

QUEENSLAND
CRIME AND MISCONDUCT COMMISSION

Crime and Misconduct Act 2001
[Section 75]

NOTICE TO DISCOVER

(MISCONDUCT INVESTIGATION)

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 8 Nov 05
IN THE MATTER OF:

OP GRAND

EXHIBIT No. 177
.....CLERK

TO: Devine Limited
3 Westmoreland Boulevard
SPRINGWOOD QLD 4127

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

Under section 75(8) of the Act, the Notice may provide that its requirement may be met by a person or class of person acting for the person to whom the Notice is directed.

The following person or class of person may act on your behalf: Any person so appointed by the person to whom this notice is addressed

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, 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:
 - 1.1. In relation to any gifts, donations, services, benefits or funds (hereinafter collectively referred to as "gifts") you have provided, directly or indirectly through another person or entity, in relation to the Gold Coast City Council elections of 27 March 2004 (the election), to:
 - 1.1.1. Any candidate, whether successful or not, of the election;
 - 1.1.2. Lionel Barden;
 - 1.1.3. The Lionel Barden Commonsense Campaign Fund; the Lionel Barden Common Sense Trust; the Common Sense Trust; the Lionel Barden Trust; or the Power and Robbins Trust; and/or
 - 1.1.4. Hickey Lawyers and/or Paul Wesley Brinsmead.
 - 1.2. That may indicate the nature and extent of an association between David Leslie 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 or any combination of those people, in respect of the possible nomination and election of any of those persons at the Gold Coast City Council elections of 27 March 2004.

Including but not limited to:

- Correspondence (including email correspondence);
- Files, memoranda, diary entries, presentations, documents, notes, note books, meeting notes and other records of meetings;
- Advertisements, promotional material, advices, advertising strategies and records;
- Invoices, records of payment by you (or any other party), receipts, remittance advices or similar documents evidencing gifts you so provided; and
- Statements of account held with any financial institution evidencing gifts you so provided.

2. A written statement of information detailing all gifts, donations, services, benefits or funds (hereinafter collectively referred to as "gifts") you have provided, either directly, or indirectly through another person or entity, and whether or not provided wholly by yourself or in conjunction with others, in relation to the Gold Coast City Council elections of 27 March 2004 (the election) to:
 - 2.1 Any candidate, whether successful or not, of the election;
 - 2.2 Lionel Barden;
 - 2.3 Hickey Lawyers and/or Paul Wesley Brinsmead; and/or
 - 2.4 The Lionel Barden Commonsense Campaign Fund; the Lionel Barden Common Sense Trust; the Common Sense Trust; the Lionel Barden Trust; or the Power and Robbins Trust.

Including, but not limited to, the following information:

- The identity of the candidate(s) who would ultimately benefit from any such gift(s), including the identity of any third person or entity involved in the distribution or eventual provision of the gifts;
 - Whether any of the gifts provided were subject to any trust, direction or condition as to how the gift was to be expended and/or disbursed, and if so, the terms of such trust, direction or condition;
 - The nature of the gifts you provided. For example whether the gift was monetary, in-kind, or the provision of service;
 - The amount, or market value, of any gifts you provided;
 - The date you provided any gifts; and
 - Details of accounts held with any financial institution (including account number, account name and financial institution) that were used by you in providing gifts of monetary funds, and the date, amount and recipient of any such monetary gift.
3. A written statement of information detailing the knowledge of your directors, employees, or agents with respect to:
- 3.1 Your dealings with any of the following: any candidate, whether successful or not, of the election; Lionel Barden; the Lionel Barden Commonsense Campaign Fund; the Lionel Barden Common Sense Trust; the Common Sense Trust; the Lionel Barden Trust; the Power and Robbins Trust; or any person or entity associated with the aforementioned persons or entities in relation to the Gold Coast City Council elections of 27 March 2004;
 - 3.2 Your dealings with Paul Wesley Brinsmead and/or Hickey Lawyers in relation to the receipt of funds and/or the disbursement of funds by Paul Wesley Brinsmead and/or Hickey Lawyers that were received and/or disbursed for the benefit of the election campaign of any candidate, whether successful or not, of the Gold Coast City Council elections of 27 March 2004, or for a group of such candidates; and
 - 3.3 The nature and extent of an association between David Leslie 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 or any combination of those people, in respect of the possible nomination and election of any of those persons at 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.