

QUEENSLAND
CRIME AND MISCONDUCT COMMISSION

Crime and Misconduct Act 2001
[Section 75]

NOTICE TO DISCOVER
(MISCONDUCT INVESTIGATION)

CRIME & MISCONDUCT COMMISSION
No. 2005-5 Date 13 Dec 05
IN THE MATTER OF:

OP GRAND

EXHIBIT No. 315 (1042)
[Signature] CLERK

TO: Ronald William CLARKE
54 Midnight Court
RUNAWAY BAY QLD 4216

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 22 August 2005 at:

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

DATED this

12th

day of

August

2005

[Signature]

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: Amanda AUSTIN

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 the relevant details required by Chapter 5 Part 8 of the *Local Government Act 1993* including details of any gift, donations, services, benefits or funds (hereinafter collectively referred to as "gifts") you requested, were provided, or received, directly or indirectly, from any person or entity related to the Gold Coast City Council elections of 27 March 2004 including but not limited to:
 - Correspondence (including email correspondence);
 - Invoices, receipts, remittance advices or similar documents evidencing gifts you requested, were provided, or received; and
 - Statements of account held with any financial institution evidencing gifts you requested, were provided, or received.

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 (or any other party) 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 that is otherwise in your possession or under your control:
 - Relating to your candidacy or to your election campaign, or the candidacy of another 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 of 27 March 2004;
 - Relating to your dealings with any of the following: 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; Mandra Pty Ltd trading as Quadrant; Hickey Lawyers; Great Southern Land G.M.B.H.; Ray Group Pty Ltd; Gregory Phillips; Sunland Group Limited; Phil Sullivan; Fish Development Pty Ltd; Devine Ltd; Rapcivic Contractors Pty Ltd; Roche Group Pty Ltd; Villa World Limited; Ingles Group (QLD) Pty Ltd; Blue Sky Capital Pty Ltd; and Stockland Development Pty Ltd; 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; and
 - That may indicate the nature and extent of the association between yourself and David Power, Ray Hackwood, Robert La Castra, Edward (Ted) Shepherd, Jan Grew, Sue Robbins, Grant Pforr, Brian Rowe, Robert Molhoek, Roxanne Scott, Greg Betts, Tony Stephens of Darlington Park Raceway or the Gold Coast Licensed Venues Association in respect of the possible nomination and election of any candidate at the Gold Coast City Council elections of 27 March 2004.

3. A written statement of information detailing all donations, gifts, services, benefits or funds (hereinafter collectively referred to as "gifts") you or your campaign committee requested, were provided, or received either directly, or indirectly through another person or entity, and whether or not requested, or provided, or received wholly by yourself or in conjunction with

others, from any person or entity related to the Gold Coast City Council elections of 27 March 2004 including but not limited to:

- The identity of the person or entity who provided gifts, including the identity of any third person or entity involved in the distribution or eventual provision of the gifts to yourself;
- The nature of the gifts you requested, were provided, or received. For example whether the gift was monetary, in-kind, or the provision of service;
- The amount, or market value, of any gifts you requested, were provided, or received; and
- The date you requested, were provided, or received any gifts.

4. A written statement of information detailing:

- Your dealings with any of the following: 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; Mandra Pty Ltd trading as Quadrant; Hickey Lawyers; Great Southern Land G.M.B.H.; Ray Group Pty Ltd; Gregory Phillips; Sunland Group Limited; Phil Sullivan; Fish Development Pty Ltd; Devine Ltd; Rapcivic Contractors Pty Ltd; Roche Group Pty Ltd; Villa World Limited; Ingles Group (QLD) Pty Ltd; Blue Sky Capital Pty Ltd; and Stockland Development Pty Ltd; 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;
- The nature and extent of the association between yourself and David Power, Ray Hackwood, Robert La Castra, Edward (Ted) Shepherd, Jan Grew, Sue Robbins, Grant Pforr, Brian Rowe, Robert Molhoek, Roxanne Scott, Greg Betts, Tony Stephens of Darlington Park Raceway or the Gold Coast Licensed Venues Association in relation to the possible nomination and election of any candidate at the Gold Coast City Council elections of 27 March 2004;
- Your dealings with, and knowledge of, 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 yourself, a group of candidates, or any other candidate in respect of the Gold Coast City Council elections of 27 March 2004;
- The date that you announced you would be a candidate for the Gold Coast City Council elections of 27 March 2004;
- The date that you nominated as a candidate for the Gold Coast City Council elections of 27 March 2004;
- The name and residential and business address of each member of your campaign committee (as defined by s 426 of the *Local Government Act 1993*) for the Gold Coast City Council elections of 27 March 2004; and
- Any accounts held with any financial institution (including account number, account name and financial institution) that were used by you, your campaign committee, (as defined by s 426 of the *Local Government Act 1993*), any member of your campaign committee or any person acting for you or your campaign committee in relation to your campaign for the Gold Coast City Council elections of 27 March 2004.

5. A written statement of information detailing:
 - 5.1 Any gift or other disposition of property (as defined by section 414 of the *Local Government Act 1993*) received by you or a person acting on your behalf from another person or entity before the day you announced you would be, or before the day you nominated as, a candidate (which ever was earlier) in the elections for the Gold Coast City Council of 27 March 2004 used by you or a person acting on your behalf to incur expenditure related to the elections for the Gold Coast City Council of 27 March 2004;
 - 5.2 The person or entity who provided any such gift or other disposition of property referred to in 5.1 above; and the market value of any such gift or other disposition of property received by you or a person acting on your behalf; and
 - 5.3 All expenditures, and the total value of those expenditures, incurred by you or a person acting on your behalf in relation to the elections for the Gold Coast City Council 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.