

IN THE DISCIPLINARY TRIBUNAL

ESTABLISHED BY THE BOARD OF EQUESTRIAN SOUTH AUSTRALIA

IN THE MATTER OF CHARGES UNDER RULE 9 OF THE CONSTITUTION:

PETER OBORN

REASONS FOR DECISION

19 October 2016

Independent Panel acting as Board of Equestrian South Australia Inc appointed pursuant to Rule 15.

John Daenke (Chair)

Barry Couzner OAM

Jemma Krasowski

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Overview of the matter

1. This matter arises out of certain social media posts made by Peter Oborn ("the Respondent") between 24 September 2015 and 30 November 2015 on the Respondent's Facebook page and a statement by him in a newspaper article.
2. As a result of those posts (and certain other material which was ultimately not pursued) Equestrian SA Board ("the Board") resolved on 16 December 2015 to issue what is described as a "show cause" notice against the Respondent alleging that he had committed breaches of the Constitution, and in particular, Rule 9.1(b)(ii) and (iii).
3. In brief, those provisions deal with a Member acting in a manner unbecoming of a Member or prejudicial to the purposes and interests of the Association or another Member or brining himself, the Association, the sport of equestrian or another Member into disrepute.
4. The provisions of Rule 9 permit the Board to penalise a Member who is found guilty of a breach; the penalties including expulsion, suspension, fine or such other penalty action or educative process as the Board thinks fit.
5. A number of the Facebook posts contained comments which were critical of the Board and contained reference to names of particular Board Members.
6. Recognising that there were potential conflict of interests in determining the matter involving the Board itself and some of its Members, the Board resolved to ask Sport SA to convene an independent panel to deal with the matter.
7. Sport SA, which conducts the State Sport Dispute Centre, convened a panel from members of that centre with experience in acting as Tribunal Members and this Tribunal initially comprised, Anthony Crocker (Chair), Barry Couzner OAM and Jemma Krasowski.
8. Although there was provision in Rule 9.5 for the Board to delegate its rights and obligations under Rule 9 to a Committee that was not appropriate in the circumstances given the provisions in the Constitution for the composition of such a Committee. The Board acted under Rule 15.1(b)(iii) where the Board had power to perform all such acts and things as appeared to the Board to be essential for the proper management of the business and affairs of the Association.
9. It was accepted by all parties that the independent panel ("the panel") would have the powers of the Board under Rule 9 to deal with the matter and impose penalties which the Board could impose. The parties consented to the panel proceeding to deal with the matter as if it were the Board. Notwithstanding the time period specified in Rule 9.2(b), the matter has proceeded without objection by any other party.
10. Mr Crocker, as Chair, gave various pre-hearing directions and made rulings on the matter from time to time to prepare it for hearing. In or about September 2015 Equestrian SA ("ESA") appointed the law firm of Iles Selley to act for it in relation to the complaint.

11. A hearing date had been set for Monday, 26 September 2016.
12. At a preliminary hearing, Mr Crocker disclosed a professional, commercial and personal relationship with the firm of Iles Selley. The Respondent made an application that Mr Crocker recuse himself on the basis of apprehended bias and Mr Crocker determined that he would recuse himself.
13. On 21 September 2016, the Board appointed John Daenke as Chair of the panel in place of Mr Crocker.
14. The hearing proceeded on Monday, 26 September 2016 with both parties having legal representation. Mr Travis Moran of Iles Selley appeared for Equestrian SA and Mr Paul Tohill, Barrister instructed by Weatherly & Associates appeared for the Respondent. Prior to the hearing each party submitted Books of Documents including witness statements (with a detailed statement from the Respondent).
15. As further matters were raised at the hearing, the Respondent was given permission to file a further witness statement and submission (which he did) and ESA responded.

Rule 9 of the Constitution

16. Rule 9 of the Constitution provides as follows:

"9.1 Board Resolution

(a) Subject to this Constitution, the Board may by resolution:

- (i) expel a Member from the Association; or*
- (ii) suspend a Member from membership of the Association for a specified period of time; or*
- (iii) fine a Member;*
- (iv) impose such other penalty, action or educative process as it sees fit.*

(b) if the Board considers that the Member has:

- (i) breached, failed, refused or neglected to comply with a provision of this Constitution or the By-Laws;*
- (ii) acted in a manner unbecoming of a Member or prejudicial to the Purposes and interests of the Association, or another Member; or*
- (iii) brought itself, the Association, Equestrian or another Member into disrepute.*

Such grounds do not constitute a grievance, and **rule 20** does not apply.

9.2 Notice of Alleged Breach

Where the Board considers that a Member may have satisfied one or more of the grounds in **rule 9.1(b)**, the Executive Officer shall, as soon as practicable, serve on the Member a notice in writing:

- (a) setting out the alleged breach of the Member and the grounds on which it is based;
- (b) stating that the Member may address the Board at a meeting to be held not earlier than fourteen and not later than twenty eight days after service of the notice;
- (c) stating the date, place and time of that meeting;
- (d) informing the Member that he, she or it may do one or more of the following:
 - (i) attend that meeting;
 - (ii) give the Association, before the date of that meeting a written statement regarding the alleged breach.

9.3 Determination of Board

At a meeting of the Board held in accordance with **rule 9.2**, the Board shall acting reasonably and in good faith:

- (a) give the Member every opportunity to be heard;
- (b) give due consideration to any written statement submitted by the Member; and
- (c) by resolution determine whether the alleged breach occurred.

9.4 No Appeal

There shall be no appeal from a decision of the Board under this **rule 9**.

9.5 Delegation by the Board

Notwithstanding anything in this **rule 9**, the Board may delegate its rights and obligations under this rule to a Committee."

17. It should also be noted that the Board has adopted a Social Media Policy to which reference is made below. That policy is taken to have been adopted on 24 May 2014 and continues in force.

The Facebook Posts

18. The Respondent made 15 Facebook posts which, together with a newspaper article were ultimately the subject of the charges.
19. The Respondent admitted making the posts which were the subject of the charges.
20. The first post was on 24 September 2015. There were 7 posts on 8 October 2015. At the final hearing information was provided to the panel that the post entitled "To all ESA Members" was posted at 11.34am with the other 6 posts between 3.56pm and 4.13pm. Those 6 posts have different titles to differentiate them but all commence with the opening words "Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM Agenda for a response and resolution". Each post then contained a one sentence summary of a motion which the Respondent had sent to ESA and then set out the alleged text of the motion. (It should be noted that in the post at 11.34am it was stated that "the Returning Officer hasn't seen fit to add them to the agenda and ballot paper for your consideration").
21. Further posts which were the subject of charges were made on 15 October 2015 (2), 1 November 2015, 13 November 2015, 18 November 2015 and 30 November 2015. Comments by the Respondent which were quoted in an article in The Advertiser published on 16 November 2016 under the heading "Equestrians on High Horses over Board Elections" were also the subject of a charge.
22. Copies of each of the posts and the article, which were the subject of the charges, are set out in **Appendix 1** of these reasons.
23. It should be noted at this point that an election for Board positions was held by ESA on 25 October 2015. The AGM was held at the time of the election but the question of approval of the financial statements was adjourned for consideration at a subsequent time on 30 November 2015.

Board Resolution 16 December 2015

24. On 16 December 2015, the Board discussed a matter raised at the meeting by Gareth Heron, a Board Member. The item was not on the circulated Agenda. Two Board Members were apologies for the meeting. Seven Board Members attended the meeting which was chaired by Elizabeth Fricker, the President.
25. Mr Heron raised the issue of the Facebook posts and other material which had been published by the Respondent or in which the Respondent was quoted.
26. It is not indicated that the material was actually circulated at the meeting but it would be appropriate to conclude that all of the Board Members, in a relatively small association such as this, were familiar with the material and generally aware of its import. No Board Member complained that they were not aware of the matters raised by Mr Heron.

27. An un-redacted copy of the Minute of that item, including some record of the discussion and resolutions are set out in **Appendix 2** to these reasons.
28. On 25 January 2016 a further Board meeting was held and a further resolution on this topic was passed. A copy of the Minute relating to this matter is set out in **Appendix 3** of these reasons.
29. Whilst the resolution on 25 January 2016 is expressed as an amendment to the Minutes, it really was not correcting some wording in the Minutes but was a fresh resolution to change or clarify the action then contemplated and recorded in the Minutes of 16 December 2015 regarding the appointment of the panel.
30. The resolution of 16 December 2015 was the subject of a pre-hearing application referred to below.

Show Cause Notices

31. Acting on the decision of 16 December 2015, the Executive Officer issued a letter to the Respondent on 10 February 2016 ("the first show cause Notice"). A copy of this Notice is attached to these reasons as **Appendix 4**.
32. Following a request for particulars and a ruling by Mr Crocker, ESA issued a second Notice on 18 May 2016. A copy of the second Notice is attached to these reasons as **Appendix 5**.
33. Ultimately, after instructing solicitors, ESA issued, through its solicitors, a third Notice of alleged breach on 8 September 2016. A copy of the third Notice is attached to these reasons as **Appendix 6**. It is on the third Notice that the hearing proceeded. However, there were pre-hearing applications in relation to each of the first and third Notices.
34. It should be noted that the third Notice contains a number of charges which are said to be in the alternative in regard to each of the posts or the newspaper article and are said to be scaling down from the most serious to the less serious in respect of each post or publication (see the notes as part of the third Notice).

Further Background Materials and Other Matters

35. Prior to the hearing, in accordance from directions from Mr Crocker, each party provided to the panel and to the other party a Book of Documents said to be relevant to the matter.
36. It is unnecessary to itemise details of the contents of the Books.
37. Certain material initially included in the ESA Book was the subject of objection by the Respondent. These were communications of objections to the posts by other Members. Ultimately, the communications were received on the basis that they were communications which ESA received relevant to the posts and which it had to deal with but the panel did not have to determine the truth of the facts alleged in each of the

communications. These communications were put forward as part of the issue as to whether the Association or the Board or Members had been brought into disrepute.

38. The documents put forward by the Respondent were in two parts, the first dealing with matters to be raised in pre-hearing applications and the second going to substantive matters.
39. It should be noted that the second part contained statements of the Respondent and other persons. The statements, apart from the person John Dawkins, were essentially character references for the Respondent and did not deal with core issues to be determined. Mr Dawkins' statement, as did the Respondent's own statement in part, contained much opinion evidence or other irrelevant material. This objection was pointed out to the Respondent in the course of the final hearing by the Chair.
40. The statement of the Respondent himself, so far as relevant, was accepted and at the hearing he answered further questions from panel members. Mr Moran for ESA did not cross examine the Respondent. However, certain comments were made by ESA about matters raised by the Respondent.
41. It should be noted that a tribunal such as the panel is not bound by strict rules of evidence as in a Court. It can inform itself as it sees fit. However, regard has to be had to relevance to the charges in any material or statements made. It should further be noted at this point that the Respondent was maintaining that there was a history of mismanagement and poor governance by the Board (and staff) of ESA and that he was attempting to highlight these matters to Members of ESA. The Respondent says that he was raising these issues in the context of an election campaign for Board membership.
42. Some of the material put forward related to historical matters. Some of the material were also publications from Office of Recreation & Sport or the Australian Sporting Commission on principles of good governance for sporting organisations. It had been asserted by the Respondent that ESA or the Board had not acted in accordance with those principles contained in the published documents. (It is noted that in the final submission on behalf of the Respondent, reference is made to an article relating to a principle in a prior version of an Australian Sports Commission publication which is not included in the 2012 publication produced in the Book of Documents.)
43. The panel was of the view that in considering the charges against the Respondent it was not relevant for the panel to consider whether the Association and/or its Board had, in the past, followed or not followed those published principles. It was not the task of the panel to examine or comment upon matters pertaining to the governance of ESA.
44. The Respondent did suggest that the panel had to consider the question of whether a person or the entity which were named in the posts as allegedly having to be brought into disrepute had a previously poor reputation and that its reputation could not be lowered. Reference was made to comments in some of the witness statements or the Respondent's Book of Documents. But those statements are very vague, are frequently hearsay and certain asserted opinions not supported by detailed facts. No weight could be given to them.

Facts

45. The Book of Documents contained a "Statement of Agreed Facts" which facts were in some instances the subject of comments by the Respondent which are italicised. A copy of the Statement is attached to these reasons as **Appendix 7**.
46. The matters which were the subject of dispute as to the agreed facts may be of little moment.
47. The Respondent had signed a Membership Renewal Application for 2015/16 on 14 July 2015. The Membership Application form contained, in part, an acknowledgement as part of the Application for Renewal of Membership:

"I agree to be bound by Rules and Regulations of FEL, Equestrian Australia Limited, Equestrian South Australia Inc and all decisions of the Committees of the Branch...."

48. The Respondent had also signed a Confidentiality Agreement with ESA (which was not dated but which had the receipt stamp 14 July 2015). This document was signed by the Respondent in his capacity as a Committee Member as he was a Member and Chair of the "Eventing Committee". In this Agreement the Respondent agreed to keep as confidential the "Confidential Information" as defined in the Agreement which was material of the Association. But it appears that the information which he released was not "confidential information" as defined.

Pre-Hearing Applications

49. When the main hearing was to commence on 26 September 2016, the Respondent brought a number of pre-hearing applications which had been foreshadowed and in respect of which written submissions had been made by each party. There were also oral submissions made at the hearing by representative of the parties.
50. These pre-hearing applications were:
 - 50.1. an application to have the hearing adjourned due to late changes to the charges;
 - 50.2. an application to have the charges dismissed by reason of the decision of the Board to issue the Show Cause Notice being tainted;
 - 50.3. an application to have the charges as formulated in the Notice of 8 September 2016 dismissed as not being in accordance with a Board resolution and as being oppressive.

Application to Adjourn

51. The Respondent made an application to adjourn the hearing on the basis that:

- 51.1. the Respondent had prepared his case based on the particulars provided by ESA in May 2016;
 - 51.2. the change in the charges now delivered on 8 September 2016 where the matter went to 66 charges meant that the Respondent was meeting a different case from that initially formulated;
 - 51.3. there was prejudice to the Respondent, not of his making, and there was delay by ESA which was not the fault of the Respondent;
 - 51.4. there were personal circumstances of Counsel which had prevented him from getting full instructions recently.
52. Against these submissions, Counsel for ESA submitted that:
- 52.1. it was always clear that the allegations of breach arose from Facebook posts and other comments which were documented in the first Show Cause Notice sent on 10 February 2016;
 - 52.2. the charges as formulated on 8 September 2016 were essentially the same allegation, merely expressed in a different more structured way;
 - 52.3. the Respondent had always known of and had the opportunity to meet a case that the publications as listed amounted to conduct unbecoming, prejudice or bringing an entity or person into disrepute contrary to the Constitution;
 - 52.4. it was essentially a document case and there was no new oral evidence to be presented by the Complainant or met by the Respondent.
53. The panel formed the view that the submissions on behalf of ESA were correct and that the Respondent was always aware of the nature of the charges. Questions of the interpretation and effect of the documents the subject of the charges had always been the substance of the complaints even though the charges were now formulated in a different manner. The written statement of the Respondent in his Book of Documents dealt in some detail with his justification or defence in relation to each and every Facebook post and newspaper statement. The Respondent was not prejudiced and had full opportunity to meet the charges which he had taken.
54. The application to adjourn was dismissed.

The decision of the Board to lay charges was tainted

- 55. The Respondent had provided written submissions on 26 August 2016 (document 1.6 of the Respondent's Book) on this issue.
- 56. ESA provided written submissions as well on the topic. Each party addressed this topic.
- 57. Whilst conceding that the independent panel could hear and determine an issue of the validity of the initial decision of the Board by which it purported to exercise powers

under Rule 9.2 of the Constitution, the Respondent claimed that the initial decision of the Board to lay charges was not a valid and proper use of the Board's decision making power and was ultra vires for lack of good faith due to a conflict of interest and actual bias by the members of the Board.

58. It was submitted on behalf of the Respondent that some of the ESA Directors had a personal interest in the matter (at the hearing this was expressed as actual bias) and that the Board ought not to have made the decision to issue a Show of Cause Notice even if it then determined to refer the matter of a substantive hearing of the charges to an independent panel.
59. It was argued for the Respondent that the Board should have even referred to an independent panel the decision to determine if there may have been a breach of the Constitution and to issue a Show of Cause Notice.
60. It was said on behalf of the Respondent that in making the initial decision, the Board was biased and that thereafter the whole proceedings were invalid.
61. It was said without dispute that certain Board members, being the four who voted in favour of the resolution, were persons with a direct interest in the matters in the Facebook posts. The Respondent said this amounted to actual bias.
62. Reference was made in particular to Rule 9.1, 9.2 and 9.3 and the requirement in Rule 9.3 for the Board at a meeting held in accordance with Rule 9.2 to act reasonably and in good faith.
63. It should be noted at this point that the Constitution contemplates that there be two meetings. The first is obviously a Board meeting at which a decision is made by the Board under Rule 9.2 to issue a Show Cause Notice.
64. The second is a meeting of the Board under Rule 9.3 which is held "in accordance with Rule 9.2".
65. Rule 9.2 prescribes that when a Notice is issued it will give details of a meeting at which the Member may attend and speak or make written submissions.
66. The use of the term "meeting" in Rule 9.3 is a reference to the latter meeting. It is a meeting triggered by the decision under Rule 9.2. It is at this second meeting under Rule 9.3 that the Board is to act reasonably and in good faith.
67. The Respondent also made reference to Section 40 of the *Associations Incorporation Act 1985*. This Section requires the Committee to observe the rules of natural justice where any powers of adjudication are to be exercised. That power of adjudication is exercised at the second meeting because it is at that meeting that the Board may determine guilt and may impose some penalty.
68. The second Board Meeting is now in fact the hearing by the panel at which the Respondent made submissions through his Counsel following written submissions made earlier. The requirements of Rule 9.3 and Section 40 are to be considered in relation to the hearing by the panel.

69. ESA put in submissions on the Constitutional powers to proceed. That submission was that the panel had no power to enquire into the original decision. It was said to be analogous to a decision to charge in a criminal proceeding.
70. The Respondent submitted that the Board (in this case, the panel) had to first consider whether it had jurisdiction. But that is a different issue from whether there has been a flaw in the process as asserted by the Respondent.
71. The panel ought to be able to determine whether there has been some fundamental flaw in the procedure prior to its hearing. Clearly if there has been a fundamental flaw, the panel would not have jurisdiction and could not continue to deal with the matter.
72. The examples given in texts as to a question of jurisdiction relate to whether the proper notice has been given and such like. However the panel is of the view that in this case there is no fundamental flaw in the procedure to charge.
73. When the Board makes its initial decision to issue a Show Cause Notice it is not required to hear the Respondent at that time. The Respondent's right to procedural fairness arises in relation to the procedure which follows that event.
74. Rule 9.2 prescribes that where the Board considers that a Member may have satisfied one or more of the grounds of Rule 9.1(b) it can issue a Show Cause Notice. The Board is not making a final jurisdiction. In the use of the term "may have" the Board only has to consider the reasonable possibility of a breach of Rule 9.1.
75. There are a number of statutes dealing with disciplinary tribunal action where a Board makes a determination has to be satisfied in a preliminary way of a possible breach before issuing any notice.
76. Further, one has to look at the totality of the procedure, see *State of South Australia v O'Shea* (1987) 163 CLR 378, *Gardener v Land Agents Board* [1976] 12 SASR 468 and *Heatley v Tasmanian Racing & Gaming Commission* (1977) 137 CLR 487.
77. At its meeting on 16 December 2015, the Board itself recognised the potential issue of bias and determined to appoint an independent panel to adjudicate it by involving Sport SA.
78. It was not necessary for the Board to disqualify itself from making the initial decision. That would make the Rules unworkable. The Rules contemplate that the Association itself being brought into disrepute is a possible matter of a charge. The Association is represented by the Board which has power to manage its affairs.
79. It is a consensual society and the Respondent has agreed to those Rules. In this case the Board has validly made a decision to charge. The Application to have the charges dismissed because of some fundamental flaw in the Board's initial decision to charge is dismissed.
80. A number of well known authorities were cited in the decision of *Whittle v The Australian Miniature Pony Society Incorporated* [1995] FCA 1276 (30 May 1995). This matter dealt with the allegations of bias by various members and particularly involved in the

Committee in the initial decision. The ultimate decision to expel Mr and Mrs Whittle was made by the General Meeting of the Society. Consideration was given and extracts contained from a number of authorities where there was an original decision and some later hearing or confirmation of the original decision. Decisions such as *Australian Workers Union v Bowen (No.2)* [1948] HCA 35 and *Maloney v NSW National Coursing Association Limited* (1978) 1 NSWLR 161, were referred to. See paragraphs 29 to 32 of the Reasons in Maloney. In summary, there may be members of the initial Committee who have knowledge of the matters which relate to the charge and whether actual bias was needed at that point. However, it has been pointed out that where there are two sets of authorities conferred upon the Committee, the members of the organisation have agreed to accept the risks involved in drawing judges from those likely to have been in the centre of any factional strife. The only qualification is that members have not agreed to subject themselves to the adjudication of those who have developed an actual bias which no evidence or argument is likely to overcome.

81. The evidence put forward by the Respondent, although indicating that the Board were aware of these matters and that the Respondent had raised issues affecting the Board and named members of the Board does not necessarily mean that they have actual bias to predetermine the outcome. In any event, the members of the Board properly considered that the matter should be finalised before an independent panel so as to remove any suspicion of actual or apprehended bias. The Respondent produced letters of resignation from 2 persons from the Eventing Committee which was chaired by the Respondent. Both letters referred to difficulties working with the Respondent as Chair. Those persons were on the Board. But again those letters do not show actual bias in dealing with the issue before the Board of whether the conduct of the Respondent "may have" been a breach of the Constitution. They give rise to different considerations at the Board level from the issues raised in the lesser of registration.
82. It was always open to the Respondent to seek an order by way of *certiorari* to quash the decision of the Board but he had not elected to do so. He has continued with this process and consented to the matter being heard before the independent panel sitting as the Board.

Are the charges within the Terms of the Resolution of the Board?

83. The Respondent submitted as a further pre-hearing Application that the charges were not within the terms of the resolution of the Board and that there was duplicity in the charges.
84. The Board resolution of 16 December 2015 referred to possible breaches of Rule 9.1(b)(ii) and (iii) and Rule 2(h).
85. Clearly the reference to Rule 2(h) was an error. That Rule is part of the Objects. It is not something giving rise to a possible breach. However, in a Board in which there are not persons trained in legal matters, it is understandable, given the wording of Rule 2(h) that a Board Member might mistakenly confuse that Rule as giving rise to some conduct which may be the subject of a sanction as well. That was an error which is of no consequence.

86. In the view of the panel the first Notice given on 10 February 2016 clearly spelt out the provisions of the Rule which had been breached. The allegations which were made were breaches of these provisions in the resolution and the information which the Board pointed to as giving rise to the allegations made were the subject of the charges.

87. Following a directions hearing before Mr Crocker the matter was further clarified in particulars given in May 2016.

88. The Respondent had also complained of duplicity as to the charges because of the fact that the wording of Rule 9.1(b) does give rise to a number of alternatives.

89. In Justice in Tribunals, 4th Ed, JRS Forbes, paragraph 10.3, the statement is made:

"The Rule against duplicity (allegations of more than one offence rolled up in a single charge) is less important in Tribunals than in Courts, so long as the defendant has a fair opportunity to deal with every allegation and the Tribunal makes separate findings in respect of every one".

90. In the light of complaints by the Respondent that the matters now alleged gave rise to duplicity, ESA provided an amended Notice on 8 September 2016. This itemised the charges in a step by step manner to overcome the issue about duplicity.

91. Duplicity arises where a series of actions are prescribed, usually in the same sentence of a statute. But where one set of actions may breach a number of different provisions the defendant may be found guilty of a number of offences by reason of the same action.

92. In this case, the Constitution prescribes a number of matters which may be breached by the same set of actions. The Constitution allows the Board to impose a penalty for:

92.1. acting in a manner unbecoming of a member;

92.2. acting in a manner which is prejudicial to the purposes and interests of the Association;

92.3. bringing itself, the Association, equestrian or another Member into disrepute (each one being separate).

A respondent by his or her actions, including publication of certain material with certain words, may in fact be in breach of a number of the provisions. A prosecutor is not in a tribunal forced to elect as in a Court. A tribunal is able to find that one set of actions offends a number of provisions and such a finding is not duplicitous.

93. In this case ESA alleged that the same material, namely each post, offended in a number of ways in what was said to be a descending level of seriousness.

94. The amended Notice under Clause 9.2 dated 8 September 2016 relied on by ESA at the hearing referred to each of the Facebook posts and to the statement in the newspaper article and made a series of allegations in what was said to be descending

levels of seriousness. It was alleged with some slight variations that by each post and the statement, the Respondent:

94.1. brought ESA into disrepute;

94.2. brought members of ESA, either members of the ESA Board or named members of the Board depending on the content of the post or statement, into disrepute;

94.3. acted in a manner unbecoming of a member;

94.4. acted in a manner which was prejudicial to the purposes and interests of ESA;

94.5. acted in a manner which was prejudicial to other members, namely either the members of the Board as a whole or named persons who were members of the Board (or in one case, the CEO).

95. It was said in the notes to the Amended Notice that the panel could find the first count proven and then there was no need to consider the other counts concerning the particular post. But if the panel dismissed the first count it could consider each other count in turn.

96. It is not clear why a charge of bringing the ESA into disrepute should be more serious than a charge of acting in a manner unbecoming a member or, in turn, acting in a manner which was prejudicial to the purposes and interests of ESA. But this breakup overcame any issue of duplicity.

97. At the hearing, Counsel for ESA also submitted that the overall conduct taken as a whole of the Respondent could be looked at to determine a breach.

98. The Respondent now complained that the matter was now oppressive because there were so many charges. The Respondent sought and was provided with imputations of each Facebook post or statement in the newspaper article.

99. However, the panel is of the view that:

99.1. the Notice provided on 8 September dealt with the matters contemplated in the Board's resolution;

99.2. the Amended Notice does clearly set out, without duplicity, the matters alleged;

99.3. whilst there are multiple matters because of descending allegations, it is not oppressive;

99.4. the Respondent has had sufficient opportunity to know the charges which he has to meet and in fact has responded to them.

100. The application to have the charges dismissed or changed is itself dismissed.

Hearing on Substantive Matters

101. After dealing with three pre-hearing applications, the panel dealt with the substantive charges.
102. Mr Moran for ESA had provided a Statement of Agreed Facts, although the Respondent raised some variation in those facts. Mr Moran now provided a document entitled "Amended Further Assertions of Fact by ESA and a Chronology of Events". He spoke to those matters. This went to further actions than in the initial statement and he said it put the whole matter into context.
103. In his submission and in witness statements provided he had set out some formal issues but dealt with matters relating to events at a dressage forum in July 2015. The Respondent had been involved in actions seeking personal information of Members, so it was alleged. The panel considers that these matters are not relevant to matters which the panel has to determine which are solely linked to the publications of the Facebook posts and the statement in the newspaper.
104. It should be noted that the ESA AGM was to be held on 26 October 2015. By way of overview the Respondent says that the posts and the newspaper statement were made in the course of a robust election campaign for positions on the Board.
105. Certain actions occurred about which there was no contest. On 28 August 2015, notice of the fact that the AGM was to be held on 26 October 2015 was posted on the ESA website and sent to Members. With that notice, there was a call for nominations for election. Nominations were to be received up to 14 September 2015 when nominations closed. In fact more nominations than positions were ultimately received.
106. On 24 September 2015, the Respondent made the first post which is the subject of a complaint. This was an "Open Letter to ESA Members" in which he indicated that he had nominated 5 nominees for vacant positions on the ESA Board. He further indicated that he would introduce those persons to Members "over the next few weeks". He also indicated that he would be sharing with the persons who received the Facebook post a number of "Notices of Motion" that he would be submitting to the ESA Board prior to the AGM for Members to consider (at the AGM).
107. It should be noted at this stage that in his written statement to the panel the Respondent said that at the time his Facebook followers included "family and personal friends; business associates; and in the order of about 30 ESA Members". The Respondent stated elsewhere that his Facebook page "was not open to the general public". However, at the hearing before the panel he said that he did not know about privacy settings on Facebook and did not know whether the general public could access his Facebook page. He did not disclose the number of "family and personal friends" and "business associates" who may not have been members of ESA.
108. Whilst his post on 24 September 2015 is said to be "An Open Letter to ESA Members", it is clear that a wider range of people than the about 30 ESA Members who were his followers would have been notified of or had access to the material which he posted on the Facebook page.

109. Conversely, it appears that he made no attempt to ask ESA either for a Membership List or to circulate to all of its Members, the information which he wished to circulate. The panel was told that there are about 1,500 Members.
110. It is noted on the foot of the first Facebook post that under the heading "Shares" there are three named persons and "31 others" who "like" this post. There is reference to 42 shares of this document. There are also two comments responding to the document on this particular copy of it provided to the panel.
111. On Sunday, 4 October 2015 at 6.57pm, the Respondent sent by email to the Executive Officer of ESA his Notices of Motion.
112. The Respondent had understood that by reason of Rule 12 of the Constitution the Notices of Motion would become part of the business for the AGM which had been publicised to be held on 26 October 2015.
113. The Respondent states in his chronology to his supplementary submissions filed after the main hearing that on 5 October 2015 there was advice on the ESA website that the Board was to hold an Extra Ordinary meeting to review the Agenda of business for the AGM.
114. Rule 12.2 of the Constitution provides that no business, other than set out in the notice convening the meeting shall be transacted at the General Meeting.
115. Sub-rule 12.2(b) provides:
- "A Member desiring to bring any business before a meeting shall give at least 14 days' notice in writing of the business to the Association which shall include that business in a notice calling the next General Meeting after the receipt of the Notice."*
116. The Respondent had anticipated, based upon his reading of his Rule that the Notices of Motion which he had submitted would be on a notice for the next General Meeting which was the AGM. His understanding was that he had to submit the Notices of Motion at least 14 days prior to the date on which the AGM was to be held.
117. The Respondent states in his chronology to the supplementary submission that after the posting of the notice on the ESA website on 5 October 2015 he received no further communication from ESA in respect to the Notices of Motion submitted.
118. In his supplementary statement provided on 5 October 2016, the Respondent states that when he received the Notice of General Meeting of Members his Notices of Motion did not appear. He refers to the meeting being conducted at ESA's offices. The notice to which he refers is said to be marked "D" attached to the statement. That reference to a notice marked "D" is not correct. The first Notice of Annual General Meeting which is attached to his statement is marked "F". The notice is not dated but it has attached to it the call for nominations for Elected Directors positions. As those nominations closed on 14 September 2015, this notice was presumably the notice posted in August 2015.

119. The Respondent's supplementary statement then refers to a new Notice of Meeting being sent out with the venue changed to Mt Barker-Hahndorf Golf Club, which is part of the annexure marked "F". This is actually referred to as an "Amended Agenda" and refers to the meeting now to be held at the Mt Barker-Hahndorf Golf Club. This Amended Agenda is not dated and does vary from the original Notice of Annual General Meeting in terms of the items of business. It does not contain any reference to the Notices of Motion submitted by the Respondent.
120. In his supplementary statement, the Respondent states that he received no correspondence from ESA "with respect to the Notices being refused". He goes on to state that on 12 October 2015 "ESA published on their website an Extra Ordinary Board Meeting to be conducted to resolve the Agenda for the meeting as a result of social media posts". He states that a copy of the website notice is attached as annexure "F". This varies from the chronology provided as part of the submission where it is stated that the reference to the ESA Board having an Extra Ordinary Meeting to review agenda of business was posted on 5 October 2015.
121. Amongst the attachments to the Respondent's statement is an item under the news from ESA headed "ESA Extra Ordinary Board Meeting". It is not possible to determine from the page provided the date when this news item was published.
122. The news item reads:
- "The Members of Equestrian SA are advised, in regard to recent social media activity, that the Board of Equestrian SA will conduct an extra-ordinary Board Meeting to review/add Agenda items for the upcoming Annual General Meeting to be held on October 26, 2015. This will be to review and make amendments to update the Agenda and as a result, an Amended Agenda, if required, will be released to all Members before the AGM."*
123. It is not possible to determine on the papers provided whether the website post was concerning a review of the agenda was placed on the website on 5 October 2015 or 12 October 2015.
124. In the Respondent's chronology there is reference to AGM Agenda of Business posted to the ESA website on 7 October 2015 in which his 11 Notices of Motion did not appear on the Agenda.
125. The Respondent states in the chronology that on 8 October 2015, ESA Members received voting information and he claims to have received telephone calls from Members (no specification of how many or other details) with respect to his Notices of Motion.
126. The Respondent made a series of posts on Facebook on 8 October 2015, the timing of which is set out above.
127. We will return to deal with those posts below.

128. It appears that on or about 11 October 2015, Ms Di Norris, who was then the Board Chairman, made a post on her personal social media site and not through the ESA site. This is produced as Document 2.8 in the Respondent's Book of Documents. This prompted the Respondent to make a further post on his Facebook page.
129. In his supplementary statement the Respondent says that on 12 October 2015, ESA published a public statement under the heading "Auditor's Statement" on its website. This apparently caused the Respondent to make a further post on his Facebook page on 15 October 2015 under the heading "Auditor's Statement".
130. On 16 October 2015, a news item appeared in The Advertiser under the heading "Equestrian's on High Horse over Board Election".
131. The article raised certain issues about bullying and concerns over the running of the Board election with threats of legal action. There was reference to disaffected Members calling themselves the "Integrity Group" which had nominated candidates for the Board election.
132. The Respondent was quoted as saying:
- "The election process was already irreparably infected but the ESA Board didn't seem to think that they had a problem. The ballot was not going to be secret as required by the Constitution as the instruction said it had to be signed on the back by the voter and, some country people are yet to receive their ballot papers, which clearly favour the current Chair (Di Norris) – naming her first on the ballot and listing her achievements and no one else's".*
133. The Respondent was said to be a spokesman for the Integrity Group. The Respondent has not denied that he made that quotation nor that he was a spokesman for the Integrity Group as reported. This statement is one of the items alleged to be in breach of the Constitution.
134. On 20 October 2015, the Respondent received a letter from Van Dissel Lawyers for ESA setting out the legal reasons why his Notices of Motion had not been included on the Agenda. In brief it was stated in the letter that the Notices of Motion should have been received 14 days prior to the first notice published in August calling the AGM for 2015. The Notices were not effectively received until 5 October 2015 (noting that they had been sent by email on the evening of Sunday, 4 October 2015 and further noting that Monday, 5 October 2015 was in fact a public holiday).
135. A public advertisement appeared in a newspaper, the date is not disclosed in the materials. It was headed "Message to Equestrian Sport" and it was endorsed by three persons who appear to be senior person associated with equestrian sport.
136. On 23 October 2015, which may well have been the date of the advertisement, the Respondent circulated a copy of that message on his Facebook page.
137. On 25 October 2015, a letter on ESA letterhead addressed to "Dear Members" was published on the ESA website. At the foot of this letter was the statement "signed for

and on behalf of the Board of Equestrian SA" but no name or signature actually appeared.

138. The letter stated that the Board had decided to take the unusual step of responding to some of the allegations which had been made because by their nature they are serious and could not be allowed to go unanswered. The letter then set out certain allegations and the response of the Board to those allegations.
139. This letter led to a further post by the Respondent on 25 October 2015 setting out a detailed response to the letter which post is the subject of the charges.
140. On 26 October 2015, the AGM proceeded. However, the item of business dealing with approval of the financial statements was adjourned to a further meeting which was to be held on 30 November 2015.
141. The Respondent continued his Facebook posts with further posts on 1 November, 13 November, 18 November and 30 November 2015. Further information has been provided to the panel about developments after this date but the panel feels that such information is generally irrelevant to the consideration of the question before it about whether the Facebook posts and newspaper quotation were in breach of the Constitution.

Consideration

142. The charges against the Respondent are:
 - 142.1. bringing the Association or certain persons who are Members into disrepute;
 - 142.2. acting to the prejudice of the interests of ESA, or its Board Members;
 - 142.3. acting in a manner unbecoming of a Member;
 - 142.4. acting in a manner prejudicial to the purposes and interests of ESA.
143. Surprisingly, despite the words "bringing into disrepute" or "acting in a manner unbecoming a Member" or "acting in a manner prejudicial to the purposes and interests of the Association", there are no reported cases on this found by Counsel or the panel's own research.
144. The only reference is to a matter involving swimmer Nick D'Arcy before the Court of Arbitration for Sport, as D'Arcy was found guilty by the AOC of actions of bringing the sport into disrepute. That involved the actions of a person outside the playing arena (or in this case, pool) which were not aimed at internal issues of governance.
145. In the submissions the Respondent referred to a statement made by CAS in the D'Arcy matter that bringing a person into disrepute is to lower the reputation of the person in the eyes of the public to "a significant extent".

146. ESA submitted that the D'Arcy decision had to be read in conjunction with D'Arcy's contract that it had to be publicly known.

147. Clearly, in order to bring someone into disrepute there has to be a publication to a third party. It does not have to have the notoriety of D'Arcy's case which had widespread media coverage.

148. As CAS stated:

"The question is not quite the same as defamation cases but consideration of issues which arise in that field are of some assistance."

149. It is to lower the reputation in the eyes of ordinary Members and the public who directly or indirectly receive the material or read the material.

150. It does not have to involve any intention on the part of the publisher to cause harm.

151. Defamation matters often struggle with the definition of what is defamatory. Terms such as "hatred, ridicule and contempt", "discredit", "tend to lower the plaintiff in the estimation of right thinking [ordinary decent folk] members of society" and "shunned and avoided" are used.

152. Statements which allege a fault or defect in the person's character are a form of defamation.

153. Words which impute lack of skill, capacity, judgment or efficiency in a business can be defamatory.

154. The lowering of estimation in defamation does not have to be to a significant extent as referred to in the D'Arcy case. It is sufficient if it causes ordinary people in the community to think less of the person concerned. There was no analysis in the CAS decision on D'Arcy as to why the rider "to a significant extent" was added. There is no reason to import the rider in the D'Arcy case of "to a significant extent".

155. An article published in the Melbourne University Law Review, entitled "Discipline for Bringing a Sport into Disrepute – a Framework for Judicial Review" [2001] MelbULawRw 22 by Martin Kosla was more concerned about the aspects of judicial review.

156. However, there was a section dealing with the framework for determining disreputable conduct and in dealing with off field conduct a section headed "Dissent and Unfavourable Comment".

157. In part, this section said:

"A person's private conduct may also have an adverse bearing upon the person's capacity to perform their public duties or functions in the sport if that conduct is in the form of dissent."

"However, a balance must be struck between a sport's right to reputation and an individual's freedom of speech. Just because an individual is a member of a private body and must therefore obey its various rules and laws, does not mean that the individual must sacrifice his or her right to freedom of speech."

"On the one hand revealing that which is factual may seem innocuous and incapable of bringing a sport into disrepute. On the other hand, it may not be in the sports best interest to have facts which may be damaging to the sport disclosed or publicised. Here, it is the action of disclosure which brings a sport into disrepute."

"Given the distinction between the two approaches [defamation in NSW and Vic] and the fact that different individuals may reasonably come to differing conclusions on whether it is in a sport's best interest for certain factual matters to be revealed to the public, a Court may need to be more ready to accept that an individual has brought a sport into disrepute, even though he or she has merely recited the facts."

158. The article continues:

"A Court may also need to be cautious when considering the case of an accused disciplined for voicing his or her opinion in respect of policy issues concerning a sports governance. Governing bodies often tend to regard dissent as conduct capable of bringing a sport into disrepute....however, the mode and manner of dissent may need to be considered when determining whether an individual has actually brought a sport into disrepute....therefore a reasonable tribunal may honestly conclude that an individual who expresses dissent concerning the sport's governance to the media (as opposed to a small group of individuals engaged in the sport) has brought the sport into disrepute. In such a case a Court should be reluctant to disturb the Tribunal's decision.....if it becomes known that criticism is actuated by malice or improper purpose an individual may risk public ridicule or rejection in the sport, a Court should be cautious to intervene in such a matter."

159. In *Dickson v Esperance Bay Turf Club Inc* [2002] WASC 110 (17 May 2002), Roberts-Smith, J at page 163 said:

"It is difficult to see how agitation by a member of an organisation urging change in the Constitution or the Rules of an organisation, without more, could ever constitute conduct sufficient to attract any "punishment" much less expulsion. On the face of it such conduct would appear to be no more than the exercise of democratic rights of freedom of expression. However, as I read it in the context of the evidence of this case.....of the Amended Defence it is really a plea that the plaintiff's conduct went well beyond that."

160. The plaintiff was ultimately unsuccessful against the Club because His Honour found there was evidence on which the Club could rely to expel the plaintiff because he had imputed improper motives to the Board and Members of the Board which was contrary to a different provision of the Constitution.

161. Ultimately it is a question to look at what was said.
162. One issue which arises based on the particularisation of the charges is whether there is a distinction between bringing the Association into disrepute as opposed to bringing Members of the Board into disrepute.
163. In the matter of *Hewett & Ors v Royal Volunteer Coastal Patrol* [2001] NSWSC 1140 (11 December 2001) at paragraph 24, Davies, AJ stated:

"Any reflection upon the Council or Members of the Council of the RVCP was necessarily a reflection upon the organisation itself as the Council was its controlling mind. The undermining of confidence in its Council could be considered to be prejudicial to the RVCP."

164. His Honour went on to say that the language used in the letters which had been written by the plaintiffs which lead to their expulsion was "extremely strong". He said "it could be regarded as being inappropriate and *"over the top"*. He concluded "in my opinion it was open to the Council to form the view that the writing of those letters was unacceptable conduct for a Member of the RVCP".

165. At paragraph 25, His Honour said:

"The basic point is that the crucial words used in Article 15 [conduct prejudicial to the interests of the Patrol or guilty of conduct which in the opinion of the Council shall render him unfit for Membership] were ordinary words of the English language and had the meaning which they carry in ordinary parlance."

166. The question whether the conduct of Mr Hewett and Mr Silberberg fell within the words was not a question of law but one of fact. The determination of that question of fact was committed to the opinion of the Council. The Minutes of the Meeting of 17 June 2000 show that the Council formed the requisite opinion. In the absence of *mala fides* or procedural irregularity the opinion recorded in the Minutes must be conclusive unless it is established that the opinion was, in reality, not a requisite opinion. Davies, AJ concluded that "in the present case that has not been demonstrated".
167. The claim by the Respondent that the posts were "banter which was all part of the campaigning process" is to take the matter far too far. "Banter" is playfully teasing language or good natured raillery. This was a determined attack on the existing Board. It was neither playful nor good natured. There was an election for Members of the Board but some of the publications are after the date of closing of voting. The AGM was held on 26 October 2015. Campaigning would have ceased when the ballot closed. The only note we have is that the closing date had been extended from 20 October but we are not given the date of closing for Board elections. Some of the Facebook posts would appear to be after the date for closing of voting. The Facebook posts continued until 30 November 2015, although there were issues about the financial statements to be considered on 30 November at the adjourned AGM. At best, for the Respondent, it might be said that he wanted to continue to raise issues about the financial statements. But it was neither banter or in connection with a campaign.

168. The Association has a Social Media Policy which has been in force since 29 May 2014. That policy contains a statement that social media has the potential to harm the reputation of the organisation, its athletes, members and stakeholders. It is crucial that individuals representing ESA are aware of the implications of using social media. There are further statements under the heading "Guiding Principles" concerning such posts, where again it is reiterated that Members should refrain from any behaviour which may bring ESA, its Members, Member Associations or affiliated clubs into disrepute. It is also highlighted in this Policy that information shared on social media appears in public so careful consideration is to be given to content before it is posted.
169. There is an email from Daniel Griffiths who was the relevant officer of Equestrian Australia at the time that he asked the Respondent to take down the posts. The Respondent disputes this, although in part his dispute is somewhat evasive. The Respondent says that no formal "take down notice" was issued. That may well have been so but the Respondent was well aware that there were complaints about the posts and he took no step to consider those complaints or whether he ought to take steps to take down the posts in any event. He was determined to proceed with his "campaign" no matter what harm that campaign caused. In any event the question of whether a take notice was issued or not or a request was made by Mr Griffiths is not relevant to our consideration which is to look at the various materials which are before the panel.
170. This panel sits as if it were the Board of ESA. The Board of ESA would in the ordinary course hear submissions from the person to whom a show cause notice is given or receive a letter from that person and give consideration to those submissions in that letter.
171. The Board of ESA (or any similar organisation) would then pass a resolution in accordance with Rule 9 of the Constitution. That resolution may simply be that the Board considers that the Member has acted in a particular manner or brought the Association into disrepute.
172. The Board does not have to give lengthy and detailed reasons as in a Court for reaching its conclusion.
173. As is indicated in some of the Court decisions referred to above, a Court will not be concerned to examine the opinion reached by the adjudicating Board or Tribunal if there was material upon which that decision could be based and the Board or Tribunal could form the requisite opinion.
174. There are overlaps between those aspects of the Constitution which are bringing the Association or Member into disrepute, acting in a manner which is prejudicial to the purposes and interests of the Association and acting in a manner which is unbecoming a Member. The panel is of the view that it is not necessary to draw fine lines between those different aspects of the Constitution. The Respondent's conduct in totality and in looking at the individual Facebook posts can be a breach of all those aspects of the Constitution and, unlike criminal matters where duplicity is important, there can be a breach of all three aspects of this Constitution.

175. In relation to the question of "disrepute" the panel is of the view that in this case it is not necessary to determine whether the rider in D'Arcy that it has to be "to a significant extent" applies. The publication by the Respondent would meet that test anyway.
176. It is clear that the content of each of the Facebook posts and the statement in The Advertiser contain imputations which do bring the Association or the Board as the driving mind of the Association into disrepute. The content of the publications lower the Association in the thinking of the community. Where individuals are named in Facebook posts, those individuals are brought into disrepute.
177. The publication of the material to a wide range of persons and the content of the publications is prejudicial to the purposes and interests of the Association. The publications would have the effect of adversely imprinting on the standing of the Association.
178. The fact and nature of the content of the publications is conduct unbecoming a member. The Respondent could have sought to ask questions, if that was what he wanted to do to ascertain information, either privately or at the AGM when the financial statements were debated. However, he sought to make accusations but at times couched these as apparent questions, often rhetorical. To agitate these matters in the manner in which he did is conduct unbecoming a member. The Respondent sought to conduct a vendetta against the Board.

Determination

179. Having reviewed all of the material which has been put before us with all of the Facebook posts and the newspaper statement and having considered the submissions which have been made on behalf of both the Respondent and ESA, the panel has reached the view that in the totality of the conduct of the Respondent in making the Facebook posts and the newspaper statement and in the content of those Facebook posts and statement the Respondent has:
- 179.1. brought the Association and the Members comprising the Board into disrepute;
 - 179.2. acted in a manner which is prejudicial to the purposes and interests of the Association;
 - 179.3. acted in a manner unbecoming of a Member.

Further Comments

180. As mentioned above, it is not necessary for this panel sitting as the Board to provide detailed reasons. However, in deference to the detailed submissions which have been given to the panel it is appropriate to make the following comments:
- 180.1. The Respondent states that the posts and statement were part of a "campaign" but his statements are always accusatory and often without foundation of fact, erroneous or misleading.

- 180.2. His statements give rise to an inference of wrong doing, illegality and failure to meet appropriate standards by the Board are expressed in a very generalised way without any specifics or facts in support and he makes wide ranging allegations based on the flimsiest of evidence.
- 180.3. He singles out individuals in a manner which is entirely unnecessary and inappropriate and creates an air of improper conduct by those individuals (some of whom were not standing in the election).
- 180.4. He claims to be merely asking questions of the Board but he had framed resolutions in a way which are often entirely in an improper or inappropriate and always contain some "sting" or factual assertion or imputation of wrong doing.
- 180.5. He had attempted in submissions to justify the naming of persons, Di Norris or Elizabeth Fricker, as Chairs of Committee because that is used as a means of identification of the Committee. In these circumstances such a reference is entirely inappropriate. He was attempting to denigrate individuals. The submission that some organisations or panels are identified by the name of the Chair is not relevant in this matter and without merit.
- 180.6. Whilst the Respondent asserts that the Constitution itself creates a "legitimate expectation that in the ordinary course of events a Notice of Motion will be received and voted upon in the course of business at a General Meeting", that assertion is not correct. The Constitution defines the Annual General Meeting as a "General Meeting". The Notice of Meeting had been issued on 26 August 2015. Clause 12.2(b) required that the Notice in writing of the business had to be given to the Association at least 14 days before the Notice calling the next General Meeting. The Respondent is wrong to say that the Board refused when in fact his request was too late.
- 180.7. In a number of the posts on 8 October 2015, he stated that the Board had "refused" to include his Notices of Motion on the Agenda. The term "refused" suggests that there had been an actual or deliberate decision to not include those notices. A refusal is defined as a formal declining to accept something or to deny a request. He could have, but did not, make an enquiry as to whether the Notice of Motion was not on the Agenda because advice was being sought or there was some justification or merely an administrative error or omission. In fact at the time of his posts on 8 October 2016 the Respondent had no basis for making that statement regarding refusal or for singling out the Chair of the Committee.
- 180.8. The Respondent admits that he made no enquiry as to the reason the Notices of Motion were not on the Meeting Notice but suggests that it could not be refused as to refuse was not in accordance with the Constitution. He submits that when he received no correspondence he had no other way to bring the matter to the attention of members. But he did not ask ESA why they were not included.

- 180.9. He is inconsistent in that his post on 8 October 2015 at 11.34am indicated that it was the Returning Officer who had not included his Notices of Motion on the Agenda but later the same day he made posts alleging that it was "under the Chairmanship of Di Norris, the Board of ESA" which had refused to include the Notices of Motion. He gave no consideration to whether there was justification for refusing to include those Notices. In his post at 11.34am he indicated that he believed that the Association was seeking legal advice on the correct procedure but then suggested that to obtain such advice was an unnecessary waste of funds. Clearly it was appropriate for the Association to seek such advice before determining what to do. The Respondent is not necessarily a person who is correct all of the time.
- 180.10. Notwithstanding his belief at 11.34am that the Association was seeking legal advice as to the correct procedure, he made posts later in the same day asserting that there had been a "refusal" which suggests a denial without any justification by the Board. Whilst many of the posts on 8 October were said to recite the form of resolution he had put forward in the Notices of Motion, those resolutions were poorly drafted or not capable at law of being passed. For example, he proposes in the document sent at 4.13pm, headed in part "Vote of No Confidence" that the somehow a new Board be voted in because a vote of no confidence, which proposal is entirely contrary to the provisions of the Constitution relating to the removal of an elected Director.
- 180.11. In some cases the Notices of Motion require an outcome contrary to the Constitution or the proposed motion fails to recognise the Constitutional requirement that the Board is the body vested with the management powers and the Members cannot control the Board in the manner proposed. For example, it is not constitutionally proper to move for the removal of the whole Board (see Facebook post headed "Vote of No Confidence" and Rule 17.2 of the Constitution. See also Facebook post headed "Effective Operational Management" and Rule 15.1(b)(i) and (ii) of the Constitution).
- 180.12. He makes statements which have a flavour of "legality" to create an air of authority. He pretends to have some knowledge of the law to attack the Board. Some statements are wrong as a matter of law, such as stating the Board Members are "jointly and severally liable even if not present". He asserts that in some way the organisation is "in jeopardy", although he does not assert any justification.
- 180.13. He did not formally ask the Board whether it has dealt with the matters in the Auditor's report to the 2014 AGM and suggests that the Board has not dealt with that matter or has not resolved it in a timely and proper manner. Whilst he asserts that the Board was aware of the issues, he had not asked the Board formally or privately for a response but proceeded to attack the Board in a public manner.
- 180.14. He attempts to hide behind the façade that all he has done is "ask questions" when he has made some of the most disparaging comments or framed the

resolutions in a way which contains an assertion of fact alleging some failure on the part of the Board.

- 180.15. He has in one of his motions about conduct of the office made further suggestions that there has not been appropriate integrity and accountability and framed the motion in a way which again incorporates a statement of fact.
- 180.16. The way these motions and further statements are made, leads the reader to think that the Board or the named Members of the Board have been guilty of impropriety or gross incompetence or neglect of duty.
- 180.17. He creates an impression that many others were of the same mind as him by saying that others felt this way. They may or may not have been influenced by statements made by the Respondent. It is not known whether others know of the proper facts on which to base any opinion. There may have been Members who did not agree with what the Respondent was putting forward and it would appear from complaints made to the Board about these statements that there were many Members that did not feel the same way as the Respondent.
- 180.18. However, the statements made showed an open or unqualified contempt of the Board amounting to scorn and disdain. The Respondent was seeking to ridicule the Board and deride it.
- 180.19. The Respondent has, in selectively quoting some words, created a different meaning. In his post of 11 October (in response to the Di Norris' post) he suggests that a sum of approximately \$40,000.00 had not been deposited into a bank account by quoting and highlighting words ".....unreconciled amounts YET TO BE DEPOSITED INTO THE ACCOUNT". This was in response to the statement in the Di Norris post (Document 2.8), "These funds relate to Nominate payments which were paid directly into the ESA Bank Account." The full quote from the Audit Report of 2014 is "The reconciled bank cheque account balance of \$77,499 reported at 30 June 2014 includes \$40,959 recorded as being unreconciled amounts yet to be deposited into the account." It is significant that the Auditor makes comment on what is "recorded". There is no suggestion that the money was not actually in the bank account. This selective quotation casts the matter in an entirely different light by suggesting that the amount was actually missing from ESA funds rather than merely a recording error.
- 180.20. He has had the ability to slant or twist statements in a way that is entirely improper because he continually gives rise to unjustified allegations of impropriety. His publications on Facebook have been to a wider range of persons than those who are merely Members of ESA. It is possible for a member of the public to access the Respondent's Facebook account or for recipients to "share" the posts with others who had no connection with ESA. He has not attempted to communicate with all Members of ESA but communications with only those who have in some way linked to his Facebook account. However, he had no knowledge of privacy settings to

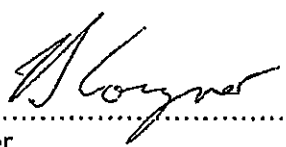
limit his publications to those Members. He would also be aware that those Members who received any Facebook post could very easily pass that information on, not only just to Members, but also to non-Members of the Association. His publication was on one hand wider than was necessary but on the other he did not seek to make a "campaign statement" to all Members of ESA by seeking formally a membership list or requesting that the Board publish a proper balanced view of the complaints of which he wanted to raise to all Members. Despite the knowledge that there were complaints about the content of the Facebook posts, he has persisted in making more such posts in spite of those complaints.

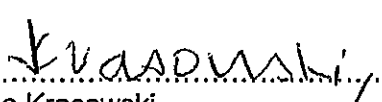
- 180.21. The proposed Notices of Motion are, in most cases, not properly framed as proper motions and could be rejected by the Chair of a meeting.

Resolution of the Board

181. The Board resolves that pursuant to Rule 9.1(b) of the Constitution the Board considers that by publishing the Facebook posts and making the newspaper statement detailed in the Notice dated 8 September 2016 given under Rule 9.2 of the Constitution Peter Obörn, a member of the Association, has brought the Association into disrepute.
182. The Board further resolves, insofar as it is necessary, pursuant to Rule 9.1(b) of the Constitution the Board considers that by publishing the Facebook posts and making the newspaper statement detailed in the Notice dated 8 September 2016 given under Rule 9.2 of the Constitution, Peter Oborn, a member of the Association has:
- 182.1. brought another member namely members of the Board in October 2015 or, where appropriate, named members of the Board into disrepute;
- 182.2. acted in a manner unbecoming of a member;
- 182.3. acted in a manner prejudicial to the purposes and interests of the Association; and
- 182.4. acted in a manner prejudicial to another member namely members of the Board in October 2015 or where appropriate named members of the Board.


.....
John Daenke


.....
Barry Couzner


.....
Jemma Krasowski

APPENDIX 1



Peter Oborn

September 24, 2015 ·

AN OPEN LETTER TO ESA MEMBERS

I write to you as a fellow ESA member concerned about not only the current management of our industry body (ESA) but also concerned about the lack of clear direction, leadership and good governance by the current ESA board.

I do want to say at the outset that I acknowledge Board positions are voluntary and much time is given by Board members as it is by the many Discipline committees, organising committees, clubs and officials. We all share a common cause to see Equestrian sports grow.

Having said that I believe there are a number of areas we need to address so all members have a clear understanding and ownership of the organization that they contribute to and expect so much of.

The areas I refer to include – Transparency by the ESA Board to its members; sound financial management practices; and above all good governance that is within the guidelines set out in the Associations Act, and as expected by the Office of Recreation and Sport, Sport SA and the Australian Sports Commission.

We have good staff and volunteers to administer our sport but we are not the first sporting organization, nor will we be the last, to struggle with the disconnect between member expectations and the governing body (in this instance ESA).

These issues need to be looked at by the ESA membership so that changes for the betterment of our sport can occur. Particularly, the responsibilities of each party need to be clearly defined as does the relationship between the Board and the Executive Officer on behalf of the membership.

With the ESA AGM set down for 26 October 2015, there has never a better time to act. To that end I have nominated five nominees for vacant positions on the ESA Board. All have a passion for equestrian pursuits but more importantly have the necessary business skills and experience to take our industry body forward over the coming years.

For transparency I would like to introduce this group to you and over the next few weeks. In addition I will be sharing with you a number of 'Notice of Motions' that I will be submitting to the ESA Board prior to the AGM for the members to consider. Please take the time to read the Notices of Motion as they have been put forward with the single objective of improving the sport we are all passionate about.

As financial members of ESA I cannot urge you enough to utilize your right to vote at the AGM and to take an interest and have a say about the future direction of our sport. If you would like to discuss the contents of this letter I welcome your email - peter.oborn@hotmail.com

Share

Carla Cerchi, Prim Cromwell, Kerry Kirchner and 31 others like this.

42 shares

Comments



Jacquie Lang Beautifully put Peter Oborn x

1 · September 24, 2015 at 5:42pm



Georgie Ray Ok will do.

September 24, 2015 at 6:20pm



Peter Oborn

October 8, 2015 ·

ESA AGM – NOTICE OF MOTION – FULFILLING LEGAL AND FIDICIARY OBLIGATIONS

Under the Chairmanship of DI Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board fulfil their legal and fiduciary obligations was submitted is as follows:

The Constitution does not provide a provision for Board Members to transact business without the knowledge or consultation of all Directors of the Board. The reason for this is that they are all jointly and severally responsible for all decisions made.

The known current practice of exclusivity and exclusion adopted by some members of the Board who are transacting business on behalf of the full Board and having those decisions ratified at a Board meeting places all Directors, and the organisation in jeopardy should there be issues raised.

Share

Skylar McFarlane and 8 others like this.

2 shares

Comments



Peter Oborn

October 8, 2015

ESA AGM – NOTICE OF MOTION – ERRONEOUS FINANCIAL ACTIVITY

Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board explain to its membership a number of erroneous financial activities was submitted is as follows:

That the board of Equestrian South Australia disclose to its membership erroneous activities recorded on the 2014 Statement of Income and expenses.

- a) Where the grant from the Office of Recreation and Sport has been recorded on the Statement of Income, resulting in an undisclosed transaction of circa \$40000
- b) Disclose to the membership what monies are paid to Equestrian Australia (EA) and where this is recorded in the Statement of Income and Expenses
- c) How the Interschool discipline has recorded a surplus of \$12,598 when there is no appointed committee to oversee the discipline

Share

Skylar McFarlane and 4 others like this.

2 shares

Comments



Anthony Thomas Please anyone reading this post do not take this seriously. DI is a very strong Chairperson and not all truths are being told.

1 · October 11, 2015 at 7:54am



Peter Graham I would think that as a member,

the board would be only to willing to supply the above information... Then there can be no innuendo...if all is good.. Why would these simple questions not be answered swiftly

October 11, 2015 at 10:29am



Peter Oborn

October 8, 2015

ESA AGM – NOTICE OF MOTION – EFFECTIVE OPERATIONAL MANAGEMENT

Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board conduct business in a manner that does not bring the sport into disrepute was submitted is as follows: That the office of Equestrian South Australia (comprising, staff and board) conduct business based upon integrity and accountability to avoid bringing the sport into disrepute. This motion declares that the board constituted after this AGM will:

- a) Not interfere with the proper operation of discipline committees except in order to resolve conflicts between disciplines
- b) Consult the ESA membership before exercising the vote of the organisation ESA (member vote) in EA meetings; especially on decisions to appoint or remove members of the EA National board
- c) Provide all paid up members with notice of the opportunity to nominate for a casual vacancy on the Board and fill the position expediently
- d) Conduct an open and transparent recruitment process and give all members the opportunity to apply for any vacancies. In the assessment of candidates, the Board will conduct thorough background checks particularly in regard to prior employment history and the applicant's skills set
- e) With regard to team selection adhere to published procedures, to ensure the process is conducted in an open transparent and fair manner

Share

Skylar McFarlane and 11 others like this.

3 shares

Comments



Karin Edwards Is this the pot calling the kettle black or what ???

1 · October 8, 2015 at 9:05pm



Peter Oborn

October 8, 2015

ESA AGM – NOTICE OF MOTION – VOTE OF NO CONFIDENCE

Under the Chairmanship of DI Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that a vote of no confidence be taken in the board should the motions remain unanswered was submitted is as follows:

That should the existing board of Equestrian South Australia dismiss or refuse to respond to these motions, a vote of no confidence in the current board comprising of:

DI Norris – Chairperson

Julie Payne – Vice Chairperson

Alexi Kentish – Committee

Caroline Jones – Committee

Sarah Hocking – Committee

Gareth Heron – Committee

Elizabeth Fricker – Committee

Judie Whyntie - Committee

be moved and a new board voted in at the Annual General Meeting for failure to act lawfully, meet their fiduciary requirements and by virtue bringing the sport into disrepute.

Share

Skylar McFarlane and 7 others like this.

2 shares

Comments

October 11, 2015 at 6:42pm



Peter Oborn

October 8, 2015 ·

To all ESA members

I will today present for your consideration the Notice of Motions I have submitted to the Board to be voted on at the AGM by you the members.

Unfortunately the Returning Officer hasn't seen fit to add them to the agenda and ballot paper for your consideration. I believe my Notice of Motions have been sent to the ESA solicitor for consideration, more of our money being spent unnecessarily!

I am intending to resubmit the Notice of Motions.

Please don't vote and return before I give you some more facts on the voting process.

The Board continues to show its disrespect or ignorance for both the ESA Constitution and the Associations Act.

I have 6 bottles of wine for the member who can pick the most number of errors in the voting process and ballot papers you are receiving now.

Even more tempting a lunch at the fabulous Pike & Joyce cellar door for the member that can pick the most number of contraventions of the Associations Incorporation Act 1985.

Hint

Division 2 Accounts and audit of prescribed associations

35(2)(3)(6)(7)

37(4)

Division 4 Disputes

40 & 60

Cheers

Peter

Share

Skylar McFarlane, Peter Graham, Ria Grivell and 13 others like this.

23 shares

Comments



Josie Matthews Shared Pete's

1 · October 8, 2015 at 12:45pm



George Ray Wish I knew the law a bit better Peter Oborn if be after both the bottles of wine and the lunch

1 · October 8, 2015 at 12:57pm



Jacqui Lang Ooh, ooh I have one, why was a profile only mentioned for one candidate and there are 5 others who did not have their profile mentioned a or promoted, even though they were all submitted in time and through correct process - yes, I'm one of them "-).

5 · October 8, 2015 at 2:44pm





Peter Oborn added 2 new photos.

October 8, 2015 ·

ESA AGM – NOTICE OF MOTION – FINANCIAL DISCREPANCY

Under the Chairmanship of DI Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board explain a material financial discrepancy was submitted is as follows:

That the Board investigate and report back to the Membership, the reason for the apparent discrepancy noted in the 2014 Auditors Report as set out hereunder and what subsequent actions were taken to properly investigate the discrepancy.

That disclosure be made to the membership, including:

- a) The validity of the audit report under the circumstances as outlined above
- b) On what basis the then Chair of Equestrian South Australia, Gareth Heron, signed the audit statement for and on behalf of the Board when clearly the sum of \$48,959 was unaccounted for
- c) Explain why board members questioned by Equestrian South Australia members declared they were unaware of the discrepancy nor had they read or understood the audit report
- d) What the Board's responsibilities to the members are in relation to their Director's liability pertaining to this discrepancy
- e) Why Equestrian South Australia has not complied with the Associations Act with regard to this discrepancy
- f) That an investigation be undertaken by an independent forensic accountant to determine where the unaccounted funds are located
- g) That in the absence of a full and frank disclosure to the Equestrian South Australia membership, a vote of no confidence be moved in the finance committee together with then Chair Gareth Heron

The reconciled bank cheque account balance of \$77,499 reported \$48,959 recorded as being unreconciled amounts yet to be deposited. Management of the association was unable to provide adequate explanation of the nature of these items as at the date of this report, and it was not possible to undertake alternative testing to otherwise prove validity of individual items management are therefore unable to form an opinion as to the accuracy of that report.

The reconciled bank cheque account balance of \$77,499 reported \$48,959 recorded as being unreconciled amounts yet to be deposited. Management of the association was unable to provide adequate explanation of the nature of these items as at the date of this report, and it was not possible to undertake alternative testing to otherwise prove validity of individual items management are therefore unable to form an opinion as to the accuracy of that report.

Share

Skyilar McFarlane, Peter Graham and 15 others like this.



Peter Oborn

October 8, 2015

ESA AGM – NOTICE OF MOTION – FINANCIAL WORKING GROUP

Under the Chairmanship of DI Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board appoint a financial working group was submitted is as follows:

That a financial working group be appointed to work with the Board as non-Directors and Independent assessors to ensure member's funds are being managed and invested in a manner that is consistent with running a business.

Share

Skylar McFarlane and 18 others like this.

1 share

Comments



Sam Moyle Sounds great to me

October 8, 2015 at 7:30pm



Dean Johnson Have they given any reason or provided a Legal opinion on not accepting a members valid notice of motion?

October 8, 2015 at 8:10am



Marlon von Saagh what are they scared about?

October 8, 2015 at 8:59pm



Karin Edwards That will cost the members more money - there are other ways to resolve the current situation and for each discipline to encourage their riders to become EA members without getting upsetting everyone. You seriously worry me Mr Peter Oborn

1 · October 8, 2015 at 9:32pm



Harry Downey Sorry, please excuse my lack of knowledge about Board processes - and my silly questions, but how will it cost members more money? through paying for a legal opinion?

October 8, 2015 at 9:58pm



Karin Edwards Someone will have to pay for "legal opinion" as I doubt it will be done for free. It would be the EA finances that they would be auditing which would have already been done by an Independent auditor. EA income mainly comes from its members

1 · October 9, 2015 at 8:07am



Anthony Thomas You hit the nail on the head Karin. We have a very strong disciplined ESA board in place atm who will not put up with any petty bullshit and this is why we have this rebel group creating. We are a small state and all members must be strong and support the current board and our chairman DI Norris.

3 · October 11, 2015 at 7:51am



Peter Oborn

October 11, 2015 ·

Today Di Norris posted her perspective in relation to the 'unaccounted funds' on her private Facebook page. I welcome her response. After reviewing her post, I have further concerns. If Di had indeed been working with the Auditor as she claims, she would realise that her statement is in complete contrast to that of the Auditor. Di claims '...Nominate payments, which were paid directly in to the ESA Bank Account...' The Auditor clearly says '...unreconciled amounts YET TO BE DEPOSITED INTO THE ACCOUNT...' We ask Di to confirm that the qualified Auditor is in agreement with her statement and if so when that occurred? As at last week the Auditor confirmed that this was still an issue to be resolved. The matter therefore could not have been rectified in the timeframe Di claims. We welcome Di's response so that the members are informed.

Share

2 people like this.

3 shares

Comments



Helen Whittle Why would the chairperson comment on their own private FB page and not use ESA FB & website to let the members know what is going on if this is truly a statement attempting to clear things up?

1 · October 11, 2015 at 9:22pm



Karin Edwards Facebook is NOT the place to discuss business finances. How can you expect people to trust you when you pull stunts like this.

1 · October 11, 2015 at 10:12pm



Peter Oborn Karin, is this post for me or ANTHONY??

October 11, 2015 at 10:35pm



Kirsty Marston These finances are public record... available on the website.

October 11, 2015 at 10:24pm



Karin Edwards Its for you Peter Oborn In my opinion this is the lowest of low

October 11, 2015 at 10:38pm



Anthony Thomas Well said again Karin. Don't know why my name was brought up by Peter?? A very simple message due to his capability, this time wasn't written for him by a former labor politician.

October 25, 2015 at 10:37pm



Peter Oborn

October 15, 2015

AUDITORS STATEMENT. Thank you to the enormous number of ESA members who have contacted me over the past 2 weeks to talk about the management of our sport. It is heartening to know that we all share a common goal.

Many of you have asked me to provide further information about the Auditors statement and in particular about the blame seemingly been placed upon an ex-ESA employee. Many of you also raised why the post on the ESA Facebook page from the Auditor appeared to have been edited.

I spoke directly with the Auditor about both matters. He asked that I share his response with you. The Auditor also provided this exact statement to the ESA Executive Officer and asked that it be published on the ESA Facebook page. You will note that the second half was added to the ESA Facebook post, however the first part was omitted.

"I wish to clarify two technical points in relation to the statement provided yesterday which was posted on the ESA website.

The first and most important fact is that it was not "in response to recent allegations placed on facebook" as stated in the original header of the post. I am not a Facebook user, and I did not access or view any site prior to drafting the statement. It is not my place to make any such comment or response. I was asked to provide further information on the 2014 audit qualification matter only.

Secondly, I understand that ex-staff members may have concerns over the comment that we believe that the ledger errors leading to the qualification in 2014 were processed during their tenure. We are unequivocally not casting aspersions on anyone involved in ESA, either past or present. As we noted, it was an error only, nothing deliberate, but the fact that it was processed by someone no longer involved with the association in our opinion goes some way to explaining why it was more difficult to resolve."

Share

12 people like this.

2 shares

Comments



Peter Oborn Thanks Kerry, so if the error was in July 2013 that's 28 monthly meetings before it is explained and only after I had to ask the question WOW!

3 · October 15, 2015 at 10:44pm



Peter Oborn Kerry, what you describe is normal meeting procedure and that is why I have asked the question why when asked Board members have denied knowing about the Auditors statement.

1 · October 16, 2015 at 7:38am



Peter Oborn When you appoint a Finance and Audit committee their role should be just that, to oversee the finances and ensure the organisation is Audit compliant. Again I have asked on behalf of the members why they have been negligent in their duties.

2 · October 16, 2015 at 7:52am



Peter Oborn The Auditor eludes to the lack of any governance in this process by stating he was not given enough time to properly conduct the audit for the members. This is completely understandable when you consider the then chair Gareth Heron signed on behalf of the Board (should be 2 signatures) a statement to say the Board considered the Financials true and correct. On the 27/10/14. That was a very busy day because the Auditor's statement to the members was signed on the 27/10/14. I suspect that was also the date of the AGM. The process followed by the Board is in contravention of the Associations Act 1985 and the penalties for doing so can be up to \$20000 and/or up to 4 years jail.

1 · October 16, 2015 at 8:22am



Peter Oborn I'm not advocating that these penalties be enforced but it stresses me to think good people, and I mean that sincerely, put themselves and the organisation in that position through not understanding their fiduciary obligations as Directors. The Auditor was given 1 day to complete his 2013 Audit, 3 days in 2012 so this is not an isolated incident. Why when the Financial year ends on the 30th June is the audit process left to no more than 3 days before an AGM in late October?

3 · October 16, 2015 at 8:32am

Equestrians on high horse over board election

CRAIG COOK

A STATE Government agency has been forced to intervene in the sport of equestrian where allegations of bullying and concerns over the running of a pivotal board election are at the centre of a dispute that has erupted with threats of legal action.

The Advertiser can reveal the Equestrian SA board faces a challenge from disaffected members calling themselves the "Integrity Group", which has nominated five candidates for a maximum four vacant positions on the nine-member board.

The Office of Recreation and Sport stepped in this week to mediate over concerns the procedures for the upcoming ESA board election were not complying with the constitution. The Advertiser has been told the ORS intervention has averted the seeking of a Supreme Court injunction in a bid to stop the election.

"The election process was already irreparably infected but the ESA board didn't seem to think they had a problem," Integrity spokes-

man Peter Oborn said. He added: "The ballot was not going to be secret as required by the constitution as the instruction said it had to be signed on the back by the voter. And some country people are yet to receive their ballot papers, which clearly favour the current chair (Di Norris) naming her first on the ballot and listing her achievements and no one else's."

Under the agreement thrashed out to guarantee the integrity of the ballot, the ORS - which provides a substantial grant of \$40,000 per year to ESA - has insisted ESA engage an "Independent person" from the State Sports Dispute Centre to act in the position of Returning Officer for the election.

The ORS will also nominate an independent chair to conduct the ESA's Annual General Meeting on October 26.

On behalf of ESA, chairman Di Norris and chief executive Sharon Cimmarosti have agreed to all the conditions. Ms Norris said her board had "no secrets" and expressed disappointment with the "terrible squabbling" in the organisation, saying: "This is a difficult situation but

clearly there is a very small group of members who believe we have not met their needs.

"While some people are only about their own agenda, the board is for the members."

Ms Norris said she had endured a "tough and challenging year" and, even if returned as a Director, would not nominate for the Chair again.

The Integrity Group, which has engaged prominent lawyer Greg Griffin, issued 11 notices of motion prior to the AGM they would like addressed - including questions surrounding a figure of \$48,959 they say was unreconciled in the 2013-14 ESA accounts.

Ms Cimmarosti, a former manager of the Strathalbyn Racing Club, said the monetary issue had been resolved for this year's ESA audit. "Basically it was a programming error in the accounting package we were using," she said.

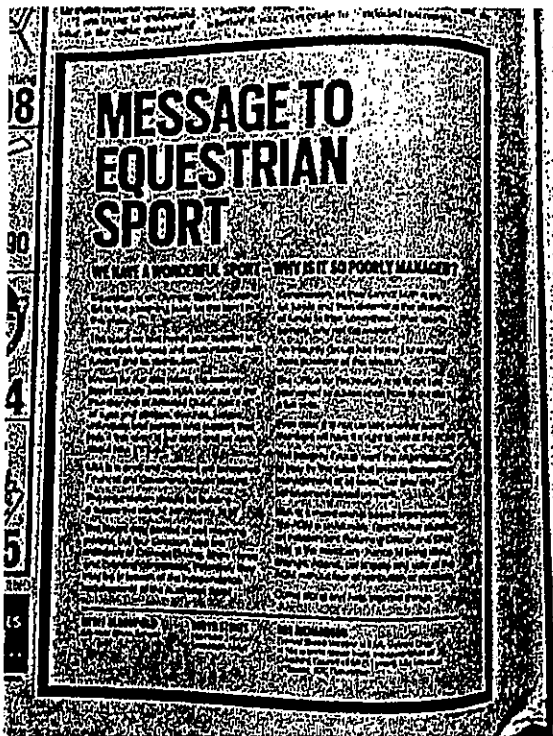
Meanwhile, an ESA member who claims to have been bullied by an ESA official is considering Supreme Court action against the board for "contravening" its Member Protection Policy. The ORS has declined to comment.



Peter Oborn

October 23, 2015

AGM Monday 26th October 2015
7.00pm
MT BARKER GOLF CLUB
BALD HILLS RD
MT BARKER
SEE YOU ALL THERE!



[Share](#)

[Kerry Kirchner](#) and [18 others](#) like this.

[15 shares](#)

[Comments](#)



[Kathy Ordynski](#) Thanks Pete. Saw your ad. Xx

1 [October 23, 2015 at 1:34pm](#)

MESSAGE TO EQUESTRIAN SPORT

WE HAVE A WONDERFUL SPORT – WHY IS IT SO POORLY MANAGED?

Equestrian is an Olympic Sport. Equestrian SA is the governing body for the sport in this state.

The sport we love needs your support to bring back fairness and accountability with funding and its distribution.

Known for our elite riders, Equestrian Sport actually exists in SA because of the membership of Affiliated Clubs, riders of all ages and abilities, coaches, judges, volunteers and parents who support their kids – this sport is our sport and we care about how it's run.

ESA is in crisis and members are concerned. Financial and Governance Issues abound.

The organisation should be building a supportive vibrant community. Is it?

The Board may consist of well meaning people, but four Directors also are members of Carriage Driving, Show Horse and Eventing committees. Potentially they may be in breach of the independence requirements of the Australian Sport

Commission, as they cannot both apply for funds and then determine the allocation of funds to their committee. Other sports comply, why not Equestrian?

An Integrity Group has formed to contest three positions at this election.

The Office for Recreation and Sport has intervened to advise upon how to conduct a fair vote.

Even now, it is not certain whether some members will have the right to vote at the AGM.

The Integrity Group want the organisation to play by the rules that provide competent management at all levels, fair play and achievement based on merit.

ESA is a membership based organisation. The AGM is on Monday. SportSA has allocated an independent Returning Officer and Chair. This is the members chance to bring about change. Attend, participate and vote at the AGM without fear of retribution or reprisals.

Come along and help improve things..

GEOFF BLOOMFIELD
Olympic Show Jumper

ROBYN STOKES
FEI Rider
Dressage Judge

ROS RICHARDSON
Former Board Member of ESA, Current Chair
of Naracoorte Horse Trials, Inaugural Chair of
Coaching Council of SA (10 years), Life Member
of Gawler SDE Committee

News Feed



Peter Oborn

October 25, 2015

Wow, what a couple of interesting days topped off by an equally interesting letter from an unnamed person from ESA. Looks like the "untouchables" have become the "un-nameable"!

Who is on the Board currently? Di Norris - to her absolute credit Di has distanced herself from Board duties due to being a candidate for election. BUT, surely her deputy could step in? Julie Payne and Alexi Kentish are not seeking re-election, which leaves the question who else has resigned? Perhaps this helps to explain why names and signatures are missing, or perhaps Di Norris is the only computerised signature?

For clarity, I have never alleged financial mismanagement nor misappropriation. I have raised valid questions about the management of ESA finances that any person would raise after reading the financial report. These words have been implied by ESA. Even the auditor was so aggrieved that he was quoted out of context that he had me post his statement of clarification.

It's up to the members to decide whether taking 28 months to find and report a discrepancy is good financial management. I have asked what I think are appropriate questions to ask on behalf of the members and made suggestions as to how financial transparency can be achieved for the members and to protect the Board.

The Board could answer these questions at any time but still refuse to.

Secondly, for today's statement to have any credibility, ESA would have consulted both SportSA and ORS BEFORE beginning this farcical election and ballot process rather than halfway through after its many failings were pointed out. The Returning Officer (EO) should act in an impartial way so as not to advantage any nominee. The EO breached Privacy Laws by publishing all nominees private information without their consent; showed absolute bias towards one nominee; did not send vital information of one nominee to members as part of the voting process; did not sign the ballot information to make it legal; issued instructions that made the ballot not a secret ballot, which is against the constitution; some members received their ballot papers on the 21/10/15 - after the closing date; and affiliated members were not allowed a vote. Had ESA realised there was a problem, as they claim in their letter to members today, they could have easily written to all members some time ago to rectify the situation. They only did so under extreme pressure by a number of concerned members. Please let the truth be known.

A personal FB post that moved to shame the members who did put their names to an advert seeking changes to the way ESA is managed was posted recently. Should any of these members feel aggrieved enough to lodge a complaint to our Member Protection Officer, don't bother our MPO (the ESA EO) has already 'liked' the post as have a number of Board members. That is not a board acting in the best interests of impartiality and in the members best interests!!

It appears that any member asking any questions of the Board "denigrates the sport and undermines the community goodwill and won't be tolerated". That is a poorly veiled threat to all members and is the exact bullying that we are trying to stop.

The paragraphs to read are: "Equestrian sport in South Australia has always been underpinned on the goodwill and hard work of thousands of riders, their families, coaches, judges, volunteers and other stakeholders. Any action that denigrates the sport or undermines the community goodwill that has been won over many decades, will not be tolerated". It is not only members who can bring the sport into disrepute. In our view, the ESA board and EO have done just that through their recent actions.

Again, this is why we need to correct the many failings of the current Board and management.

It is imperative that ESA members now come together to focus on strengthening equestrian sport in this State and rebuilding its reputation as one of Australia's most successful and respected competitive sporting communities by supporting the Integrity group to clean things up!

Come along Monday at 7pm and VOTE



Peter Oborn added 2 new photos

November 1, 2015

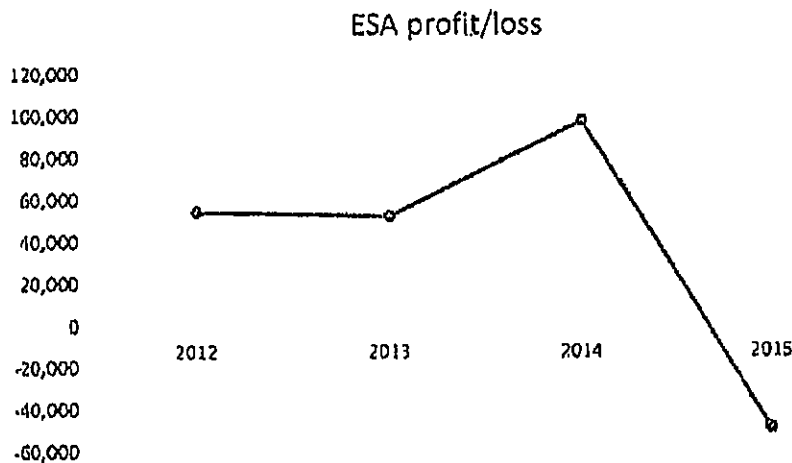
ESA FINANCIALS - SUBSTANTIAL LOSS RECORDED IN 2015

It's now 6 days now since the ESA AGM and it was great to see so many members taking an interest in our sport. Thankfully we succeeded in stopping the financials from being rushed through so we could take a closer look. The current financial position is disturbing. These numbers are from the 2015 annual report provided to the members on the night.

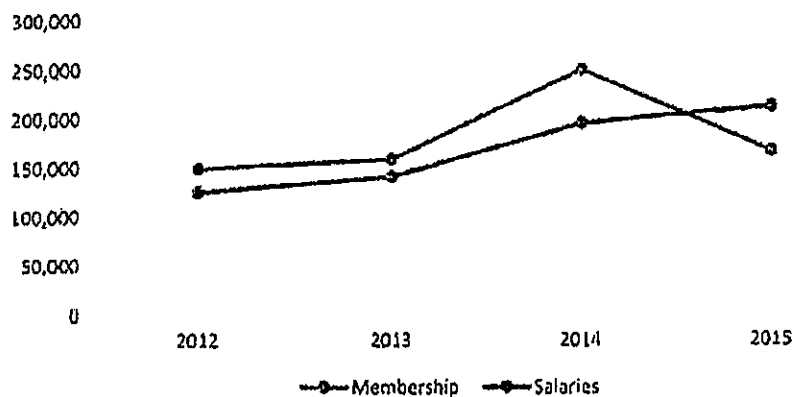
- An overall LOSS of \$50,000 was recorded in 2015. This is a staggering DECREASE from the \$97,000 profit recorded in 2014
- Of the \$50,000 LOSS, \$49,000 was the 'unaccounted funds' the Auditor noted in the 2014 accounts.
- The discipline committees reported a PROFIT of \$38,000, however this has been used to pay Administration costs (i.e. salaries) and not to support the disciplines
- Membership income has DROPPED 33% in 2015 to \$165,000. This is DOWN from \$248,000 in 2014
- Salaries have INCREASED to \$210,000. This is 27% higher than membership income
- Over the past 4 years salaries have INCREASED by a whopping 70%
- Over the past 4 years, membership has INCREASED BY a mere 11%
- The Auditor has recommended that the bad debtor provision be increased. The board of the day rejected his recommendation

These financials are extremely concerning for the future of our sport and this is why it was important that the members were given the opportunity to understand the extent of the financially troubled ESA.

I look forward to my Notice of Motions being on the agenda for the next General meeting. I think they are even more relevant considering the extremely poor state of the 2015 financials.



ESA membership income vs salaries



Share

[Kerry Kirchner](#) and [19 others](#) like this.

[11 shares](#)

Comments



[Nikki Nardelli](#) I think I heard on the night it should only take 5 minutes to go through the financials. This is a joke! However when people on the board say it will cost \$3,000 to hold another meeting I should not be surprised.

Thanks for the breakdown [Peter Oborn](#)

1 · November 1, 2015 at 9:03pm



[Amanda Lock](#) Thanks for the info and the graphs [Peter](#). Very interesting for those of us that couldn't get to the AGM.

November 1, 2015 at 9:20pm



[Tanya Dudley](#) Thanks for sharing Peter

November 1, 2015 at 9:22pm



[Lisa Ashby](#) An alarming state of affairs. Let's hope the new Board can turn this woeful financial result into something less embarrassing for the future of our sport.

1 · November 1, 2015 at 9:40pm



[Louise Whibley](#) Thanks for keeping up with this Peter, well done!

November 1, 2015 at 9:43pm



[Jo-Anne Rhys](#) Thanks for informing us and as a relative newbie to the sport I find this very disturbing indeed. We are paying quite a lot for membership to be able to compete, and it is no wonder that memberships are declining. I only compete at the lowest levels and pay a lot to do this.

1 · November 1, 2015 at 10:26pm



[Kathryn Mitchell](#) Thanks peter!

November 1, 2015 at 10:47pm



Peter Oborn

November 13, 2015 •

ESA – JUST PAY YOUR MEMBERSHIP AND GO AWAY

ESA Chairman, Elizabeth Fricker, has finally come out of the woodwork denying the inclusion of the 11 notices of motion at the General Meeting. It's no surprise really since Elizabeth was on the ESA 'finance committee', that allowed the finances of the Association to steadily decline. It is also interesting that the decision to deny the motions was made by a majority vote. I'd bet a carton of beer that the experienced Shaun, Michael, and Manon didn't vote with the others on that one!!

Share

Kerry Kirchner and 19 others like this.

2 shares

Comments



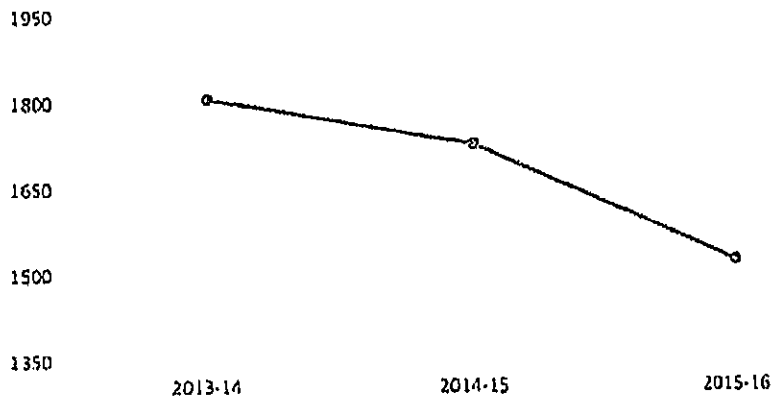
Peter Oborn

November 18, 2015

ESA MEMBERSHIP – IN SERIOUS DECLINE

In 2015, membership of ESA accounted for a significant 55% of its income. With membership in free-fall and no major alternate sources of income, why has ESA allowed the Association to head towards an unsustainable future. Perhaps Elizabeth Fricker, as a member of the finance committee can explain.

ESA membership decline



[Share](#)

[Peter Graham](#) and [5 others](#) like this.

[4 shares](#)

[Comments](#)



[Peter Graham](#) How long has she been on this committee.. Perhaps she needs time to sort it out

November 19, 2015 at 12:08am



[Peter Oborn](#) Pete, 2 years I think. You're a businessman, how long would you trust your finances with? Discrepancy takes 28 months to find, approve salary increases of 40%+ in wages, membership hence income on a downward trend, customer satisfaction at an all time low, out of favour with govt agencies and your auditor resigns.

1 • November 19, 2015 at 3:02pm



[Peter Oborn](#) Pete, are you suggesting another 2 years? I think unless they are prepared to work with

Shaun, Michael and Manon I'd say 11 days!

2 • November 19, 2015 at 3:04pm



[Peter Graham](#) I'd say 2 years is well long enough... I was happy to allow time, but how long????? For the current situation to have been allowed to have occurred, plus what is about to become some serious mismanagement allegations.. Not just minor accounting issues or mistakes... It's time for the old board to resign

his.

Comments



Peter Oborn

November 30, 2015

Come and vote at the ESA general meeting tonight! – Monday 30 Nov, 7.30pm, 10 Mt Barker Road, Hahndorf. YOUR SPORT NEEDS YOU. ESA has been reported to the regulator for irregular financial performance by its Auditor – a move unheard of. Your membership fees are being used to pay high salaries, exorbitant legal fees, and fines imposed by authorities. The sport we all love cannot grow or be sustainable under these circumstances. The old board led by Elizabeth Fricker believe there is no problem. As members we urge you to use your vote to help renew ESA and get it back to focussing on its members and on track to being financially viable.

Share

11 people like this.

12 shares

Comments



Bronnie Juett Is tonight's meeting solely about the financials peter or other matters too?

November 30, 2015 at 8:27am



Peter Oborn Hi Bronnie, the notice of the meeting says that there will be open discussion on the financials. This is a bigger topic than people realise. As you would realise financials are what they are and Auditors report what it is. Good business dissect financials... [See More](#)

1 · November 30, 2015 at 9:32am



Peter Oborn So I see it as being a very diverse and positive discussion not the negative campaign others would have us believe. You have the experience to contribute to this discussion and I hope you do.

November 30, 2015 at 9:35am



Bronnie Juett Thanks Peter. Will get there if I'm able to organise family

November 30, 2015 at 1:01pm



Brian Kennedy It is with some degree of sadness and disappointment that I see this mismanagement, ESA and EA members deserve better than this type of outcome which is all too evident at this current time one can only hope that good management and transparency return to these boards sooner rather than later. Hopefully we can get the focus back on what is best for the future of the sports and competitors rather than the agenda of a few individuals whatever their motivation if you care be there and stand up for your sports.

November 30, 2015 at 12:24pm



Peter Oborn

8 hrs · 1

Hi Friends

Thats what we are on FB, friends right?

To all my relly's waiting to hear what I'm up to.....

Its REPORTING and ELECTION time!!

what will we see, when will we see it, what questions will we ask,

what questions will be answered?

will we see the financial state before we are asked to vote,?

what will it look like, could it possibly be any better or could it be worse?

Willll we see the gross amount of money spent on legal representation?

Whats happened since the last auditor resigned ?

Have Business and Consumer Services responded to the Auditor resigning?

Have ESA officers been given all the information they have asked for so they

fulfill their obligations to the members under the Associations Act?

Have we learnt about "INDEPENDENT" overview of our reporting ?

Will I have to ask all the questions on the financial reporting?

Michael Haese has resigned out of frustration, why?

Shaun Flynn has been an outcast since publishing an open and honest letter

to the members on what he saw as the problems, isn't this what good Board

members do under their responsibilities as Directors?

Have Manon, Shaun and (then) Michael been given all the information they

have asked for to properly fulfill their roles as Directors?

Are we now compliant with ORS Principles of Good Governance for State

Sporting organisations?

Many un answered questions ,let's hope they get answered this time.

cheers,

Peter O

Like

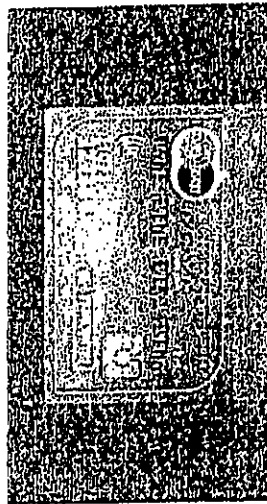
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10

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**Peter Oborn**

Sent 11/11/11

Do you reckon it is reasonable for members to raise questions about how our sport is run? 12 hrs after I posted some questions I received a threatening lawyer's letter asking me to explain why I did it! Pretty obvious, you'd think, I want answers!

. Have also been asked to apologise for my questions or I will be sued for defamation!! For asking questions!!

Is this bullying, harassment and intimidation? You have to ask how much this legal action has cost members?

Was it a Board decision to spend more members' money?

Manon and Shaun were in Germany. ESA is a sporting organisation, not a secret society. Who is directing this action? Why?

Is it unreasonable and oppressive for members to be silenced like this and kept in the dark? Is this an indication of why Michael Haese resigned in disgust?



APPENDIX 2

Un-redacted copy of the Motion dated 16th December 2015

- 11.5 Gareth Heron raised the issue of member's promotion of incorrect information on Social Media. In particular Peter Oborn's Face book posts of the past months.

Gareth proposed the following:

That the Board of ESA serves Peter Oborn a written notice that states it believes his use of social media contravened Clauses 9.1 (b) and 2 (h) of the ESA Constitution. That such correspondence meet all of the requirements of Clauses 9.2 and 9.3 and that any penalty is in accordance with Clause 9.1, and this be best achieved if a Disciplinary Panel is appointed

Sarah Hocking raised a conflict of interest with Shaun Flynn stating that she was aware that he had dinner with John Dawkins and Peter Oborn prior to the General Meeting.

Shaun Flynn offered to leave but felt that he was not biased in the matter.

Sarah Hocking asked for assurance that this discussion would not be leaked to anyone. Shaun Flynn gave an undertaking that he will not leak any information and advised that he had not previously leaked the information to the press.

Gareth expressed opinion quite strongly that Peter Oborn had contravened both 9.1 and 9.2 of the ESA Constitution. Item 9.5 was also discussed.

Sarah Hocking expressed opinion that John Dawkins was a major influence in this matter and all legal matters over the past 18 months has involved the Dawkins name.

Elizabeth Fricker suggested that the Board to reconsider this matter for a further month.

Sarah Hocking suggested obtaining independent advice from Sport SA.

Gareth Heron moved the following motion:

That ESA serve Peter Oborn a written notice that states it believes his use of social media contravened Clauses 9.1 (b) and 2 (h) of the ESA Constitution. That

such correspondence meets all of the requirements of Clauses 9.2 and 9.3 and that any penalty is in accordance with Clause 9.1.

That the Board appoint a Disciplinary committee to conduct the process.

Second: Sarah Hocking

CARRIED by majority. In favour 4 Against 2

Gareth Heron moved that Sport SA be appointed to conduct the Disciplinary hearing.

Second: Judy Whyntie

CARRIED unanimously

Sarah Hocking to contact Jan Sutherland – Sport SA in relation to this matter.

APPENDIX 3

'B'

Un-redacted copy of the Motion dated 25th January 2016

Gareth Heron requested the motion recorded under 11.5 be amended as follows:
'Pursuant to Rule 15.1 (b) (iii) the Board of Equestrian SA has formed the opinion that is essential to the proper management of the business and affairs of ESA that a request be made to SportSA to provide a panel of three independent persons to constitute a disciplinary tribunal to hear the allegations which have been made against Peter Oborn and to make a determination pursuant to Rule 9.3'

Michael Haese asked that an objection be noted
He felt it left the Board open to criticism as it may be seen as an act of revenge by targeting out an individual.

Caroline Jones moved to accept the minutes and upon the alterations to be a true and accurate record
Second—Judy Whyntie
CARRIED

APPENDIX 4



EQUESTRIAN
SOUTH AUSTRALIA

Unit 207, Cameron Road
Mudgehega SA 5215
Ph: 08 839 0488
Fax: 08 839 5797
Email: info@equestrian.org.au
www.equestrian.org.au
ABN 67 78337210

February 10th, 2016

Mr Peter Oborn
Po Box 325
BALHANNAH SA 5242

Via email: peter.oborn@hotmail.com

Dear Peter

NOTICE OF ALLEGED BREACH

The Board of Equestrian considers your actions over the past several months may be in breach of Rule 9.1 (b) (11) and 9.1 (b) (iii) of the Equestrian SA Constitution.

1. Rule 9.1 (b) (ii) acted in a manner unbecoming of a Member or prejudicial to the Purposes and interests of the Association, or another Member;
2. Rule 9.1 (b) (iii) brought itself, the Association, Equestrian or another Member into disrepute.

The allegations made against you include but are not limited to the following:

- Posting and Facebook comments made by you between September 24th, 2015 to November 13th, 2015 have been false, misleading and defamatory
- Several Facebook posts during the timeframe listed above appear to have been written with a deliberate intent to cause damage to the sport;
- Comments made in the Advertiser dated October 16, 2015 acted in a manner unbecoming of a Member or prejudicial to the Purposes and interests of the Association, have the potential to have brought the sport into disrepute;
- By your actions you harmed the reputations of ESA Board Members and Staff;
- By your actions you have allowed false and misleading information to be posted and remain posted on your Facebook page.

As well as the matters listed above three formal written complaints have been received which will be required to be answered (copies attached), Equestrian SA will be asking for these matters to also be addressed at the disciplinary hearing at which time the EA Code of Conduct for Administrators, Directors and Officials will be relied upon.

For your information I have attached copies of the following items which ESA will be relying upon:

Facebook post – Wow, what a couple of interesting days
Facebook post – ESA substantial loss
Facebook – Effective Operational Issues
Facebook - Erronous Financial management



Unit 10/12 Camphill Road
Mount Barker SA 5251
Phone: 8019 0488
Fax: 8019 5299
E: reception@equestrian.org.au
W: www.equestrian.org.au
ABN 62 276 519 210

- Facebook – Financial Discrepancy
- Facebook – Financial Working Group
- Facebook – Fulfilling Legal Obligations
- Facebook – Notice to ESA Members
- Facebook – Vote of no confidence in the Board
- Facebook – Di Norris Facebook Statement
- Facebook – Oborn comments to Helen Whittle Facebook post
- Facebook – Elizabeth out of the woodwork
- Facebook – Just pay your money and go away
- Facebook Share – Peter Graham and John Dawkins Statement
- Facebook – Auditors comments
- Facebook – Membership in decline
- Advertiser article – dated Friday October 16 2015
- Facebook – Message to Equestrian Sport
- Facebook – Open letter to Members
- Facebook – What a couple of interesting days
- Facebook Share – Unsigned letter
- Facebook – General Meeting

Pursuant to Rule 15.1 (b) (iii) the Board of Equestrian SA formed the opinion that it was essential to the proper management of the business and affairs of ESA that a request was made to SportSA to provide a panel of three independent persons to constitute a disciplinary tribunal to hear the allegations which have been made against you and to make a determination pursuant to Rule 9.3.

A directions hearing has been scheduled to be heard by the Independent Chairman - Mr Anthony Crocker time, date and venue detailed below:

Date: Friday 26th February 2016
Time: 9.30 a.m.
Venue: Jeffcott Chambers, 7 Gouger Street, ADELAIDE

I must also inform you that you may do one or more of the following under Rule 9.2 (d):

- i. Attend the meeting;
- ii. Give the Association or Independent Chair, before the date of the meeting a written statement regarding the alleged breaches.

Yours sincerely

S Cimarosti

Sharon Cimarosti
Executive Officer

Attachments: A Kentish
L Jones
29th November 2015 & 15th October 2015



APPENDIX 5

For ease of reference Equestrian South Australia (ESA) responds to honourable Chairperson of the Tribunal Mr Anthony Crocker rulings headings and numbering.

- 1) Annexed hereto and marked with the letter 'A' un-redacted copy of the motion from the ESA Board meeting dated 16th December 2015.

Annexed hereto and marked with the letter 'B' un-redacted copy of the motion from the ESA Board meeting dated 25th January 2016

- 2) ESA is seeking a further direction from the Honourable Chairperson for an extension on the previous undertaking as it has become apparent that Mr Oborn has ignored the previous direction given on the 4th March 2016. As evidence I attached hereto and mark with the letter 'C' Facebook and website posts.

- 3.1) A breach of Rule 9.1 (b) (ii) of the ESA Constitution, in that he acted in a manner unbecoming of a Member

ESA says:

1. The comment appearing in Mr Oborn's Facebook page dated September 25, 2015

'I write to you as a fellow ESA member concerned about not only the current management of our industry body (ESA) but also concerned about the lack of clear direction, leadership and good governance by the current ESA board. (underline the offending sections)

I do want to say at the outset that I acknowledge Board positions are voluntary and much time is given by Board members as it is by the many Discipline committees, organising committees, clubs and officials. We all share a common cause to see Equestrian sports grow.

Having said that I believe there are a number of areas we need to address so all members have a clear understanding and ownership of the organization that they contribute to and expect so much of.

The areas I refer to include – Transparency by the ESA Board to its members; sound financial management practices; and above all good governance that is within the guidelines set out in the Associations Act, and as expected by the Office of Recreation and Sport, Sport SA and the Australian Sports Commission.

Breached rule 9.1 (b) (ii) in that such comments have the potential to and were intended to bring the Association into disrepute and is prejudicial to the Association as it implies

that the members of the Board of Equestrian SA were inept, lacked direction and leadership skills and were not providing good governance to the sport. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

2. The comment appearing in Mr Oborn's Facebook page October 8, 2015
'ESA AGM – NOTICE OF MOTION – FULFILLING LEGAL AND FIDUCIARY OBLIGATIONS'
Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board fulfil their legal and fiduciary obligations was submitted is as follows:
The Constitution does not provide a provision for Board Members to transact business without the knowledge or consultation of all Directors of the Board. The reason for this is that they are all jointly and severally responsible for all decisions made.
The known current practice of exclusivity and exclusion adopted by some members of the Board who are transacting business on behalf of the full Board and having those decisions ratified at a Board meeting places all Directors, and the organisation in jeopardy should there be issues raised'.
Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended to bring the Association into disrepute and is prejudicial to the Association as it is false and implies that members of the Board of Equestrian SA were oppressive and deceptive in their actions. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.
3. The comment appearing in Mr Oborn's Facebook page October 8, 2015,
'ESA AGM – NOTICE OF MOTION – EFFECTIVE OPERATIONAL MANAGEMENT'
Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board conduct business in a manner that does not bring the sport into disrepute was submitted is as follows:
That the office of Equestrian South Australia (comprising, staff and board) conduct business based upon integrity and accountability to avoid bringing the sport into disrepute. This motion declares that the board constituted after this AGM will:
 - a) Not interfere with the proper operation of discipline committees except in order to resolve conflicts between disciplines*
 - b) Consult the ESA membership before exercising the vote of the organisation ESA (member vote) in EA meetings, especially on decisions to appoint or remove members of the EA National board*

- c) Provide all paid up members with notice of the opportunity to nominate for a casual vacancy on the Board and fill the position expediently
- d) Conduct an open and transparent recruitment process and give all members the opportunity to apply for any vacancies. In the assessment of candidates, the Board will conduct thorough background checks particularly in regard to prior employment history and the applicant's skills set
- e) With regard to team selection adhere to published procedures, to ensure the process is conducted in an open transparent and fair manner.

Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended to bring the Association into disrepute and were prejudicial to the Association as it implied the Board of Equestrian SA and staff acted ultra vires and without integrity or accountability. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

4. The comment appearing in Mr Oborn's Facebook page October 8, 2015,
*'ESA AGM – NOTICE OF MOTION – ERRONEOUS FINANCIAL ACTIVITY
 Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that the board explain to its membership a number of erroneous financial activities was submitted is as follows:
 That the board of Equestrian South Australia disclose to its membership erroneous activities recorded on the 2014 Statement of Income and expenses.
 a) Where the grant from the Office of Recreation and Sport has been recorded on the Statement of Income, resulting in an undisclosed transaction of circa \$40000
 b) Disclose to the membership what monies are paid to Equestrian Australia (EA) and where this is recorded in the Statement of Income and Expenses
 c) How the Interschool discipline has recorded a surplus of \$12,598 when there is no appointed committee to oversee the discipline.'*

Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended to bring the Association into disrepute and is prejudicial to the Association as it is false and implies that members of the Board of Equestrian SA had deliberately withheld information from members and were oppressive and deceptive in their actions. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

5. The comment appearing in Mr Oborn's Facebook page October 8, 2015, - - - -

'ESA AGM – NOTICE OF MOTION – VOTE OF NO CONFIDENCE

Under the Chairmanship of Di Norris, the board of ESA has refused to include the Notices of Motion on the AGM agenda for a response and resolution. A motion that a vote of no confidence be taken in the board should the motions remain unanswered was submitted is as follows:

That should the existing board of Equestrian South Australia dismiss or refuse to respond to these motions, a vote of no confidence in the current board comprising of:

Di Norris – Chairperson

Julie Payne – Vice Chairperson

Alexi Kentish – Committee

Caroline Jones – Committee

Sarah Hocking – Committee

Gareth Heron – Committee

Elizabeth Fricker – Committee

Judie Whyntie - Committee

be moved and a new board voted in at the Annual General Meeting for failure to act lawfully, meet their fiduciary requirements and by virtue bringing the sport into disrepute.

Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended to bring the Association into disrepute and were prejudicial to the Association and to the Members of the Board of Equestrian SA as they implied unlawful and dishonest actions and incompetency of the Board. The potential for damage to be suffered by the Members of the Board of Equestrian SA and the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

6. The comment appearing in Mr Oborn's Facebook page dated October 11, 2015 *'Today Di Norris posted her perspective in relation to the 'unaccounted funds' on her private Facebook page. I welcome her response. After reviewing her post, I have further concerns. If Di had indeed been working with the Auditor as she claims, she would realise that her statement is in complete contrast to that of the Auditor. Di claims '...Nominate payments, which were paid directly in to the ESA Bank Account...' The Auditor clearly says '...unreconciled amounts YET TO BE DEPOSITED INTO THE ACCOUNT...' We ask Di to confirm that the qualified Auditor is in agreement with her statement and if so when that occurred? As at last week the Auditor confirmed that this was still an issue to be resolved. The matter therefore could not have been rectified in the timeframe Di claims. We welcome Di's response so that the members are informed.'*

Breached rule 9.1 (b) (ii) in that such comment had the potential to and was intended to bring the Association into disrepute and was prejudicial to Mrs Dianne Norris as it

implied that the member is dishonest, inept and incompetent. The potential for damage to be suffered by the Association and the member is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

7. The comment appearing in Mr Oborn's Facebook page October 25, 2015 at 9.43pm Even the auditor was so aggrieved that he was quoted out of context that he had me post his statement of clarification.

Breached rule 9.1 (b) (ii) in that such comments has the potential to and was intended to bring the Association into disrepute and is prejudicial to the Association as it is false and misleading. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

The comment appearing in Mr Oborn's Facebook page October 25, 2015 at 9.43pm

The Board could answer these questions at any time but still refuse to. Secondly, for today's statement to have any credibility, ESA would have consulted both SportSA and ORS BEFORE beginning this farcical election and ballot process rather than halfway through after its many failings were pointed out. The Returning Officer (EO) should act in an impartial way so as not to advantage any nominee. The EO breeched Privacy Laws by publishing all nominees private information without their consent; showed absolute bias towards one nominee; did not send vital information of one nominee to members as part of the voting process; did not sign the ballot information to make it legal; issued instructions that made the ballot not a secret ballot, which is against the constitution; some members received their ballot papers on the 21/10/15 - after the closing date; and affiliated members were not allowed a vote. Had ESA realised there was a problem, as they claim in their letter to members today, they could have easily written to all members some time ago to rectify the situation. They only did so under extreme pressure by a number of concerned members. Please let the truth be known.

A personal FB post that moved to shame the members who did put their names to an advert seeking changes to the way ESA is managed was posted recently. Should any of these members feel aggrieved enough to lodge a complaint to our Member Protection Officer, don't bother our MPO (the ESA EO) has already 'liked' the post as have a number of Board members. That is not a board acting in the best interests of impartiality and in the members best interests!!

It appears that any member asking any questions of the Board "denigrates the sport and undermines the community goodwill and won't be tolerated". That is a poorly veiled threat to all members and is the exact bullying that we are trying to stop.

The paragraphs to read are: "Equestrian sport in South Australia has always been underpinned on the goodwill and hard work of thousands of riders, their families, coaches, judges, volunteers and other stakeholders. Any action that denigrates the sport

-- ~~or undermines the community goodwill that has been won over many decades, will not be tolerated". It is not only members who can bring the sport into disrepute. In our view, the ESA board and EO have done just that through their recent actions. Again, this is why we need to correct the many failings of the current Board and management.~~ --

Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended bring the Association into disrepute and were prejudicial to the Association as it is false and misleading in that the Auditors report clearly explained the prior year adjustment, the so called decline in membership was in line with the Auditors prior year adjustment. Salary increases were in line with additional staffing and CPI increases. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

8. The comment appearing in Mr Oborn's Facebook page November 1, 2015

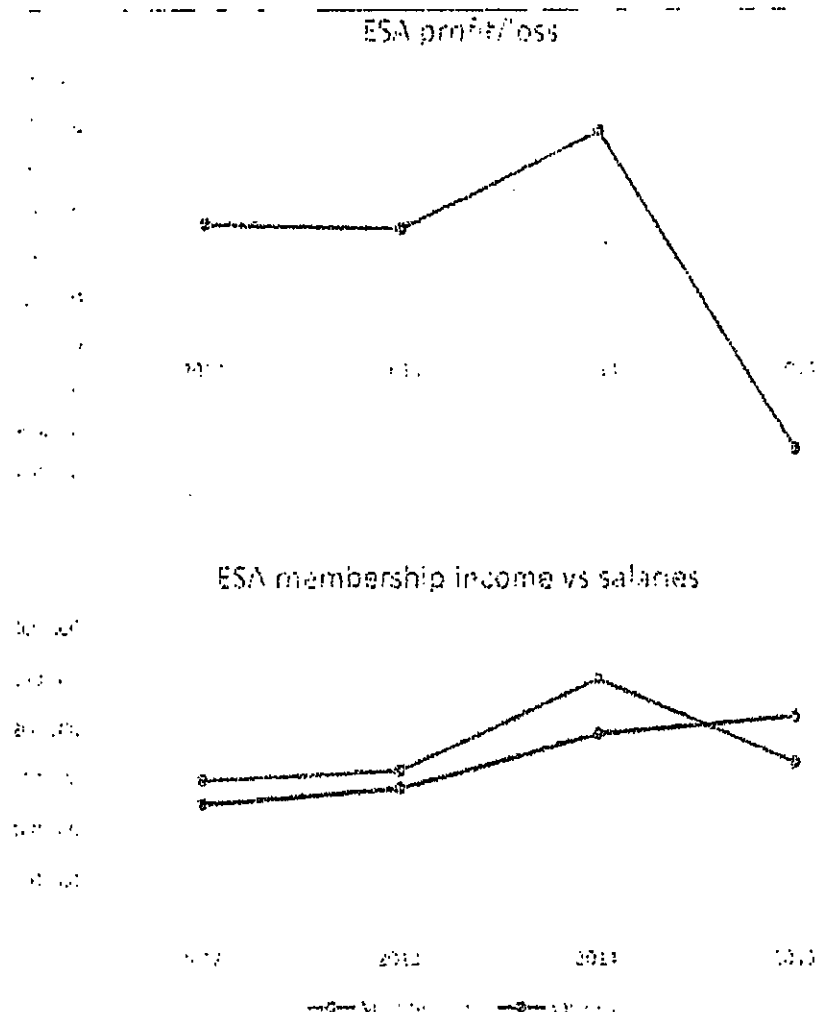
ESA FINANCIALS - SUBSTANTIAL LOSS RECORDED IN 2015

It's now 6 days now since the ESA AGM and it was great to see so many members taking an interest in our sport. Thankfully we succeeded in stopping the financials from being rushed through so we could take a closer look. The current financial position is disturbing. These numbers are from the 2015 annual report provided to the members on the night.

- An overall LOSS of \$50,000 was recorded in 2015. This is a staggering DECREASE from the \$97,000 profit recorded in 2014
- Of the \$50,000 LOSS, \$49,000 was the 'unaccounted funds' the Auditor noted in the 2014 accounts.
- The discipline committees reported a PROFIT of \$38,000, however this has been used to pay Administration costs (i.e. salaries) and not to support the disciplines
- Membership income has DROPPED 33% in 2015 to \$165,000. This is DOWN from \$248,000 in 2014
- Salaries have INCREASED to \$210,000. This is 27% higher than membership income
- Over the past 4 years salaries have INCREASED by a whopping 70%
- Over the past 4 years, membership has INCREASED BY a mere 11%
- The Auditor has recommended that the bad debtor provision be increased. The board of the day rejected his recommendation

These financials are extremely concerning for the future of our sport and this is why it was important that the members were given the opportunity to understand the extent of the financially troubled ESA.

I look forward to my Notice of Motions being on the agenda for the next General meeting. I think they are even more relevant considering the extremely poor state of the 2015 financials.



Breached rule 9.1 (b) (ii) in that such comments has the potential to and was intended to bring the Association into disrepute and is prejudicial to the Association as it is false and misleading. The Auditors report clearly explained the prior year adjustment, the so called decline in membership was in line with the Auditors prior year adjustment. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

9. The comment appearing in Mr Oborn's Facebook page November 1, 2015

ESA – JUST PAY YOUR MEMBERSHIP AND GO AWAY

ESA Chairman, Elizabeth Fricker, has finally come out of the woodwork denying the inclusion of the 11 notices of motion at the General Meeting. It's no surprise really since Elizabeth was on the ESA 'finance committee', that allowed the finances of the Association to steadily decline. It is also interesting that the decision to deny the motions

was made by a majority vote. I'd bet a carton of beer that the experienced Shaun, Michael, and Manon didn't vote with the others on that one!!

Breached rule 9.1 (b) (ii) in that such comments had the potential to and were intended to bring the Association and the member Ms Fricker into disrepute by implying that Ms Fricker in her capacity as Chair and the Board were attempting to prevent scrutiny of the finance committee and were prejudicial to the Association as the reasons for the 11 Notices of Motions being declined had been explained to Mr Oborn via correspondence dated 20th October 2015, from Van Dissel Lawyers advising the Notices were not submitted within the time lines prescribed within the Constitution is false and misleading. The potential for damage to be suffered by the Association is increased by virtue of the fact that such comment was made in a forum open to members of the Equestrian Community and the public generally.

10. By virtue of membership Mr Oborn agreed to be bound by the Rules and Regulations of the FEI, Equestrian Australia, Equestrian South Australia and all decisions of the committees of the Branch. Annexed hereto and marked with the letter 'D' a copy of Mr Oborn's Membership Renewal duly signed and dated.

Equestrian SA says Mr Oborn was in breach of the Equestrian Australia General Code of Conduct and the Equestrian Australia Code of Conduct for Administrators, Directors and Officers in that he made the following comments on social media dated 25th October 2015 at 9.43pm

The articles include the following words:

1. "not being able to account for \$50K of [ESA] members money for over 28 months";
2. "The Returning Officer (EO) should act in an impartial way so as not to advantage any nominee";
3. "not complying with the Associations Act";
4. "The EO breeched Privacy Laws by publishing all nominees private information without their consent; showed absolute bias towards one nominee";
5. "That is not a board acting in the best interests of impartiality and in the members best interests!!."
6. The Board continues to show its disrespect or ignorance for both the ESA Constitution and the Associations Act.
7. "It appears that any member asking any questions of the Board "denigrates the sport and undermines the community goodwill and won't be tolerated". That is a poorly veiled threat to all members and is the exact bullying that we are trying to stop";

~~SUCH COMMENTS EVIDENCE THAT MR OBORN HAS~~

- NEGLECTED to resolve conflicts fairly and promptly through established procedures
- FAILED TO maintain strict impartiality
- MADE COMMENTS THAT WERE false and misleading;
- FAILED TO BE fair, equitable, considerate and uncompromising in all dealings with others
- neglected to respect the rights, dignity and worth of others;
- FAILED TO BE has not been fair, considerate and honest in all Facebook posts;
- neglected to maintain an uncompromising adherence to EA standards, rules, regulations and policies;
- FAILED TO scrupulously avoid conduct using privileged information to gain a personal advantage;
- used his involvement with ESA, its member associations and affiliated clubs to promote his own beliefs, where these were inconsistent with those of ESA.
- neglected to refrain from cyber bullying which caused great anxiety and distress to the members of the ESA Board targeted by hurtful and derogatory comments and statements.
- FAILED TO refrain from anything that may abuse, intimidate or harass others;
- neglected to preserve and protect the standing and reputation of the organisation
- neglected to refrain from harassment through social media. Mr Oborn's behaviour was unwelcome and of a type a reasonable person would recognise as being unwelcome and caused the recipients to feel offended, humiliated and intimidated.
- failed to be a positive role model.

ESA further says that Mr Oborn's Facebook posts between the dates 24th September 2015 and 30th November 2015 were defamatory and by publishing the articles on Facebook it is clear that the Mr Oborn intended the articles to be read and circulated by others:

3.2 A breach of Rule 9.1 (b) (ii) of the ESA Constitution, in that it was prejudicial to the Purposes and interests of ESA:

ESA states:

By Mr Oborn's Facebook postings it has jeopardised a gift of a parcel of land which had previously been offered to build a State Equestrian Centre.

By Mr Oborn's Facebook postings his actions and accusations have caused sponsors to reconsider sponsorship within the organisation

3.3 A breach of Rule 9.1 (b) (ii) of the ESA Constitution, in that it was prejudicial to the Purposes and interests of another Member.

ESA further states a formal complaint was received from a member Mr Clive Reed, (annexed hereto and marked with the letter 'F') Australian Selector and NCAS Accredited Jumping Coach dated 5th November 2015, in his correspondence Mr Reed makes the following reference:

'From a business perspective, we have worked hard to promote equestrian sport in SA and now have a number of overseas clients who send their children here to train and complete in SA. Some have subsequently sent their daughters to boarding schools in Adelaide. The income derived from our clients filters through to local schools, the equestrian community and other businesses in SA

This matter has certainly been a subject of alarm from my clients here and overseas and I do not want the actions of this one person having a detrimental effect on our great sport or any equestrian business with South Australia, including my own business which our family has worked hard to establish.'

4. A breach of Rule 9.1 (b) (iii) of the ESA Constitution in that he brought himself, ESA, equestrian and horse sport or another Member into disrepute.

ESA states the following:

- Mr Oborn by his Facebook post dated October 15, 2015 – AUDITORS STATEMENT breached the Confidentiality Agreement duly signed between Peter Stephen Oborn and Equestrian South Australia date stamped 14 July 2015. Annexed hereto and marked with the letter 'G'.
- Mr Oborn by his Facebook post dated November 18, 2015 – ESA MEMBERSHIP IN SERIOUS DECLINE once again breached the Confidentiality agreement as well as this is factually inaccurate in that Mr Oborn's graph displays membership for two (2) full years in comparison to a part year. This graph was misleading to the membership base.

~~• Mr Oborn as Chairman of Eventing SA Discipline Committee of Equestrian SA has~~
not adhered to the legal duties at Common Law in the fact that he has failed to abide
by :

- The duty to act in good faith in the best interest of the organisation and for a proper purpose
 - The duty to act with reasonable care and skill
 - The duty not to improperly use information or position
- ESA is also of the belief that Mr Oborn as a Discipline Chairman may be in breach of Section 39A (3) of the Associations Incorporations Act 1985 by his actions of releasing confidential information.

APPENDIX 6

IN THE DISCIPLINARY TRIBUNAL

ESTABLISHED BY EQUESTRIAN SOUTH AUSTRALIA

IN THE MATTER OF:

PETER OBORN

**NOTICE UNDER CLAUSE 9.2 OF THE CONSTITUTION OF EQUESTRIAN SOUTH AUSTRALIA SENT TO
PETER OBORN**

RE: ALLEGATIONS OF A BREACH OF THE CONSTITUTION BY PETER OBORN

Document prepared by Sharon Cimarosti

For Equestrian South Australia

Unit 10, 2 Cameron Road

MOUNT BARKER SA 5251

Settled by: Travis Moran of Iles Selley Lawyers

Date of document: 8 September 2016

This is a Notice to Peter Oborn under clause 9.2 of the Constitution of Equestrian South Australia ("ESA") which Notice is served on him by the Executive Officer of ESA.

This Notice is relied upon by ESA in substitution of the Notice of the alleged breach sent by ESA to Peter Oborn on 10 February 2016. Further, the counts and particulars herein replace the earlier particulars provided by ESA on 18 May 2016 and address any concerns Peter Oborn may have about an absence of particularity (which allegation about an absence of particularity is in any event denied).

In this Notice each of the counts (and the alternative counts) are divided between occasions when it is alleged Peter Oborn published statements on his Facebook or when he was quoted in the media.

This Notice charges the most serious alleged breaches first and then alleges a number of less serious alternative allegations for each publication made by, or attributed to, Peter Oborn. If the Tribunal finds the first count under each respective Facebook statement proven, then there is no need to consider the subsequent counts concerning that particular Facebook statement. However, if the first count is dismissed, each subsequent count must be considered until either one of them is found to be proven or all of them are dismissed. The same procedure should be adopted for each Facebook Statement.

The hearing of the alleged breaches in this Notice will be heard by a meeting of three panel members who have been recommended to ESA by SportSA. The hearing of this Notice will occur at Jeffcott Chambers, 7 Gouger Street, Adelaide, South Australia, on Monday 26 September 2016 at 9:30am. You may attend that hearing/meeting and give ESA, before the date of that hearing/meeting, a written statement regarding the alleged breaches.

The breaches alleged by ESA against Peter Oborn

The Facebook Post of 24 September 2015: "An open letter to ESA Members"

1. On or about 24 September 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the ESA Constitution ("Constitution") by bringing ESA into disrepute.

Particulars

- 1.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
 - 1.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "An open letter to ESA Members".
 - 1.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.
2. In the alternative to Count 1, it is alleged that on or about 24 September 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing other members of ESA, namely members of the ESA Board, into disrepute.

Particulars

- 2.1. ESA repeats the particulars at 1.1 - 1.2 hereof.
 - 2.2. The imputations which arise from the said Facebook publication brought the members of ESA's board, who are members of ESA, into disrepute.
3. In the alternative to Counts 1 and 2, it is alleged that on or about 24 September 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of other members, namely members of ESA's Board.

Particulars

- 3.1. ESA repeats the particulars 1.1 - 1.2 hereof.
- 3.2. The imputations which arise from the said Facebook publication were unbecoming of other ESA members, namely the members of ESA's Board.

The Facebook Post of 8 October 2015: "ESA AGM Notice of Motion – Fulfilling Legal and Fiduciary Obligations"

4. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 4.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
 - 4.2. On the said date, Peter Oborn published a statement on his Facebook commencing with the words: "ESA AGM Notice of Motion – Fulfilling Legal and Fiduciary Obligations".
 - 4.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.
5. In the alternative to Count 4, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing other members, namely members of the ESA Board, into disrepute.

Particulars

- 5.1. ESA repeats the particulars at paragraphs 4.1 - 4.2 hereof.
 - 5.2. The imputations which arise from the said Facebook publication brought other members of ESA, namely the members of ESA's Board, into disrepute.
6. In the further alternative to Counts 4 - 5, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of a member.

Particulars

- 6.1. ESA repeats the particulars at paragraphs 4.1 - 4.2 hereof.
 - 6.2. The imputations which arise from the said Facebook publication were unbecoming of a member.
7. In the further alternative to Counts 4 - 6, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 7.1. ESA repeats the particulars at paragraphs 4.1 - 4.2 hereof.
 - 7.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.
8. In the further alternative to Counts 4 - 7, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to other members, namely ESA's Board Members.

Particulars

- 8.1. ESA repeats the particulars at paragraphs 4.1 - 4.2 hereof.
- 8.2. The imputations which arise from the said Facebook publication were prejudicial to the members of the ESA Board.

The Facebook Post of 8 October 2015: "ESA AGM Notice of Motion – Erroneous Financial Activity"

9. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 9.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 9.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA AGM Notice of Motion – Erroneous Financial Activity".
- 9.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

10. In the alternative to Count 9, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing other ESA members, namely the members of ESA's Board, into disrepute.

Particulars

- 10.1. ESA repeats the particulars at paragraphs 9.1 - 9.2 hereof.
- 10.2. The imputations which arise from the said Facebook publication brought ESA members, namely the members of ESA's board, into disrepute.

11. In the alternative to Counts 9 – 10, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of a member.

Particulars

- 11.1. ESA repeats the particulars at paragraphs 9.1 - 9.2 hereof.
- 11.2. The imputations which arise from the said Facebook publication were unbecoming of a member.

12. In the alternative to Counts 9 – 11, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 12.1. ESA repeats the particulars at paragraphs 9.1 - 9.2 hereof.
- 12.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

13. In the alternative to Counts 9 – 12, it is alleged that on or about 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution acting in a manner prejudicial to other members, namely the members of ESA's Board.

Particulars

- 13.1. ESA repeats the particulars at paragraphs 9.1 - 9.2 hereof.
13.2. The Imputations which arise from the said Facebook publication were prejudicial to the Board Members of ESA.

The Facebook Post of 8 October 2015: "ESA AGM NOTICE OF MOTION – EFFECTIVE OPERATIONAL MANAGEMENT"

14. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 14.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
14.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA AGM NOTICE OF MOTION – EFFECTIVE OPERATIONAL MANAGEMENT".
14.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.
15. In the alternative to Count 14, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing members of ESA, namely the members of ESA's Board, into disrepute.

Particulars

- 15.1. ESA repeats the particulars at paragraphs 14.1 – 14.2 hereof.
15.2. The imputations which arise from the said Facebook publication brought ESA's Board into disrepute.
16. In the alternative to Counts 14 -15, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of a member.

Particulars

- 16.1. ESA repeats the particulars at paragraphs 14.1 – 14.2 hereof.
16.2. The imputations which arise from the said Facebook publication were unbecoming of a member;

17. In the alternative to Counts 14 -16, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 17.1. ESA repeats the particulars at paragraphs 14.1 – 14.2 hereof.
- 17.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.
18. In the alternative to Counts 14 -17, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

- 18.1. ESA repeats the particulars at paragraphs 14.1 – 14.2 hereof.
- 18.2. The imputations which arise from the said Facebook publication were prejudicial to ESA's Board members.

The Facebook Post of 8 October 2015: "ESA AGM – NOTICE OF MOTION – VOTE OF NO CONFIDENCE"

19. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 19.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 19.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA AGM – NOTICE OF MOTION – VOTE OF NO CONFIDENCE".
- 19.3. The imputations which arise from the said Facebook statement brought ESA into disrepute.
20. In the alternative to Count 19, it is alleged that on 8 October 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing the members of the ESA Board, namely: Di Norris, Julie Payne, Alexi Kentish, Caroline Jones, Sarah Hocking, Gareth Heron, Elizabeth Fricker, Judy Whyntie, into disrepute.

Particulars

- 20.1. ESA repeats the particulars at paragraphs 19.1 – 19.2 hereof.
- 20.2. The imputations which arise from the said Facebook statement brought the said ESA members into disrepute.

21. In the alternative to Counts 19 - 20, it is alleged that on 8 October 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

- 21.1. ESA repeats the particulars at paragraphs 19.1 – 19.2 hereof.
 - 21.2. The imputations which arise from the said Facebook publication were prejudicial to the interests of ESA's Board members.
22. In the alternative to Counts 19 -21, it is alleged that on 18 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 22.1. ESA repeats the particulars at paragraphs 19.1 – 19.2 hereof.
- 22.2. The imputations which arise from the said Facebook publication was prejudicial to the purposes and interests of ESA.

The Facebook Post of 8 October 2015: "To All ESA Members"

23. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 23.1. Peter Oborn was a member of ESA, bound by its Constitution.
 - 23.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "To All ESA Members".
 - 23.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.
24. In the alternative to Count 23, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing the members of the ESA Board into disrepute.

Particulars

- 24.1. ESA repeats the particulars at paragraphs 23.1 – 23.2 hereof.
 - 24.2. The imputations which arise from the said Facebook publication brought ESA's board into disrepute.
25. In the alternative to Counts 23 – 24, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

- 25.1. ESA repeats the particulars at paragraphs 23.1 – 23.2 hereof.
 - 25.2. The imputations which arise from the said Facebook publication was prejudicial to interests of ESA's Board members.
26. In the alternative to Counts 23 -25, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 26.1. ESA repeats the particulars at paragraphs 23.1 – 23.2 hereof.
- 26.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

The Facebook Post of 8 October 2015: "ESA AGM – NOTICE OF MOTION – FINANCIAL DISCREPANCY"

27. On or about 8 October 2015, it is alleged Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 27.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
 - 27.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA AGM – NOTICE OF MOTION – FINANCIAL DISCREPANCY".
 - 27.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.
28. In the alternative to Count 27, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing the members of the ESA Board into disrepute.

Particulars

- 28.1. ESA repeats the particulars at paragraphs 27.1 – 27.2 hereof.
 - 28.2. The imputations which arise from the said Facebook publication brought ESA's Board members into disrepute.
29. In the alternative to Counts 27 – 28, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

- 29.1. ESA repeats the particulars at paragraphs 27.1 – 27.2 hereof.

29.2. The Imputations which arise from the said Facebook publication were prejudicial to interests of ESA's Board members.

30. In the alternative to Counts 27 -29, It is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

30.1. ESA repeats the particulars at paragraphs 27.1 – 27.2 hereof.

30.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

31. In the alternative to Counts 27 - 30, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to a member of ESA, namely Gareth Heron.

Particulars

31.1. ESA repeats the particulars at paragraphs 27.1 – 27.2 hereof.

31.2. The imputations which arise from the said Facebook publication were prejudicial to the interest of Gareth Heron.

32. In the alternative to Counts 27 - 31, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of a member.

Particulars

32.1. ESA repeats the particulars at paragraphs 27.1 – 27.2 hereof.

32.2. The imputations which arise from the said Facebook statement was an act unbecoming of a member .

The Facebook Post of 8 October 2015: "ESA AGM – NOTICE OF MOTION – FINANCIAL WORKING GROUP"

33. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

33.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.

33.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA AGM – NOTICE OF MOTION – FINANCIAL WORKING GROUP".

33.3. The Imputations which arise from the said Facebook publication brought ESA into disrepute.

34. In the alternative to Count 33, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing the members of ESA, namely the members of ESA's Board, into disrepute.

Particulars

- 34.1. ESA repeats the particulars at paragraphs 33.1 – 33.2 hereof.
- 34.2. The Imputations which arise from the said Facebook publication brought ESA's board into disrepute.

35. In the alternative to Counts 33 – 34, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

- 35.1. ESA repeats the particulars at paragraphs 33.1 – 33.2 hereof.
- 35.2. The imputations which arise from the said Facebook statement was an act prejudicial to interests of ESA's Board members.

36. In the alternative to Counts 33- 35, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 36.1. ESA repeats the particulars at paragraphs 33.1 – 33.2 hereof.
- 36.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

The Facebook Post of 8 October 2015: "Today Di Norris posted her perspective in relation to the 'unaccounted funds'..."

37. On or about 8 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 37.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 37.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "Today Di Norris posted her perspective in relation to the 'unaccounted funds'..."
- 37.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

38. In the alternative to Count 37, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing the members of the ESA Board into disrepute.

Particulars

- 38.1. ESA repeats the particulars at paragraphs 37.1 – 37.2 hereof.
- 38.2. The imputations which arise from the said Facebook publication brought ESA's board into disrepute.

39. In the alternative to Counts 37- 38, It is alleged on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely ESA's Board.

Particulars

- 39.1. ESA repeats the particulars at paragraphs 37.1 – 37.2 hereof.
- 39.2. The imputations which arise from the said Facebook publication were prejudicial to interests of ESA's Board members.

40. In the alternative to Counts 37 -39, it is alleged that on 8 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 40.1. ESA repeats the particulars at paragraphs 37.1 – 37.2 hereof.
- 40.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

The Facebook Post of 15 October 2015: "Auditor's Statement"

41. On 15 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 41.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 41.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "Auditor's Statement" and he also published certain comments underneath that statement.
- 41.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

42. In the alternative to Count 41, it is alleged that on 15 October 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing members of ESA, namely the ESA Board into disrepute.

Particulars

- 42.1. ESA repeats the particulars at paragraphs 41.1 – 41.2 hereof.
- 42.2. The imputations which arise from the said Facebook publication and comments brought the said members of ESA into disrepute.

43. In the alternative to Counts 41 - 42, it is alleged that Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely ESA's Board. .

Particulars

- 43.1. ESA repeats the particulars at paragraphs 41.1 – 41.2 hereof.
- 43.2. The imputations which arise from the said Facebook publication and comments were prejudicial to interests of ESA's Board members.

44. In the alternative to Count 41 - 43, it is alleged that on 15 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 44.1. ESA repeats the particulars at paragraphs 41.1 – 41.2 hereof.
- 44.2. The imputations which arise from the said Facebook publication and comments were prejudicial to the purposes and interests of ESA.

45. In the alternative to Count 41 - 44, it is alleged that on 15 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to another Member, namely Gareth Heron.

Particulars

- 45.1. ESA repeats the particulars at paragraphs 41.1 – 41.2 hereof.
- 45.2. The imputations which arise from the said Facebook publication and comments were prejudicial to Gareth Heron.

The Facebook Post of 15 October 2015: "Wow, what a couple of interesting days..."

46. On 15 October 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 46.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 46.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "Wow, what a couple of interesting days..." .

46.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

47. In the alternative to Count 46, it is alleged that on 15 October 2015, Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing members of ESA, namely the ESA Board, into disrepute.

Particulars

47.1. ESA repeats the particulars at paragraphs 46.1 – 46.2 hereof.

47.2. The imputations which arise from the said Facebook publication brought the said members of ESA into disrepute.

48. In the alternative to Counts 46 - 47, it is alleged that Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely ESA's Board.

Particulars

48.1. ESA repeats the particulars at paragraphs 46.1 – 46.2 hereof.

48.2. The imputations which arise from the said Facebook publication were prejudicial to interests of ESA's Board members.

49. In the alternative to Count 46 - 48, it is alleged that on 15 October 2015, Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

49.1. ESA repeats the particulars at paragraphs 46.1 – 46.2 hereof.

49.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

The Advertiser article of 16 October 2015: "Equestrians on high horse over board elections"

50. On or about 16 October 2015, it is alleged that Peter Oborn breached clause 9.1(b)(iii) of the Constitution by bringing ESA into disrepute.

Particulars

50.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.

50.2. On or prior to the said date, Peter Oborn provided a statement to the media which was then published in *The Advertiser* newspaper on 16 October 2015.

50.3. By the comments attributed to Peter Oborn in the said newspaper article, Peter Oborn brought ESA into disrepute.

51. In the alternative to count 50, it is alleged that on or about 16 October 2015 Peter Oborn breached clause 9.1(b)(iii) of the Constitution by bringing members of ESA, namely members of the ESA Board, into disrepute.

Particulars

- 51.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 51.2. On or prior to the said date, Peter Oborn provided a statement to the media which was then published in *The Advertiser* newspaper on 16 October 2015.
- 51.3. By the comments attributed to Peter Oborn in the said newspaper article Peter Oborn brought ESA's Board members into disrepute.

The Facebook Post of 1 November 2015 "ESA Financials Substantial Loss recorded in 2015"

52. On 1 November 2015, it is alleged Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 52.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 52.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA Financials Substantial Loss recorded in 2015".
- 52.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

53. In the alternative to Count 52, it is alleged that on 1 November 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA members, namely the members of ESA's Board, into disrepute.

Particulars

- 53.1. ESA repeat the particulars at paragraphs 52.1 – 52.2 hereof.
- 53.2. The imputations which arise from the said Facebook publication brought ESA's Board members into disrepute.

54. In the alternative to Counts 52 - 53, it is alleged that on 1 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 54.1. ESA repeats the particulars at paragraphs 52.1 – 52.2 hereof.

54.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

55. In the alternative to Counts 52- 54, it is alleged that on 1 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to members of ESA, namely the members of ESA's Board.

Particulars

55.1. ESA repeats the particulars at paragraphs 52.1 – 52.2 hereof.

55.2. The Imputations which arise from the said Facebook publication are prejudicial to ESA's Board members.

56. In the alternative to Counts 52- 55, it is alleged that on 1 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the Executive Officer of ESA, Ms Sharon Cimarosti.

Particulars

56.1. ESA repeats the particulars at paragraphs 52.1 – 52.2 hereof.

56.2. The imputations which arise from the said Facebook publications were prejudicial to Ms Sharon Cimarosti.

Facebook post of 13 November 2015: "ESA- JUST PAY YOUR MEMBERSHIP AND GO AWAY"

57. On 13 November 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

57.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.

57.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA - JUST PAY YOUR MEMBERSHIP AND GO AWAY".

57.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

58. In the alternative to Count 57, it is alleged that on 13 November 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing a member of ESA, Ms Elizabeth Fricker, into disrepute.

Particulars

58.1. ESA repeats particulars at paragraph 57.1 – 57.2 hereof.

58.2. The imputations which arise from the said Facebook statement brought Ms Elizabeth Fricker into disrepute.

59. In the alternative to Counts 57 - 58, it is alleged that on 1 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the interest of a member of ESA, Ms Elizabeth Fricker.

Particulars

- 59.1. ESA repeat the particulars at paragraphs 57.1 – 57.2 hereof.
- 59.2. The imputations which arise from the said Facebook publication were prejudicial to Ms Elizabeth Fricker.

The Facebook post of 18 November 2015: "ESA MEMBERSHIP IN SERIOUS DECLINE"

60. On 18 November 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 60.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 60.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: "ESA MEMBERSHIP IN SERIOUS DECLINE".
- 60.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

61. In the alternative to Count 60, it is alleged that on 18 November 2015 Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing a member of ESA, Ms Elizabeth Fricker, into disrepute.

Particulars

- 61.1. ESA repeats the particulars at paragraph 60.1 – 60.2 hereof.
- 61.2. The imputations which arise from the said Facebook publication brought Ms Elizabeth Fricker into disrepute.

62. In the alternative to Counts 60 – 61, it is alleged that on 18 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 62.1. ESA repeats the particulars at paragraphs 60.1 – 60.2 hereof.
- 62.2. The imputations which arise from the said Facebook publication were prejudicial to the purposes and interests of ESA.

63. In the alternative to Counts 60 – 62, it is alleged that on 18 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to a members of ESA, namely Ms Elizabeth Fricker.

Particulars

- 63.1. ESA repeats the particulars at paragraphs 60.1 – 60.2 hereof.
- 63.2. The imputations which arise from the said Facebook publication were prejudicial to Ms Elizabeth Fricker.

Facebook post of 30 November 2015: “Come and vote at the ESA general meeting tonight!...”

64. On 30 November 2015, it is alleged that Peter Oborn breached clause 9.1 (b) (iii) of the Constitution by bringing ESA into disrepute.

Particulars

- 64.1. Peter Oborn was, at all material times, a member of ESA and bound by its Constitution.
- 64.2. On the said date, Peter Oborn published a statement on his Facebook which commenced with the words: “Come and vote at the ESA general meeting tonight!...”
- 64.3. The imputations which arise from the said Facebook publication brought ESA into disrepute.

65. In the alternative to Count 64, it is alleged that on 30 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner prejudicial to the purposes and interests of ESA.

Particulars

- 65.1. ESA repeats the particulars at paragraphs 64.1 – 64.2 hereof.
- 65.2. The imputations which arise from the said Facebook publication was an act prejudicial to the purposes and interests of ESA.

66. In the alternative to Counts 64 – 65, is alleged that on 30 November 2015 Peter Oborn breached clause 9.1 (b) (ii) of the Constitution by acting in a manner unbecoming of a member.

Particulars

- 66.1. ESA repeats the particulars at paragraphs 64.1 – 64.2 hereof.
- 66.2. The action of publishing the said Facebook statement and the imputations which arise from it were an action unbecoming of a member.

APPENDIX 7

IN THE DISCIPLINARY TRIBUNAL

ESTABLISHED BY EQUESTRIAN SOUTH AUSTRALIA

IN THE MATTER OF:

PETER OBORN

Agreed Facts

Document prepared by Iles Selley Lawyers

For Equestrian South Australia

Unit 10, 2 Cameron Road

MOUNT BARKER SA 5251

Settled by: Travis Moran

Date of document: 20 September 2016

The parties have agreed the following facts and where those facts are unable to be agreed by Mr Oborn, his response is set out in *italics*.

1. ESA: Equestrian South Australia ("ESA") is the peak governing body for Equestrian Sports in the State of South Australia.

Oborn: ESA is a governing body for Equestrian Sports in the State of South Australia.

2. ESA is primarily funded by the funds raised by membership fees and sponsorships.

Oborn: Agreed, but ESA is also funded by Government Grants.

3. In May 2013, Ms Sharon Cimarosti commenced employment as the Executive Officer of ESA and she continues in that role to date.

4. The Executive Officer of ESA, Ms Sharon Cimarosti, was a member of ESA in 2015 and continues to be a member.

5. As of 2015, ESA had two full time employees (one of which was Ms Cimarosti) and two part time employees (who each worked two days per week).

6. Since about 2010 until present, Mr Peter Oborn has been a member of ESA.

7. Mr Oborn is the Chairperson of Eventing SA which is a subordinate committee of ESA.

8. In recent years, the distribution of government funding to Eventing SA changed, which caused a rift between the Eventing Committee and ESA.

Oborn: This fact is denied and he says that there is no rift in funding.

9. Prior to the 2015 ESA AGM, the Board of ESA consisted of the following members:

9.1 Di Norris - Chairperson;

9.2 Julie Payne – Vice Chairperson;

9.3 Alexi Kentish

9.4 Caroline Jones;

9.5 Sarah Hocking;

9.6 Gareth Heron;

9.7 Elizabeth Fricker; and

9.8 Judy Whyntie.

10. Each of the above board members were members of ESA in 2015 and they are volunteers.

11. Mr Oborn is a member of the "Integrity Group".

Oborn: Denies this fact.

12. The following people are also members of the Integrity Group:

12.1 Jacqueline Lang;

12.2 Manon Strachan; and

12.3 Shaun Flynn.

Oborn: Does not know and cannot admit these facts.

13. Mr Oborn published each of the Facebook articles referred to in the Book of Documents on his Facebook page.

14. Mr Oborn's Facebook publications were available for public viewing at the time when they were published in 2015.

Oborn: Admits this facts but only to the extent that such publications were available to be viewed by members of Facebook and not by the world at large.

15. *The Advertiser* article of 16 October 2015, which refers to ESA, was also published on the *AdelaideNow* website.

Oborn: Does not know and cannot admit.

16. Mr Oborn shared *The Advertiser* article of 16 October 2015 on his Facebook page.

