensuing or any subsequent financial year.

**17. RELATED BODIES**

The Tribunal does not provide any assistance to other agencies which would deem them to be regarded as related bodies under the definitions included in Treasurer's Instruction 951.

**18. AFFILIATED BODIES**

The Tribunal does not provide any assistance to other agencies which would deem them to be regarded as affiliated bodies under the definitions included in Treasurer's Instruction 951.

**19. IMPACT OF ADOPTING AUSTRALIAN EQUIVALENTS TO IFRS**

The Australian Accounting Standards Board (AASB) is adopting International Financial Reporting Standards (IFRS) for application to reporting periods beginning on or after 1 January 2005. The AASB has issued Australian equivalents to IFRS, and the UIG has issued interpretations corresponding to International Accounting Standards Board interpretations originated by the International Financial Reporting Interpretations Committee or the former Standing Interpretations Committee. These Australian equivalents to IFRS are referred to hereafter as AIFRS. The adoption of AIFRS will be first reflected in the entity's financial statements for the year ending 31 July 2006.

Entities complying with AIFRS for the first time will be required to restate their comparative financial statements to amounts reflecting the application of AIFRS to that comparative period. Most adjustments required on transition to AIFRS will be made, retrospectively, against opening retained earnings as at 1 August 2004.

The Tribunal has commenced transitioning its accounting policies and financial reporting from the current Australian Standards to AIFRS. The Tribunal conducts analyses and assessments to identify areas that will be impacted by the transition to AIFRS. In complying with paragraph 4.2 of AASB 1047 'Disclosing the Impacts of Adopting Australian Equivalents to International Financial Reporting Standards', the Tribunal is required to disclose an estimate of the effect of the changes on its reported financial position and financial performance. As at the reporting date, the Tribunal is not aware of any significant differences in the transition to AIFRS, and no adjustment is required, in view of the nature of the Tribunal's current financial performance and position.

6. **FINANCIAL STATEMENTS (cont.)**

## FINANCIAL STATEMENTS

### STATEMENT OF CERTIFICATION

The accompanying financial statements of the Racing Penalties Appeal Tribunal of Western Australia have been prepared in compliance with the provisions of the *Financial Administration and Audit Act 1985* from proper accounts and records to present fairly the financial transactions for the financial year ending 31 July 2005 and the financial position as at 31 July 2005.

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



Dan Mossenson  
**CHAIRPERSON, RACING PENALTIES**  
APPEAL TRIBUNAL  
29 September 2005



Terry Ng  
**PRINCIPAL ACCOUNTING OFFICER**

29 September 2005



Karen Farley  
**MEMBER, RACING PENALTIES**  
APPEAL TRIBUNAL  
29 September 2005

6. **FINANCIAL STATEMENTS (cont.)**



**AUDITOR GENERAL**

**INDEPENDENT AUDIT OPINION**

**To the Parliament of Western Australia**

**RACING PENALTIES APPEAL TRIBUNAL OF WESTERN AUSTRALIA  
FINANCIAL STATEMENTS FOR THE YEAR ENDED 31 JULY 2005**

**Audit Opinion**

In my opinion,

- (i) the controls exercised by the Racing Penalties Appeal Tribunal of Western Australia provide reasonable assurance that the receipt, expenditure and investment of moneys, the acquisition and disposal of property, and the incurring of liabilities have been in accordance with legislative provisions; and
- (ii) the financial statements are based on proper accounts and present fairly in accordance with applicable Accounting Standards and other mandatory professional reporting requirements in Australia and the Treasurer's Instructions, the financial position of the Tribunal at 31 July 2005 and its financial performance and cash flows for the year ended on that date.

**Scope**

***The Tribunal's Role***

The Tribunal is responsible for keeping proper accounts and maintaining adequate systems of internal control, preparing the financial statements, and complying with the Financial Administration and Audit Act 1985 (the Act) and other relevant written law.

The financial statements consist of the Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and the Notes to the Financial Statements.

***Summary of my Role***

As required by the Act, I have independently audited the accounts and financial statements to express an opinion on the controls and financial statements. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the financial statements is error free. The term "reasonable assurance" recognises that an audit does not examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the financial statements.

Handwritten signature of D D R Pearson in black ink.

D D R PEARSON  
AUDITOR GENERAL  
20 October 2005

**7. PERFORMANCE INDICATORS**

**CONTENTS**

1. *Performance Indicators*
2. *Statement of Certification*
3. *Opinion of the Auditor General*

**7. PERFORMANCE INDICATORS (cont.)**

**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.

**Effectiveness Indicator:**

**Stays of Proceedings**

Under the Act, an appellant may apply for a suspension of the operation of a penalty when lodging an appeal. It is essential to the racing codes, trainers, owners and the general public that these 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 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 the application is lodged at the Registry late in the day there is virtually no prospect of it being determined until at least the next working day.

Stays of proceedings is the only process the Tribunal has some control over in respect of a timeliness measurement. The appeal process in respect of timeliness is governed by many factors including the availability of counsel for both parties, the provision of the transcript of a Stewards' inquiry, legal proceedings in other jurisdictions and the complexity of matters required to be determined.

In 2004/05, eight of the 11 applications received for a stay of proceedings were determined either on the day of, or within, one working day of receipt at the Registry.

2004/05	
Number of stay applications received	11
Number of stay applications determined same day	4
Indicator	36.4%

Comparative results for the previous four years are shown below.

2003/04	
Number of stay applications received	8
Number of stay applications determined same day	3
Indicator	37.5%

7. **PERFORMANCE INDICATORS (cont.)**

2002/03			
Number of stay applications received			14
Number of stay applications determined same day			8
	Indicator		57.1%
2001/02			
Number of stay applications received			17
Number of stay applications determined same day			10
	Indicator		58.8%
2000/01			
Number of stay applications received			11
Number of stay applications determined same day			4
	Indicator		36.4%

**Output:** To perform functions for the racing industry.

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

**Efficiency Indicator:**

**Cost of Appeals**

	2004/05	2003/04	2002/03	2001/02	2000/01
Total cost	\$140,626	\$167,115	\$143,067	\$156,415	\$146,462
Appeals processed	22	17	25	43	25
Average cost per appeal	\$6,642	\$9,830	\$5,723	\$3,638	\$5,858

The lower than expected number of appeals resulted in a decrease in costs incurred compared to the previous year.

7. **PERFORMANCE INDICATORS (cont.)**

## PERFORMANCE INDICATORS

### STATEMENT OF CERTIFICATION

We hereby certify that the performance indicators are based on proper records, are relevant and appropriate for assisting users to assess the Racing Penalties Appeal Tribunal of Western Australia's performance, and fairly represent the performance of the Racing Penalties Appeal Tribunal of Western Australia for the financial year ended 31 July 2005.



Dan Mossenson  
**CHAIRPERSON, RACING PENALTIES  
APPEAL TRIBUNAL**

17 October 2005



Karen Farley  
**MEMBER, RACING PENALTIES  
APPEAL TRIBUNAL**

17 October 2005



AUDITOR GENERAL

**INDEPENDENT AUDIT OPINION**

To the Parliament of Western Australia

**RACING PENALTIES APPEAL TRIBUNAL OF WESTERN AUSTRALIA  
PERFORMANCE INDICATORS FOR THE YEAR ENDED 31 JULY 2005**

**Audit Opinion**

In my opinion, the key effectiveness and efficiency performance indicators of the Racing Penalties Appeal Tribunal of Western Australia are relevant and appropriate to help users assess the Tribunal's performance and fairly represent the indicated performance for the year ended 31 July 2005.

**Scope**

*The Tribunal's Role*

The Tribunal is responsible for developing and maintaining proper records and systems for preparing performance indicators.

The performance indicators consist of key indicators of effectiveness and efficiency.

*Summary of my Role*

As required by the Financial Administration and Audit Act 1985, I have independently audited the performance indicators to express an opinion on them. This was done by looking at a sample of the evidence.

An audit does not guarantee that every amount and disclosure in the performance indicators is error free, nor does it examine all evidence and every transaction. However, my audit procedures should identify errors or omissions significant enough to adversely affect the decisions of users of the performance indicators.

A handwritten signature in black ink, appearing to read 'D D R Pearson'.

D D R PEARSON  
AUDITOR GENERAL  
20 October 2005

**ACKNOWLEDGMENTS**

<b>Compilation</b>	<b>Doug Smith</b>	<b>Department of Racing, Gaming and Liquor</b>
<b>Financial Statements</b>	<b>Terry Ng</b>	<b>Department of Racing, Gaming and Liquor</b>

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**RACING PENALTIES APPEAL TRIBUNAL**

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