

QUEENSLAND
CRIME AND MISCONDUCT COMMISSION

Crime and Misconduct Act 2001
[Section 75]

NOTICE TO DISCOVER

(MISCONDUCT INVESTIGATION)

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 19/10/05
IN THE MATTER OF:

DP GRAND

EXHIBIT No. 107
CLERK

TO: Malcolm Ion CHALMERS
[REDACTED]

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 Ken BEMI 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 19 September 2005 at:

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

DATED this

8th

day of

September

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

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SCHEDULE

1. All documentation, 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 trust, direction, instruction or condition upon which you or Mal Chalmers & Company received funds with respect to the Gold Coast City Council elections of 27 March 2004.
 - (b) any trust, direction, instruction or condition upon which you or Mal Chalmers & Company paid out funds with respect to 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 Mal Chalmers & Company with any trust, direction, instruction or condition described in sub-paragraphs 1(a) and 1(b).
 - (d) the date the person or entity described in 1(c) issued you or Mal Chalmers & Company with any direction or condition described in sub-paragraphs 1(a) and 1(b).
 - (e) any request for information described in 1(a), 1(b) and 1(c) made to you or Mal Chalmers & Company by the candidate who received the benefit of funds paid out by you or or Mal Chalmers & Company described in 1(b).
 - (f) statements of account — held by you or Mal Chalmers & Company — 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 Mal Chalmers & Company 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 Mal Chalmers & Company 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) the nature and extent of the dealings between you or Mal Chalmers & Company 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, Greg Betts and any Chamber of Commerce in or about the Gold Coast or any member of any such Chamber of Commerce in respect of the possible nomination and election of any person at the Gold Coast City Council elections of 27 March 2004; and
 - (b) the dealings between you or Mal Chalmers & Company 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, Greg Betts and any Chamber of Commerce in or about the Gold Coast or any member of any such Chamber of Commerce 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.

STATEMENT OF MALCOLM ION CHALMERS

I MALCOLM ION CHALMERS of 1156 Gold Coast Highway, Palm Beach in the State of Queensland state as follows:-

1. I was admitted to practice in March of 1981 as a solicitor and have conducted business since then under the firm name "Mal Chalmers & Company" in various premises at Palm Beach. For a short period of time I traded as Chalmers O'Neill & Company in the late 1980's. Prior to that I did my articles with Ken Owen & Company Solicitors of Palm Beach (1976-1981).
2. In early 2004 I was approached by Mr Norm Rix of Family Assets Pty Ltd a client whom I had acted for and other members of his family on and off over a period of fifteen years. He told me that he was depositing the sum of \$5,000.00 into my trust account and provided him details of same to do so. Those funds were subsequently received on the 7th January 2005. On about the 14th January 2005 I had a telephone conversation with Mr Rix in which he indicated that he was going to make a donation to a Roxanne Scott a candidate for the Gold Coast City Councils elections to be held in March of that year. He told me that he wanted me to disperse the fund in accordance with the instructions of Roxanne Scott. He indicated to me that as a former councillor Ms Scott had approached him for some advice in respect of assisting her in her campaign. He was happy to assist her but wished me to distribute the funds because of work and other commitments. In addition he did not want to be contacted by all or sundry in respect of who he was making political donations to.
3. I received the letter dated 16th January 2005 from Roxanne Scott indicating that she had received an account for some promotion pens and this account was subsequently paid out of the funds in my trust account
4. I subsequently received another account form Binal Graphics for the sum of \$385.00 which was also paid. Subsequent to this in early February my book keeper Sybil Goldsworthy received a telephone call from Roxanne Scott indicating that she required the balance of the monies to be paid direct into her account for her campaign. This was done. I checked with Mr Rix to confirm his consent and he was in agreement with that proposal.
5. Full copies of trust account print outs and other correspondence in respect of the matter are enclosed with this statement. I did not keep any diary notes as Mr Rix was known well enough to me to act in accordance with the verbal instructions received from him. Mr Rix's family company is Family Assets Pty Ltd of PO Box 1, Ashmore City. The two directors are Mr Norm Rix and his son Mr Gregory Clifford Rix who resides at 38 Kawana Crescent, Ashmore in the state of Queensland. Mr Norm Rix temporarily resides at 147 Hedges Ave Mermaid Beach in the State of Queensland (he is currently building a house elsewhere).
6. Mr Ken Bemis who served the Notice to Discover upon me also asked me whether I knew a


MALCOLM ION CHALMERS
SOLICITOR

MARY SYBIL GOLDSWORTHY
COMMISSIONER FOR DECLARATIONS
No. 36483



Rod Jensen to which I responded no. He also asked me whether I had been involved with the Western Chamber of Commerce to which I also said no. I do not know of any Western Chamber of Commerce nor am I involved in any Chambers of Commerce on the Gold Coast or elsewhere. My only involvement with Chambers of Commerce was in the early 1980's when I commenced practice and assisted the Palm Beach Currumbin Chamber of Commerce to be set up. I am unaware whether that Chamber still continues and I had little involvement with that organisation other than to go to two or three meetings in the early 1980's. I am not a member of any political party.

7. The only knowledge I have of the matters raised in paragraph 4 of the Schedule are that the local press dealt with what is known as the "Lionel Barden Trust Fund". I read of this in mid 2004 in the "Gold Coast Sun". The "Gold Coast Sun" also dealt with the donation from my trust account to Roxanne Scott at the same time.
8. I have had no dealings with the people mentioned in Schedule 4 (a) and (b) and the parties known therein I have not met except for Jan Grew, Grant Pforr and Brian Rowe. I have met Jan Grew at school functions at All Saints School. I used to swim with Grant Pforr 40 years ago and have only met him briefly once since then. I met Brian Rowe at a school interview at Somerset College. As indicated earlier I have no knowledge of any of the Chambers of Commerce and any of the dealings of those parties in respect of the so called "Lionel Barden Trust Fund".
9. I was contacted by Mr Tony Davis of the Gold Coast City Council around the 21st August 2005 in respect of the matter after an article appeared in the Gold Coast Bulletin. Mr Davis indicated to me that I was not required to lodge a third party declaration as suggested by the Gold Coast Bulletin. He however did indicate to me that to complete my requirements I should disclose to Ms Roxanne Scott the principal donor of the sum of \$5,000.00. I did this in my letter on the 25th August 2005.



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Malcolm Ion Chalmers - Solicitor

