

QUEENSLAND
CRIME AND MISCONDUCT COMMISSION

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 18/10/05
IN THE MATTER OF:

Crime and Misconduct Act 2001
[Section 75]

OP GRAND

NOTICE TO DISCOVER
(MISCONDUCT INVESTIGATION)

EXHIBIT No. 94
.....CLERK

TO: Anthony William HICKEY - Hickey Lawyers
Level 6 Corporate Centre One Cnr Bundall Road & Slatyer Avenue
BUNDALL QLD 4217

I, **ROBERT MARTIN NEEDHAM**, Chairperson of the Crime and Misconduct Commission, reasonably suspect that you are a person who has information, or you are in possession of a document or thing, relevant to a misconduct investigation.

I **HEREBY** require you to give:

a written statement of information of the type specified in the Schedule to this Notice, and relevant to a misconduct investigation; and

stated documents which are in your possession of the type specified in the Schedule to this Notice, and relevant to a misconduct investigation.

TO: Lincoln HANSEN, Anna McDONALD, Karel WEIMAR, Ben DUELL, or Daniel BOYLE of the Crime and Misconduct Commission.

YOU ARE REQUIRED TO COMPLY WITH THIS NOTICE BY:

Giving the statement, document or thing to the Commission Officer/s named above on or before 5:00pm on Monday 22 August 2005 at:

The Crime and Misconduct Commission
Level 3 Terrica Place
140 Creek Street
BRISBANE QLD 4000

DATED this

12th day of August 2005


ROBERT MARTIN NEEDHAM
Chairperson
Crime and Misconduct Commission

The postal address of the Crime and Misconduct Commission is:

GPO Box 3123
BRISBANE QLD 4001

Facsimile No. (07) 3360 6333
Telephone No: (07) 3360 6060

The business address of the Crime and Misconduct Commission is:

Terrica Place
3rd Floor
140 Creek Street
BRISBANE QLD 4000

The Case Officer is: Ken BEMI

SCHEDULE

1. All documentation not previously provided to the Crime and Misconduct Commission by your letter dated 13 April 2005, including information contained upon any computer or computer disk or other electronic storage medium, held by you or that is otherwise in your possession or under your control, recording details of:
 - (a) any direction, instruction or condition upon which you or Hickey Lawyers received funds with respect to:
 - (i) the Lionel Barden Commonsense Campaign Fund; and
 - (ii) the Gold Coast City Council elections of 27 March 2004.
 - (b) any direction, instruction or condition upon which you or Hickey Lawyers paid out funds with respect to:
 - (i) the Lionel Barden Commonsense Campaign Fund; and
 - (ii) the Gold Coast City Council elections of 27 March 2004.
 - (c) the identity and residential or business address of any person or entity which issued you or Hickey Lawyers with any direction, instruction or condition described in subparagraphs 1(a) and 1(b).
 - (d) the date the person or entity described in 1(c) issued you or Hickey Lawyers with any direction or condition described in subparagraphs 1(a) and 1(b).
 - (e) any request for information described in 1(a), 1(b) and 1(c) made to you or Hickey Lawyers by the candidate who received the benefit of funds paid out by you or Hickey Lawyers described in 1(b).
 - (f) statements of account — held by you or Hickey Lawyers — with any financial institution that evidences the receipt or payment of funds described in 1(a) and 1(b).
2. All files, memoranda, presentations, documents, notes, note books, meeting notes and other records of meetings, emails, correspondence, letters, letters of engagement, diary entries and records, advertisements, promotional material, advices, advertising strategies and records, invoices and records of payment by you, and any other documentation whether in printed form or in any other form, including information contained upon any computer or computer disk or other electronic storage medium held by you or Hickey Lawyers or that is otherwise in your possession or under your control relating to any candidates, the election campaign of any candidate, or the election campaign of any group of candidates as defined by section 426 of the *Local Government Act 1993* in relation to the Gold Coast City Council elections on 27 March 2004.
3. A written statement of information detailing any oral communication to you or Hickey lawyers about matters of the kind described in 1(a), 1(b), 1(c), 1(d) and 1(e) above.
4. A written statement of information detailing:
 - (a) any action you or Hickey Lawyers took in relation to any tax invoice issued by Quadrant identifying its client as the Powers and Robbins Trust Account or the Lionel Barden Trust Account C/- Hickey Lawyers and to the attention of either Tony Hickey or Lionel Barden C/- Hickey Lawyers in January, February and March 2004.

2 meetings

- (b) the nature and extent of the dealings between you or Hickey Lawyers and Lionel Barden, David Power, Ray Hackwood, Ron Clarke, Robert La Castra, Edward (Ted) Shepherd, Jan Grew, Sue Robbins, Grant Pforr, Brian Rowe, Robert Molhoek, Roxanne Scott and Greg Betts in respect of the possible nomination and election of any of those persons at the Gold Coast City Council elections of 27 March 2004; and
- (c) the dealings between you or Hickey Lawyers and Lionel Barden, Paul Brinsmead, Graham Staerk, David Power, Ray Hackwood, Ron Clarke, Robert La Castra, Edward (Ted) Shepherd, Jan Grew, Sue Robbins, Grant Pforr, Brian Rowe, Robert Molhoek, Roxanne Scott and Greg Betts in relation to the Gold Coast City Council elections of 27 March 2004.

INFORMATION TO ADDRESSEE

GENERALLY

YOU MUST COMPLY WITH THIS NOTICE

Failure to comply with this notice, without reasonable excuse, constitutes an offence which carries a maximum penalty of 85 penalty units or 1 year's imprisonment.

An offence is not committed if the information, document or thing—

is **subject to privilege**;

OR

is a **secret process of manufacture** applied by you solely for a lawful purpose.

Privilege, in the context of a misconduct investigation, means -

- (i) legal professional privilege; or
- (ii) public interest immunity; or
- (iii) parliamentary privilege

and includes a claim on the ground of confidentiality. "Confidentiality" means a ground recognised at law that giving an answer, or disclosing a communication or document, would be a breach of an oath taken or statutory or commercial obligation or restriction to maintain secrecy.

By complying with this notice, **YOU DO NOT**—

contravene a provision of an Act or law imposing a statutory or commercial obligation or restriction to maintain secrecy in relation to the information, document, or thing;

OR

incur any civil liability in relation to the information, document or thing.

SHOULD YOU HAVE A CLAIM OF PRIVILEGE

The commission officer is to consider the claim. The commission officer may withdraw the requirement in relation to which the claim is made OR may advise you that you may apply to or be required to attend before the Supreme Court to establish the privilege under section 196 of the *Crime and Misconduct Act 2001* (Q).

IF

a claim is made in relation to a document or thing you are required to give or produce to the commission;

AND

the document or thing is in your possession or you acknowledge the document or thing is in your possession;

AND

the commission officer does not withdraw the requirement;

THE COMMISSION OFFICER MUST REQUIRE YOU TO IMMEDIATELY SEAL THE DOCUMENT OR THING [the "SEALED EVIDENCE"] AND GIVE IT TO THE COMMISSION OFFICER FOR SAFE KEEPING.

YOU MUST IMMEDIATELY SEAL THE DOCUMENT OR THING UNDER THE SUPERVISION OF THE COMMISSION'S REPRESENTATIVE. [A failure to do so constitutes an offence which carries a maximum penalty of 85 penalty units or 1 year's imprisonment.]

YOU AND THE COMMISSION'S REPRESENTATIVE MUST IMMEDIATELY DELIVER THE SEALED EVIDENCE TO A REGISTRAR OF THE SUPREME COURT TO BE HELD IN SAFE CUSTODY.

The Registrar is to keep the sealed evidence in safe custody until—

(a) application is made to a Supreme Court judge to decide the claim of privilege;

OR

(b) the end of 3 court days after the day on which the document or thing is given to the registrar, if an application has not been made under paragraph (a);

OR

- (c) the registrar is told by the person and the commission representative that agreement has been reached on the disposal of the sealed evidence.

If an application is made to a Supreme Court, the Registrar is to dispose of the sealed evidence in the way ordered by the judge.

If an application is not made by the end of 3 court days after the day on which the document or thing is given to the Registrar, the Registrar is to return the sealed evidence to you.

If you and the commission representative give the registrar notice that an agreement on the disposal of the sealed evidence has been reached, the Registrar is to dispose of the sealed evidence in the way agreed.