

CRIME & MISCONDUCT COMMISSION
No. 2008-5... Date 14 Dec 08
IN THE MATTER OF:

OF GRAND

EXHIBIT No. 323 (2002)
Williams.....CLERK

OPERATION GRAND

WITNESS:

DAVID LESLIE POWER

Crime and Misconduct Commission
Terrica Place
Cnr Creek and Adelaide Streets
BRISBANE QLD 4000
Telephone: 3360 6273

Ref: TH

6 September 2005

Mr Stephen Lambrides
Commissioner of Misconduct
Crime and Misconduct Commission
GPO Box 3123
BRISBANE QLD 4001

Dear Sir

David Leslie Power

We refer to our telephone conversation of even date (Mr Lambrides – Mr Murakami) wherein we claimed on behalf of our client privilege against self-incrimination in respect of the production of documents and information as required by the Notice to Discover served on our abovenamed client, and confirm that notwithstanding that claim you have required our client to produce the documents and information set out in the Notice.

Accordingly, we now **enclose** a copy of the Division 2 Interim/Final Return for the period 5 May 2000 to 5 May 2004, in further compliance with the requirements of Item 2 of the Schedule to the Notice to Discover.

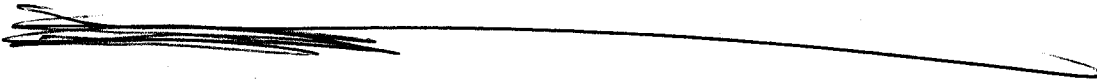
On our instructions all of the details available to our client in relation to the matters referred to in Item 3 of the Schedule are contained in the Return, a copy of which is **enclosed**.

Further in relation to Item 2 of the Schedule, our client does not have copies of the Bank Statements relating to his campaign account with the National Australia Bank, but he has requested copies of those Statements from the Bank and he instructs us that as soon as those Statements are to hand he will provide them to us so that we can on-forward them to you.

We further **enclose** a copy of a statement under the hand of Cr Power setting out the information referred to in Item 4 of the Schedule.

If our client can further assist in any way, please do not hesitate to contact us.

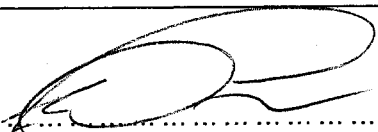
Yours faithfully
NYST LAWYERS


Contact: Chris Nyst (07) 5509 2400 cnyst@nystlawyers.com.au
Our reference: CJN:mf:0229/05C

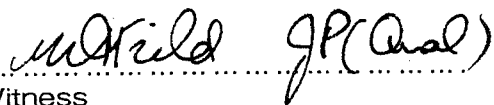
STATEMENT OF DAVID LESLIE POWER

1. I have been served with a Notice to Discover requiring me to provide certain information. I claim privilege from self incrimination in respect of that information. The information which I now provide subject to that claim of privilege is set out below.

2. I have been a Councillor with the Gold Coast City Council for the past approximately 15 years. During the 2000 – 2003 term it became apparent to me and various other councillors that problems were arising in the conduct of business by the Council, largely due to the behaviour of certain elected councillors. In particular, Councillors Dawn Crichlow, Eddy Sarroff and Peter Young seemed to use various issues to bolster their own support and denigrate their colleagues, without reference to the good governance of the City. By way of example, Eddy Sarroff, as Chair of the Finance Committee and former Mayor, Cr Gary Baildon, had publicly advocated to restrict staff levels on the basis that they were champions of ensuring that the Council did not turn into an unwieldy bureaucracy. However this approach was quite unreasonable and inappropriate in my view and had resulted in grave inefficiencies on the Council, particularly during a time of very extensive growth in population. During the period commencing in late 2001 there had been a huge influx of population resulting in various pressures on the City, for example in the areas of water supply, traffic, sewerage, processing of development applications and the like. However Eddy Sarroff, supported by Councillor Crichlow, advocated a

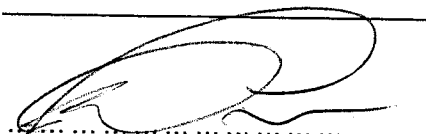

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Deponent

Page 1


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Witness

populist position that the Council should be kept small and rates restricted. We had seen a rise in construction costs significantly in excess of CPI and yet Councillor Sarroff and his supporters argued with much popular support that the rates rise should be restricted to a 2 1/2% rate rise. Additionally, Councillor Sarroff and his supporters took a populist anti-development approach which resulted in development applications consistent with the town planning scheme being rejected or modified or subjected to unworkable conditions.

3. Largely as a result of such inappropriate, overtly populist posturing in open Council meetings, these councillors often came into conflict with other councillors. At times they displayed poor behaviour during Council meetings, apparently with a view to impressing the public gallery. An example of this was a well-publicised affair during which Councillor Sarroff threw a bundle of Council papers at Mayor Baildon. On one occasion I had reason to eject him from a Committee meeting as a result of his use of inappropriate language. It was not uncommon for Councillors Sarroff, Crichlow and Young all to use very robust, aggressive and sometimes abusive language to other councillors in the Council meeting, again apparently for the purpose of impressing the public gallery. Additionally Councillor Young published a regular newsletter which contained highly inflammatory (and I would say defamatory) allegations against Council.



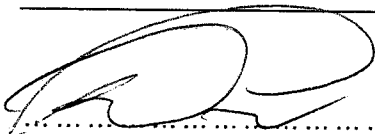
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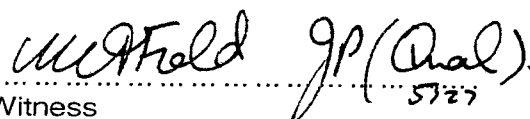
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4. It became increasingly clear that the behaviour of certain councillors was interfering with the good governance of the City. The Council was not dealing adequately with infrastructure issues or getting its business done efficiently, largely because a number of councillors in its ranks were grandstanding for their own political reasons. This became a subject of considerable discussion in the general Gold Coast community. The feedback that I was getting was that industry on the Gold Coast was concerned that the Council was not operating efficiently because of these private agendas and resultant disruptions.
5. In the run-up to the 2004 Gold Coast City Council elections it became apparent that a number of newcomers intended to nominate as candidates campaigning on a range of populist issues broadly consistent with the Sarroff/Crichlow/Young approach. Some of these newcomers banded together in a block which called itself the Concerned Ratepayers Group, who described themselves as like-minded people trying to get the numbers in Council as stated in Gold Coast Bulletin 23/12/03 to push forward certain issues. Many of the issues seemed to me and other councillors to be often inappropriate and self-serving. For example one of these candidates was calling for rates to be reduced on waterfront blocks, which not only would have affected the general revenue of the Council inappropriately, but would have operated quite inequitably to the many ratepayers who were not owners of waterfront properties.



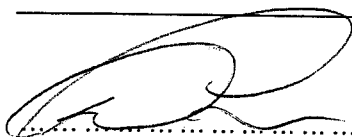
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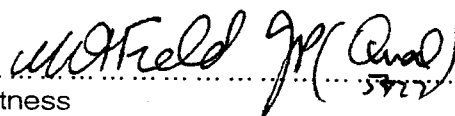
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6. It soon became apparent that these new candidates were organising themselves to target particular divisions. Many of the current councillors were concerned that if the Council was infused with any further "wild card" councillors the business of the Council would be further disrupted by inappropriate behaviour and eventually would become completely ineffective.
7. I was well aware that Crs Young, Critchlow and Sarroff had in the past provided advice and assistance to candidates running against sitting Councillors. Cr Sarroff was instrumental in Cr Young's successful defeat of the then Deputy Mayor Col Kleinsdhnidt in the 2000 Council elections. Cr Critchlow had campaigned against sitting Councillors and even acted as a booth worker for challenging candidates during the 2000 election.
8. In or about November 2003 I had a number of discussions with the late Councillor Sue Robbins about what I considered to be a looming problem. We decided to approach various industry and community leaders to discuss with them our concerns about the behaviour of some of the councillors to date and the apparent plan to field candidates within the Concerned Ratepayers Group block. Over a period of four to five weeks I had a number of informal discussions over the telephone and at social and other meetings with various industry and community representatives, developers and other businessmen. I asked them how they felt about how Council business was being conducted and they all seemed to generally agree that we



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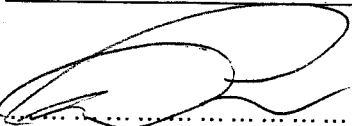
Page 4



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Witness


needed to get the Council under control, to focus on getting infrastructure built and to put adequate staff resources in place to ensure that Council business was conducted properly and efficiently.

9. At or about that time I attended a function hosted by the Combined Chambers of Commerce for the Premier Mr Beattie at a local Gold Coast hotel. At that meeting Premier Beattie made the point that the Gold Coast City Council needed to "get its act together" and from the podium he good-naturedly singled me out in the crowd saying words to the effect that I should do something about getting the house in order. This simply confirmed what I already knew, which was that everybody was aware that the goings-on in Council in recent times had been something of a circus and needed to be brought under control so that the City could be properly governed.
10. Against this background Sue Robbins and I arranged to have a meeting with the late Mr Brian Ray who was a prominent Gold Coast businessman, with a view to discussing with Brian how we might garner community support for candidates who we believed would take a serious approach to the governance of the City, and not simply push inappropriate issues for base political purposes. We chose Brian Ray because he was a well-known businessman with broad and high-level contacts across various industries on the Gold Coast and throughout Australia. We believed that with Brian's experience and contacts he would be able to provide us with some valuable insight as to how we might best try to get the Council back on track.



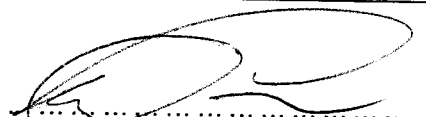
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Page 5



Witness

11. Brian suggested that we bring Tony Hickey into the discussion. I knew Tony as a well known Gold Coast lawyer and principal of the firm, Hickey Lawyers.
12. In or about late November 2003, Sue Robbins, Brian Ray, Tony Hickey and I met at a coffee shop at Varsity Lakes where we discussed the issue of Council's recent difficulties, and how things might be put in order. I believe that at that time it was proposed to the group that the Gold Coast business community get together to support, both politically and financially those Councillors who would be most likely to be responsible and effective in governing the city. Brian Ray suggested that we firstly decide what candidates we believed would be the most effective Councillors and then advise the business community of that view and call for financial and other support to maximise the chances of those Councillors being elected.
13. Following that meeting Sue Robbins and I did what we could to identify all current candidates, and form a view on whether each was more or less likely to be sensible and responsible in conducting the business of Council. We did not recruit any candidate. We simply reviewed those candidates who had already declared themselves, and in some cases we spoke to the candidates to satisfy ourselves that they would behave sensibly and responsibly in conducting Council affairs.



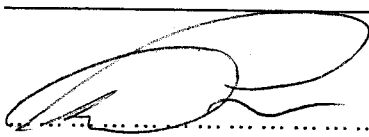
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Page 6



Witness

14. I believe I subsequently met representatives of the various Chambers of Commerce to discuss the list of candidates that Sue Robbins and I hoped the business community would support. I found that there was very little debate on any of our recommendations, as they were largely consistent with the view of the various chambers as to those candidates who were considered capable, sensible and responsible.
15. Once we had settled on a list of our preferred candidates, we started spreading the word throughout the business and broader community. I did this by speaking to people individually and also by utilising the network of the combined Chambers of Commerce, and the UDIA.
16. Sue Robbins, Brian Ray, Tony Hickey and I all agreed that we would let as many people as possible know whom we considered to be the preferred candidates.
17. I personally addressed this issue with Solheil Abedian (Sunland Group Limited), Bill Roche (Roche Group Pty Ltd), Brent Haley (Managing Director of Villaworld), Graham Ingles (in his capacity as the local President of the UDIA), and Col Dutton (Stockland Developments Pty Ltd). I believe that I also spoke to Greg Phillips about the issue at one stage, but I think he previously had been spoken to by one of the others and had already committed to support by then. I also discussed the issue at some stage with John Fish but from recollection he had by that time already committed himself to assisting Brian Rowe who was a candidate in Division 5 against Peter Young, because Brian was



Deponent


Page 7



Witness

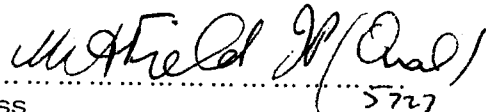
known to him. I do not specifically recall speaking to any of the others on the list of people referred in the Notice to Discover, but I may have. Certainly I was keen to speak to as many people as I possibly could.

18. I believe that I also spoke to one or more persons within the Marine Industry to try to garner Marine Industry support.
19. It was intended that we would seek financial and other support from the Gold Coast community, and in particular the business community, for our candidates. To that end, we would establish a fund into which financial contributions could be made and distributed to the various candidates.
20. The fund originally established was known as the Power and Robbins Trust. This was proposed by Sue Robbins and Brian Ray. A further fund or funds was established by Mr Lionel Barden, a member of the executive of the Gold Coast Combined Chambers of Commerce. I believe that Mr Barden established the Lionel Barden Commonsense Campaign Fund, the Lionel Barden Commonsense Trust, the Commonsense Trust, and the Lionel Barden Trust, but I have limited knowledge of these entities. They may in fact all be the same entity.
21. I believe that Hickey Lawyers was the firm retained to set up and administer this Trust or Trusts.



Deponent

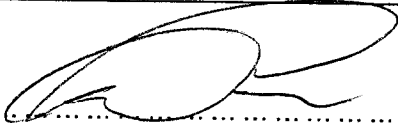
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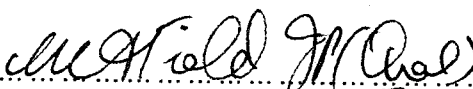
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22. I believe that I have had contact with all of the other persons and entities referred to in the Notice to Discover in my capacity as a Councillor with the possible exception of Great Southern Land GMBH, Rap Pacific Contractors Pty Ltd, and Blue Sky Capital Pty Ltd, whose names I do not currently recognise or recollect.
23. I have known Mr Graham Ingles of the Ingles Group (Qld) Pty Ltd for a number of years in the context of my role as Councillor. The Ingles Group, through one of their companies, contracted to purchase a parcel of land at Pimpama which included my property at 66 Cunningham Drive North, Pimpama, and those of four of my surrounding neighbours. I took no part in negotiating that transaction, which was solely negotiated on behalf of the various neighbouring land holders, including me, by my former neighbour, Mr Fred Taplin.
24. Brian Ray recommended that we use Quadrant to handle advertising and public relations. I recall that we had a meeting of various councillors who were intended to be supported at the offices of Quadrant. To the best of my recollection, Robert La Castra, Edward Shepherd, Sue Robbins, Grant Pforr, Brian Rowe, Rob Molhoek, Roxanne Scott and Greg Betts were all present at that meeting. I believe that I discussed with all present my view that it was important that we got sensible and responsible people onto the Council and for that reason I was prepared to advise them as to campaigning tactics. I believe I also told them that we were hoping to raise money from the community to support such candidates. At that time, we assumed that



Deponent

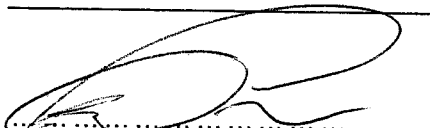
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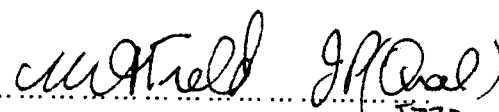
the financial support would come from all sectors of the community, and in particular, the business community of the Gold Coast. At that meeting the new candidates were Rob Molhoek, Roxanne Scott, Brian Rowe, Grant Pforr and Greg Betts. Sue Robbins, Bob La Castra, Ted Shepherd and I provided advice to them regarding their campaigns for election. We also discussed what we considered to be appropriate behaviour in conducting Council business which included remaining at all times independent and using their own judgment but being civilised, sensible and responsible about the way they conducted themselves in Council matters and maintaining a commitment to the good governance of the city as a whole.

25. I do not believe that I have had any dealings with Paul Wesley Brinsmead. I do not believe that I have ever met Mr Brinsmead. However, as mentioned above, I had dealings with Tony Hickey and Hickey Lawyers in relation to the establishment of a fund to support candidates in the 2004 elections. As I understand it, Hickey Lawyers acted as the trust lawyers for that purpose. Apart from a brief period when my name was used for the Power and Robbins Trust, I believe that my discussions with Tony Hickey were limited to efforts to source sufficient funds to support candidates. So far as I am aware, all funds received and disbursed by Hickey Lawyers were declared through third party returns as required by law. However, although I believe I may have been told by one or more persons that they intended to make contributions to the fund, I do not believe that I was ever involved in the actual receipt of funds, nor do I recollect ever being notified by Hickey



Deponent

Page 10



Witness

Lawyers or anyone else of the actual receipt of funds or the quantum of specific contributions made to the trust or what amounts were paid out to support the various individual candidates. I certainly received no funds from the trust.

26. Because all nomination forms were destroyed in accordance with legislative requirements, I cannot now recall the date that I announced my candidacy for the 2004 elections, nor the date on which I nominated as a candidate for the elections.

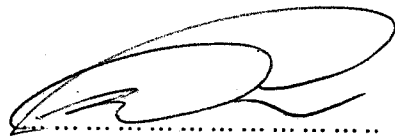
27. I did not have a campaign committee as such for the 2004 elections. I had a campaign manager, Mr Darryl Woods, of Woods Hatcher Solicitors of 29 Dreamworld Drive, Coomera. I do not know Mr Woods' residential address, as I never had cause to go to his home.

28. Mr Woods operated the campaign account which was held with the National Australia Bank at Nerang.

SIGNED by the abovenamed Deponent)

at *Southern* this *6th* day of)

September 2005 before me:)



W. J. Field *J.P. (Qual)*
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ATTACHMENT POWER. 1

3
Division
D

Section B - Candidates who received gifts during the disclosure period

Disclosure period covered by disclosure

Commencement Date: 5/5/2000
(Refer to Act to calculate commencement date)

Conclusion Date: 5/5/2000
(30 days after conclusion of the election - the election concludes when the last notice of the result is displayed in the Council's office)

Total value of all gifts received requiring disclosure received as an individual candidate and/or by the candidate's campaign committee: \$ 28,925

Number of person(s) who made those gifts: 246

If a gift or a series of gifts of a total value of \$200 or more was received by you as an individual candidate or by your campaign committee from any person or organisation during the disclosure period, insert the relevant details on the next page.

INTERIM*/FINAL*RETURN

Section B - Certification (as an individual candidate)

I certify that to the best of my knowledge and belief, this interim return contains the information readily available at the time the return is given and it is correct.* OR

I certify that to the best of my knowledge and belief, this final return contains the information readily available at the time the return is given and it is correct. I do not expect to receive any further gifts during the remainder of the disclosure period. However, should I receive any further gifts after the giving of this return I will disclose them by submitting a further return. * OR

I certify that to the best of my knowledge and belief, the information provided in this final return is correct and complete except to the extent identified below: *

Deficiency in return (please identify nature and particulars not able to be obtained).

Reason for deficiency (please identify why the particulars were not able to be obtained).

Person(s) who can supply missing particulars (please identify name and address of person and the reason for believing the person has the particulars).

SIGNATURE: [Handwritten Signature]

DATE: 5/5/2000

(* Note: Delete whichever is not applicable)

RECORD OF DETAILS OF GIFTS				
Name of Donor	Address of Donor	Date gift made	Amount or value of gift \$	Describe if gift in kind
WOLFE & SONS ACCOUNTS P/L	DEANWOOD ROAD COOMBERA	18/2/04	1,500.00	N/A.
CECILESE P/L	DEANWOOD ROAD COOMBERA	13/2/04	1,500.00	N/A.
MURPHY P/L	DEANWOOD ROAD COOMBERA	13/2/04	1,500.00	N/A
AUSTIN GROUP LTD	ROBINSON ROAD COOMBERA	25/2/04	5,000.00	N/A
EMERDENT P/L	OLD PACIFIC HIGHWAY COOMBERA	1/3/04	1,000.00	N/A
112 INVESTMENTS P/L	WATERLOO DRIVE COOMBERA	3/3/04	2,200.00	N/A
INGLES GROUP (P/L) P/L	WATERLOO DRIVE COOMBERA	3/3/04	2,000.00	N/A
ROBERTSON P/L	OLD PACIFIC HIGHWAY COOMBERA	4/3/04	250.00	N/A
ROBERTS HOLDINGS P/L	WATERLOO DRIVE COOMBERA	4/3/04	1,000.00	N/A
AHL LIMITED	NEW STATE RD COOMBERA	26/3/04	2,000.00	N/A
COOMBERA INVEST P/L	WATERLOO ROAD COOMBERA	2/3/04	1,000.00	N/A
LEWIS & CO GROUP P/L	OLD PACIFIC HIGHWAY COOMBERA	5/4/04	800.00	N/A
YARRAS P/L	OLD PACIFIC HIGHWAY COOMBERA	13/4/04	2,000.00	N/A
VARIES WAREHOUSE STOCKS		D/E 3/3/04	58,000.00	N/A
INDIVIDUAL BENEFICIALS LESS THAN 10%		D/E 5/4/04	10,750.00	N/A
CUTAGE P/L	DEANWOOD ROAD COOMBERA		1,100.00	USE OF ADVERTISING SIGN

(If more than one page is needed photocopy this page)

Crime and Misconduct Commission
 Level 3 Terrica Place
 140 Creek Street
 Brisbane Qld 4000
 Telephone (07) 3360 6060

CRIME AND MISCONDUCT COMMISSION PROPERTY RECEIPT

Receipt number: **P 05183**
 File reference: **MI-05-2481**
C. J. S. D.

OWNER: *David Lower* TELEPHONE:
 ADDRESS: *S/O N7-ST Lawyers, 16 Nering St, Southport*
 OCCUPIER OF PREMISES: *N7-ST Lawyers* TELEPHONE:
 ADDRESS: *ATS ABOVE*
 RECEIVED/SEIZED FROM: *JASON MURAKAMI, TELEPHONE 44499944*
 ADDRESS: *ATS ABOVE*
 DATE RECEIVED/SEIZED: *30/8/05* TIME RECEIVED/SEIZED: *N/A*
BY MAIL

AUTHORITY

Crime and Misconduct Act Police Powers & Responsibilities Act Other

Notice to a Unit of Public Administration (No. / . /) Search Warrant (No. /)

Authority to Enter (No. /) Emergency Search (No. /)

Notice to Produce (No. /) Covert Search Warrant (No. /)

Notice to Discover (No. *057, 0980*) Additional Powers (No. /)

Other (No. /) General Collection (No. /)

ITEM No.	ORIGINAL	COPY	DESCRIPTION OF ITEM RECEIVED/SEIZED	SPECIFIC LOCATION FROM WHICH ITEM WAS TAKEN	RETURN
1	<input checked="" type="checkbox"/>		<i>49 Documents in response to Notice to Discover 05/0080</i>		<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
					YES/NO
					YES/NO
					YES/NO
					YES/NO
					YES/NO
					YES/NO

Where property seized will be taken: Not known OR Location: *CMC, 140 Creek St, BRISBANE*

TO BE COMPLETED BY OWNER OF MATERIAL:

I, being the owner/in lawful possession of the property (delete whichever does not apply) before it was seized/supplied, consent to the Crime and Misconduct Commission keeping the property until the conclusion of any investigation or proceeding involving the property and any appeal.

NAME: *David Lower* SIGNATURE: DATE:

TO BE COMPLETED BY CMC OFFICER:

I acknowledge that the items listed herein are a true and correct record of the items provided to me seized by me; and I declare that a copy of this Property Receipt has been provided to the Supplier been left in a conspicuous place (specify:

not been left because there was no-one apparently in possession of the property/the property has been abandoned (delete whichever does not apply).

NAME: *Janischa Hansen* SIGNATURE: DATE: *12/9/05*
 TELEPHONE: IF ALSO A POLICE OFFICER: RANK: STATION:

TO BE COMPLETED BY SUPPLIER OF MATERIAL:

I acknowledge that this Property Receipt is a true and correct record of the items provided to/seized by the Crime and Misconduct Commission; and I acknowledge that a copy of this Property Receipt has been provided to me.

NAME: *JASON MURAKAMI* SIGNATURE: POSITION: *N7ST Lawyers* DATE:

SPECIAL REQUIREMENTS FOR THE RETURN OF PROPERTY

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CRIME AND MISCONDUCT
RECEIVED
30 AUG 2005
COMMISSION

nyst

lawyers | advisers

29 August 2005

BY EXPRESS POST

Attention: Mr Robert Martin Needham
Crimes & Misconduct Commission
GPO Box 3123
BRISBANE Q 4001

CMC CLASSIFICATION	
<input type="checkbox"/>	Highly Protected
<input type="checkbox"/>	Protected
<input type="checkbox"/>	In-Confidence
<input type="checkbox"/>	Unclassified
Initials:.....	
Date:...../...../.....	
Reg No: <u>OM05/14157</u>	

Dear Sir

David Power

We refer to your correspondence of 19 August 2005, which was received at our office on 22 August 2005, wherein you provided our client an extension of time to provide documents and statements pursuant to a section 75 Notice to Discover ("the Notice") under the *Crime and Misconduct Act 2001* ("the Act").

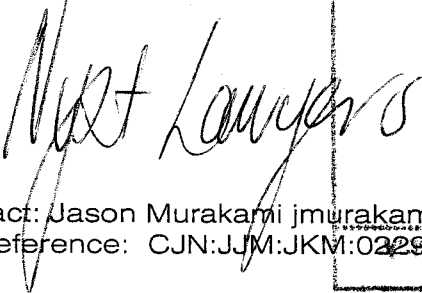
Please find **enclosed** our client's documents falling within paragraphs 1 and 2 of the Notice.

We have received instructions from our client to liaise with other parties regarding obtaining further documents which may also fall within paragraphs 1 and 2 of the Notice. We confirm that we are currently seeking instructions from our client with regard to providing statements pursuant to paragraph 3 and 4 of the Notice and expect to be able to revert to you within the next 7 days in relation to same.

Please be aware that our client claims privilege pursuant to Section 197 of the Act in relation to the provision of the enclosed documents, together with any further documents or statements which may be delivered in due course, pursuant to the Notice.

If you have any enquiries in relation to the above please do not hesitate to contact the writer.

Yours faithfully
NYST LAWYERS

Per: 

Contact: Jason Murakami jmurakami@nystlawyers.com.au
Our reference: CJN:JJM:JKM:0229/05C

