

REPORT

ON

**CERTAIN MATTERS
AFFECTING**

BORD NA gCON

June, '06

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SUMMARY

The progress made in strengthening and developing the greyhound racing industry, particularly in recent years, has been impressive by any standards. This success is the product of driven and committed performance at all levels for which particular credit is due to a number of people working within the industry.

It is not, however, an unqualified success story. The image of the industry has suffered a setback in recent times as a result of certain developments which resulted in the dismissal of the Board's Chief Executive, Mr Aidan Tynan, earlier this year.

This Report deals mainly with the circumstances surrounding the Chief Executive's dismissal and with the decision of the Board, contrary to its standing policy, to withhold details of two serious greyhound doping cases from publicity.

The Report also seeks to identify changes which, if introduced, should tend to reduce the risk of any repeat occurrences of this kind and generally improve the functioning and image of the organisation, going forward. If the problems now evident within Bord na gCon are to be tackled effectively there will be need for a fresh approach, on various fronts, to the way in which business is conducted; the application of a "more of the same" philosophy is unlikely to serve the longer-term interests of the greyhound racing industry. The following is a summary of conclusions and recommendations.

(A) In relation to **Corporate Governance (see Chapter 2)**:

1. It is important not only to have a Code of Corporate Governance in place, but to ensure that it is adhered to on an ongoing basis and that any changes deemed necessary are brought about in an orderly and reasoned manner. There is a lack of clarity regarding the respective roles of the Board itself, its Chief Executive and greyhound track managements, on which the Board should, sooner rather than later, take appropriate management consultancy advice. An early

opportunity should be taken to introduce a formal Performance Management system.

2. While it is essential that the Board should contain a number of members who have extensive knowledge and experience of the greyhound racing industry, it would be important that its membership should also include people (if necessary by adding one or two extra members to the Board) whose appointments are attributable to their strengths in other areas such as senior level experience in running large organisations or organisations which enjoy significant Exchequer support. With regard to the latter, consideration should be given to restoring the arrangement whereby the Minister appoints a senior official of his own Department to be a member of the Board.
3. There are no women on the Board at present and it would be important to take an early opportunity to bring Bord na gCon into line with general Government policy on the appointment of women to such Boards.
4. The Chairman who at present holds office at the pleasure of the Minister should, instead, be appointed for a fixed term – say, 5 years with the possibility of being reappointed for one, but only one further period (i.e. a maximum term of 10 years).
5. The term in office of ordinary Board members (i.e. 3 years) should stand, with the possibility of being reappointed for one, but only one further 3 year period (i.e. a maximum term of 6 years). In the case of a person who serves for part of his time on the Board as an ordinary member and part as its Chairman the maximum term in office, between both, should be 10 years.

(B) In relation to the **doping** of greyhounds (**see Chapter 3**):

6. Greyhound racing contrary to the image sometimes presented of it, is, by and large, a clean sport. The drugs testing regime operated by the Board is rigorous and extensive - especially in more recent years - and the incidence of positive test findings is relatively low and falling. While the detailed test arrangements (e.g. random sampling etc.) must

obviously be kept under continuous review and the Control Committee should, in particular, consider the case for more extensive use of targeted testing (e.g. test all winners and all cases where greyhounds run well above or below form), the fundamentals of the testing system appear to be satisfactory.

7. The Board/Control Committee should consider whether there are substances now known to be administered lawfully to greyhounds which should be classed as "prohibited substances" – on the basis that they may affect (i.e. enhance or retard) performance. It should, for example, give early consideration to the classification of steroids as prohibited substances
8. The suggestion that testing should be a matter exclusively for "local" stewards, (as the introduction of outside testers gives rise to additional expense) does not commend itself. The use of outsiders provides greater assurance in terms of the independence of the whole process and is, I believe, justified on that basis.
9. The decision not to circulate and agree minutes of individual Control Committee meetings was not a wise response to the risk that draft minutes might be leaked. Control Committees make decisions, as a matter of course, that affect the rights of individuals and they impose penalties on individual owners and trainers which can be quite severe. That being the case, it is extremely important that minutes be prepared containing a record of the decisions made and the reasons for those decisions and that the minutes be agreed by the Control Committee.
10. Control Committees should consist of persons who are independent of Bord na gCon i.e. members of the Board or of its staff should be excluded from membership of the Control Committee. I have considered various ways in which the independence of the regulatory process as a whole might be assured – for example, that the Board's Regulation Unit and Laboratory might remain within the Board's Headquarters but, insofar as integrity issues are concerned, would report to, say, an independent three person Committee. The very least that is required is the creation of such a Committee (including a lawyer – who might act as chairperson – and a vet). Such an arrangement

would mark an improvement but would be as likely as not to result in confusion and divided loyalties where the Board and/or Chief Executive (to whom the Regulation Unit reports) wanted one thing and the independent Committee wanted another. All in all, the creation of a separate and independent regulatory body with responsibility for integrity management, reporting to an independent three person Committee and having its own staff, is to be preferred. It would be extremely important that there should be clarity as to the respective roles of Bord na gCon and this regulatory body.

11. The provisions of Section 11(5) of the Greyhound Industry Act, 1958 should apply to persons who sit on Control Committees.
12. An appeal mechanism (against Control Committee decisions) should be put in place in greyhound racing as in horseracing.
13. Publication of positive test finds, penalties etc. should be mandatory in all cases (I understand that the Board decided, at its most recent meeting, to publish outcomes in all cases, which is a welcome development). Mitigating circumstances, where such exist, should be included in the published reports and reflected in the penalties imposed.
14. The Control Committee should review the policies which underlie its decisions regarding the penalty to be imposed in individual cases. They should ensure that there is consistency when it comes to imposition of penalties and that irrelevant factors (e.g. the status of the offender) are excluded from consideration. The Board should, in particular, consider the use of disqualification orders and/or exclusion orders as a matter of course in more serious cases or in the case of repeat offences (there is provision for such orders in Sections 44 & 47 of the Greyhound Industry Act 1958, but these are not being used).
15. The more severe penalties should apply in the case of trainers/owners who behave in an aggressive or uncooperative way, for example by refusing to comply with test requirements - the use of exclusion or disqualification orders should be considered as a matter of course in such cases.

16. The reasons advanced for failing to publish details of the Control Committee findings in the two (EPO) cases which have been the subject of recent public controversy are not at all convincing.

(C) With regard to the **dismissal** of the Board's **Chief Executive** (see **Chapter 4**):

17. The Board was not satisfied with Mr Tynan's performance on a number of grounds. Relations between the Board and its Chief Executive worsened, following a difficult Board meeting on 29th October 2005 and, from that point onwards, his continued employment as Chief Executive was in jeopardy. In the period October 2005 to January 2006, relations and communications between the Board and Mr Tynan had, in effect, reached a state where there was no real prospect of their continuing to work together in the longer term.

18. Mr Tynan strongly rejects the case made by the Board for his dismissal and while it was not possible for the reasons outlined in the Report to make a full assessment of the strength of each of the arguments and counter arguments on both sides, it seems clear that on some issues, at least, Mr Tynan was in a position to enter a substantial challenge to the case against him. There is every reason to believe that had there been better relations between the Board and the Chief Executive, the matters at issue could easily have been resolved. (Mr Tynan's personal view is that, to a quite significant extent, his dismissal can be put down to an issue that has not been highlighted in debate on the issue i.e. the fact that he began to question matters that took place prior to his appointment as Chief Executive – see par 5.9. of the Report).

19. It is wrong to suggest that Mr Tynan's dismissal can be put down simply to the fact that he wrote a letter to the Minister dated 18th January '06 about the Board's integrity management procedures, (EPO etc.). Relations between the Board and Mr Tynan had been worsening steadily well before that time, for reasons that had nothing to do with integrity management procedures. It isn't true either, however, to say that the letter to the Minister was totally irrelevant. Board members

were clearly incensed by its content and by the interpretation put upon it. This undoubtedly brought relations between the Board and the Chief Executive to a new low and almost certainly hastened the Board's decision to dismiss him – the minutes of the Board meeting of 26th January (at which Mr Tynan was dismissed) show clearly that his letter to the Minister was a factor in the decision to dismiss him forthwith.

20. It is important, for future reference, that there should be clarity as to what procedures apply should the question arise at a future time of imposing disciplinary sanctions (including dismissal) on the Board's Chief Executive. The Board took the view, in this instance, that its Staff Grievance Procedure had application only to staff at lower levels and was not applicable in the situation where a serious rift had arisen between the Board and its Chief Executive. Whatever the merits of this argument, the Board was not entitled, having taken that view, to adopt a dismissal procedure which lacked the basic requirements of natural justice.

(D) As regards **other matters** brought to my attention (**see Chapter 5**)

21. There is need to address the tensions and very poor state of staff morale now evident within Bord na gCon. This will present a major challenge for the Board and its incoming Chief Executive. It is clear that in this, as in other areas, change is now needed.

22. The posting on the internet of material which was highly critical of identifiable members of the Board's Headquarters staff (i.e. apart from the Chief Executive) was a scurrilous development and the Board should take an early opportunity to address the serious concerns it has generated.

23. The number of staff severance deals in which the Board was involved over the past ten years appears to be relatively high (15 in all) and, according to the information supplied by the Board, involved a total cost (between settlement and legal costs) of around €1.1m. The arrangement whereby the Board can, without Departmental sanction, enter deals in these cases which include confidentiality clauses should be examined, given that the effect of such clauses is to deny the

Minister, on behalf of the taxpayer, any say or any information on individual settlement terms. The extent to which the Board is involved in litigation generally also needs to be reviewed.

24. The appropriate authorities should, as a matter of priority, conduct an examination of works carried out at Shelbourne Park Stadium with a view to their publicly confirming that they adequately address the health and safety concerns which were raised following an expert examination of the facility.

25. Some individuals drew my attention to matters which, in their view, merited the attention of the Comptroller & Auditor General. These were outside my terms of reference but the details have been given to the Secretary General of the Department of Arts, Sport and Tourism.

REPORT

ON

CERTAIN MATTERS AFFECTING BORD NA gCON

**To: Mr John O'Donoghue, T.D.,
Minister for Arts, Sport and Tourism**

1. INTRODUCTION

- 1.1. On the 1st February you appointed me to carry out an independent assessment concerning corporate governance and related matters affecting Bord na gCon, which had become the subject of some public controversy. My Terms of Reference were as follows;

"To review the allegations of shortcomings in corporate governance practice at Bord na gCon made by the Chief Executive of Bord na gCon in his letter of 18th January 2006 to the Minister for Arts, Sport and Tourism and the response dated 30th January 2006 of the Chairman of Bord na gCon to these allegations.

Taking into account the possibility of legal proceedings taking place, to examine the circumstances surrounding the decision of the Board of Bord na gCon on 26th January 2006 to terminate the contract of employment of the Chief Executive of Bord na gCon with immediate effect; and to report, when and if possible in the light of the said legal proceedings, his findings to the Minister for Arts, Sport and Tourism, and in any event, to advise on any actions considered necessary to ensure adherence to best corporate governance practice.

To consider the way in which Bord na gCon procedures dealing with doping infringements are presently carried out, to comment

on the adequacy of existing procedures and to advise whether there should be any changes or modifications put into effect."

You requested that the findings of this examination be made available to you as soon as possible.

- 1.2. On 3rd February I was informed by your Department that if I felt the Terms of Reference were not sufficiently broadly drawn for the purpose of pursuing enquiries into the matters that had entered the public domain, you were prepared to approve expanded Terms of Reference. I am glad to say that no issues were raised with me concerning the scope or adequacy of my terms of reference and that all relevant parties complied fully with the requests I made for documentation and other information.

PROCEDURES FOLLOWED

- 1.3. I began by meeting with the people I thought best placed to provide information on matters coming within my remit e.g. the Board itself, the former Chief Executive, Mr Aidan Tynan and other senior members of the Board's staff. I was contacted by many other people and met most of them; the names of most of those who were in contact with me are listed at **Appendix 1**. Some did not wish be listed as having been in touch with me; their wishes have been respected. Following this initial round of meetings, I sought written submissions from certain parties on specific issues – those who responded to this request are asterisked at **Appendix 1**.
- 1.4. I explained to all witnesses that this was a voluntary enquiry, which meant that I had no statutory powers of compulsion etc. and that I was relying on them for their cooperation. As stated earlier, that cooperation was extended willingly by all parties. I also explained that my examination was not a search for "winners" or "losers" – what was required, for the purpose of the enquiry, were statements of fact as each person understood them to be and an honest assessment of those facts.

1.5. It soon became apparent that various people, particularly members of the Board's own staff, were quite distressed about the developments that had taken place and that they would be less than frank if I could not give them some assurance that the information and assessments they provided would be treated in confidence. Leaving aside the fears and concerns of individuals, I had in any event decided at an early stage that the names of individuals should, in certain cases, be omitted from the Report e.g. where they were the subject of criticism which they did not have an opportunity of answering or where the inclusion of names would be likely to retard rather than enhance the prospects of healing the very deep level of mistrust and division which now exists within Bord na gCon. (There is further comment on this at in **Chapter 5**). I indicated to those who wanted the comments and material they gave to me treated in confidence, that I would not share their evidence with others - subject, of course, to the general requirements of the law in that regard.

TOPICS ADDRESSED

1.6. The principal matters to be addressed under my Terms of Reference were as follows:-

- a) **corporate governance** issues generally within Bord na gCon – **Chapter 2**
- b) issues relating to the **doping** of racing greyhounds – **Chapter 3**
- c) the **dismissal**, earlier this year, **of the Board's Chief Executive**, Mr Aidan Tynan – **Chapter 4**

Certain other matters were raised by the various people I met, some of which, although not within my terms of reference, merit special mention; these are referred to in **Chapter 5**

RESOLUTION OF POINTS OF CONFLICT

1.7. One of the points which should be mentioned at the outset – the point will be referred to again in the course of the Report – is that there was

conflicting evidence on practically all the issues that needed to be addressed. In one instance, for example, there was conflict of evidence as to what exactly took place at an important meeting, attended by 11 people, where the recollections of four of those present, differ from – and are, in some respects, in conflict with – what the others remember (see **Chapter 3** generally). It is not possible, in the absence of a process of examination and cross examination – and, very likely, impossible even with the benefit of such a process - to resolve all of those conflicts (though it is, of course, possible to draw conclusions from the very fact that such confusion exists and to make appropriate recommendations).

ASSISTANCE PROVIDED BY THE DEPT. ARTS, SPORT & TOURISM

- 1.8. I am glad to say that I enjoyed excellent cooperation from your Department during the course of my work. I am particularly grateful to the Department for assigning Ms Ailís Robinson, Executive Officer, to work with me on a full-time basis during that time. She was required to work long hours, sometimes over weekends and carried out all of the tasks assigned to her to the highest standard.

2. CORPORATE GOVERNANCE ISSUES

BORD NA gCON – BACKGROUND INFORMATION

2.1. Bord na gCon which is a commercial semi-state body was established on 28th May 1958 under the Greyhound Industry Act 1958, chiefly to control greyhound racing and to improve and develop the greyhound racing industry.

The Board's functions are:

- the control, promotion and operation of greyhound racing;
- the overall control of coursing,
- the promotion of greyhound exports;
- the operation of totalisator betting,
- the regulation of public sales of greyhounds;
- the making of grants for prize-money,
- the allocation of grants to improve amenities at tracks;
- the licensing of greyhound tracks and their officials;
- the authorisation of bookmakers to conduct business at tracks; and
- the collection of levies on course bets.

2.2. Of the country's 17 greyhound racing tracks the Board owns 9 tracks: Shelbourne Park, Harold's Cross, Cork, Tralee, Waterford, Youghal, Limerick, Galway and Clonmel and also has a 51% share in the Mullingar track. The tracks, each a subsidiary company of the Board and each with its own Chairman and Board of Directors, are managed and run on a day-to-day basis by full time employees appointed, usually, by the Board's Chief Executive (appointment of the Managing Director of Shelbourne Park, who is a member of the Board's senior management team, is a matter for the Board itself). The Chairman and all ordinary members of Bord na gCon are also acting either as Chairmen or Directors of these subsidiaries. A number of part-time and casual staff are employed at local tracks – these appointments are made by local Track Managers, with remuneration levels also being agreed locally, though within overall budgetary limits set each year for each Track. Part-time staff are engaged on a contract basis – they perform general track, bar and

tote duties – the appointment of casual staff tends to arise on special occasions when extra demands are anticipated.

- 2.3. The Board (at the end of December last) had a full time staff of 139, including its Chief Executive. 67 are attached to the Board's Headquarters in Limerick, of whom 25 are on duty, most of the time, at tracks. The remaining 62 staff are located full-time at the various tracks throughout the country. Part-time and casual staff are appointed on an ongoing basis as the need arises. At end-December, there were 443 part-time staff – the number of casual appointments is subject to constant variation, but at any one time would be well below the figure for part-timers.
- 2.4. Under the terms of the Greyhound Industry Act, 1958 (as amended by The Greyhound Industry (Amendment) Act 1993), the Minister for Arts, Sport and Tourism appoints the members of Bord na gCon which consists of 7 members - a Chairman and 6 "ordinary" members.
- 2.5. The maximum term of office of an ordinary member is 3 years, with two ordinary members retiring each year. An ordinary member may at any time resign by letter to the Minister, and the resignation takes effect on receipt by the Minister of this letter. The Minister may at any time remove an ordinary member of the Board. An ordinary member whose term of office expires is eligible for re-appointment.
- 2.6. The Minister appoints the Chairman, as the occasion requires, and the Chairman holds office at the pleasure of the Minister. The Chairman may however resign at any time by way of letter to the Minister and his/her resignation takes effect on receipt by the Minister of this letter.

STATE FUNDING

- 2.7. The Horse and Greyhound Racing Fund was established under the Horse and Greyhound Racing Act 2001 for the purpose of giving support to both racing industries. Under the provisions of the Act, the Fund receives a guaranteed

level of finance each year based on excise duty from off-course betting in the preceding year, subject to a minimum level based on the year 2000 figure, adjusted for inflation. Any shortfall in the amount generated by this excise duty is made up by direct Exchequer subvention. The rationale of the Fund was that horse and greyhound racing needed certainty in relation to its funding support on a multi-annual basis and that this funding should, to the maximum extent possible, be derived from the duty generated from off-course betting.

- 2.8. In accordance with the Horse and Greyhound Racing Act 2001, 80% and 20% of the moneys paid into the Fund each year are distributed between Horse Racing Ireland (HRI) and Bord na gCon respectively. The funding allocated to HRI and Bord na gCon from the Fund is not earmarked for specific purposes. Since 2001, income from the Fund has been used by both bodies towards increasing prize money and meeting administration and integrity costs, alongside a programme of capital investment which has underpinned growth in both sectors.
- 2.9. In 2004, the Government put in place regulations to increase the limit of the Horse and Greyhound Racing Fund from €254m to €550m, to continue the Fund for a further four years to 2008. By end 2006 the Fund will have yielded a total sum of almost €400m to horse and greyhound racing. The figures for the years 2001 to 2006 are shown at **Appendix 2**.

EU COMMISSION INVESTIGATION

- 2.10. Following a complaint made by a greyhound track owner in Northern Ireland in 2002, the EU Commission initiated an examination of the funding provided to the greyhound sector in Ireland. The Commission's preliminary view, notified in 2003, was that while it regarded the measure as an existing state aid, it constituted an incompatible state aid. The Commission sought the Department of Arts, Sport and Tourism's view on how the financial support could be adapted to make it compatible with EU competition law.

2.11. The Department, in consultation with Bord na gCon, was then involved in deliberations with the EU Commission, as a result of which an understanding has been reached as to how the State will, in future, provide support to the greyhound industry, thereby ensuring that any funds paid over are fully in accordance with EU State Aid Regulations. The Commission's acceptance of adapted arrangements for funding for greyhound tracks will allow Bord na gCon to undertake capital developments, once again, under more restricted guidelines.

GROWTH AND SUCCESS OF THE INDUSTRY

2.12. The growth and general success of the greyhound racing industry over the years has been impressive by any standards. This is very clearly illustrated by some headline statistics for the latest 4-year period (2002 – 2005) which are shown at **Appendix 3**.

2.13. Most of those I met were in agreement that the Board's Chairman, Mr Paschal Taggart, had made a substantial contribution to this success. The general view was that he had brought flair and business acumen to the task with results that few would have considered remotely likely ten years ago e.g. nobody would have expected that within a few years Tote turnover in greyhound racing would have exceeded that of horseracing or that attendances would equal those of horseracing.

2.14. It would be wrong, however, to say that there are no dissenting voices. Some who have, over the years, exercised various roles within greyhound racing (and some who still do so), put forward the view, for example, that the industry had partly lost its direction in that it no longer represents the interests of the "backbone" of the industry (e.g. smaller owners/trainers). The focus, it was suggested, had shifted towards promotion of the "bigger players" and attracting the support of the Corporate sector, with the result that some "smaller players" have become disillusioned and either have left or are planning to leave the sport. It was suggested also that the opportunity had been lost of progressing the sport on an all-Ireland basis and that, in fact, the

State support provided for greyhound racing in the South had seriously damaged the industry North of the Border (there is one track operating now in Northern Ireland where there were four some years ago, though one of these had closed prior to major state subvention for the industry in the South). The analysis of these viewpoints was not a matter that came within my terms of reference, but I consider it appropriate, nevertheless – given that they were quite strongly argued – to mention them.

CORPORATE GOVERNANCE ISSUES

2.15. Corporate governance, which has to do with the structures and processes in place at the top of organisations for decision making, accountability and control, has fairly been described as "a multifaceted and complex topic". For the purpose of this Report, the matters addressed under the heading of corporate governance are:-

- (1) organisation culture;
- (2) composition and terms of office of Board members;
- (3) relationship between the Board and its Chief Executive;
- (4) relationship between Headquarters and track managements;
- (5) internal relations at the Board's Headquarters;
- (6) relationship between the Board and the Department of Arts, Sport and Tourism.

While it might be suggested that some of these matters go outside the area of corporate governance, as the term is generally understood, it is necessary to comment on each of them and opportune to do so at this point.

2.16. It is extremely difficult on the basis of just a few weeks contact with the workings of Bord na gCon, to be definitive about its cultural characteristics. It is not surprising, given the very considerable level of success achieved over the past 10 years, in particular, that there is a significant emphasis on performance. The Comptroller and Auditor General has, in the past, referred to the Board's prevailing "can do philosophy" and the Chairman describes its culture as that of "a dynamic commercially focused organisation". In a situation where there has been rapid improvement in overall performance and

impressive growth in output, underpinned and driven by cultural characteristics of the kind described, it is not at all surprising to find that there can at times be a level of impatience when it comes to adhering to procedural niceties, reporting relationships and the like.

- 2.17. Another striking characteristic in the case of Bord na gCon – again not too surprising – is that the Chairman and the Board as a whole lean very much towards a “hands on” approach in the running of the business. The Board minutes show that meetings (there are about 6 per annum) can continue for most of a working day and that considerable time is devoted to matters of detail (e.g. matters affecting individual tracks) with less evidence of significant engagement on broader policy issues e.g. longer term strategic direction for the industry. Nobody can fault a Board for being on top of detail – quite the contrary - provided of course that the broader policy issues are also debated. The focus on detail has tended to cause a certain amount of confusion and misunderstanding in that the Chief Executive and his staff have found that matters which they believed to be their responsibility (such as staff reporting relationships) became the subject of debate and decisions at Board meetings without, it seemed, very much in the way of advance analysis or consultation. I asked the Board why, for example, discussion concerning local track issues featured so prominently at Board meetings and I received the following response:-

"As Board Members attend greyhound racing they have an opportunity to meet members of the public and local staff. This allows them to become familiar with local issues which provide a greater understanding of the local issues and facilitates the effecting of their statutory roles as local directors of stadia. The relationship between the members and the senior executive is ad hoc, largely depending on the members respective appointments to sub-committees of the Board or on occasion to highlight issues both positive and negative occurring at local tracks at which they are directors."

2.18. As to the composition of the Board itself, the first thing that can be said is that there is certainly no shortage of members who have knowledge, understanding and background in greyhound racing. Most could reasonably be described as greyhound racing "insiders" in that most have had a significant involvement in the sport, in various capacities, for many years. One of the great strengths of this is that those who sit at the boardroom table are well versed in the sport and enjoy extensive contacts with owners, trainers and others who contribute to the success of the sport. A downside mentioned to me is that Board members may become too close to the better known owners or trainers. There was the view that while it is a good thing that Board members should regularly be seen at race meetings, it is important that there should be nothing that might raise questions as to their objectivity, given that the board is the industry regulator as well as promoter. The suggestion was, in fact, made that Section 11(5) of the Greyhound Industry Act 1958, (which, amongst other things, bars Board staff from owning greyhounds or betting at tracks) should apply also to Board members. I believe that this would be unwise as it would tend to exclude too many potentially excellent and knowledgeable people involved in greyhound racing from appointment to the Board (though different considerations apply as regards membership of the Board's Control Committee – see generally **Chapter 3**). Integrity matters generally are addressed in the Board's "Code of Business Practice" the underlying principle of which....

"is that Board Members will strive to perform their duties in accordance with the highest ethical standards of honesty, integrity, fairness, confidentiality and independence, and will actively seek to prevent the development or acceptance of unethical practices".

It is essential that this Code should be seen at all times to be fully observed and essential also that the public should be assured that when the Chairman confirms, each year that "Codes of Business Conduct for Directors and Employees have been implemented", this confirmation means that there is absolutely no need for concern that the involvement of individual Board members in greyhound racing has put them in a position where their objectivity might be questioned.

- 2.19. As regards tenure, the position as stated earlier is that while the terms of office of ordinary Board members cannot exceed three years, there is provision for reappointment. More significantly, however, there is no limit on the number of occasions on which a Board member may be reappointed – legally, therefore, there is nothing to prevent an ordinary member from serving for several 3 year terms. Neither is there any limit - again as indicated earlier - on the Chairman's term of office as there is in many other semi-state organisations.
- 2.20. With regard to the relationship between a Board and its Chief Executive, the normal situation is that the Board determines policy and its Chief Executive's task is to implement policy. In order to do this the Chief Executive normally enjoys an appropriate level of discretion – eg the Board, having agreed to allocate resources for capital works (say a refurbishment project), would allow the Chief Executive to get on with it from that point onwards but could, depending on the size of the project, expect to receive progress reports in the course of project implementation. In the normal way, also, matters having to do with internal working arrangements, reporting relationships etc would tend to be left to the Chief Executive.
- 2.21. In the case of Bord na gCon, the basic arrangements necessary for an effective working relationship between the Board and its Chief Executive are in place and are set out in its Code of Corporate Governance. For example, the Chief Executive has general discretion to initiate capital expenditure projects, though he is obliged to get prior Board approval for capital expenditure in excess of €100,000 on individual projects. His authority to commit to contracts for capital works costing less than €100,000 must accord with the general capital expenditure provision in the group cash flows, which, on an annual basis, amounts to about €1m. Equally, the Chief Executive has discretion to appoint permanent staff other than senior appointments (of which there are 8 in all) without specific Board approval – though he is expected to satisfy himself that staff costs, overall, remain within Budget. As a general

rule, it is the Chief Executive's role also to decide on staff roles, reporting relationships etc.

- 2.22. Although the basic arrangements for a satisfactory working relationship between Board and Chief Executive are in place, it is, unfortunately, the case that serious differences have arisen in interpreting these arrangements. The question of interpretation is further addressed in **Chapter 3**, as it had relevance to the circumstances which culminated in Mr Tynan's dismissal as Chief Executive. Apart from matters of interpretation, there have been conscious departures from the Boards' own agreed governance rules. The Code of Corporate Governance, for example, provides that:-

"The Remuneration Committee, a Sub Committee of the Board decides the salaries of the senior managers. The salaries of other staff members are delegated to the Executive". (In this context, the term "salaries" has been taken to include bonus payments)

The Board, without, it seems, any advance discussion, departed from this procedure towards the end of a very difficult meeting on 9th December 2005 (this meeting is referred to again at **Chapter 3**) and proceeded to deal with the issue of bonus payments - although the matter of bonus payments was not on the Agenda and, I understand, no papers relevant to the issue were before the meeting. The initial view at the meeting was that no bonuses at all should be paid but, having considered various viewpoints advanced – in particular, the view of the Financial Controller that a blanket ban on bonuses would be unfair to those who had performed well and would seriously demotivate all concerned – the Chairman (who, from the outset, made the point that many people "did a good job") proposed that bonuses be paid to "the top 20". This was agreed but it was also agreed that no bonuses would be paid to 2 members of the senior management team. As a procedure for determining a matter of very considerable interest to Board employees, this was less than satisfactory.

- 2.23. With regard to the relationship between the Board's Headquarters and track managements generally, the situation as a whole has, certainly over the past few years, been quite fraught. When Mr Tynan became Chief Executive he sought to bring about uniformity in the reporting relationships between individual tracks and the Board's Headquarters and he also introduced certain other changes in ongoing management practice which, in the case of some managers, gave rise to considerable resentment and tension. Local tracks are, by and large, managed by people who have long experience and knowledge of greyhound racing. Some of them became very annoyed by what they saw as a major shift, following Mr Tynan's appointment, towards centralisation of authority in the Board's Limerick Headquarters. An expression which I heard several times during the course of my enquiries was that track managers "felt they were being treated like school children".
- 2.24. Looked at from the perspective of the new Chief Executive, some of the changes he sought to introduce were reasonable, were designed to bring about more uniformity in management practice and thereby generally improve overall management performance. One change, for example, that gave rise to considerable tension was the Chief Executive's decision that local track managers should come together once a month to discuss management issues. Some managers, while not opposed to this at the outset, became disillusioned with the practice and saw it as a "waste of time and money". It wasn't, generally speaking, that the very idea of holding meetings was seen as a total waste of time – the general feeling was that quarterly or six monthly meetings should suffice. There was the view that most of the business transacted at monthly meetings could have been dealt with over the telephone. Not all of the local managers, it has to be said, were critical of the monthly meetings. Some valued them and saw them as an essential – and very normal – part of what was required in order to improve and modernise general management performance. All of this, sadly, assumed much more serious proportions when some Board members (who were close to track managers) effectively took sides and the whole issue of monthly meetings became one more entry on the ledger of perceived Chief Executive shortcomings.

- 2.25. With regard to internal (i.e. Limerick Headquarters), working relationships there seemed, again, to be a certain amount of confusion. While it was impossible, in the time available for my enquiries, to probe every observation that was made to me, one of the points that came across, at levels below that of the Senior Management team, was that staff were not clear about reporting relationships within the organisation nor were they clear as to what exactly was expected of them in terms of targets to be achieved etc – i.e. the kind of information that employees possess when there is a formal Performance Management System in place. The former Chief Executive has informed me that there was no formal performance system in operation even for senior managers and that, during his time as Chief Executive, he was never given a set of key performance objectives by the Board nor was there any formal review of his performance at any stage.
- 2.26. One outfall of the difficulties that have arisen recently - culminating in the dismissal of the Chief Executive – is that differences have unfortunately arisen amongst senior staff in the Board's Headquarters which will need to be addressed sooner rather than later. (There is further mention of this at **Chapter 5.**)
- 2.27. The Boards relationship with the Department of Arts, Sport and Tourism tends, at times, to be characterised by tension and even hostility; the Department has, for example, been the subject of severe public criticism in the past by the Board's Chairman. It is not of course unusual for Government Departments to experience a degree of tension in their dealings with semi-state organisations within their overall remit. The Department's experience in the case of Bord na gCon, is that its requests for information tend, as often as not, to be treated with a degree of suspicion – a sense that what the Department is engaged in is not the conduct of legitimate business, but a form of "interference". There appears to be less than an adequate appreciation on the Boards part that, as matters stand, the greyhound racing industry is heavily dependent for its survival on State financial support and that, in those

circumstances, Departmental questioning of what is taking place is not only legitimate but is a matter of positive duty to the taxpayer.

CONCLUSIONS AND RECOMMENDATIONS

- (1) Bord na gCon should review, fundamentally, its organisation and management structures and its management practices so that the lines of authority and responsibility as between the Board, its Executive and track managements are clear and are adhered to on an ongoing basis. It is also important that the legitimacy of the Department's queries concerning greyhound racing matters be fully appreciated, given that the industry is heavily dependent on Exchequer support. When changes in organisation structure or management practice are deemed by the Board to be necessary, these should be brought about in an orderly and reasoned way. It wouldn't be sensible, on the basis of the brief enquiries conducted, to attempt to lay down a framework that would govern relations between the various parties referred to, but it is something on which the Board should, sooner rather than later, take appropriate management consultancy advice. At a minimum, the Board should take an early opportunity to introduce a formal Performance Management System.

- (2) While the advantages of having people on the Board from a greyhound racing background are clear, it would be of benefit if Bord na gCon had input at Board level from people who have been appointed having regard to their strengths in other areas. One purpose of this would be to ensure that there is, at Board level, an adequate balance of the skills and experience necessary to support the Board's strategic objectives (if necessary by increasing the size of the Board by one or two members). Another purpose would be to encourage the development of a fresh approach to the way in which business generally is conducted within the organisation. The application of a "more of the same" philosophy is unlikely to address the problems now evident within Bord na gCon or to serve the longer term interests of the industry as a whole. As to "other

areas" of experience, more weight might be given, for example, to the case for appointing of more Board members with senior level experience in running large organisations, financial/management expertise, or knowledge or experience of the requirements (and restrictions) that apply in the case of organisations which enjoy significant Exchequer support. With regard to the latter, consideration should be given to restoring the arrangement whereby the Minister appoints a senior official of this own Department to be a member of the Board.

- (3) There are no women on the Board at present and it would be important to take an early opportunity to bring Bord na gCon into line with general Government policy on the appointment of women to such Boards.
- (4) There is no time limit specified for the Chairman's term in office. This means not only that there is no obligation on the Minister to consider the question of chairmanship from time to time, but that if, for whatever reason, the Minister considers that he should do so, the matter is quite likely to become something of an "issue". I believe that, in line with the arrangement which operates in the case of many other state Boards, the Chairman who, at present, serves at the pleasure of the Minister, should be appointed for a fixed term – say, 5 years with the possibility of being reappointed for one but only one further 5 year period (i.e. a maximum term of 10 years).
- (5) The term in office of ordinary Board members should stand (i.e. 3 years) with the possibility of being reappointed for one, but only one further 3 year period (i.e. a maximum term of 6 years). In the case of a person who serves for part of his time on the Board as an ordinary member and part as its Chairman the maximum term in office, between both, should be 10 years.

3. DOPING OF GREYHOUNDS

THE GENERAL PICTURE

3.1 While there are some inside and many outside the greyhound racing industry who tend towards the view that the doping of greyhounds is commonplace, the evidence produced by the relatively comprehensive scientific testing procedures that are in place, doesn't support this. The indications, overall, are that the number of cases in which doping takes place is relatively small and that the incidence of abuse is falling. The relevant statistics are at **Appendix 4**.

PROHIBITED SUBSTANCES

3.1. Under the provisions of the Greyhound Race Track (Racing) Regulations, 1993 (S.I. 158 of 1993) a "prohibited substance", for greyhound racing purposes, is:-

"any substance which, by its nature, could affect the performance of a greyhound, the origin of which on or in the tissues, body fluids or excreta of a greyhound could not be traced to normal and ordinary feeding or care".

Whether a substance is "prohibited" or not, therefore, is a matter of objective scientific analysis in each instance – the fact that a substance happens to be listed somewhere (or not listed anywhere) as a "prohibited" substance is irrelevant. The motives and intentions of the owners/trainers/vets who administer the substance are also irrelevant when it comes to deciding whether a prohibited substance has been used – motive and intention are relevant only when it comes to deciding what penalty should be imposed. In other words, a substance that may have been professionally administered for genuine medicinal reasons (e.g. to address a low blood count problem) could, nevertheless, be deemed a "prohibited substance" if detected in a sample taken from a greyhound taking part in competition. One of the logical consequences of all of this is that there is, at the very least, an onus on the owner/trainer of a greyhound being entered for competition to make

reasonable efforts to find out whether substances that may be administered to the animal, before a race – irrespective of the motives for doing so – could "affect" its performance in the race (either by enhancing or retarding performance).

- 3.2. One point made to me was that steroids should be classed as "prohibited substances" and brought within the Board's testing regime – this is not the case as matters stand. The Head of the Board's Laboratory, Dr. Jim Healy, has indicated to me that, while it would be a matter for the Board/Control Committee to decide policy in this regard it would not be unreasonable if the Board were to categorise steroids such as nandrolone as "prohibited" substances on the grounds that they can "affect" performance. The use of steroids is prohibited in the UK and some people who spoke to me believe that the same policy should apply here – not least having regard to the importance of removing potential impediments to the export of greyhounds to the UK. The Greyhound Laboratory would be in a position to test for steroids if a policy decision were taken to do so and I believe there is merit in giving early consideration to the introduction of such a policy. More broadly, indeed, the Board should consider whether any of the substances now known to be administered to greyhounds ought to be classed as "prohibited substances" – on the basis that they may affect (i.e. enhance or retard) performance.

SAMPLING AND TESTING PROCEDURES

- 3.3. It is useful at this point to outline briefly the Sampling and Testing Procedures that are applied in greyhound racing. The range and extent of sample testing has evolved significantly in the past few years. The minimum requirements at any race meeting is for the Control Steward to supervise the taking of two urine samples selected randomly from the racecard, usually by a draw made by a member of the public after the weigh-in. Additional sampling includes outside testing teams led by a Stipendiary Steward taking pre and post race samples of multiple races at any particular meeting; this typically occurs at significant finals. It is a requirement that all greyhounds to be tested are announced publicly. It was suggested to me – this was very much a minority

view – that the whole testing regime is too costly, that there is no case for incurring the cost of "outside" test teams and that, as a rule, tests should be carried out by locals.

- 3.4. The testing steward has a choice of taking the sample directly or supervising the taking of the sample by the handler of the greyhound. The urine collection kit is given to the handler who collects the urine, closes the container when completed and signs the appropriate form signifying satisfaction with the collection procedure and selecting whether or not to have the sample split. All samples taken at the meeting are placed by the Steward in tamper-evident sealed larger containers for registered posting by him to the National Greyhound Laboratory where they are taken in by the Laboratory in accordance with its procedures.
- 3.5. The Laboratory certifies each sample as negative or positive to the Board's Regulation Unit (based also at its Limerick Headquarters) by reference to a number and its own assigned client code (the use of numbers rather than names is designed to ensure that Laboratory staff do not know the identity of the owner/trainer or the greyhound concerned). Negative samples typically take two weeks and positives four weeks to certify. A negative sample triggers a report to the track from the Regulation Unit to pay out withheld prize money. A positive sample results in a letter with accompanying positive certificate (a) to the trainer/owner advising that a Control Steward will be in contact to conduct a Stewards' Inquiry to obtain an explanation for the presence of the substance and (b) to the relevant Control Steward requesting that the Inquiry be conducted.
- 3.6. All documents generated from the above process form part of the material which is submitted to the Control Committee for its decision. With regard to first time therapeutic substance positives, the trainer/owner has the option of accepting the findings of the Laboratory, a €50 fine and forfeiture of any prize money, in lieu of attendance before the Control Committee.

3.7. The National Greyhound Laboratory is located at its Limerick Headquarters. It has been well funded over the years signaling the importance which the Board has attached to the doping issue. The various procedures etc followed by the Laboratory in dealing with samples are outlined in **Appendix 5**.

THE CONTROL COMMITTEE, PENALTIES, PUBLICATION

3.8. Decisions as to what action should be taken when a sample has tested positive for a prohibited substance rest with the Boards' Control Committee. The Control Committee, when the doping cases that were the subject of recent controversy arose, consisted of Mr Taggart, Chairman of the Board (who also chaired the Committee), three ordinary Board members, Messrs Frank O'Connell, Tony McKenna and Padraig Feeney and the then Chief Executive Mr Aidan Tynan.

3.9. The standard fines imposed by the Control Committee (i.e. apart from loss of prize money, where that arises) are as follows:-

Therapeutic Substance:	€50
Caffeine:	€100
Stoppers/Inhibitors: (e.g. Cyclizine):	€250
Drivers/Enhancers:	€250 plus (The maximum Amphetamine fine was €500. In January 2006, this was raised to €1,000)

3.10. The Control Committee has, by law, discretion as to whether it should publish particulars of positive test finds (e.g. name of owner/trainer, name of greyhound, location of competition etc.). The general policy is that prohibited substance offences that warrant publication are those involving:-

- enhancers and inhibitors,
- second and/or subsequent caffeine offences and
- repeat offenders for all prohibited substances.

3.11. One of the issues raised with me in relation to the composition of Control Committees is whether the provision contained at S 11(5) of the Greyhound

Industry Act, 1958 should apply to members of that Committee, given that their task, as members of the Control Committee, is to be integrity guarantors. The provision in question states that:-

"(5) An officer of the Board –

- (a) shall not be beneficially interested in the ownership control or operation of greyhound race tracks, the holding or conduct of public sales of greyhounds or the training of greyhounds for reward or in bookmaking, and*
- (b) when present on behalf of the Board at any race track meeting or coursing meeting, shall not engage in betting at the meeting or be beneficially interested in the ownership of a greyhound competing in a race or event at the meeting."*

I believe that this suggestion has merit. There is no obvious reason why a provision such as this which – quite properly – applies to staff, so as to guard against bias in the conduct of the Board's business, shouldn't apply to Control Committee members whose function is to guarantee integrity in the conduct of greyhound racing.

RECORDS OF CONTROL COMMITTEE MEETINGS

3.12. A matter that has proved to be quite important in looking at the circumstances of the two cases which were at the centre of the recent controversy (i.e. the EPO cases – see pars 3.17. to 3.25. below) was the question of minute taking at Control Committee meetings. The staff members normally attending Control Committee meetings are the Board's Head of Regulation, Mr Daniel O'Leary and/or its Deputy Head, Mr Chris McNamara, the Head of the Laboratory, Dr. Jim Healy, (who provides necessary scientific advice) and, occasionally, (e.g. in more serious cases) one or more of the Board's Stipendiary Stewards who may have been involved in the taking of samples

being discussed or may have participated at an earlier stage in stewards inquiries.

- 3.13. A record of proceedings is maintained by the Head of Regulation which he uses, subsequently, to brief the Chief Executive on what took place at the meeting and uses also for the purpose of compiling "Publication Reports" (i.e. reports which contain details of cases in which there have been positive finds of prohibited substances and which the Control Committee has decided to publish). The meeting report prepared by the Head of Regulation is not, however, circulated to Control Committee members, so there are no **agreed** minutes of these meetings. Some years ago, draft minutes were prepared and circulated to Control Committee members as a matter of course but, in 2003, it was decided that this practice should cease; the history behind the decision is interesting.
- 3.14. This decision was taken on foot of the leaking of the first set of minutes prepared by the Head of Regulation, Mr O'Leary, after he assumed the role of Secretary to the Control Committee. After being formally appointed as Head of Regulation in September, 2002, he convened 4 meetings between December 2002 and February 2003 to eliminate a large backlog of cases, as the Committee had not met since January 2002. Because of the new publication rules adopted by the Committee in April 2003 under which some - but not all - cases would be published, the Head of Regulation prepared a set of minutes for each of the aforementioned meetings and a separate publication report (including all the publication cases from them). The draft minutes were then distributed to all Control Committee members. The first publication under these new procedures took place on May 1, 2003.
- 3.15. Within that same time period, a Board member who was also a member of the Control Committee, instituted High Court proceedings against the Chairman and the Board, over the recruitment of a new Chief Executive. The existence of this action made the holding of Control Committee meetings impossible and no further meetings in fact took place until December 8 and 15, 2003, by which time a significant caseload had again developed.

3.16. The Control Committee did not sit again until May 2004 because, at the first Board meeting in February 2004 where the new Control Committee was to be appointed, the meeting ended before the matter was reached and the Chairman resigned (the resignation was not connected with Control Committee matters). A new Committee was appointed at the next Board meeting on March 31, 2004 after the Chairman's reinstatement. The Head of Regulation then arranged for three meetings of the Control Committee, in May, to clear the new backlog. Prior to these meetings, the Chairman and the Head of Regulation had discussed their annoyance that private Control Committee material had been leaked and felt this had undermined, right from the beginning, the efforts to develop a more effective and respected integrity management process for the industry. The Head of Regulation informed the Chairman that he did not want to risk any further leaking of draft minutes to the public and it was agreed that, in respect of all meetings taking place from December 2003 onwards, no minutes would be circulated to the Committee (nor were they ever requested). This decision will be referred to again in **Chapter 4** as it has a bearing on issues surrounding the Chief Executive's dismissal.

RECENT CASES THAT CAUSED CONTROVERSY

3.17. Two recent cases where there had been positive test findings, and which involved the trainers "Mr A" and "Mr B", gave rise to considerable public controversy. Mr A's greyhound "Dog A", which ran at Shelbourne Park Greyhound Stadium on June 11th 2005, subsequently tested positive for Human Erythropoietin (EPO). Mr B's greyhound, "Dog B", which ran at Harolds Cross Greyhound Stadium on July, 1st 2005 subsequently tested positive for the same substance. The way in which these cases were handled was unsatisfactory in a number of respects and clearly illustrates the need to change the evaluation system as a whole.

3.18. With regard to the substance itself – EPO – the following is a description prepared by the Head of Bord na gCon's Laboratory, Dr. Jim Healy:-

"Endogenous (i.e. naturally occurring) human EPO is a substance produced by the kidney that promotes the formation of red blood cells in the bone marrow. The kidney cells that make EPO are specialised and are sensitive to low oxygen levels in the blood. These cells release EPO when the oxygen level is low in the kidney. EPO then stimulates the bone marrow to produce more red cells and thereby increase the oxygen-carrying capacity of the blood. EPO is the prime regulator of red blood cell production. Its major functions are to promote the differentiation and development of red blood cells and to initiate the production of haemoglobin, the molecule within red cells that transports oxygen.

Using recombinant DNA technology, EPO has been synthetically produced for use in persons with certain types of anaemia – such as anaemia due to kidney failure, anaemia secondary to AZT treatment of AIDS, and anaemia associated with cancer. This artificial version of EPO is referred to as recombinant human EPO (denoted rhEPO).

RhEPO has, reportedly, been misused as a performance-enhancing drug in endurance athletes including some cyclists (in the Tour de France), long-distance runners, speed skaters, and Nordic (cross-country) skiers. When misused in such situations, EPO is thought to be especially dangerous (perhaps because dehydration can further increase the viscosity of the blood, increasing the risk for heart attacks and strokes). EPO administration has been banned by the Tour de France, the Olympics, and other sports organisations."

The above material was prepared subsequent to the samples in the Trainer A and B cases returning positive for the guidance of the Control Committee. The Control Committee also issued to Owners and Trainers, in January of this year, a notice which contains the following on the subject of EPO:-

"National Greyhound Laboratory has developed the capability to detect the presence of EPO (Erythropoietin) in a urine sample. The presence of this substance in a greyhound is a serious offence. In the event of a positive test of EPO being proven before the Control Committee the minimum penalty will be a substantial fine (€1,000 or greater), the cost of the testing and confirmation process (€2,000 approximately) and publication of the findings"

It should be mentioned that the loss of prize money, where such payment arises, is automatic in all cases and can, in certain cases, amount to a very severe loss.

3.19. The first difficulty that arises in looking at the two EPO cases mentioned above is that there is disagreement as to what exactly took place at the Control Committee meeting of 21st November, 2005 where the cases were discussed. At the heart of the difficulty in finding out what exactly happened is the fact that no minute of the meeting was submitted to the Control Committee for their agreement (in accordance with the policy decision taken in December 2003 which has been dealt with at par 3.14. above). A Report was prepared by the Head of the Board's Regulation Unit and given to the then Chief Executive, Mr Tynan. This document was subsequently delivered by Mr Tynan to Minister John O'Donoghue with a covering letter dated 18th January, 2006 – this gave rise to considerable anger at Board level; its relevance to Mr Tynan's dismissal is discussed further at **Chapter 4**.

3.20. What the Report prepared by the Head of Regulation contains in relation to the two cases is as follows;

"Trainer A attended before the Committee on account of the sample obtained from the greyhound "Dog A" at Shelbourne Park Greyhound Stadium on June 11, 2005 which tested positive for Human Erythropoietin (EPO). Also in attendance with Mr A was his Veterinary Surgeon. The Committee drew attention to the report of the Steward's Inquiry attended by Mr A on October 20, 2005 and the written

statement of his Veterinary Surgeon of the same date on which he stated that he treated Dog A on June 7, 2005 with EPO and antibiotic. The Veterinary Surgeon informed the Committee that he had attended at Mr A's kennels on Monday, June 6th as per normal and was provided with a list of greyhounds injured or off-colour. Among these was Dog A. He said he checked her blood count and found it to be low. He returned on Tuesday to administer the substances and said he left a note to leave her off from racing for about a fortnight. The Veterinary Surgeon said he also told Mr A that the greyhound was not fit to run for a few weeks. Mr A said that he does not always follow vet's instructions and decided to let Dog A run in the final of the Red Mills Series sprint at Shelbourne Park on Saturday, June 11, four days later.

The Committee adjourned deliberations on the matter pending the hearing of the next case which also involved an EPO positive sample. Upon resuming deliberations, the Committee recognised that the substances involved in these cases were very serious and this was the first time they had come before the Committee. The Committee decided to impose a fine of €1,000 on Mr A with a warning with regard to the administration of serious substances to greyhounds under his care and ordered the forfeiture of the €450 prize money. The Chairman proposed that the findings in this case not be published and Frank O'Connell said that he was concerned that owners and trainers may not have had sufficient warning that EPO could be detected by the Greyhound Laboratory. The Chairman asked Aidan Tynan for his view on the issue. Aidan Tynan said that not publishing cases of this nature involving serious prohibited substances could leave the Control Committee and the Board exposed. He thought it better in the long run to adhere to the publication policy regarding the use of serious substances. The Committee, having deliberated on this point, decided that there should be no publication of this finding and that a notice should be included in the Sporting Press with regard to future EPO positives to the effect that a minimum €1,000 fine plus the costs of the

testing (at approximately €2,000) plus publication would be the minimum penalty.

Mr B attended before the Committee on account of the sample obtained from the greyhound "Dog B" at Harold's Cross Stadium on July 1, 2005 in the final of the Corn Cuchulainn which tested positive for Human Erythropoietin (EPO). The Committee reviewed the report of the Steward's Inquiry attended by Mr B on October 27, 2005 in which he admitted that he administered the EPO to Dog B both after the first round and prior to the final of this event.

Mr B told the Committee that Dog B had a low blood count before the competition and he decided to administer the EPO and also because the greyhound was participating in a stayers competition (750yds). He said he had tried it on another greyhound previously. Mr B apologised to the Committee for his actions and said he was willing to accept whatever the punishment was.

The Committee having deliberated on the matter, imposed a fine of €1,000 plus forfeiture of the €4,500 prize money. With regard to publication of the details of the offence, the Committee adapted the decision taken in regard to the Dog A /Trainer A case.

- 3.21. The Control Committee members who attended that meeting are named at par 3.8. above. Staff in attendances at the meeting were, the Head and Deputy Head of Regulation (Mr Daniel O'Leary and Mr Chris McNamara), the Head of the Laboratory (Dr. Jim Healy) and one of his laboratory team (Mr Ger Clancy) along with two Stipendiary Stewards (Messrs Denis Lee and Pat Gavin). The difficulty that arises in knowing precisely what took place is that Mr Tynan and the staff members present consider that the Report by the Head of Regulation reflects, in substance, what took place whereas the Chairman and the three other Committee members present are adamant that the Report does not properly reflect what took place. In essence the view of these Committee members is that the Report does not reflect the contribution

of one of their members, Mr McKenna, (who, on their recollection, did most of the questioning), tends to overstate the level of resistance (on the issue of non-publication) by Mr Tynan (which the Board describes as "simply a comment in passing") and doesn't mention that when the Committee came to making their actual decision nobody(including Mr Tynan) dissented. With regard to the latter, however, it appears to be the case that no actual vote took place at the end of the meeting. When I sought a written response from the Board as to perceived shortcomings in the Report, I received the following reply:-

"(i) The minute fails to explain the rationale of the members in determining that the cases should not be published.

- The fact that EPO had been used for medicinal purposes and this was supported by the veterinary evidence furnished.*
- The fact that the trainers were not aware that EPO was a banned substance.*
- The fact that the members considered the fact that there had been no communication with owners to advise them that EPO was a banned substance.*
- The fact that the publication may damage the image of the industry.*
- The fact that the Committee bore in mind that the parties involved had previously unblemished records.*

(ii) The Chairman did propose the non-publication and each member in turn gave their view. Only Mr. Tynan in response to the query from the Chairman noted that he was in favour of publication and this was simply a comment in passing. There was no significant dissension on the 21st November and this view is

supported by the Head of the Laboratory who attended the meeting on that date.

- (iii) *There is no reference to the detailed questioning of Mr McKenna of Mr A's Veterinary Surgeon with respect to the consequences of administering EPO. The minute does not refer to the acceptance by Dr Jim Healy that EPO could be used for the purpose of increasing the red blood cell count and that Mr. A was advised not to run the greyhound for medicinal reasons."*

(With regard to the foregoing, the Head of the Laboratory, Dr. Healy, has confirmed to me that, in his view, the report of the meeting, prepared by the Head of Regulation is, in substance, correct).

3.22. Although there is disagreement concerning who said what etc. there appears to be no dispute, on the basis of the meetings I've had with the various parties involved and the written submissions I received, about the following:-

- (1) The Committee, which was scheduled to hear Mr B's case first, decided, instead, to begin with Mr A's case.
- (2) There was agreement that the EPO finding was a very serious matter which merited the penalties imposed.

3.23. There is less clarity, however, when it comes to establishing exactly what considerations came into play in deciding whether the findings of the Committee should be published. What the Board states in its written submission on this subject is as follows:-

"The issues that the Board considered in determining the issues and penalty was not the fact that owners and trainers were unaware that the Board now had the capacity to detect the presence of EPO but rather that –

- *The EPO was administered for medicinal purposes by a Veterinary Practitioner in the case of Dog A to address a low blood count.*
- *Owners and trainers may have been inadvertently administering EPO for medicinal purposes*
- *There had been no previous guidelines in respect of EPO*

The Committee considered the impact of disclosure on Mr. A's reputation, in particular having regard to the fact that the evidence heard before the Committee was that it was used for medicinal purposes. The Committee decided that to publicly reprimand an individual with a previously untarnished record for an inadvertent breach would be harsh in the extreme.

As set out in [the Chairman's] letter to the Minister, the Committee considered both the effect on Mr. A's reputation and whether disclosure was in the interest of the industry. The Chairman was mindful of the potential impact of EPO and the potential linking of its use to high profile greyhounds trained by Mr. A. He was also aware of the potential adverse media coverage for personalities who had run these publicity greyhounds for the benefit of charitable causes."

One – of several – difficulties about the foregoing is that staff members present can recollect no discussion, at all, concerning potential damage to Mr A's reputation.

- 3.24. While there is, as stated earlier, no legal obligation on the Control Committee to publish its findings in any case, it had been standing policy to do so – on the ground that commitment to openness which is implicit in any publication policy clearly serves the better interest of the greyhound racing industry in the longer term. I asked the Board whether there had been previous examples of cases of similar seriousness (seriousness in this case being reflected in the penalties imposed) where a decision was taken not to publish and was

informed that neither the Board nor its Head of Regulation was aware of any case of similar gravity not being published.

3.25. Looking at the "Dog A" and "Dog B" cases, overall, my view is that the reasons advanced for non-publication are not at all convincing. In reaching this view, I took account of the following.

(1) It is by no means clear why the Committee decided to reverse the order in which the two EPO cases would be heard on 21st November. One view which has been advanced to me was that the purpose was to avoid hearing Mr B's case first, as there were no persuasive grounds, in that case, for avoiding publication and it would be more difficult, having decided to publish that case, to refuse publication in the Trainer A case. In other words, the suggestion is that the reversal of the order was deliberate and designed to facilitate non publication in the Trainer A case. The other view, however, is that it simply made sense to hear Mr A's case first since Mr A was accompanied by a Vet who would be in a position to inform the Committee as to why, from a professional point of view, the use of EPO could be justified. There appears to be no disagreement that the vet did, in fact, provide the Committee with clear understanding as to why he considered the use of EPO in this case to have been justified. He also indicated, however, that he had advised Mr A that "Dog A" should not be entered for competition within a specified period but it appears that this advise was not followed. I cannot say why, precisely, the originally intended order in which the two cases were to be heard on 21st November, was reversed but since the more malign interpretation would involve a very serious charge against one or more members of the Committee, it is not one that could be accepted in the absence of clear proof. What I believe can be said is that non publication of the Trainer A case did not provide a rational basis for refusing publication in the Trainer B case where, as indicated, there appeared to be no extenuating circumstances at all; had the cases been taken in the originally intended order and a decision taken to

publish the Trainer B case, it is difficult to say whether the Committee would then have found the Trainer A case to be sufficiently distinguishable from the Trainer B case to justify its non publication. Taking all the circumstances into account, there appear to be no credible grounds for distinguishing between the two cases. Both should have been published.

- (2) It is difficult to see why the absence of advice from the Control Committee to greyhound owners/trainers about the risks of EPO should have been considered persuasive. The use of EPO by prominent athletes has been the subject of extensive media coverage in recent years and most people involved in sport of any kind are aware that, at the very least, its use is questionable. In other words, it would be reasonable to expect prominent greyhound owners/trainers who were contemplating the use of this substance (which I understand is quite expensive – a figure of £100stg per injection has been mentioned), to take professional advice as to whether the substance, if detected in a racing greyhound, might be deemed to "affect" the greyhound's performance, and might, therefore, be regarded as unacceptable by the Control Committee. Whatever about the general state of knowledge of owners and trainers concerning EPO, there appears to have been no convincing argument for regarding ignorance of the risks of using EPO as a defence in these two particular cases. Mr A's vet advised him not to enter the greyhound for competition but the advice was not followed and Mr B appears to have acknowledged, straight away (a) that he used the substance (b) that he had done so before and (c) that it was used because the greyhound was participating in a "stayers" competition. In other words, the likely state of knowledge of owners and trainers generally about EPO, can hardly be said to have had a bearing on these two cases.
- (3) While the extent to which it was deemed relevant by the Committee is unclear, there could be no basis for attaching any weight to the fact that trainers/owners may not have had sufficient warning that EPO could be detected by the Greyhound Laboratory (this point

was made in the course of the meeting and was made to me also in discussions I had on the subject). This clearly would involve acceptance of an unsustainable principle i.e. that wrong-doing is somehow less culpable if the wrong-doer believes that he cannot be detected.

- (4) Finally, though it may be considered legitimate for the Control Committee - and indeed the Board as a whole - to be concerned about the potential damage that would be caused to the industry by publicising the fact that a greyhound trained by one of the more prominent trainers in the industry had tested positive for EPO, this by no means constitutes a valid reason for failing to publish. As subsequent events have shown in this case, the potential damage caused to the image of the industry by non publication is, in all probability, far worse than it might otherwise have been.

CONCLUSIONS AND RECOMMENDATIONS

3.26. My conclusions and recommendations in relation to greyhound doping are as follows:-

- (1) Greyhound racing, contrary to the image sometimes presented of it, is, by and large, a clean sport. The drugs testing regime operated by the Board is rigorous and extensive - especially in more recent years - and the incidence of positive test findings is relatively low and falling. While the detailed test arrangements (e.g. random sampling etc.) must obviously be kept under review and the Control Committee should, in particular, consider the case for more extensive use of targeted testing (e.g. test all winners and all cases where greyhounds run well above or below form), the fundamentals of the testing system appear to be satisfactory.

- (2) The Board/Control Committee should consider whether there are substances now known to be administered lawfully to greyhounds which should be classed as "prohibited substances" – on the basis that they may affect (i.e. enhance or retard) performance. It should, for example, give early consideration to the classification of steroids as prohibited substances.
- (3) The suggestion that testing should be a matter exclusively for "local" stewards, (as the introduction of outside testers gives rise to additional expense) does not commend itself. The use of outsiders provides greater assurance, in terms of the independence of the whole process and is, I believe, justified on that basis.
- (4) The decision not to circulate and agree minutes of individual Control Committee meetings (see para 3.12. – 3.15. above) was not a wise response to the risk that draft minutes might be leaked. Control Committees make decisions, as a matter of course, that affect the rights of individuals and they impose penalties on individual owners and trainers which can be quite severe. That being the case, it is extremely important that minutes be prepared containing a record of the decisions made and the reasons for those decisions and that the minutes be agreed by the Control Committee. The fear of leaks can be cured by having the minutes formally approved at a later meeting and then kept in-house. Section 14 of the 1958 Act provides that minutes "should be kept of every meeting of the Board and of every meeting of any committee of the Board". It is reasonable that, in the case of Control Committees, this requirement should be read to mean that an **agreed** minute be kept.
- (5) Control Committees should consist of persons who are independent of Bord na gCon i.e. members of the Board or of its staff should be excluded from membership of the Control Committee. In other words, in greyhound racing, as in the case of horseracing, the responsibility for the promotion of the industry (which is the responsibility of Bord na

gCon and in the case of horseracing, Horse Racing Ireland) should be separated from regulation and integrity management procedures (in horse racing integrity management is a matter for a separate organisation, i.e. The Turf Club). The creation of a separate structure to handle regulation and integrity management in greyhound racing would, in all probability, result in some increase in administrative costs – which would, no doubt, be less than welcome at a time when efforts are already underway to reduce administrative costs. I have considered other ways in which the independence of the regulatory process as a whole might be assured – for example, that the Board's Regulation Unit (which, apart from disciplinary matters, deals also with administration of racing and general management of racing staff) and its Laboratory might remain within the Board's Headquarters but, insofar as integrity issues are concerned, would report to, say, an independent three person Committee. The very least that is required is the creation of such a Committee (including a lawyer – who might act as chairperson – and a vet). Such an arrangement would mark an improvement but would be as likely as not to result in confusion and divided loyalties where the Board and/or Chief Executive (to whom the Regulation Unit reports) wanted one thing and the independent Committee wanted another. All in all, the creation of a separate and independent regulatory body with responsibility for matters now coming within the regulatory function reporting to an independent three person Committee and having its own staff is to be preferred. It would be extremely important that there should be clarity as to the respective roles of Bord na gCon and this regulatory body.

- (6) The provisions of Section 11(5) of the Greyhound Industry Act, 1958 should apply to persons who sit on Control Committees.
- (7) There is no provision for appeals against decisions made by the Control Committee in doping cases. It appears unlikely that the absence of an appeal process, in a situation where the Control Committee is making decisions which affect peoples rights, would

stand up to legal challenge. It is, I understand, by reference this consideration, that a strengthened appeal mechanism has now been put in place in the case of horseracing. A similar appeal mechanism should be put in place in greyhound racing.

- (8) Publication of positive test finds, penalties etc should be mandatory in all cases (I understand that, at its most recent meeting, the Board decided to publish outcomes in all cases which is a welcome development). Mitigating circumstances, where such exist, should be included in the published reports and reflected in the penalties imposed.
- (9) The Control Committee should review the policies which underlie its decisions regarding the penalty to be imposed in individual cases. They should ensure that there is consistency when it comes to imposition of penalties and that irrelevant factors (e.g. the status of the offender) are excluded from consideration. The Board should, in particular, consider the use of disqualification orders and/or exclusion orders as a matter of course in more serious cases or in the case of repeat offences (there is provision for such orders in Sections 44 & 47 of the Greyhound Industry Act 1958, but these are not being used).
- (10) While there wasn't time to research the matter adequately during the course of my enquiries, there is a perception that owners/trainers who behave in an aggressive or uncooperative manner, when requested to make their greyhounds available for testing – for example by refusing to comply with the instructions of stewards etc. – can end up being treated more leniently than those who comply with test requirements (i.e. the vast majority) but end up with positive test findings. The right course would be to reserve the more severe penalties for trainers/owners who behave in an aggressive or uncooperative way - the use of exclusion or disqualification orders should be considered as a matter of course in such cases.

- (11) The reasons advanced for failing to publish details of the Control Committee findings in the two (EPO) cases which have been the subject of recent public controversy are not at all convincing.

4. DISMISSAL OF BOARD'S CHIEF EXECUTIVE

BACKGROUND

4.1. Mr Aidan Tynan was employed as Chief Executive of Bord na gCon on foot of a written contract of employment dated 1st October, 2004. On 27th August 2004, this contract was submitted to the Department of Arts Sport and Tourism for approval by the then Acting Chief Executive Officer of Bord na gCon. This approval was duly given on 21st September 2004. The appointment, under the terms of the contract, was for an initial period of three years commencing on 1 October 2004 and ending on 1 October 2007 and thereafter to continue for a rolling twelve-month period. Mr Tynan was dismissed by the Board from his employment at a meeting of the Board which took place on 26th January, 2006.

4.2. I was provided with a considerable amount of information about Mr Tynan's dismissal, including, for example, copies of relevant Board minutes, a comprehensive report on the matter presented to the Minister by the Chairman of the Board, Mr Paschal Taggart on 30th January, copies of correspondence from Mr Tynan's solicitors (Ronan Daly Jermyn) dated 19th January and the reply from the Board's solicitors (Holmes O'Malley Sexton) dated 30th January. I do not consider that it would be useful, nor is it necessary for the purpose of explaining what happened, to go through the detailed arguments and counter arguments included in all of this material. The circumstances can, I think, fairly be summarised as follows;

- (1) The Board minutes show that Board members had raised matters at Board meetings, mainly during 2005 which, they felt, were not being addressed with sufficient speed – or at all – by the Chief Executive and/or members of his staff. The Board minutes also show, however, that at various meetings, the performance of the Chief Executive and others were the subject of compliments from the Board. None of this is too surprising – in fact it would be more surprising if, in a situation

where the industry was growing at an impressive rate, the expectations of individual Board members and what was being delivered by its executive were always in exact match and surprising, too, if complaints and criticisms at one point weren't balanced by compliments at others.

- (2) Matters took a much more serious turn, however, during and after a meeting of the Board which was held in Cork on 29th October 2005. A number of matters were raised at that meeting which signalled significant dissatisfaction on the part of Board members with the Chief Executive and other senior staff members. The Chairman had been provided with provisional figures the day before that meeting showing the projected Board financial outturn for 2005 and was quite concerned about the overall picture which appeared to be emerging (the figures which are relevant for the purpose of this Report are shown at **Appendix 6** – those presented to the Chairman on 28th October are at Col (3) of that Appendix). Points of particular concern to the Chairman were the increase in the Salaries/Wages bill and in Advertising, against a background where prize money looked set to remain static for some time to come – until 2009. In other words, the picture, overall, was that the industry was becoming top heavy on costs with reduced benefit to the “man on the ground”. One of the more serious concerns was that it seemed likely that the figure of €5m, which the Chairman regarded as the Board's benchmark for "operating cash contribution", each year, looked set to drop to around €3m. Various other matters – i.e. apart from a worsening financial situation – were the subject of adverse comment at that meeting by Board members. A “Quality Assurance Audit” had been carried out on stadia by one of the Board’s employees (based at its Limerick Headquarters) and there was considerable criticism by Board members of the fact that Shelbourne Park had received a lower rating in this audit than certain other tracks. There was concern expressed about the reduced level of discretion enjoyed by management at local tracks (again Shelbourne Park was mentioned in this context) and, correspondingly, the increasing shift towards centralised (ie Limerick Headquarters) authority. There was criticism

of the fact that the Chief Executive had introduced monthly management meetings which local track managers were expected to attend, suggestions that the Annual Report had been badly produced and criticisms also of the fact that hospitality suites at Shelbourne Park had been closed for refurbishment which did not, in fact, subsequently take place, thus resulting in a loss of profits at the track.

(3) Matters deteriorated further at the Board meeting held at Shelbourne Park on 9th December last which continued for six hours. At this meeting other staff members (i.e. apart from the Chief Executive) were singled out for criticism by Board members. Matters raised at the October meeting were again referred to, together with various other concerns, for example, having to do with a perceived drop in morale amongst local track managers. Suggestions were made to the general effect that people on the ground were disillusioned, that a newly introduced "Pick 7" Jackpot had (allegedly – its not the case) been introduced at the behest of the Board's Head of Wagering which resulted in significant loss and there were criticisms about the supply of expensive company cars to senior staff members which was the subject of adverse comment by people in the sport. Suggestions were also made that some Limerick-based staff were engaging in tasks which were beyond their capabilities etc.

(4) It seems clear that, at this stage (if not earlier), the Chief Executive had come to believe that his own position was under threat and that he would have difficulty in working with the Board in the longer term. While I see no merit in quoting the Board minutes at length (the minutes of 9th December meeting, alone, run to 21 closely typed pages), I think one extract from these minutes illustrates why the Chief Executive had cause to be concerned about his future with the Board. It was as follows:

"Chairman said the messages that it has been a very bad year for a lot of the executive; a bad year for the Board; a bad year

for Owners and Breeders. He said they knew where some of the problems are and that if Aidan [Tynan] did not want to take them on board – “if you want us to tell you in one syllable”. He would prefer if Aidan stood back and assessed these performances and if he thought they were up to standard Aidan has a problem.

Aidan Tynan said he respected the points the Chairman made. He did not think that individuals should be analysed in detail at a Board meeting. It should be done with the Chairman and himself. Chairman said that if these errors and lack of speed were not happening he would like to do it the other way.”

(5) The Chief Executive had two meetings with the Secretary General of the Department of Arts, Sport and Tourism, one on 24th November and the other on 23rd January 2006. It was apparent to the Secretary General from these meetings that it would be extremely difficult for the Chief Executive to go on working with the Board. The Board’s Financial Controller, in the course of conversations he had with the Chief Executive following the 9th December meeting, mentioned that, in the event that Mr Tynan was unable to go along with the Board’s directions, he might look at the possibility of securing an appropriate severance package. The Financial Controller discussed this with the Chairman of the Board who indicated that a severance deal involving a payment equivalent to six to twelve months salary could be looked at, but this option was not pursued.

(6) On 23rd January 2006 (the day on which the CEO met the Secretary General) Mr Tynan delivered to the Department his letter to the Minister dated 18th January, which has since become one of the principal items in the controversy that arose in relation to Mr Tynan’s dismissal as Chief Executive. Comments on the relevance of this letter are contained in para 4.12. below.

(7) At a meeting of the Board, held in Shelbourne Park Stadium on 26th January 2006 - which again lasted for about six hours - the Board decided, unanimously, to terminate Mr Tynan's employment as Chief Executive. What happened at that meeting, very briefly, is that the Chairman, with Mr Tynan's agreement, circulated a copy of the letter dated 18th January (the Minister had, in the meantime, sought a report from the Chairman on its contents) as well as a copy of a letter which Mr Tynan had sent to the Chairman dated 19th January and said that he proposed to discuss both letters at the Board meeting. (As the letters of 18th and 19th January are of importance in terms of understanding what took place, I have included both at **Appendix 7** – in line with what is stated in Par 1.5. the names of individuals who might be harmed by publication are not included). The possibility of having matters considered by a team which would include a Rights Commissioner was mentioned but not pursued. Mr Tynan said that he did not believe that the Board was the appropriate forum at which to discuss this correspondence and that it should be dealt with under the Board's "Employee Complaints and Grievance Procedure". This was not acceptable to Board members who felt that very serious issues had been raised concerning their integrity and that they should not be deprived of the opportunity of discussing the matter. What happened then is best summarised by quoting a few short paragraphs from the minutes of 26th January.

“Chairman said it was up to Aidan Tynan to respond – the Board had three choices (1) not to discuss the matter; (2) that Aidan Tynan would agree to discuss it, or (3) that Aidan Tynan would leave the meeting while the Board discussed. The Chairman asked for Aidan Tynan's decision first, as he wanted to be absolutely fair to Aidan.....”

..... Aidan Tynan said that he had raised a grievance under the Board's Employee Complaints and Grievance Procedure and the matter had to be dealt with under the policy and

procedures of the Board. Chairman said the Board wished to discuss the letters and enquired if Aidan Tynan wished to absent himself from the meeting. Aidan Tynan said he would not participate in any discussions in relation to the grievance.

Chairman said the Board want to solve this problem. They would bend over backwards to solve but Aidan Tynan would not dictate to the Board. Chairman asked Aidan Tynan to leave the meeting as he did not wish to participate in the matter.

..... Aidan Tynan said that he had come to the meeting that day to go through the Agenda. This grievance matter should go through the Board's Employee Complaints and Grievance Procedure.

Chairman said that he would put a proposal to the Board that they the Board would look at issues in full discuss the matter in full and make decisions in full whether Aidan Tynan was in attendance or not. All members agreed with the Chairman. Aidan Tynan said that he would not participate in the discussion and left the meeting."

In Mr Tynan's absence the Board discussed the issues raised by the letter and eventually, according to the minutes:-

"Chairman proposed terminating Aidan Tynan's employment. Members unanimously agreed."

When Mr Tynan returned to the meeting, he was informed of the Board's decision and was then escorted from the premises by a member of the Board.

- 4.3. Immediately following his dismissal, Mr Tynan consulted with his Solicitors (Ronan Daly Jermyn) who wrote to the Chairman, Mr Taggart (letter dated 26th January) stating that:-

"it is clear from our instructions that the purported termination of our client's employment, is unlawful, in breach of our client's contract of employment.... and in breach of the principles of natural justice and fair procedure and is a nullity."

The letter went on to state that unless Mr Tynan was reinstated to his position by 30th January, proceedings would issue forthwith seeking appropriate redress. This prompted a reply from the Board's Solicitors (Holmes O'Malley Sexton) denying that natural justice had been denied since:

"the matters relied upon by [the Board] as justifying its decision to terminate [Mr Tynan's] employment had been raised with him on a number of occasions in the past and he was afforded every opportunity of addressing same.... We would also confirm that our clients are prepared to continue discharging your client's salary but..... the commitment to pay your clients salary is not open ended and would be subject to review."

(I understand that the payment of salary was continued simply to avoid injunction proceedings and did not imply that Mr Tynan had been suspended from his employment - as distinct from being dismissed.)

- 4.4. Negotiations then ensued involving the parties and their legal advisers which resulted in a settlement, the terms of which are, by agreement between the parties, confidential.

THE CASE AGAINST THE CHIEF EXECUTIVE – COMMENT

- 4.5. The case for Mr Tynan's dismissal is outlined in a lengthy report which was forwarded under a covering letter dated 30th January from the Chairman to the Minister at the latter's request. (As this letter is also central to an understanding of what took place, I have included a copy at **Appendix 7**.) The case is based essentially on the concerns which had been raised at the Board meetings of 29th October and 9th December 2005, which have been

referred to above. An extract from the Chairman's letter summarises the situation.

"The meeting of 9th December again articulated significant concerns of the members in particular the members articulated

- *Communication failures of the CEO and his executive*
- *Low staff morale amongst key executives under Mr Tynan's stewardship*
- *Contracting of a development for Shelbourne Park without prior approval of the Board and without finalising the tender design*
- *Failures to implement specific requests of the Board (Revitalised Greyhound sales where no sub committee had taken place for five months) which resulted from a clear lack of drive.*
- *Failure to address specific problems relating to traps resulting in frustration amongst members and the public.*
- *Failure of Mr Tynan's strategic plan to address prize money increases until 2009.*
- *Significantly increased staffing levels which appeared not to be adding to bottom line profitability*
- *Continued failure of certain executives to address queries of members of the Board.*

These failures necessitated changes in reporting lines and structures in an effort to address the issues outlined. The minutes of the meeting of 9th December clearly outline the unresolved frustrations of the members of the Board and the failure of Mr Tynan to take responsibility for or address the

issues. The minutes of the meetings of 29th October and 9th December clearly indicate that Mr Tynan was failing to motivate and evince his inability to accept responsibility for the failings of those executives who reported directly to him.

It is clear that the Board had serious issues with Mr Tynan's stewardship as far back as October and provided ample opportunity for him to address the matters raised by the members in a constructive manner. Mr Tynan failed to address those concerns."

4.6. I have received a very comprehensive report from Mr Tynan containing a point-by-point and very substantial rebuttal of the case made against him by the Board. It was his intention to present a rebuttal on similar lines to the High Court had the matter been litigated. It wasn't possible, in the time available to carry out this inquiry, to go through and try to weigh up the merits each and every argument made by the Board and made by the Chief Executive in rebuttal. Nor do I believe that it would be possible, in the absence of a formal process of examination and cross examination conducted at an appropriate forum, to come to definitive conclusions as to the strength of the respective positions of the parties on each of the issues. I consider, however, that it does no injustice to either side to state the following.

- (1) The Chairman's concern about the apparent drop in bottom line profitability, as disclosed by the provisional October figures was not surprising. The Financial Controller, Mr Foley, did explain to the Board at the 29 October Board meeting that the provisional figures, which had been prepared at speed and sent directly to the Chairman, had not been vetted either by himself or by the Chief Executive, in advance of the meeting, and that the figures appeared to be wrong in certain respects.
- (2) A significant part of the additional salary costs are down to decisions made by the Board itself. I sought details in this regard

and found that, in fact, about €300,000 (annualised figure) in additional cost is attributable to Board-approved staff appointments and €900,000 (annualised figure) attributable to decisions made by the Chief Executive, which did not require Board approval. Mr Tynan has pointed out to me that, amongst the appointments costing €900,000 (i.e. the appointments he made), there is a number which were made at the Board's behest – although they did not formally require Board approval.

- (3) Since none of the senior staff members whom I met in Limerick attributed the alleged state of "low morale" to the former Chief Executive – most, in fact, seemed to be highly supportive of his general approach – I asked the Board what group of people were captured by the term “key Executives” and whether the assessment that they were suffering from low morale was based on any particular attitude survey. I was informed that:-

"This refers to the fact that a number of key staff including [two named track employees] and others were requesting that termination packages be drawn up because they felt it impossible to work under Mr Tynan's stewardship. There was also significant concern expressed by staff to Board members for example [named track employee] regarding needless meetings in Limerick."

- (4) In relation to the refurbishment works at Shelbourne Park, the Board at a meeting on 29th October, 2004 approved the carrying out of work at Shelbourne:-

"..... in principle, subject to receipt of detailed specification plans and costings..... These should be referred to the CEO".

At a subsequent meeting (24th February, 2005) the Board:-

"approved €2.85m for redevelopment work at Shelbourne Park which includes

- a. Health & Safety upgrade - €500,000*
- b. Suites & Toilets upgrade - €750,000*
- c. Mid-level area to main stand - €1m*

d. Other Stadium work - €600,000"

The Chief Executive was subsequently advised (professionally) that it would add significantly to overall cost and involve duplication of work if the Health & Safety issues (a matter of priority for the Board and all concerned) were carried out while refurbishment works on suites and toilets was deferred i.e. that it made sense to carry out both work programmes at the same time. It was on this basis that he authorised discussion with a builder (professionally recommended) for works that would cost in the region of €1m (including work on suites). The Board was very concerned about this and takes the view that the Chief Executive completely misinterpreted its intentions (regarding, for example, the approval of detailed plans and specifications) and proceeded to carry out work on suites which they did not want. At a minimum, in the Board's view, the pursuit of good practice should have caused the Chief Executive, as a matter of normal course, to keep the Board fully informed of major development projects by showing them plans etc. What the Board stated was:-

"In referring the matter to the CEO it was a matter for the CEO to establish plans, specifications and costings. Once they were developed it was a matter for the Board to review and approve same. [The Chairman] did not want individual members of the Board to become involved in the detailed planning of projects and viewed that as a matter for the executive. It was, he thought, naive to suggest that once the Board had approved in principle an allocation for a project that it would not expect to see and approve a final plan and costings. If this were to be the case the Board would have little function and whims of a CEO could not be controlled."

- 4.7. I do not suggest that the above summary constitutes the whole of the answer which Mr Tynan would make to the Board's case against him – in fact his response is quite lengthy – nor does it constitute the full case made by the

Board. What I do believe, is that while the Board undoubtedly had serious concerns and while they undoubtedly became angry and frustrated by what they saw as Mr Tynan's resort to the Board's Grievance Procedure - as an alternative to explaining directly to them what his concerns were - the issues themselves were not of such substance or gravity that they could not have been resolved. In normal circumstances all of the matters involved could have been teased out in a reasonable way and resolved.

4.8. The core problem – and this comes across in all of the meetings I've had with the parties concerned – was that there was a total breakdown in relations between the Chief Executive and the Board which got to a stage over the period October 2005 to January 2006 where it was only a matter of time before a parting of ways would occur. Other staff members were drawn into all of this in a way that has now resulted in tensions at various levels and a most unhappy working environment – there is further comment on this at **Chapter 5**.

4.9. It is difficult to say what the principal cause of this breakdown was, but the two issues which featured most frequently in discussions on the matter, were (a) the Board's view that Mr Tynan was not a communicator and (b) the gap between the Board's and Mr Tynan's respective visions for the industry going forward. Several Board members complained that Mr Tynan was not responding to their requests for information or for action on matters that required attention and that it was extremely difficult even to engage him in conversation socially. Mr Tynan, naturally, disagrees with this and I should say, in fairness to him, that Headquarters staff – and others I met who are involved in greyhound racing at grassroots level – had no complaints about his communication skills or his commitment and energy when it came to dealing with local issues they brought to his attention. Indeed, the Chairman, according to the minutes of the 9th December 2005 meeting stated that:-

"Aidan and himself had communicated very seriously over the year and they disagreed over a few things".

- 4.10. As to contrasting visions for the future of the industry, Mr Tynan had presented the Board (and the Department) with his ideas on the subject and seems to have taken it, from the fact that his vision was broadly welcomed by the Board, that the Board fully supported his vision for the way forward. It is clear, however, that there were elements of his strategy which certainly did not capture the Board's enthusiasm and were seen as somewhat futuristic – "some good ideas but not for now". These included plans for theme restaurants, sports bars with seven day operations at local tracks etc. The Board did not view these as developments likely to be high on the priority list of its typical clientele or likely to be welcomed by local trading competitors. One track Manager summed it up like this; "We used to have a greyhound track with a restaurant attached, but it seems that we are now expected to run a restaurant with a track attached". Mr Tynan was – and remains – of the view that, unless greyhound racing continues to develop quickly and in a way that attracts a wider interest group, it will not be as well prepared as it needs to be to stand on its own two feet when State subvention ceases. The Board doesn't disagree with this, but there wasn't a meeting of minds as to how a more secure future might be guaranteed.
- 4.11. I should add that Mr Tynan's personal view is that while all of the differences referred to earlier were there, his dismissal can, to a quite significant extent, be put down to something that has not been highlighted in debate on the issue i.e. that he began to raise questions about matters that took place prior to his appointment as Chief Executive. This is referred to at par 5.8.

RELEVANCE OF THE CHIEF EXECUTIVE'S LETTER TO THE MINISTER

- 4.12. As already indicated, the Chief Executive wrote to the Minister on 18th January concerning, amongst other things, the Board's integrity management procedures – this letter is at **Appendix 7**. The Board became outraged by this letter when it was shown to them at their meeting on 26th January. Their reasons may be summarised as follows:-

- (1) The letter tended to give the impression that, by not publishing the decisions in the two EPO cases discussed earlier (i.e. involving Mr A and Mr B) the Board had engaged in some kind of cover-up. (This sense of outrage was subsequently heightened by what they saw as a media-driven campaign designed to create the impression that Mr Tynan had been dismissed from his position for exposing the cover-up by bringing it to the Minister's attention.)
- (2) The impression was created that Mr Tynan's demand for publication was one of the central themes of the meeting of 21st November – the Board is anxious to point out that Mr Tynan made one brief contribution, only, in response to a question by the Chairman, in which – it is fully acknowledged – he favored adherence to the Board's publication policy in respect of the two EPO cases discussed at the meeting.
- (3) Against standing practice, a report of the Control Committee meeting of 21st November - which no Committee members had seen and which they considered to be wrong in substance - was forwarded to the Minister by the Chief Executive. (Again, their anger has subsequently been heightened by the fact that this report is being given the status – in the media coverage etc. – of an **agreed** minute of that meeting).
- (4) The Chief Executive, despite signaling his concern about integrity management procedures in the letter to the Minister had not raised those concerns with the Board between the date of the Control Committee meeting (21st November) and his letter dated 18th January to the Minister.
- (5) The Board had already been engaged in serious exchanges with the Chief Executive about his performance. Their view is that he knew that his position was in jeopardy, concerning issues which

had nothing to do with EPO, and that his strategy was to exit his employment in a way that concealed the performance issues and highlighted his stance on integrity procedures.

Needless to mention, Mr Tynan refutes all of this and is emphatic that his approach to the Minister arose out of genuine concern for what he saw as conduct likely to damage the image of the industry. He would also argue that the Board's attitude towards him generally at that stage was such that any constructive comments he might offer about integrity procedures – or indeed anything else for that matter – would be unlikely to be seen as such.

THE PROCEDURES FOLLOWED IN MR TYNAN'S DISMISSAL

- 4.13. Whatever about the substance of the case made by the Board for Mr Tynan's dismissal, it is difficult to see how the actual procedure followed could have stood up to legal challenge. (The Board's solicitors were not consulted in advance of its decision to terminate Mr Tynan's employment). The point has been made that Mr Tynan cannot have been totally surprised by the Board's decision, as it had been reasonably clear for some time that a parting of the ways was in the offing. He did not, however, have reason to expect that it would happen in the way it did. While he knew that his position was in some jeopardy, it was also the case that there were various statements by Board members – even as late as the very difficult 29th October meeting – indicating satisfaction with his performance. As well as this, the Chairman, on 25th October 2005, had approved a proposal from Mr Tynan that he should join with the Chief Executive of Horse Racing Ireland in engaging consultants who would assist both of them in the preparation of a case for a salary increase.
- 4.14. The application of fair procedures would appear to necessitate that, at least, specific issues should have been put clearly to Mr Tynan and that he be given a reasonable opportunity to respond, if necessary with the benefit of appropriate advice. This, as the summary account above indicates, is clearly not what happened.

CONCLUSIONS AND RECOMMENDATIONS

4.15. I believe that it is reasonable to conclude as follows:-

- (1) The Board was not satisfied with Mr Tynan's performance on a number of grounds. Relations between the Board and its Chief Executive worsened following a difficult Board meeting on 29th October 2005 and, from that point onwards, his continued employment as Chief Executive was in jeopardy. In the period October 2005 to January 2006, relations between the Board and Mr Tynan had, in effect, reached a state where there was no real prospect of their continuing to work together in the longer term.
- (2) Mr Tynan strongly rejects the case made by the Board for his dismissal and while it was not possible, for the reasons outlined in the Report, to make a full assessment of the strength of each of the arguments and counter arguments on both sides, it seems clear that, on some issues, at least, Mr Tynan was in a position to enter a substantial challenge to the case against him. There is every reason to believe that had there been better relations between the Board and the Chief Executive, the matters in issue could easily have been resolved. (Mr Tynan's personal view is that, to a quite significant extent, his dismissal can be put down to an issue that has not been highlighted in debate on the issue i.e. the fact that he began to question certain matters that took place prior to his appointment as Chief Executive – in this connection see par 5.8 of the Report)
- (3) It is wrong to suggest that Mr Tynan's dismissal can be put down simply to the fact that he wrote a letter to the Minister on 18th January about the Board's integrity management procedures, (EPO etc.). As already indicated, relations between the Board and Mr Tynan had been worsening steadily well before that time, for reasons that had nothing to

do with integrity management procedures. It isn't true either, however, to say that the letter to the Minister was totally irrelevant. Board members were clearly incensed by its content and by the interpretation put upon it. This undoubtedly brought relations between the Board and the Chief Executive to a new low and almost certainly hastened the Board's decision to dismiss him – the minutes of the Board meeting of 26th January (at which Mr Tynan was dismissed) show clearly that his letter to the Minister was a factor in the decision to dismiss him forthwith.

- (4) It is important, for future reference, that there should be clarity as to what procedures apply, should the question arise at a future time of imposing disciplinary sanctions (including dismissal) on the Board's Chief Executive. The Board took the view, in this instance, that the Staff Grievance Procedure had application only to staff at lower levels and was not applicable in the situation where a serious rift had arisen between the Board and its Chief Executive. Whatever the merits of this argument, the Board was not entitled, having taken that view, to adopt a dismissal procedure which lacked the basic requirements of natural justice.

5. SOME RELATED MATTERS

- 5.1. Various matters were raised in the course of my enquiries which did not come within my terms of reference and which can I believe be addressed, in the ordinary way, as staff/management issues e.g. complaints by individual staff members that they have been treated discourteously by others on particular occasions etc. There are, however, certain matters which, I feel, should be mentioned.

CONCERNS OF SENIOR BOARD STAFF

- 5.2. Staff morale at the Board's Headquarters Office in Limerick is now at a very low ebb. This state of affairs is not attributable entirely to the recent dismissal of the Board's CEO, but there is no doubt that the exchanges that were taking place between the Board and its CEO in recent months – particularly since the Board meeting on 29th October – has greatly worsened the situation. Staff members other than the Chief Executive were named as having failed in their duties and some have become quite apprehensive that their jobs are now on the line – particularly those who are seen to have been in the "Aidan Tynan camp".
- 5.3. Immediately following Mr Tynan's dismissal as CEO, all Board members (as well as management personnel at Shelbourne Park Stadium) wrote individual letters to Minister O'Donoghue expressing their full support for the action taken. In some cases these letters reiterated the reasons for that action (these matters have already been discussed above). Some letters, however, went further and attributed shortcomings to other named, or readily identifiable, staff members. This, in itself, would not have come as a surprise to the staff concerned as they had already been the subject of adverse criticism at Board meetings – criticism, incidentally, which they strongly reject. What really shocked and distressed them, was that all of these letters were somehow posted on the internet which meant that reputations were being seriously

damaged, in a very public way, without any opportunity being given to the parties concerned to express their point of view. I cannot say how the internet posting came about and, in view of the fact that everybody to whom I mentioned the matter agreed that it was a particularly scurrilous development, there was no reason at all to suppose that any further enquiries on my part would have resulted in anything other than denials and a waste of scarce time.

- 5.4. Though it was not part of my task to examine cases other than that of Chief Executive, the other senior staff members who were the subject of adverse criticism (at Board meetings and over the internet), not surprisingly, took the opportunity of conveying their views to me. While I am not in a position to make any definitive assessments concerning the very strong rejection by all concerned of the criticisms made, I believe that justice requires that the injured parties should be afforded an opportunity, now, of clearing the air and vindicating their good names. One individual, for example, has been identified in the course of various internal exchanges as the person largely responsible for the introduction and failure of a “Pick 7” jackpot competition which was run on two occasions once at Shelbourne Park and once at Harold’s Cross resulting in losses in excess of €50,000. Although he is not actually named in the leaked letters, people within the Board and many outside know that he is certainly embraced by the term “Mr Tynan and co”. He has shown me documentation (mainly e-mails) exchanged at that time which strongly suggest that it is quite unfair to lay the blame for what has been described to me as the “Pick 7 fiasco” on his shoulders – or on Mr Tynan’s shoulders, either, for that matter. Another staff member is criticised for signing a contract for refurbishment works at Shelbourne Park – I am advised that no such contract was signed.
- 5.5. A major challenge which now faces Bord na gCon and will face the incoming Chief Executive will be to address the serious morale deficit which is now evident and to ensure that fair procedures are put in place to enable those whose performance had been the subject of adverse criticism at least to express their point of view. It will by no means be easy to meet this

challenge, given that the Board is, at the same time, having to review administrative costs – and probably its administrative structures also – to get its finances generally in better shape, going forward. What is clear, however, is that in this, as in other areas, change is now needed.

SEVERANCE DEALS IN PREVIOUS CASES

5.6. A suggestion raised during the course of my enquiries, which I considered it necessary to look at, was that a large number of staff who had left the employment of the Board in recent years had benefited from severance deals costing substantial sums of money. I asked the Board for figures covering the 10 year period 1995 to 2005. The Board made the point that, in many cases, these terminations were in fact redundancies and also made the point that, in most cases, the decision fell to the Chief Executive rather the Board itself. According to the figures supplied to me there were 15 cases in all, of which 9 were described as redundancy situations. Decisions were made by the Board in 2 cases. As to the expenditure involved, the following material was provided:-

	<i>Terminations</i>	<i>Redundancies</i>	<i>Total</i>
	€	€	€
Payment	261,670	396,313	657,983
Legal Fees	61,149	412,492	<u>473,641</u>
			<u>1,131,624</u>

It was not possible to obtain detailed information concerning settlements in individual cases, as confidentiality clauses had been agreed as part of the settlement.

5.7. Another matter which was the subject of adverse criticism was the Board's tendency to resort to litigation as a means of resolving disputes. Some examples were mentioned to me which appeared to substantiate the claim but, as I did not have an opportunity of examining the matter more fully – it would require an assessment on a case-by-case basis – I am not in a position

to draw a definitive conclusion. Because of the very considerable costs associated with litigation, however, and taking account of the fact that those who raised the matter were quite concerned about it, I believe that it is reasonable to suggest that the extent to which the Board is involved in litigation generally should at least be reviewed.

HEALTH & SAFETY CONCERNS

5.8. One of the matters which deserves special mention is that a range of health and safety issues – some potentially quite serious – were identified following a review, professionally conducted, at Shelbourne Park Stadium (this matter has been briefly referred to earlier). I sought and was given an assurance that this matter had been addressed, which is extremely important given the nature of some of the risks identified (including fire and structural risks). I believe that the adequacy of the remedial works carried out at Shelbourne Park should now be examined, as a matter of priority, by the appropriate authorities, so as to ensure that the Stadium which has become a major recreation centre frequented on a regular basis by thousands of patrons, meets all the necessary health and safety standards.

MATTERS REFERRED TO SECRETARY GENERAL

5.9. Some individuals drew my attention to matters - some had occurred several years ago - which, in their view, merited the attention of the Comptroller & Auditor General. These matters were outside my terms of reference and it would be quite unfair, in the event of publication of this Report, to include the details or name individuals in this Report, as neither the Board nor anybody else will have had an opportunity of addressing them. As stated earlier, it is the belief of the former Chief Executive, Mr Tynan, that to a significant extent, his dismissal can be put down to the fact that he began to question certain financial transactions – mainly concerning the earlier refurbishment of Shelbourne Park Stadium – which arose some years prior to his appointment as Chief Executive. I have given all of the information made available to me

in this regard to the Secretary General of the Department of Arts, Sport and Tourism.

CONCLUSIONS AND RECOMMENDATIONS

- (1) There is need to address the tensions and very poor state of staff morale now evident within Bord na gCon. This will present a major challenge for the Board and its incoming Chief Executive. It is clear that in this, as in other areas, change is now needed.
- (2) The posting on the internet of material which was highly critical of identifiable members of the Board's Headquarters staff (i.e. apart from the Chief Executive) was a scurrilous development and the Board should take an early opportunity of addressing the serious concerns it has generated.
- (3) The number of staff severance deals in which the Board was involved over the past ten years appears to be relatively high (15 in all) and, according to the information supplied by the Board, involved a total cost (between settlement and legal costs) of around €1.1m. The arrangement whereby the Board can, without Departmental sanction, enter deals in these cases which include confidentiality clauses should be examined, given that the effect of such clauses is to deny the Minister, on behalf of the taxpayer, any say or any information on the settlement terms. The extent to which the Board is involved in litigation generally also needs to be reviewed.
- (4) The appropriate authorities should, as a matter of priority, conduct an examination of works carried out at Shelbourne Park Stadium with a view to their publicly confirming that they adequately address the health and safety concerns which were raised following an expert examination of the facility.

- (5) Some individuals drew my attention to matters which, in their view, merited the attention of the Comptroller & Auditor General. These were outside my terms of reference but the details have been given to the Secretary General of the Department of Arts, Sport and Tourism.

SIGNED: _____
T. DALTON
5 April, '06

APPENDIX 1

(* denotes from whom submissions were received)

Meetings

ORGANISATIONS

Bord na gCon

*(Mr Taggart, Chairman, Mr McKenna, Mr Feeney, Mr Curley, Mr Hegarty, Mr Reilly, Mr O'Connell)

Staff Members -

(Mr Foley – Acting Chief Executive Officer, *Mr O'Leary – Head of Regulation, *Mr Morgan – Commercial & Operations Manager, *Dr. Healy – Head of Laboratory, *Mr Barrett – Business Development Manager – Wagering, *Mr Franklin – Marketing & Public Relations Manager, Ms O'Connor – Accounts Dept., Mr Gleeson – Hospitality & Quality Assurance Manager, Mr Histon – Regulations Dept., *Mr McNamara – Regulations Dept., Mr O'Connell – Purchasing Manager, Mr O'Doherty – Health, Safety & Security Manager, *Mr Lee – Stipendiary Steward, *Mr Gavin – Stipendiary Steward, *Mr Ryan – Managing Director, Shelbourne Park Greyhound Stadium, Ms Griffin – Tote Manager, Shelbourne Park Greyhound Stadium, Mr Ryan – Racing Manager, Limerick Greyhound Stadium, Mr Holland – General Manager, Curraheen Park Greyhound Stadium, Mr Ward – Racing Manager, Kingdom Greyhound Stadium, Mr Thornton – Control Steward, Kingdom Greyhound Stadium, Mr Flynn – General Manager, Mullingar Greyhound Stadium, Mr Mackey – Racing Manager, Kilcohan Park Greyhound Stadium, Mr O'Donovan – General Manager, Harold's Cross Greyhound Stadium, Mr Bell – Racing Manager, Harold's Cross Greyhound Stadium)

Department of Arts, Sport & Tourism

(Mr Furlong – Secretary General, Mr Haugh – Assistant Secretary, Ms Nugent – Principal Officer)

Holmes O'Malley Sexton, Solicitors

(Mr Holmes, Mr Fehilly)

Horse Racing Ireland

(Mr Kavanagh – Chief Executive)

Turf Club

(Mr Egan – Chief Executive)

Department of Agriculture & Science

(Mr Brongan, Veterinary Division)

Irish Coursing Club

(Mr Desmond - Secretary)

Individuals

(*Mr Tynan - former Chief Executive, Mr Martin – Chief Executive, Dundalk Stadium, Mr Lynch – representing landlords of Youghal Greyhound Race Co. Limited, Mr Cross – Former Personnel & Development Officer, Mr O'Driscoll – former Board member, Mr Martin – Journalist, Mr Harnett)

Phone Contact/Correspondence

(Mr Kilcoyne – former Board member, Mr Duffy – Director, Lifford Greyhound Stadium)

APPENDIX 2

Horse & Greyhound Racing Fund 2001 - 2006

Fund Year	2001	2002	2003	2004	2005	2006	Total
Fund Income	€58.89m	€68.06m	€64.19m	€66.91m	€68.35m	€70.06m	€396.46m
Horse Racing	€47.12m	€54.45m	€51.35m	€53.53m	€54.68m	€56.05m	€317.18m
Greyhound Racing	€11.77m	€13.61m	€12.84m	€13.38m	€13.67m	€14.01m	€79.28m

APPENDIX 3

Greyhound Racing Statistics

	2002	2003	%	2004	%	2005	%
Fixtures	1,693	1,854	+9.5%	2,138	+15.3%	2,208	+3.3%
Total Attendances	1m	1.12m	+12%	1.38m	+23.7%	1.4m	+0.46%
Totalisator Betting	€31.6m	€36.7m	+16%	€46.3m	+26.1%	€51.3m	+11%
On Course Betting	€74.3m	€82.4m	+11%	€93.5m	+13.2%	€90.5m	-3%
Total Prizemoney	€7.4m	€8.3m	+12.2%	€10.4m	+24%	€11.35m	+9.2%
Sponsorship	€1.38m	€1.6m	+16%	€1.82m	+10.6%	€1.94m	+6.2%

APPENDIX 4

Greyhound Sampling Statistics

	2000	2001	2002	2003	2004	2005
No. of Samples	991	2154	2309	3437	5160	6113
No. of Positive Tests	14	23	43	79	95	69
% Positive	1.4%	1.1%	1.9%	2.3%	1.8%	1.13%

APPENDIX 5

Receipt, Handling, Storage of Samples to be Tested

1. Samples must arrive in the laboratory in intact numbered bottles. These bottles must not have spilled in transit. Samples must arrive in a container secured with an unbroken security seal.
2. Two members of laboratory staff, or one member of control staff plus one member of laboratory staff, must verify the above and enter sample identification numbers, date received and date opened in the laboratory Sample Log Book/Folder. The fact that samples were intact and secured with an unbroken seal must be certified in the appropriate column of the book by these two staff members. Samples which are not received intact or properly secured must be noted as such in the Sample Log Book/Folder and the client informed. Likewise, if there should be evidence of tampering with seals or bottles

Where a sample has leaked in transit, as well as noting this in the Sample Log Book/Folder, the numbers of the other samples which were packed with it in the same outer container must be noted in the Log Book/Folder and the client informed of the leakage. Such samples may be analysed but may not be declared as positives. Should a client, in spite of this reporting restriction, request that the sample be analysed, that fact should be recorded in the Sample Log Book/Folder.

3. Clients are requested to furnish a list of the samples being sent for analysis. Clients are provided with a form on which to do this. Laboratory staff will verify that all samples expected have been received. This is done by ticking the appropriate box for each sample on the form and initialling it. The laboratory will immediately notify the sender in the event of any discrepancy. If no list is submitted, no further responsibility in the matter will attach to laboratory staff.
4. Sometimes the client, prior to submission to the lab, splits a sample into two portions. In such a case, both portions will bear the same client sample identification code. The portions are assigned different laboratory identification codes. In order to avoid inadvertent disposal (most particularly of positives), the portion of a split sample which is not being analysed in this lab should, after being logged in, be immediately placed in the container labelled "Split Samples – Unused Portions" in the freezer.
5. Where a client regards a sample as high priority, this will be indicated by attachment by him/her of a blue dot to the sample container prior to submission to the lab.
6. It is the policy of the laboratory that samples which do not contain sufficient sample volume will not be subjected to complete analysis. However, at the

discretion of the analyst, such samples may be subjected to partial analysis.

7. When taking aliquots of a sample, a portion of that sample is poured into a labelled, previously unused, Sterilin container. Nothing other than a new, single use, disposable pipette tip should be introduced into this latter container. Further, the Sterilin container and its contents are strictly for short term use and are to be disposed of as soon as the pipetting process is finished.
8. Samples awaiting testing must be stored at a maximum temperature of 6°C. If a delay is envisaged before testing can take place, samples should be stored frozen. Samples which are being held for confirmatory testing at a later date should be frozen at a temperature of $\leq - 10$ °C. Refrigerator/freezers containing samples should be locked.
9. As each test is performed on a sample, this fact should be noted in the appropriate sample worksheet. When a sample is reported, note this on the appropriate worksheet.
10. When a sample is received from a client with a request for analysis which is different from those analyses normally performed in the lab or where a staff member's suspicions have been aroused by (for example) the appearance of a sample, it is required that certain precautions be taken. This situation is most likely to arise from adulteration of, or tampering with, sample fluids. In order to prevent such a sample being inadvertently treated like all others, the staff member noting the problem or receiving the client request should immediately attach a red dot to the top of the sample container. In order to prevent such a sample inadvertently becoming the subject of a premature report after the usual tests have been performed, the staff member noting the problem or receiving the client request should immediately place an X in the "Comments" section of the log of samples received. Further details may also be added here. The nature of the issue at hand should be communicated to the Technical Manager immediately. He/she will then immediately notify the relevant staff as to what he/she should do with the sample.
11. No samples may be disposed of until samples for blind resubmission of negatives have been selected. Negative samples may then be disposed of or used as blank samples. Samples which have been confirmed as positive must (if any remains) be stored frozen, until all disciplinary procedures/appeals etc. have been finalised.

APPENDIX 6

Irish Greyhound Board Consolidated Profit & Loss Account

	(1)	(2)	(3)	(4)	(5)	(6)
Turnover						
Tote receipts	46,301,503	48,617,000	50,577,002	51,272,598	51,272,598	53,070,400
Bookmaker Income	861,410	861,410	875,000	867,819	865,008	854,559
Gate receipts and programme sales	4,774,661	4,822,408	4,750,000	4,709,060	4,696,814	5,522,557
Catering Income	2,639,083	2,639,083	2,800,000	2,525,464	3,070,915	2,362,899
Sponsorship	1,289,879	1,300,000	1,368,955	1,411,775	1,408,718	1,411,775
Entry Fees	862,912	868,000	862,912	952,179	944,613	952,179
Greyhound Sales	58,606	58,606	1,372,828	98,653	1,194,056	1,405,726
Miscellaneous	842,203	780,000	1,250,000	701,445	761,247	734,822
Turnover from racing facilities	57,630,257	59,946,507	63,856,697	62,538,993	64,213,969	66,314,917
Oireachtas Grants	13,382,800	13,670,000	13,670,000	13,670,000	13,670,000	14,012,000
Expenses						
Tote Payout	(37,282,694)	(38,893,600)	(40,461,602)	(41,018,079)	(41,101,995)	(42,456,320)
Prizemoney	(9,379,100)	(9,407,470)	(10,702,057)	(10,084,000)	(10,101,840)	(10,678,182)
Salaries & Wages	(8,176,222)	(8,788,628)	(8,856,506)	(8,528,137)	(9,191,758)	(9,049,364)
Employers Pension Contributions	(306,352)	(311,191)	(330,000)	(348,139)	(330,620)	(349,140)
Owners Incentive	(139,400)	(139,400)	(139,400)	(174,875)	(174,875)	-
Private Track Operating Grants	(339,600)	(339,600)	(339,600)	(339,600)	(339,600)	(339,600)
Private Track Incentive Scheme	-	-	-	-	-	(174,543)
Equipment Hire	(626,531)	(645,327)	(657,858)	(776,794)	(765,513)	(917,499)
Rent & Rates	(421,982)	(434,641)	(443,081)	(449,368)	(475,656)	(432,729)
Heat, Light & Power	(427,643)	(440,472)	(470,407)	(423,552)	(446,375)	(474,864)
Depreciation	(1,123,726)	(1,145,906)	(2,557,369)	(940,269)	(2,491,701)	(2,561,231)
Grant Amortised			(1,433,643)		(1,502,130)	(1,433,643)
Repairs, Renewals & Maintenance	(802,656)	(822,722)	(1,049,377)	(1,089,049)	(1,171,171)	(823,638)
Dog sales expenditure			(1,314,222)		(1,134,837)	(1,300,000)
Other Track costs	(1,392,616)	(1,434,394)	(1,636,452)	(1,230,053)	(1,534,590)	(1,226,487)
Veterinary Fees	(185,816)	(191,390)		(233,007)		
Insurance	(259,454)	(204,000)	(250,000)	(194,281)	(203,581)	(185,000)
Contribution to Retired Greyhound Trust	(131,103)	(135,000)	(135,000)	(135,657)	(136,006)	(135,000)
Marketing/Advertising	(2,101,742)	(2,664,794)	(3,245,184)	(2,627,629)	(2,760,949)	(1,964,900)
Meals, Travel & Entertainment	(584,105)	(613,310)	(795,176)	(813,130)	(783,824)	(684,679)
Administration Costs	(2,463,841)	(2,537,756)	(2,622,891)	(2,409,707)	(2,544,002)	(2,521,275)
Intertrack Expenses	(465,410)	(481,699)	(474,663)	(516,123)	(527,391)	(516,098)
I.T. Database costs	(299,805)	(299,805)	(253,270)	(256,649)	(256,649)	(348,000)
Loan Interest	(236,225)	(228,000)		(230,316)		
Operating & Administration Costs	(67,146,023)	(70,159,108)	(75,300,471)	(72,818,413)	(74,970,803)	(75,704,906)
Operating Surplus before grants	3,867,034	3,457,399	2,226,226	3,390,580	2,913,166	4,622,011
Profit on disposal of tangible assets			2,200		2,364	
Grants to private tracks			(1,420,096)		(764,789)	-
Add back non Cash Charges	1,123,726	1,145,906		940,269		
Group Interest Payable			(257,981)		(243,025)	(430,000)
Surplus before taxation			550,349		1,907,716	4,192,011
Cash Available for Capital	4,990,760	4,603,305	3,094,171	4,330,849	3,662,076	5,319,599

Col (1) – Actual outturn 2004

Col (2) – Budget Provision for 2005

Col (3) – Provisional figures sent to Chairman in October 2005

Col (4) – Revised 2005 figures prepared in early January 2006

Col (5) – Final (unaudited) figures for 2005

Col (6) – Budget Provision for 2006



Irish Greyhound Board
Bord na gCon

John O' Donoghue
Minister of Arts, Sport and Tourism
Department of Arts, Sport and Tourism
Kildare Street
Dublin 2

18 January 2006

Private and Confidential

Dear Minister,

As you may know, despite outward appearances from the media and recent press releases relating to the performance of the industry in 2005, I and certain members of my senior executive team have been the subject of ongoing threatening and undermining treatment by the Chairman Paschal Taggart and certain members of the Board in recent months which has reached unacceptable levels.

However, what is of utmost concern to me as Chief Executive is the disintegration of the essential integrity required in managing cases involving the administration of prohibited substances of a serious nature to greyhounds. Given the level of public funding allocated by your Department to grant aid prize money for greyhound racing, I no longer have confidence that appropriate and vital integrity management procedures are being applied by the Chairman. I do not believe this is a sustainable situation if the industry is to continue its progress.

In 2005, the Board's laboratory certified two separate urine samples as positive for Erythropoietin, commonly known as EPO, and widely recognised in the world of sport as a dangerous and illegal prohibited substance used for blood doping. The Board had previously allocated the necessary resources to give the laboratory this capability and it has become the first in the world to have been able to identify the presence of EPO in greyhounds. As unwelcome as these findings were, the reality of their use in greyhounds in Ireland posed a very serious challenge to the Board in ensuring the highest levels of integrity in the industry

The cases were processed through the Board's Control Committee chaired by Paschal Taggart and in both cases the trainers involved admitted that the EPO was administered to their greyhounds. Fines and prize money forfeitures were imposed. However, contrary to the Committee's policy of publishing the findings of all cases involving the administration of serious prohibited substances and/or cases bringing the industry into disrepute, the Chairman ensured that these findings were not published.

One of the cases involved a high profile trainer. On request by the Chairman for my views on the matter as a member of the Control Committee, I recommended that the Committee publication policy be adhered to and that suppressing these findings could be more damaging to the industry in the longer run. The Chairman disregarded my views.

Most recently, at its meeting of the 9th of December last, the Chairman engaged in a litany of complaints against members of the executive management team; culminating in it being indicated that if I did not take drastic action against the individuals concerned, I should consider my position untenable. The Chairman said that I would have to look at my executive *"Look at Daniel and David. He said that Aidan's key executive have let the industry down"*.

The seriousness of the threats against Bord na gCon's Head of Regulation Daniel O' Leary the person responsible for the industry's integrity management and who was absent from the meeting was unprecedented. The Chairman's criticism of Mr O'Leary was scathing and he stated that there was *"too much standing on principal"* and that *"as an industry we are not policing criminals. We are policing our customers"*. I was pressured at this meeting to fire the Head of Regulation. He is a person of very high integrity and principle who does an outstanding job in his role. I believe the Chairman's behaviour to have been wholly improper and in bad faith. The Head of Regulation processed the cases in the normal way as with any other positive sample and properly discharged his duty in presenting the cases to the Committee for decision by it.

In conclusion, it is with great regret that I must inform you that I can no longer assure you or the public of the necessary integrity in the decision making process of the Control Committee in determining disciplinary cases, I am greatly concerned at the potential impact the Chairman's ongoing handling of these matters may have over the continuation of the necessary funding for the further development of a unique and indigenous Irish industry which gives so much excitement and pleasure to so many people in this Country. I will not be able to continue as Chief Executive if the principles of running this business cannot not withstand the scrutiny of public account. As these are matters of a most urgent nature, I would request that they be addressed immediately by you and your Department. I am available at any time to respond further as required.

Yours sincerely

Aidan Tynan

Chief Executive Officer



Irish Greyhound Board
Bord na gCon

Personal, Private & Confidential

Mr Paschal Taggart Chairman
Bord na gCon
23 Fitzwilliam Square
Dublin 2

19 January 2006

Dear Chairman,

I write to you regarding the relationship between the members of Bord na gCon and its executive management team. As you are aware, this relationship has progressively worsened over the past three months, culminating in the decisions of the Board at its meeting of the 9th of December last. I believe that the Board's present approach cannot continue.

I was appointed Chief Executive Officer of Bord na gCon with effect from 1 October 2004 with responsibility for the overall management of the organisation. At my instance, and with the express approval of your Board, an enhanced executive management team was appointed, the members of which report to me. This team includes Mr Michael Foley (Financial Controller), Mr Adrian Neilan (Head of IT), Mr David Morgan (Commercial Manager), Mr Peter Franklin (Marketing and Public Relations Manager), Mr Daniel O'Leary (Head of Regulation) Mr Jim O'Dwyer (personnel Manager) and following the last board meeting Mr Paddy Ryan (Managing Director of Harolds Cross and Shelbourne Park).

Over the past three months, your Board has persistently undermined my position as Chief Executive Officer, and that of certain members of the executive team. This approach is extensively instanced throughout the contemporaneous stenography (or shorthand) notes of the Board meetings (.. " , .-,;-:; ...!.. ,-, " " " ., -..~ ~ " -., .., " ...), and the recorded actions of Board members over the period concerned.

Most recently, at its meeting of the 9th of December last, members of your Board engaged in a litany of complaints against members of the executive management team; culminating in it being indicated that if I did not take drastic action against the individuals concerned, I should consider my position untenable.

That meeting went on to address the question of bonuses. It severely reduced Mr.....and deprived bothof any bonus., was then asked what bonus was in 2004, on learning that it had been €4,000, the meeting immediately resolved that it should be increased to €6,000 for 2005.

Under the organisation's governance rules, the matter of bonuses is reserved to the Remuneration Sub-committee, which would be expected to apply objective criteria in addressing the question. The only item on the agenda for the meeting of the 9th of December was the budget for 2006, and accordingly no briefing papers on the question of executive performance or bonuses had been circulated in advance of that meeting. (and, as noted, such documentation would not in any event have been circulated to the Board in general, the matter being one reserved to the Remuneration Sub-Committee).

No other employee in the organisation eligible for a bonus, apart from me, has been deprived of a bonus in what has transpired to be another record breaching year; a year in which we grew attendance by 3% to a record 1,393,000 despite attendances being down 8% at the end of the first quarter due to bad weather and the fund raising efforts for the Tsunami disaster. We achieved a 62% increase over last year on the number of benefit meetings run throughout the country and raised an estimated €10 million for charitable causes. In addition and for the first time in its history, the Irish Greyhound Board's Tote turnover exceeded that of Horse Racing Ireland on a full year basis and grew by 11% overall to a record €51.3 million. On the capital development side, we finally secured a new site for Limerick Greyhound Stadium at a price that represented exceptional value for money, as well as an agreement in principle to develop Kilkenny Greyhound Stadium. We improved the racing circuits in Harold's Cross, Enniscorthy and Limerick Greyhound Stadiums. On the 16th of September 2005 we held the first ever meeting of the International Steering Committee for the World Greyhound Championship and secured an agreement to host the first running of the World Greyhound Championship in Ireland. With the Board's agreement we initiated over fifty development projects across all departments while still remaining within the budgeted payroll for the year. Over the past two weeks this year's record results received widespread positive coverage across all media. Against this background, it is difficult to understand the comment, (made at the Board meeting on 9 December), that 2005 had been the worst year in the last ten.

I believe the complaints made against certain members of my management team at the meeting of the 9th of December to have been made without proper consideration of their performance. Given that criticisms have been made, I have instituted a formal review of the performance of the relevant executives. As part of that review, I have notified each of those executives of the complaints made against him, and have asked each to respond. I will report back to the Board on this review presently.

Your Board's behaviour over the abovementioned period amounts to a breach of the duties of trust and confidence owed by Bord na gCon to me and to my executive management team as its employees.

I must now call upon your Board to remedy the situation outlined above. I should be grateful if you would treat this letter as a formal grievance for the purposes of the Bord na gCon Employee Complaints and Grievance Policy and Procedure.

Yours sincerely

Aidan Tynan

Chief Executive Officer



Irish Greyhound Board
Bord na gCon

John O'Donoghue
Minister of Arts, Sport and Tourism
Department of Art, Sport and Tourism
Kildare Street
Dublin 2

January 30th 2006

Dear Minister,

I thank you for your letter of 27th January and an opportunity to clearly set out the unanimous Board position in respect of the termination of Mr Tynan's employment and, the rationale for the Control Committees decision not to publish the positive EPO findings in respectof and

We believe that it is critically important to clearly outline the rationale for the Boards decision to dismiss Mr Tynan.

The Board articulated its significant concerns in respect of Mr Tynans stewardship as far-back as 29th October 2005 and the significant failings of his stewardship are clearly outlined in the minutes of the meetings of 29th October, 9th December and 26th January (copies attached).

The minutes of 29th October refer to a significant worsening of the financial position of the group where group operating cash flows were likely to be decrease by €780,000 on the prior year. In particular concern was articulated in respect of the unsustainable and significantly increased labour costs, worsening track operational results and significantly increased marketing spend of €1.2m. Indeed fellow Board member Frank O' Connell expressed serious concern at the projected 2006 labour costs. The meeting also expressed concerns regarding the proposed closure of Shelbourne Park suites for renovation works which were ultimately deferred with significant resultant lost operating profits of €75,000. The Board also expressed serious concerns regarding how the quality assurance role was implemented and the significant demotivating effect it had on staff and the negative effects of a more centralised approach to controlling spend particularly marketing. As Chief Executive Mr. Tynan bore ultimate responsibility for these especially since as many of the over runs were as a result of his specific directions. These factors culminated in a request from the Board to prepare a rationalised budget for 2006. There was a clear expectation from the

Board members that the Chief executive would take cognisance of the views of the Board.

The meeting of 9th December again articulated significant concerns of the members in particular the members articulated

- Communication failures of the CEO and his executive.
- Low staff morale amongst key executives under Mr Tynans stewardship.
- Contracting of a development for Shelbourne Park without prior approval of the Board and without finalising the tender design.
- Failures to implement specific requests of the Board (Revitalised Greyhound sales where no sub committee had taken place for five months) which resulted from a clear lack of drive.
- Failure to address specific problems relating to traps resulting in frustration amongst members and the public.
- Failure of Mr Tynans strategic plan to address prize money increases until 2009.
- Significantly increased staffing levels which appeared not to be adding to bottom line profitability.
- Continued failure of certain executives to address queries of members of the Board.

These failures necessitated changes in reporting lines and structures in an effort to address the issues outlined. The minutes of the meeting of 9th December clearly outline the unresolved frustrations of the members of the Board and the failure of Mr Tynan to take responsibility for or address the issues. The minutes of the meetings of 29th October and 9th December clearly indicate that Mr Tynan was failing to motivate and evince his inability to accept responsibility for the failings of those executives who reported directly to him.

It is clear that the Board had serious issues with Mr Tynans stewardship as far back as October and provided ample opportunity for him to address the matter raised by the members in a constructive manner. Mr Tynan failed to address those concerns.

I believe that Mr Tynans letter of 18th January is simply a smoke screen in an attempt to deflect attention from the failings in his own performance. In asserting the aforementioned I have considered the minute of the control committee meeting and consulted my fellow members *of* the committee. **While we accept that Mr. Tynan**

dissented from the publication decision he did so only on specific request from me for comment. He simply referred to the fact that in his opinion the matter should be published and he was clearly entitled to hold that view. I think it is important that one consider the following issues.

- If Mr Tynan was so concerned with the non-publication it is unusual that he did not echo that concern in a more emphatic manner both on the occasion of the meeting but in writing to the committee members.
- Mr Tynan chooses to communicate directly with your office without first having the courtesy to articulate those concerns directly to the seven members of the Board.
- His delay of two months in communicating with your office is noteworthy particularly if the matter of the non-disclosure of the EPO positive was in his view so serious.
- He breached his fiduciary duty of confidentiality to the Board. One must wonder how these essentially private matters have come so quickly into the public domain following the dismissal of Mr Tynan. I believe that any objective individual will be in a position to draw their own conclusion.

The decision to dismiss Mr Tynan was unanimous. I believe that Mr Tynan correspondence of the 19th January was motivated to divert attention from his failures to address unresolved issues of the members of the Board. It is often said that the best form of defence is attack and I think that it is noteworthy that the communication to both of us were dated the 18th and 19th January respectively. While his correspondence of 19th January refers to a request to treat the letter as a formal grievance he does not clearly set out what those grievances are other than to imply that he does not accept the criticism of the Board or the evaluation of the Board of certain of his executive's performance. It would have been more helpful and constructive if he had articulated how he was going to address the significant issues raised by the Board, at its meeting of 29th October and 9th December 2005.

At its meeting of 26th January the Board sought to address the grievances referred by Mr Tynan and proposed the establishment of a sub committee consisting of two Board members and an independent rights commissioner. At all stages during that meeting Mr Tynan refused to articulate the nature of this grievances or confirm that he was satisfied with the proposals of the Board to address the matter. The Board sought to provide an objective and fair procedure to deal with the complaint and sought to address any issues on a one to one basis. Mr Tynan refused to articulate the specific nature of his grievance or agree a procedure to resolve the matter. The minutes of the Board discussion of 26th January clearly indicates that Mr Tynan had continued to fail to address the matters raised at the previous meetings and the Board was severely restricted in its efficient and effective running of the Industry as a result. The members

formed the view that its Chief Executive was unwilling to effect its direction and was

not providing the necessary direction and leadership required to run the industry. This discussion culminated in a unanimous decision to terminate Mr Tynans contract of Employment. It was not a decision taken lightly but one which was taken in the best interests of the Industry. In light of the significant achievements during my and my respective member's tenure we were simply not prepared to allow the success achieved to date to be lost through incompetent mismanagement and clear failures to effect Board direction. I and my fellow members believe this was and is the correct decision notwithstanding the misrepresentations in certain sections of the media as to the reason for the dismissal.

I would also like to outline the basis of the decision for the non-disclosure of the first EPO cases identified by the Boards Laboratory.

The decision not to publish was taken by a 4-1 majority of the Board of the control committee. This we did in what we the majority considered was in the best interests of the greyhound industry. As you are well aware we as a committee were perfectly entitled legally not to publish this decision. This Committee hearing was convened by Mr Daniel O' Leary Head of Regulations pursuant to S 43 of the 1958 Greyhound Industry Act and section 3 of the Greyhound Race Track (Racing) Regulations 1993. Section 43 (8) of the 1958 Act clearly states that the Board **may** publish in any manner it considers proper the results of an investigation under this section. A majority of the Control Committee took the decision at that time not to publish in the best interests of the sport.

The Boards laboratory only commenced testing for EPO in 2005 and we understand that it is the only greyhound laboratory in the world with this capability. In recent years the Board has approved €319,000 in capital investment since 2000 to ensure the most up-to- date equipment and procedures. The Board has also invested significantly in its laboratory personnel resources. The laboratory is headed by Dr Jim Healy and the operating resources has doubled in recent years leading to in excess of 6,113 samples tested in 2005 significantly in excess of the 2003 sampling level of 3,437. Indeed the Board focused approach has resulted in significantly reduced positive rates of 2.3% in 2003 to 1.13% in 2005.

The first case that the Committee deliberated on was that of The Committee members heard veterinary evidence from (Veterinary practitioner) that the substance was administered for medical reasons in particular to address a low blood count. The Board also considered the advice of Dr Jim Healy its Head of laboratory function who confirmed that EPO could have the effect of raising the red blood cell count. After much deliberation the 'Committee agreed on a 4-1 majority that

- Owners and Trainers may have been inadvertently administering EPO for medicinal purposes.
- This was the first time that a greyhound had tested positive.

- There had been no previous guidelines used in respect of EPO.

Indeed the committee requested that a full set of guidelines for all known illegal substances and relevant penalties be highlighted and published in the greyhound publications. It also requested that every licence trainer be issued a copy of those guidelines, which were subsequently issued. It was further agreed that the fine be increased to a minimum €1,000 and that the offender would also bear the cost of the testing estimated at €2,000 and that the offence would be published. The Board also considered whether the disclosure was in the interests of the industry given that had a long history of running greyhounds and had not previously come before the Committee. The Committee considered the impact of disclosure of reputation in particular having regard to the fact that the evidence heard before the committee was that it was administered for medicinal purposes. The committee decided that to publicly reprimand an individual with a previously untarnished record for an inadvertent breach would be harsh in the extreme. The Board formed the view that a severe caution with the maximum €1,000 fine together with prize money forfeiture would be in the best interests of the industry. I believe that the decision was reasonable having regard to the circumstances and it was endorsed by the other committee members with the exception of Mr Tynan. I also believe that if Mr Tynan had not breached his fiduciary duty to the board that matter would not be in the public domain.

The matter of the non-disclosure of followed from the decision not to disclose the case of The Committee spent little time on the matter as it had read the Stewards report (copy briefed herewith). freely admitted his guilt in relation to administering the prohibited substance admitting that he had used it on several other occasions. The committee imposed a fine of €1,000 and a forfeiture of €4,000 in prize money. In relation to publication the Committee adopted a consistent approach taken in the case. The Committee were of the view that the fine and forfeiture were significant in light of the fact that he was a small time trainer

I also believe that while the matter of this breach of fiduciary duty was not considered in the context of his dismissal it makes his continued position as Chief Executive of the Board untenable.

I also attach for your attention a booklet of relevant minutes and correspondence (Schedule I) together with copies of the respective comments of the six other individual members (Schedule II) who unanimously endorsed the decision to terminate Mr Tynan's employment. .

If you have any further queries please do not hesitate to contact me and I look forward to delivering on an ambitious capital programme and further industry growth in 2006.

Yours sincerely

Pascal S Taggart