



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: 31MINS)

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LEGEND

30 PO Presiding Officer – ALAN MACSPORRAN QC
CA Counsel Assisting – GLEN RICE QC
HRO Hearing Room Orderly – ISABELLA PATTON
W Witness – THOMAS TATE
LR Legal Representative – MR S W ZILLMAN, instructed by McGinness & Associates

CA Commissioner, I call Councillor Thomas TATE.

Commissioner, I have been notified that counsel for the next witness wants to have some discussion before his client gives evidence, so I would ask for a short adjournment.

PO Okay, we will stand it down and let me know when you are ready to proceed.

10

CA Thank you.

HRO This hearing is adjourned.

SHORT ADJOURNMENT

HRO This hearing is resumed.

PO Thank you. Yes, Mr RICE.

20

CA Commissioner, I call Councillor Thomas TATE.

LR Do you wish me to announce my appearance now?

PO Yes, go ahead, Mr ZILLMAN.

LR ZILLMAN is my name, initials S W. I am instructed by McGinness & Associates. I appear for Mayor TATE.

30

PO Mr TATE, do you have any objection to taking an oath?

W No, the Bible, yes.

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

W The evidence.

HRO Which I shall give.

40

W Which I shall give.

HRO In these proceedings.

W In these proceedings.

HRO Shall be the truth.

W Shall be the truth.

50

HRO The whole truth.

W The whole truth.

HRO And nothing but the truth.

- W And nothing but the truth.
- HRO So help me God.
- W So help me God.
- HRO Thank you. Please be seated.
- 10 CA Is your name Thomas Richard TATE?
- W Yes, it is.
- CA Mr TATE, you're the current Mayor of Gold Coast City Council?
- W Yes, I am.
- CA You were first elected to that position in 2012?
- 20 W That's correct.
- CA And re-elected in 2016?
- W Yes, I am.
- CA You are appearing today in response to a notice to attend?
- W Yes.
- 30 CA Can I show you this document, firstly?
- W Yes.
- CA Is that a copy of your attendance notice?
- W It is.
- CA I tender that, Commissioner.
- 40 PO Exhibit 81.
- CA Mr TATE, are you a member of the Liberal National Party?
- W Yes, I am.
- CA In fact, you're a life member; is that correct?
- W That's correct.
- 50 CA I've asked you about the 2012 and 2016 elections, but in fact you first contested the mayoralty for the Gold Coast in 2008; is that correct?
- W That's correct.
- CA In what circumstances did that come about, can you tell us?
- W I was approached at the time by the Liberal Party, so that was before

the amalgamation, and I was asked if I was interested to run as a Liberal mayoral candidate, and I didn't respond for quite some months. I actually took time to go to the Rugby World Cup. And by the time I got back, had another meeting and they asked a lot of questions about the polling and things like that, about party politics on the Gold Coast, I was convinced that conservative local government has an opportunity to make the Gold Coast a better place in '08.

- 10 CA So did you accept nomination endorsed by the Liberal National Party?
W Yes, you have to go up and do your speech and they vote on it, and I was voted on and became the Liberal mayoral candidate for the Gold Coast.
- CA In response to an approach by the party; correct?
W That's correct.
- 20 CA In fact, the Liberal National Party was putting together a team of Liberal candidates; is that correct?
W Yes. It was the Liberal Party only at that time. This is pre-amalgamation, and they wanted to run a full team, all 14 divisions plus the mayoralty.
- CA So were there 14 Liberal Party endorsed candidates running on a ticket?
W That's correct.
- CA You weren't successful on that occasion?
30 W No, I was not.
- CA To what extent was the team of 14 successful?
W None.
- CA None?
W No. Well, the electorate, people of the Gold Coast, voted that they don't
40 want party politics.
- CA Is that-
W Well, that's the message, so-
CA That was the message you took away?
W Absolutely, and democracy has spoken, and I went, "Well" - it was a surprise to me, of course. So the chapter closed at that time with party
50 politics.
- CA You mention the message that you and perhaps others took away from that experience. Does that message still hold true, that people of the Gold Coast are not really interested in party politics in local government?
W I believe so.

- CA You think that still holds true?
- W That's correct.
- CA That is despite the fact the Liberal National Party does pretty well at state and federal level on the Gold Coast?
- W LNP hold all 10 seats at state level and they hold all five seats at federal level on the Gold Coast.
- 10 CA In 2012 and again in 2016, you ran as an independent Mayor; correct?
- W Independent, yes.
- CA I think you may have even used the expression, when you were being interviewed, "full-on independent"; is that right?
- W Yes, because even though I nail my colours to the mast and I will not stray away from that - my beliefs is a conservative person. You can't just change your belief system there. But "independent" is independent from any influence from party politics, that is, you put the Gold Coast first, and that's what I put to the Gold Coast people.
- 20 CA And it is the case?
- W Absolutely.
- CA That's your approach?
- 30 W You can read the various media in the previous - in the 2012 part, when Premier NEWMAN was Premier, and there was quite a lot of - they call it a "stoush", but I just call it open debate, that I stood up for our city and did not toe the perceived LNP party lines.
- CA Do you promote yourself as an independent Mayor?
- W I just promote myself as me. I mean, I speak - whether it's being interviewed or anywhere, I just speak the way I speak. I tell them what's in my heart and my head and don't cloud it. So if some of my beliefs are consistent with conservative, so be it, but at times it may be consistent with Labor Party, you know, let's say the transport infrastructure matters, so we get on well on that part of it. So I put it to you this way: some people try to label me blue tie, being conservative. My response is that I wear gold tie, for the Gold Coast.
- 40 CA I asked you if you promoted yourself as independent. Do you do that, for example, on campaign material?
- W Yes, I do. So on - I don't refer to any party, LNP or Labor or any other party. So I am an independent.
- 50 CA Notwithstanding your life membership of the Liberal National Party?
- W Well, they give you a life membership and I figured the only way to get out of it is to lose your life, so I'll stay there for now, you know.

- CA Can I ask you about campaign funding and take the 2016 campaign to illustrate. How was your campaign funded, Mr TATE?
- W Well, it's fully self-funded by my wife, Ruth, and myself. Out of our own bank account, it's a little bit over \$182,000; plus the two entities that we own and operate, probably a few more dollars out of that, because it was easier to pay some accounts out of those funds; and we had in kind some sandwiches that were prepared, and that's about another \$1,400; and there was a bus rental and a car rental. Apart from that, there's no funding from a third party.
- 10
- CA Do you choose not to fundraise?
- W I believe that - yes, I do, and, of course, with - the decision is made jointly with your wife.
- CA Of course.
- W And it just - it makes it easier in your political life, because you're not beholden to any donors, and I will make my decision what's best for the Gold Coast.
- 20
- CA Is that why you choose not to fundraise or solicit donations, to keep yourself free of potential or even perceived influence?
- W Yes, it is.
- CA And it cost you a lot to create that position?
- 30 W Yes, cost is a relative term. I mean, the Gold Coast has been good to us with our business, and we own and operate family business there. We were blessed with all of that. So when you look at the relative cost, and for me to be able to be an independent Mayor and putting the city first without being beholden to anyone, I think it's a great thing if you can afford it.
- CA Does receiving donations create a position of difficulty for candidates who, unlike yourself, do receive them, particularly from developers?
- 40 W I can't speak for other candidates, what's in their heads. But for me, we budgeted for it. We can afford it. And it's just one less complicated matter to have to deal with. We're not arrogant to go, "I don't want help." When a developer wants to help, I normally say, "Well, you can. Come out and hand out for me, like the 850-plus volunteers. That's how you can help."
- CA Did you get assistance of that kind with volunteers?
- W I think there was a lot of - we garnished a lot of volunteers that had never done handing out How to Vote Cards before, because, as I went to various booths, a lot of people came up and said, "You know this is the first time I ever handed out for anyone." And I never asked what's their background, but the mood is, I think, through social media and Facebook and the like, and after serving one term, I think people just went, well, happy to back this guy because we know what he does.
- 50

- CA Were there some reports after the event of candidates assisting you by handing out or arranging to hand out your How to Vote Cards?
- W There were reports there, I mean, the local media, but I don't - I wouldn't rely on local media for evidence, you know, because something is - I don't know, it's third-hand. But when a volunteer and the like hands out for me, I'm grateful, very grateful. And if they decide to hand out for another candidate, well, that's their freedom of choice. I don't go, "It's me or nobody." I mean, that's - I wouldn't do that. So the reports would say that person handed out for both Tom and that other candidate. Well, I wouldn't - for a start, I didn't arrange it; secondly, it's their choice.
- 10
- CA You had a large number of booths to cover, about 80, I think; is that right?
- W More than 80.
- CA At which your How to Vote Card needed to be handed out?
- W Correct.
- 20
- CA How did you get enough volunteers?
- W It's a bit of a trade secret, but I'll share it with you.
- CA Okay.
- W You know, what you do is that - I ran a pretty good high-profile Facebook and I would say the majority of that are people who have been following me on Facebook for the last three or four years, and I put out there that I need help, and they will register and go to-
- 30
- CA Through a campaign manager?
- W Through a campaign - we had one person that did the volunteering part, so she would coordinate that part of it.
- Second to that, we had a lot of good volunteers from the 2012 campaign and so we sent an email out to say, "Can you help me again?", and I'd say the large majority put up their hand again. But in some circumstances, I would get - people said, "Look, I would love to help, but we're not in the city at the time because we're doing a cruise", or whatever. So we didn't have a lot of fallout from people just going, "Well, you didn't keep your promise. We're not going to hand out for you, and go and find somebody else." I didn't have a lot of that. For us to raise 800-plus volunteers, it was wonderful to see that support.
- 40
- CA Just going back to the reports of your cards being handed out by others, you say that was not by arrangement with you. Do you know how that came about?
- 50
- W I don't, actually, because some new candidates I had never met until the polling day or the pre-polling, and yet I've seen some of their volunteers handing my card out. And I did ask - like, of course, during campaigning, you're curious. They're not on your list of volunteers, but they're handing out your How To Vote.

What I can recollect is two important things. One was that one of the other candidates was walking up and down and very arrogant about it, another mayoral candidate, you know. And they didn't like it, so being an Aussie, to give them the finger, this is the best way to give them the finger: you support the other person. And I would say there was - at the pre-polling booth, a lot of that did happen. So when they see our people, well dressed, well spoken and polite about it, didn't rush to people, not rude or anything, well, maybe the mayoral candidate for that, Tom, is a good bloke. So that's how I would say.

10

CA Just to get back to the funding question, there are a variety of ways in which campaigns are funded - you're one who funds yourself, others accept donations, others fundraise, or a combination - and it can give rise to some problems of perception when donations are received. I think you have referred to that. What do you think, then, is the best funding model for local government elections?

W Oh, self-funding, yes.

20

CA Not everyone can do that.

W Not everyone can afford it. But to review that, maybe you can cap the funding required, so it's a lot more affordable. I'm saying for a normal candidate, instead of not having a cap at all, cap it down - I'm just taking a figure out of my head - you know, \$40,000. Well, you've got a good chance to get to \$40,000 fundraising or putting your own money in, without needing any big donor, let's say, involved.

30

On the mayoralty, well, it's a lot bigger campaign. It's 14 divisions. I'm not saying it's 40 times 14, but from my recollection, I'm happy for it to be capped off at \$100,000, whatever it is, so that people don't whinge about, "Oh, Tom is spending 200 grand. We're only spending 50. That's why he beat us." That's the message that they want to try to put forward. But, really, if you look at it, no, you can have the money, but if you don't have the right message and the right heart for the community, you can have all the money you like. If the message is wrong, people are not going to vote for you.

40

CA You've suggested capping as one option?

W I would say that.

CA That still leaves the question as to how the money under the cap is to be raised. Is it better to not accept donations from developers, to ban that?

W I only speak for me, Mr RICE. It's better for me not to ask for donation.

CA But as a commentary on the system, Mr TATE?

50

W As a commentary on the system, would I ban any particular group? Well, then you've got to define the group. No, I would cap the donation from any group, meaning if you're a big developer or a big union, well, the most you can give that candidate is five grand or whatever it is, so you don't see a big union giving 38 grand to a mayoral candidate, because one would say, "Hang on, that's kind of, you know, a bit beholden to them a bit, if somebody just gave you 38 grand", I would have thought

mentally.

So it's not just a cap on the campaign bit; I would put to you that if we're going ahead with donation still, cap the donation that's allowable. And I would say a lot of smart people are out there, but I would say that - I would group them that you don't go and start another business. Any commonality is a cap of five grand, so to speak.

- 10 CA Donations give rise to a need to make a disclosure return, don't they?
W Yes, they do.
- CA Under the *Local Government Electoral Act*, the timing of that is up to 15 weeks after the election.
W Yes.
- 20 CA Do you think that the timing of lodgement of a return making that kind of disclosure serves the electors' interests in knowing who candidates are being funded by before they vote?
W I would rather see the donation - I don't want to call it real time, because it's a bit hard for the person, but I would say if someone donates, I would say it's not so hard within 48 hours for you to put it up on your website, or whatever the reporting is, so that people know where the money is coming from, not after the game's over.
- 30 It's a bit like a game of Rugby League. You know, you want to know the salary cap is complied with right through, not, you won the trophy and, oh, by the way - it did happen, but, by the way, we've got a few more dollars coming in on the side that we didn't tell you about.
- So I'm saying be upfront. Work out the number of days. If they say 48 hours is too hard, okay, make it three days, whatever it is, but have it well in advance, so that as we go towards campaigning mode and go towards the polling booth, people know for sure where your funding is coming from.
- 40 CA You, as a sitting councillor, have an obligation, apart from the disclosure return to the Electoral Commission, to keep a register, a gift register?
W Yes.
- CA That is an obligation imposed on sitting councillors; am I right?
W That's right, yes.
- CA A new candidate doesn't make that kind of disclosure?
50 W No.
- CA Do you have any view about that?
W Well, that's - well, put it this way: if you want to be Mayor of a city, why not disclose now, like the current Mayor is doing? If you win, you're going to have to do it anyway, so might as well get in the habit of letting

people know the source of your funds.

CA That is not a requirement at the moment?

W No, it's not, but I'm saying maybe through this hearing, recommendation, state government - maybe they can tweak the law and make it more transparent.

CA Is that something you would favour?

10

W Absolutely I would, because I'm doing it now.

CA One of the forms of complaints that came in after the last election was about undeclared voting blocs, and I think the sharing of handing out How to Vote Card resources perhaps fuelled that a little bit. Can I ask you this: did you go out to assist anyone else's campaign?

W No.

20

CA Did you in fact assist anyone else's campaign?

W No.

CA Are there any voting blocs in council that you've observed?

W You know, I was concentrating on my campaign, so if my competitor, other mayoral candidates, got other help or other blocs, well, that's up to people to judge. I didn't go out of my way to find out if there's a - what do they call it?

30

CA A group?

W A group or similar interests, political interests - well, call it a group. So I don't think - I don't believe there was a group that ran on the City of the Gold Coast, to my knowledge.

CA One common feature of a number of candidates was the use of SHAC Communications, and you in fact used SHAC Communications for your campaign, did you not?

40

W Yes, I did.

CA You know Simone HOLZAPFEL?

W Yes, I do.

CA For how long have you known her, Mr TATE?

W '08.

50

CA She assisted you with that campaign?

W Yes, she did.

CA And each campaign since?

- W Yes, she did.
- CA Were you aware that other candidates for the 2016 campaign used the services of her business?
- W Not first-hand. I read about it in the local paper that somebody has engaged SHAC Communications, another candidate. I never raised it with Simone. That's her business. And I didn't discuss policy of anyone else. But, you know, if other people decided to use SHAC Communications, well, good luck to them.
- 10
- CA It wasn't by any arrangement with you?
- W Nobody arranged anything with me.
- CA One of the requirements on candidates, Mr TATE, is to use for campaign purposes a dedicated bank account.
- W Yes.
- 20 CA You had a bank account styled as Tom TATE Mayoral Account, did you?
- W Yes, I do.
- CA Can I suggest to you that you and your wife actually used a Westpac bank account for campaign purposes?
- W Yes, we do, and we use - we got NAB as well, I think. Our Visa Card is NAB or something.
- 30 CA I don't want to go to your banking records unless we need to.
- W Okay.
- CA But can I suggest this to you, that there was a Westpac account in your name and your wife's name, which was used for a combination of personal banking and your mayoral campaign?
- W That's correct.
- 40 CA It shouldn't have happened that way, do you accept?
- W I accept that.
- CA How could that occur with a campaigner as experienced as you, Mr TATE?
- W Well, when I looked at the intent of the law - I'm not a lawyer, as you know - it was about transparency, and if you can deliver that in your disclosure statement, I believe we did 100 per cent. People know if there's any third party payments. The mayoral account was set up so that if there's third party money coming in, it's to go in there and people can see the expenditure out of that account from the donation.
- 50
- On our personal account, my view is that Ruth and I are not third party, so to move the money in there, into the mayoral account, and expend it

out of there, it didn't serve any additional transparency, in my opinion. But I know that now, and I'll take it as read that, you know, in future campaigns I would do it differently.

CA But would you not have been aware of the requirement to maintain a dedicated campaign bank account? I mean, the fact that you had a mayoral account suggests that you were.

10 W I read the candidates guidelines and I went through that, and it was silent on the matter, on the candidates guidelines. As a candidate, we're off and running: you've got an account; a donation comes in; we use the money for the campaign. Meanwhile, when we're spending our own money, we've kept a clear record so that when it comes to disclosure, we can do it transparently.

CA I'm sorry, Mr TATE, were you not aware that there should have been a dedicated campaign account and that is a requirement under the Act?

20 W At that time, not until I read later on the disclosure guidelines, which is post the election, you don't have to disclose X number of weeks after, and that's when - the time that I went, well, we should have operated one account, even though it's your own money.

CA Yes.

W So it is a very unique set of circumstances, but I acknowledge, Mr RICE, that it's a better way of doing it, or the correct way of doing it.

30 CA Well, it's the lawful way of doing it, isn't it?

W Okay, I agree.

CA That is Mr TATE's evidence, Mr Commissioner.

PO Thank you, Mr RICE.

Mr ZILLMAN, do you have anything?

40 LR I have nothing, thank you.

PO Thank you, Mr TATE. Thanks for coming. You are excused.

W Thank you.

CA Those are the witnesses, I understand, scheduled for today, Commissioner.

PO Thank you. Who do we have for tomorrow, do you know yet?

50 CA Mr COMISKEY, I think, is first, Mr SHARPLESS, and Mr HALLAM from the Local Government Association.

PO I think, from memory, Mr HALLAM is not before 2 o'clock?

CA The same, I think, for Mr SHARPLESS. Mr COMISKEY will be earlier in the day.

PO So we will do Mr COMISKEY firstly and then the other two in the afternoon.

CA Yes.

PO Thank you. We will adjourn until 10 am tomorrow.

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UNPROOFED TRANSCRIPT