

CRIME AND MISCONDUCT COMMISSION  
AT BRISBANE

CRIME & MISCONDUCT COMMISSION  
No. 2005-5... Date 7 FEB 06  
IN THE MATTER OF:

OP GRAND

CMC PUBLIC ENQUIRY – GOLD COAST CITY

EXHIBIT No. 338  
*[Signature]* CLERK

SUBMISSIONS ON BEHALF OF COUNCILLOR GRANT PFORR

1. Councillor Pforr ("Pforr") attended a meeting at Quadrant on 16 December 2003. At that time he had nominated as a candidate and was intending to fully fund his own campaign. Full details of that meeting are well documented.
2. Prior to attending the second meeting at Quadrant on 8 January 2004 and at the request of Chris Morgan he brought with him a "wish list" (T321 referred to on page 17 of Submissions by Counsel Assisting ("the Submission")). Pforr emerged from that meeting with an understanding that he would be receiving funding to offset his campaign expenses.
3. Pforr's interim return (part of Exhibit 4 referred to on page 53 of the Submission) was prepared by Pforr in accordance with his interpretation of the form itself. In the Donor Ward section of the "Relevant details of gifts", the form provides for "Name of Donor" and "Address of Donor". Pforr completed that document naming Hickey Lawyers and giving their address. Even if Pforr had completed the returns by naming Robbins and Power, following the line of the Submission, this return would have still been inadequate.
4. The interim return gives full disclosure in relation to the dates and amounts received. Prior to receiving the first cheque for \$7,500.00 Pforr was contacted by telephone by a woman who introduced herself as an employee of Hickey Lawyers and advised that she would be sending a cheque. She enquired as to his address. The cheque arrived within days of that conversation.
5. The final return which was signed by Pforr on 30 June 2004 again refers to the correct dates and amounts, with a further entry again referring to Hickey Lawyers with the date being 21 January 2004 and the amount \$22,414.69. In fact Pforr did not receive any cash payment and the notation was simply confirming a payment that had been made directly to Quadrant by Hickey Lawyers.

6. Prior to preparing the final return Pforr sought advice from Pat Crowley of Crowley Calvert Accountants of Palm Beach (page 54 of the Submission) to ensure that the return was accurate. We attach a copy of a self explanatory fax from Mr Crowley.
7. The exchange between Counsel Assisting and Pforr in relation to the first cheque for \$7,500.00 (page 54 of the Submission) is, in part, as follows:

*"So where did it come from? I don't know".*

8. This was a truthful answer on Pforr's part. He was firm in his evidence in that he did not wish to enquire as to who contributed to Hickey Lawyers Trust Account as he wished to ensure that he would not have any pressure or obligation imposed on him by any contributor in relation to his conduct or decisions, if elected.
9. Section 414 of the *Local Government Act 1993* ("the Act") (page 43 of the Submission), in the definition of "*relevant details*" states:

*"(b) for a gift purportedly made out of a trust fund or out of the funds of a foundation –*  
*(i) the names and residential or business addresses of the trustees of the fund or other persons responsible for the funds of the foundation; and*  
*(ii) the title or other description of the trust fund or the name of the foundation; or ..."*

10. It cannot be contended, in relation to the interim return, that Pforr was aware of the existence of the "Lionel Bardon Trust Fund". That was the name commonly used by the Gold Coast Bulletin from 26 March 2004. The definition, therefore, in (b)(ii) does not apply.
11. Whilst it may be the view of Hickey that he did not consider his Trust Account to be a "trust fund" for the purposes of the Act (page 43 of the Submission) that does not mean that Pforr had the same view. It is acknowledged that the Handbook *Disclosure of Election Gifts – Guidelines for Candidates and Councillors for Local Government Elections* ("the Handbook") sets out a specific process where funds are received from a Solicitors Trust Account (page 44 of the Submission). The Handbook is a "Guideline". It does not impose a statutory obligation. That obligation is imposed by Section 414 of the Act.

12. The Handbook appears to be an attempt at expanding on the statutory obligations imposed by Section 414 however it is that section which is mandatory, not the Handbook. It is therefore submitted that all returns are compliant with the statutory obligation imposed by the Act.
13. Pforr's clear obligation is to comply with the Act, not the Guidelines. Even if the Commission forms the view that the Guidelines bind all candidates, it is submitted that the worst that can be said of Pforr was that he made incorrect disclosure rather than non-disclosure. Referring specifically to section 436(2) of the Act (page 41 of the Submission), to successfully prosecute Pforr for an offence it must be established not only that Pforr had knowledge that the particulars were false and misleading but that the falsity was *in a material particular*.

14. Section 436(2) of the Act states:

*"A person must not give a return the person is required to give under division 3 containing particulars that are, to the knowledge of the person, false and misleading in the material particular".*


Given that Pforr complied with his statutory obligation, and completed all parts of the form, it is submitted that not only did he not have knowledge of the falsity but, in any event, it cannot be contended that the omission was a "material" particular. This is because particulars of donations could be obtained through viewing Third Party returns.

15. This was Pforr's first ever election campaign. His wife was his campaign manager. They did not have a campaign committee and door knocked over 12000 residences in the electoral area. They were both working full time on the campaign. Once elected, and prior to completion of the final return, Pforr became immediately involved in community events and Council business. He was bombarded with Council policy and working documents and was actively involved in Council affairs for up to 12 hours per day 7 days per week. The Guidelines are an 84 page document. It is questionable whether any candidate, particularly at their first election, would have the time or commitment to read and digest the Guidelines.
16. Pforr's actions in completing both returns were, at their very worst, an innocent mistake. By way of analogy, if a person was to receive a tax refund from the Australian Taxation Office, common usage would dictate that when the funds are deposited the

cheque is shown as having been drawn by the Australian Taxation Office, not the Commissioner of Taxation.

17. The Submission, at page 92, establishes that no report should be made under section 49 of the *Crime and Misconduct Act 2001* in relation to conflicts of interest or any criminal offence. The only complaint, therefore, is the state of the returns. With a view of preserving his independence, Pforr purposefully chose not to enquire of Hickey Lawyers as to who contributed to his campaign. As stated previously, it had always been his intention to fund the campaign personally. The worst that could be said of Pforr's conduct is that he could have paid more attention to the Guidelines which, as previously submitted, do not bind him.

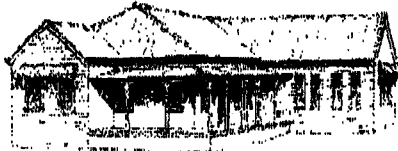
Dated this 2<sup>nd</sup> day of February 2006



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MARK REABURN

Solicitor for Councillor Grant Pforr



**REABURN SOLICITORS**

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DATE: 3 February 2006  
TO: Crime and Misconduct Commission  
ATTENTION: Danny Boyle  
FROM: Mark Reaburn  
FAX NO: 3360 6008  
OUR REF: MR:0600988  
TOTAL NO. OF PAGES: 2

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Dear Sir

**COUNCILLOR GRANT PFORR**

We attach copy of fax from Crowley Calvert & Associates Pty Ltd referred to in clause 6 not included in the Submissions as requested.

Yours faithfully  
**REABURN SOLICITORS**

**MARK REABURN**

Personal Assistant: Linda Cassidy  
Direct Phone: 07 5586 2218  
Direct E-mail: [lindac@reaburn.com.au](mailto:lindac@reaburn.com.au)

*If any part of this transmission is not received, please phone  
Reaburn Solicitors on 07 5586 2222*

Our Ref: PJC:HB:14483:LOCAL GOVT FORMS  
 Your Ref:  
 Contact: Pat Crowley  
 Date: 2 February 2006



Mr G Pfort  
 29 Lindsey Parade  
 PARADISE POINT KEYS QLD 4216  
 BY FACSIMILE: 07-55308660

Dear Grant

Further to your phone call of February 1<sup>st</sup>, we have reviewed your file with regard to services provided by our firm in relation to completion of certain Local Government Act forms.

Our records indicate that you attended our offices on 29 June 2004 at which time you requested our firm to assist you with the completion of the following forms:-

- Local Government Statement of Interests - Form 1 - Statement of Interests of a Councillor
- Local Government Statement of Interests - Form 2 - Statement of Interests of a Councillor's Related Person
- Local Government Statement of Interests - Form 3 - Notice of Correct Particulars for a Statement of Interests of a Councillor or a Councillor's Related Person

These forms were drafted by our firm for your signature in order to enable you to comply with the advised lodgement deadline of 5 July 2004.

These are the only forms prepared with our firm's assistance.

We trust this is sufficient to your requirements

Please do not hesitate to contact the writer if you have any further queries.

Yours sincerely

**CROWLEY CALVERT & ASSOCIATES PTY LTD**

**CROWLEY, CALVERT  
 ASSOCIATES PTY LTD**

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