



CRIME AND CORRUPTION COMMISSION

TRANSCRIPT OF INVESTIGATIVE HEARING

10 CONDUCTED AT LEVEL 2, NORTH TOWER, 515 ST PAULS TERRACE,
FORTITUDE VALLEY WITH RESPECT TO

File No: CO-16-1664

HEARING NO: 17/0001

DAY 5 - WEDNESDAY 26 APRIL 2017
(DURATION: 28MINS)

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LEGEND

PO Presiding Officer – ALAN MACSPORRAN QC
CA Counsel Assisting – GLEN RICE QC
30 HRO Hearing Room Orderly – ISABELLA PATTON
W Witness – DONNA GATES
LR Legal Representative – B I MCMILLAN, instructed by Creevey Russell Lawyers

CA Commissioner, I call Ms Donna GATES, Councillor Donna GATES.

PO Thank you.

LR Commissioner, my name is MCMILLAN, initials B I, of counsel. I appear for Ms GATES, instructed by Creevey Russell Lawyers.

10 PO Thanks, Mr MCMILLAN. Ms GATES, do you have any objection to taking the oath?

W No.

HRO Please stand. Take the Bible in your right hand and repeat after me. The evidence.

W The evidence.

20 HRO Which I shall give.

W Which I shall give.

HRO In these proceedings.

W In these proceedings.

HRO Shall be the truth.

30 W Shall be the truth.

HRO The whole truth.

W The whole truth.

HRO And nothing but the truth.

W And nothing but the truth.

40 HRO So help me God.

W So help me God.

HRO Please be seated.

CA Is your name Donna GATES?

W It is.

50 CA Ms GATES, you are the councillor for Division 1 in the Gold Coast City Council?

W Yes.

CA Having been elected to that position in the 2016 elections?

W I was unopposed at the 2016 election.

CA Okay. You're now Deputy Mayor; correct?

W Yes.

CA You are appearing today in response to an attendance notice; is that right?

W I am.

10 CA Can I just show you this, firstly.

W Thank you.

CA Is that a copy of the notice you were given to appear today?

W It is.

CA I tender that, Commissioner.

20 PO Exhibit 77.

CA You first became a councillor in somewhat unusual circumstances, councillor; is that correct?

W I was appointed to council after the retirement of a sitting representative.

CA And is that because that representative retired within a short time before an election was due?

30 W It was five months before an election, and in those circumstances they don't go to by-election, so the council of the day makes an appointment after calling for nominations.

CA And presumably you did nominate and you were the successful appointee?

W Correct.

40 CA You were then elected, I think, in the 2008 elections?

W Yes.

CA And again in 2012?

W Yes.

CA In 2016, you pointed out you were not opposed?

50 W No.

CA Okay. Are you a member of any political party?

W No.

- CA Do you have a view on the desirability or otherwise of candidates at the Gold Coast local government level being party endorsed?
- W Being party endorsed?
- CA Well, yes, that is to say-
- W I don't believe anyone was party endorsed.
- 10 CA No. I'm asking, really, generally-
- W Yes.
- CA -whether you have a view about whether councillors should be party aligned as being endorsed by a party in the same fashion as state and federal, or not?
- 20 W I have a view that council, local government representatives should be independent because they have a specific passion for the area that they represent, and my view is that it's that passion that makes a good representative, not the membership of any political party.
- CA Some candidates and councillors are, however, members of political parties.
- W Yes.
- CA Does that impact on their independence that you regard as desirable?
- 30 W I don't believe so.
- CA You found out, I think, about five weeks before the 2016 election that you were not going to be opposed?
- W Something like that.
- CA One consequence is that you didn't have to print How to Vote Cards?
- W No.
- 40 CA Or man booths?
- W Right.
- CA That must have been a relief, I assume?
- W A big relief.
- 50 CA But you had, however, undertaken some fundraising in the course of the 2012 to 2016 term; correct?
- W Yes.
- CA I just want to ask you a bit about that.
- W Sure.

- CA How did you undertake fundraising for the purpose of your anticipated 2016 campaign?
- W I had two fundraising events, which were race days, whereby a database of potential attendees was formed and invitations issued.
- CA In what years were they held?
- 10 W 2014 and 2015.
- CA Were they the only two fundraising functions you conducted during that term?
- W Yes.
- CA You mentioned a database of potential invitees.
- W Mmm-hmm.
- 20 CA How was such a list devised or selected?
- W Initially, probably for the 2008 campaign, my son assisted with the beginnings of the database, and, as time went on, I used email addresses from contacts that I had made over the term of my representation.
- CA Were the invitees, then, persons with whom you had had some contact or were you casting the net wider?
- 30 W I cast the net wider.
- CA I'm really interested to know how you selected persons who might be on your invitation list. Were there any criteria?
- W No.
- CA How did you go about it, then? You just had the phonebook, or what?
- 40 W When my son started, with his staff, the initial list, it was simply based on businesses in the area of my representation. So that was the initial construction, and a lot of businesses that I had no knowledge of or contact with formed part of that initial database, which grew over the years, obviously, through my representation.
- CA So the focus, initially at least, was on businesses in your division?
- W Yes.
- 50 CA You say that that grew to include what kinds of people beyond the business community?
- W Well, it included all types of businesses - legal firms, firms that I had met through community meetings and business breakfasts, obviously the development industry. Everyone that I felt that I could seek support from to continue in my role.

- CA For each of these race days, having established a database such as you have described, how did you effect the invitation?
- W An invitation was designed and prepared, a date claimer was sent out notifying the proposed date, and thereafter an invitation issued, all by email.
- 10 CA Did the invitation make it plain in each case, 2014 and 2015, that the function was for fundraising purposes for you?
- W Yes.
- CA Do you recall what it said to indicate that?
- W I'm pretty sure it had the fundraising details on it, that it was an invitation to a race day, and it provided my campaign account details and the banking details for direct deposits into that account.
- 20 CA So is it fair to say that no-one could have any misunderstanding that the function was for campaign fundraising for you?
- W Absolutely. Very clear.
- CA When people decide to accept, presumably they need to make some payment?
- W Yes.
- 30 CA How was that arranged, for receipt of money?
- W There was a dedicated bank account for my campaign and those details were on the invitation. So I monitored the receipt of funds into that account.
- CA Where were the race days held, by the way?
- W At the Gold Coast Turf Club.
- 40 CA So all of the money by way of subscriptions for the day came into your dedicated bank account?
- W It did.
- CA And on the other side of the coin, there were expenses to be met for the conduct of these race days?
- W Yes.
- 50 CA Did they come out of the same account?
- W Yes.
- CA So for all intents and purposes, you kept a dedicated bank account, as required?

W Absolutely. Absolutely.

CA Both of those functions were quite successful, were they not?

W They were.

CA And you raised a lot of money?

W I did.

10 CA Can you give us some idea of the cost of tickets?

W The tickets were \$195 for a single ticket; a table of 10 was \$1,850; and a premium table was \$2,500.

CA Was that the same for each year?

W Yes.

20 CA As to the details of what was raised, you've set them out at some length in a disclosure return, have you not?

W Yes.

CA Can I take you to that?

W Sure.

CA I'll show you this.

30 W Thank you.

CA Is that a copy of a disclosure return that you submitted after the election, on 22 June 2016?

W Yes.

CA I keep referring to it as an "election". That's probably not quite accurate in your case; correct?

40 W Well, it's still an election. I get it.

CA But that's your return?

W Yes.

CA It discloses, doesn't it, the amounts that were raised across each of the two race days?

50 W Yes.

CA Being, in total, just under \$174,000?

W My return - this return does not indicate that amount, because it doesn't include amounts under \$200. This return only includes amounts over \$200. So the total on this one is \$166,945.

- CA I see. That's the typed list or spreadsheet that you're referring to?
- W Oh, I'm sorry, yes. I don't have anything-
- CA You're making the point-
- W I'm sorry, I see it here on the front page. Yes.
- 10 CA You were making the point, I think, that the proceeds from the race day, as per the schedule which is included, was \$166,000?
- W No. You were correct. The \$173,000 is the total amount, but that includes amounts under \$200-
- CA Understood.
- W -in addition to these that are identified as over.
- 20 CA You have shown 110 donors altogether?
- W Yes.
- CA But as you point out, they may include persons who donated under \$200?
- W Yes, they do.
- 30 CA Nonetheless, on the schedule of donors over \$200, there is still quite a large number of entries; do you agree?
- W Agree.
- CA Tell me this: the amounts that are shown there as against each of the persons identified, are all those amounts referable to the cost of tickets or are there donations in addition to the cost of tickets?
- W There are a couple of donations in addition to tickets. This is every amount over \$200 received during the declaration period.
- 40 CA What proportion of these would be - we don't have to have exact figures, but I just want to get a feel for what proportion would represent those who had purchased tickets?
- W Ninety-eight per cent.
- CA Okay. A very large proportion.
- W A very large proportion.
- 50 CA Even as we look down the list of donors, there are some names that are obviously referable to property interests or development interests; correct?
- W Correct.

- CA Without perhaps going through the whole thing, you may be aware of an ABC News article in July 2016 that referred to your disclosure return and suggested that of the amount shown, \$166,000 or so, about \$120,000 was referrable to the property industry and about-
- W I'm not aware of that media, but I would suggest that's probably correct.
- CA You say that sounds right?
- 10 W Possibly.
- CA The article goes on to say that \$80,000 of the money that's set out in the schedule comes from property developers.
- W Right.
- CA Does that sound correct?
- 20 W I honestly haven't gone into that detail, but significantly there were a lot of property interests at my race day.
- CA At the least, some tens of thousands of dollars?
- W Yes.
- CA In that category?
- W Yes.
- 30 CA Perhaps up to \$80,000?
- W Yes.
- CA And as we've noticed already, there are a lot of names, of amounts ranging between \$390 or so up to \$5,000 or more?
- W Yes.
- 40 CA Can I ask you this, then: having regard to the extent of financial support from property developers and other property interests, and given the wide number of donors, how do you go about managing actual or perceived conflicts between doing council business and the fact that property interests and property developers have substantially assisted your campaign?
- W I've maintained a list of donors and I carefully scrutinise the agendas which we get. We have two meeting rounds each - a meeting round each week and a full council thereafter, and I scrutinise the agendas to be sure that I identify any of the consultants to the industry or development industry that have provided me with support.
- 50 CA Do you use a list such as this?
- W Yes.
- CA I'm referring to the list on your disclosure return.

- W Yes.
- CA What course do you follow, then, if council business concerns an application or some other kind of business that concerns directly one of your donors?
- 10 W I make a declaration of the possibility of a perceived conflict at council meetings. I have, in the main, stayed in the room to vote in the public interest because I firmly believe that that's what I need to do.
- CA Well, what criterion do you apply between occasions when you stay in the room, which I think you said is what you do in the main-
- W Yes.
- CA -and when you excuse yourself? What's the criterion?
- 20 W I have not excluded myself from any decision based around a property application that I can recall in the term you refer to. I would exclude myself on the basis of any conflict of interest that I may have in terms of my membership of a board.
- CA So it's board membership?
- W Board membership and-
- CA That is the trigger to excusing yourself?
- 30 W Yes. I have felt that - I represent the northern Gold Coast. It's probably the most rapidly growing area in our country, and my knowledge now of the area extends over 20 years. I have felt there's more benefit in my being in the room to represent the community interests than my being outside of the room, where others don't have as significant experience, and so I have firmly maintained my position of being in the room to get the best community outcome.
- CA Would you accept, however, that there's a place in local government for the appearance of impartiality? The appearance of impartiality, I emphasise.
- 40 W I believe that I have been an honest and forthright representative. I don't think there is any problem with my integrity as far as my representation is concerned, regardless of any funds that I may have raised to help me ensure that I'm there.
- CA For the community to accept that, are you reliant on their view of your integrity?
- 50 W I'm relying on my view of my integrity.
- CA It's your own view?
- W It's my own view.
- CA And people have to take that on trust?

- W I believe I comply in every way by declaring the perception, the possible perception, of a conflict of interest but by doing the right thing if I'm in the room.
- CA Well, you've explained your position clearly.
- W Yes.
- 10 CA Thank you. But I am just wondering whether you accept that that leaves people to wonder about the appearance of impartiality, notwithstanding your declarations of integrity?
- W It's possible.
- CA To take an example of your approach, you may be aware of an article last year, in August, in the Gold Coast Bulletin about a development at Pimpama?
- 20 W I remember that well.
- CA The author of the article questioned your voting on a development application involving one of your donors who had attended your race day; correct?
- W Yes.
- CA And contributed \$500 to your campaign fund-
- 30 W Yes.
- CA -by that means?
- W Yes.
- CA You declared a conflict of interest on that occasion, I think, concerning that development application?
- W I did.
- 40 CA According to the report, you said that you were comfortable voting, guided as you were by recommendations made by council officers?
- W I was, but I made some changes that I wasn't happy with that I felt would be a better legacy for that area, and that was why the street frontages and - that's one thing. And I believe there was another one, I can't remember what it was, but the applicant had wanted 11-metre frontages, and I wanted 12 because I feel that it provides a better outcome for the community, so I had that change implemented.
- 50 CA Would you accept that even the fact that an article of that kind is written highlighting a conflict of interest, which you declared-
- W Yes.
- CA -followed by a vote by you in favour of a development, illustrates

the tension between the appearance of impartiality when donations are made to your campaign fund by developers?

W Possibly, yes.

CA Can I just ask you if you have a view about whether there is a better model for funding of local government campaigns than to receive large sums from developers and then simply make the declaration of interest and continue to vote, as you, in the main, do?

10

W I have felt that I've complied with the current regulations. If the regulations were differently constructed, it wouldn't concern me.

CA You recall being asked questions by Commission officers when they had an interview with you.

W Yes.

20

CA I think you may have said on that occasion that making a donation can open the window for an appointment with you?

W I think I recall suggesting that I would work a little longer hours in order to meet with someone if necessary, but I'm very open to appointments from anyone, no matter whether they've made a contribution to my campaign or not.

CA Knowing, as you do, the list of your donors-

30

W Yes.

CA - because, from the sound of it, you consult it regularly - is that right? Do you consult your list of donors regularly?

W No.

CA Only when you get an agenda for council business?

40

W I never seek consultation with them other than through the council process. They sometimes approach me for an appointment if they have a specific issue that they seek assistance on in the consideration of their development application. That's quite a common occurrence.

CA Does making a donation supporting you on your race days improve a donor's prospects of access to you?

50

W No, but, in all honesty, I would just make my day either start earlier or finish later to try and make myself available if it was something that was - that I could assist them with. On occasions, they might make contact with me, and if I knew the substance of the reason for the meeting, I might decline it.

CA Do you feel, having received money by way of support at your fundraising functions, that when a donor seeks to consult you about something, you have some obligation to make time available to the donor?

W I don't feel an obligation specifically in that regard. I feel an obligation in terms of being a local government representative. I don't always agree with what is put to me. I'm totally impartial in terms of my representation, other than getting the best outcome possible.

CA That's the evidence, Commissioner.

PO Mr RICE, did you want to tender that disclosure return?

10 CA Yes. I hadn't done so. I tender that disclosure return.

PO That's Exhibit 78. And did you wish to tender that more recent newspaper article you asked questions about, the August one?

CA No. I was really using it as an example to explore some of the issues, Commissioner. I hadn't proposed to tender it.

PO That's all right. Thank you.

20 Mr MCMILLAN, do you have any questions?

LR I have no questions, thank you, Commissioner.

PO Thank you, Ms GATES. You are excused.

W Thank you, Mr Chairman.

30 PO Mr RICE, I notice the time. Do you wish to have the morning break slightly early, before you call your next witness?

CA That might be convenient, Commissioner.

PO We will adjourn now and resume at 11.30.

SHORT ADJOURNMENT

40