

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST CITY COUNCIL

BRISBANE

..DATE 07/11/2005

CONTINUED FROM 28/10/2005

..DAY 12

07112005 D.12 T1/LM18 M/T 1/2005  
THE HEARING RESUMED AT 9.52 A.M.

CHAIRMAN: Yes, Mr Mulholland.

MR MULHOLLAND: Mr Chairman, I call Brian Phillip Rowe.

MR ROWE: Mr Chairman, am I at liberty to read my statement?

CHAIRMAN: Yes, certainly.

BRIAN PHILLIP ROWE, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Brian Phillip Rowe?-- That's correct.

Whereabouts do you presently live, Mr Rowe?-- In Western Australia.

Could you give the address please?-- 12 Teys Court, Mindarie.

And that is where?-- The northern beaches of Perth.

Thank you. Now your present occupation?-- Principal.

Did you receive from the Commission a notice to discover and also an attendance notice?-- The attendance notice, yes, I can recall.

All right. Have a look at this document please. Mr Chairman, I'm told that the lights-----

COURT REPORTER: Mikes.

MR MULHOLLAND: The mikes are not working. Would you have a look at this document please. Is that the attendance notice or summons you received?-- Yes.

I tender that, Mr Chairman.

CHAIRMAN: Everything's got a little bit confused here during the break. Can someone tell me what exhibit number we're up to?

ORDERLY: 152.

CHAIRMAN: Okay, thank you. That will be Exhibit 152.

ADMITTED AND MARKED "EXHIBIT 152"

XN: MR MULHOLLAND

1038

WIT: ROWE B P

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CHAIRMAN: That's the notice to attend.

MR MULHOLLAND: Did you also receive a notice to discover? That is, in relation to any documents in your possession?-- Not that I recall.

Look at this document please. Do you remember receiving that?-- No.

Well, were you informed that anyone received it on your behalf?-- I had a phone call at 6 o'clock in the morning Western Australian time by someone that was wanting to - wanting information from me and we had a subsequent phone call that I said I was now living in Perth, which he was unaware of, and that I didn't have any documentation because I'd thrown it all out at the time I moved, and then I don't believe that I got any paperwork beyond that.

So you have no recollection at all of receiving or being informed of a notice to discover?-- Unless it went to my solicitor I don't recall having seen that, no.

Well, I'll show this to you as well. Keep that there please just at the moment. I'm showing you a service notice indicating that that was served on Mr Yarwood?-- That's fine, yes.

Well, did you know that there had been a notice to discover served on Mr Yarwood?-- I do now but at the time-----

No, no. Did you know, was it communicated to you by Mr Yarwood that he had-----?-- Look, it may well be-----

Hold on, just wait for the question please. Was it communicated to you by Mr Yarwood that he had received a notice to you and that he had accepted it on your behalf?-- I can't recall but I do had - I did have a conversation with Michael where he asked - he asked me for documentation that I had so obviously that was it. So yes, I will say yes to the fact that I guess that's what it was. My apologies for that.

Right. So - and that would have been at or about the date of that-----?-- Correct.

-----service date?-- Yes.

I tender those two documents please.

CHAIRMAN: Yes, the notice to discover will be Exhibit 153, and the execution notice will be part of that same exhibit.

ADMITTED AND MARKED "EXHIBIT 153"

XN: MR MULHOLLAND

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WIT: ROWE B P

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MR MULHOLLAND: Now, I want you to have a look at these three  
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documents, and reading them into the record, one is a letter from Mr Yarwood, Michael Yarwood, dated the 26th of August 2005 addressed to the Crime and Misconduct Commission, the next appears to be a submission or stated to be a submission which I gather that, you can confirm this, is initialled by you, and finally a letter of the 11th of October 2005 again from Mr Yarwood addressed to the Commission. Look at those three documents in the order in which I have presented them to you please. Now first of all that first letter that I referred to you remember that being sent on your instructions to the Commission?-- I've seen that before, yes.

That's the one-page letter?-- Yes.

So did Mr Yarwood send it to you before he sent it to the Commission?-- No.

Well, did he obtain your instructions in relation to the matters contained in it?-- Yes.

So he spoke to you about what he intended to put in the letter and then sent you a copy?-- Yes, he - when he rang me about that he said time was very short and I was actually on camp and we had a very hurried phone conversation, there were some inaccuracies in it.

Right. We'll come to those in a moment. The next document is your submission, is that correct?-- That's correct.

And is that initialled by you on each page?-- That is correct.

Yes. And then the final document again a letter from Mr Yarwood?-- That's correct.

Was that written on your behalf?-- Yes.

And were you aware of the contents of it?-- Yes, I was.

Now Mr Rowe, in relation to the matters that you want to correct so far as that one page letter is concerned, are they all contained within your submission and the other letter or are there matters not in those other two documents which you want to address now?-- To the best of my knowledge I think we tidied up any - any loose ends.

Specifically is there anything in the documents that you want to address in so far as the accuracy of them is concerned?-- The document, the final one which has my initials on it-----

This is your submission?-- Yes.

Yes?-- Was the over-arching document of the three, so that was the one where if any - if anything had been - dates or whatever were incorrect that I'd managed to ascertain correct dates in that last one.

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WIT: ROWE B P

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Yes. So you're satisfied with the accuracy of the documents in so far as the first document may not have been completely accurate, that has been corrected in the later submission by

you?-- Yes, certainly in my submission I'm comfortable with everything that's in there, yes.

All right. Could I tender those three documents perhaps as part of that last exhibit or the-----

CHAIRMAN: To be all part of Exhibit 153-----

MR MULHOLLAND: 153.

CHAIRMAN: -----the notice to discover, yes.

ADMITTED AND MARKED "EXHIBIT 153"

CHAIRMAN: Could I just see them thanks. Yes, thank you.

MR MULHOLLAND: Mr Rowe, did you - you did not produce any records yourself to the Commission, is that correct?-- No.

Now, did you hold any documents in regard to your election campaign and then get rid of them? In other words, during the course of your election campaign did you keep records of some kind?-- No, most of the records were held at - or the records were held at the campaign chairman's office. The documents that I held were things like pamphlets, things like that that we'd used for promotional material throughout the - throughout the election.

Well, just would you deal with this, that in the response by your solicitor, Mr Yarwood, on the 26th of August 2005 he said, "I am instructed my client holds no documents, records, statements or otherwise as sought by the subpoena. It is the case that my client threw out any documents in his possession which would be duplicates only when he relocated to Perth in early 2005." Is that correct?-- Yeah, that would be a correct statement.

And do you know now what those documents were that you did throw out?-- It was - it was a cardboard box with a whole series of things to do with the election. I didn't go through the - I rummaged quickly and then said no, I won't need this any more, and-----

So did you consider whether or not there was a statutory obligation to keep records?-- No, I did not.

And no one gave you any advice in relation to whether or not there was a statutory obligation in relation to some of the records which you had in your possession to keep them?-- No.

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WIT: ROWE B P

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Now, can I firstly ask you to go to the circumstances in which you declared your candidacy for the March 2004 election. You - this is correct, is it not, that on the - you declared or you publicly announced that you would be a candidate in the Gold Coast Bulletin on the 28th of November 2003. Is that

correct?-- Yes.

And you would be a candidate, you announced at that time, for Division 5. Is that so?-- That's correct.

Now that Division meant that you would be competing against a Councillor Peter Young?-- Yes.

And as it turned out only the two of you contested that Division. Is that so?-- Correct.

That Division that you were representing, is that in the area of Nerang?-- Yes. Or part. Part of Nerang is in it, yes.

All right. And what other areas are within it?-- Pacific Pines, Gaven, Studio Village, Helensvale.

Right. All right. And that adjoins the Division 2 area, is that so?-- It shares a common boundary, yes.

It shares a common boundary. And it also shares a common boundary with another - a number of the other Divisions including Division 6 and Division 4. Is that correct? They are to the east of the Division, of Division 5?-- Yes, they probably do. Yes, I can't say categorically.

Now, in your statement you - in your submission you refer to a gala dinner that you attended and you say this on page 1 of your submission, "whilst at some time" - this is in relation to Lionel Barden as a subheading, and you spell Mr Barden's surname B-A-R-D-O-N - "whilst at some time in the past I had heard Lionel speak at a Coomera Chamber of Commerce meeting about his Innovations Showcase at Coolangatta I had met Lionel for the first time at the Gold Coast Bulletin Gold Coast Honours gala dinner awards, November 2003," and so on?-- Yes.

Now, at that dinner do you recall meeting or also a John Lang being there?-- Yes.

Yes, and do you remember Mr Molhoek also being there?-- Yes, I've met - met Rob.

Was he introduced to you during the evening?-- Yes.

And what if any conversation do you recall in relation to the coming election campaign? You hadn't, of course, publicly announced that you were running but I take it that you were giving it some consideration at this time?-- Certainly. I probably made the internal decision well and truly by then, yes. I don't recall anything specific, probably general conversation.

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WIT: ROWE B P

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Now, you were the headmaster at St Stephen's. Is that correct? And that's a private school?-- Correct.

That is - that's a school which opened, what, in about 1995, was it?-- Yes, '96.

Ninety-six?-- Yes.

And you were the first headmaster?-- Correct.

Had you given up your job at the school in late 2003?-- Yes, I'd - I had retired - or I had announced the fact that I would be finishing up at the end of that year in the middle of the year, and then I took subsequent long service leave and study leave, which completed that year.

Right. So you didn't actually attend the school any longer after the middle of the year?-- Only for official functions and end of year awards nights and those sorts of things.

Now, when you say "the middle of the year", could you just give us approximately - do the best you can - what month would it have been?-- July.

All right. And when was it that you first considered running in the forthcoming election?-- I was at a - I was at a function with John Lang. It's fair to say, out of the blue, he - he was asking what my next challenge was going to be and asked if I'd ever thought of Local Government.

Right. Well, now, this meeting in November, the Gold Coast Honours gala dinner, where you've been told occurred on the 12th of November, and - well, would you have any disagreement with that, that it was the 11th of November?-- Whatever date, I think that would be on record. Yeah, whatever-----

Sorry, the 12th of November?-- Sure.

Now, do you remember this? That at that meeting - or at that dinner when you did meet Mr Molhoek, there was some discussion, and some discussion involving yourself, Mr Molhoek and John Lang, and I want to just put this to you and ask you for your comment. This is a description of what occurred by Mr Molhoek. On that occasion, he said that he was introduced to John Lang and yourself, and there was - he said, "And suggested I meet with them as the Chamber of Commerce generally were concerned about the performance of the council and wanting to support quality candidates across the city." Do you remember a discussion like that occurring at that dinner?-- No, I don't.

Do you remember any discussion about the campaign at all?-- Other than general conversation about the election and the current performance of the council, no.

See, Mr Molhoek's recollection is that Mr Lang and yourself indicated that you were unhappy with the council at the time.

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WIT: ROWE B P

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What's your comment in relation to that? Did that occur? Did that conversation occur?-- I can't recall a specific conversation on that.

By this time, the 12th of November 2003, did you have a position in relation to the working of the council as to whether it was working or whether it needed some change?-- Oh, I had a personal view, along with a lot of other people on the coast, yes.

Now, you're a member of the Chamber of Commerce?-- Yes.

In which area?-- Coomera.

Coomera. Now, you were the vice-president there?-- I was a member of the committee.

A member of the committee, not the vice-president?-- I think I was just a committee member. I don't think I held the tag, vice-president.

Who was the president?-- John Lang.

And did that continue up until the end of 2003?-- Yes.

And who replaced him?-- I think he continued into 2004.

And did you remain a member of the commerce of the Chamber?-- Yes.

The same Chamber?-- Yes.

Now, do you remember also being present at any meeting that occurred at The Islander resort at Surfers Paradise?-- No.

Did you ever hear of such a meeting?-- No.

Did you ever have any discussions with Mr Lang or Mr Janssen in relation to the intention to gather a pool of money so as to deliver a group of like-minded candidates who would improve the council?-- No.

Never heard of such a meeting?-- No.

You knew Mr Janssen?-- Not at that point.

Well, now, Mr Lang became the chairman of your campaign election committee. Is that correct?-- Correct.

Mr Janssen, he also became a member of your committee?-- He wasn't a member of the committee. Bob was very enthusiastic about things in Nerang, but he wasn't a member of our committee.

Could the witness see Exhibit 118, please, Mr Chairman? Have you ever seen that document before?-- I would have.

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WIT: ROWE B P

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I can tell you that the records of the Commission that is obtained in relation to your campaign have come from Mr Lang including this document?-- Sure.

Now, look at the people shown as being on the campaign committee and make any comment you wish in relation to the accuracy of it. Were all those people on your committee or-----?-- No.

Who weren't?-- Bob Janssen and Michael Yarwood were not on the committee as such.

Please explain what you mean, as such? What's that?-- I used Michael. Michael had previously been in a campaign himself, he'd run campaigns with Lex Bell and with Gary Baildon, and we didn't have anyone who had experience. Michael was a friend of mine, had been for many years, and so I used Michael as a conduit into things campaigning. Bob Janssen was there at an invitation from John Lang and I think it was as a courtesy to Bob as the - and I'm guessing that this is John's thinking - as a courtesy to Bob he asked me to meet with Bob prior to announcing my candidacy, and it was the first time that I met Bob, and he then came to the first couple of meetings pledging any support that he could give, et cetera, et cetera, but it was only there in a capacity as assistant/advisory. He was never - he was never considered part of - and a fellow by the name of Peter Gillon who was a member of the committee. Peter, by virtue of where he lived up in the Numinbah Valley, had very spasmodic contact with the committee.

So this committee, I suppose in campaigns like this you'd have a committee, some of which members may not always attend meetings, committee meetings. I mean-----?-- Oh, no, they were pretty-----

Just what's the distinguishing feature of a person who you recognise as being a member of this committee and a person who isn't?-- well, this list would have been made by the secretary and-----

The secretary, so who was the secretary?-- Katherine Barry.

Yes?-- And she would have made that out of the people that were, you know, that were contacts, that may well be people who'd be contacting but Bob Janssen, Michael Yarwood weren't on the committee when we sat down and formed the committee.

Well, did you - did this committee keep any minutes?-- Yes.

So at some stage there would have been minutes of that committee?-- Yes.

Yes, and how often did it meet?-- At one - at one stage there I think - well, this is guesswork - probably fortnightly. We had breakfast meetings. So getting a bit closer, they were probably a bit more often than that.

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WIT: ROWE B P

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All right. And those meetings were not attended by Mr Yarwood or Mr Janssen?-- Some were attended by - by Michael. A few of the early ones were attended I think by Bob. They were not uninvited to the meetings.

I suppose if we had the minutes we'd be able to tell how was present and who wasn't. At any rate, you say that those minutes were kept?-- Yes.

And you met then for the duration of the campaign, did you?-- Yes.

Yes. Now, can I ask you about - before I do could you answer

this question please. You've referred to discussing running in the Division and talking to Mr Lang about it. What's the earliest time that you can recall discussing the matter with Mr Lang?-- July, which was when he first raised it.

Right. And thereafter how often did you discuss it with him?-- Two years ago. Chamber of Commerce meetings would have been occurring, potentially committee meetings for the Chamber of Commerce through those times. I can't tell you a regular time, it was just some ongoing chat. It was - I couldn't tell you the frequency at which it was happening.

So you were - were you enthusiastic about standing? Where you reluctant to stand? What was your position?-- I probably didn't have a thought initially when John asked me, it came a bit out of the blue. I'd always had an interest in local politics but I don't think I was doing backward somersaults the first time he mentioned it, no.

Did Mr Janssen encourage you to stand?-- No, the first time I met Bob was at a time fairly well the decision had been made and it was a courtesy that - well, I'm presuming that's what John was doing - that I go and speak with Bob about my intentions prior to it being in the paper.

Mr Janssen has told the Commission this in a statement, "The selection of candidates was almost wholly from those who'd already declared their intention to run. Business leaders and others questioned them as to their vision for the city and it was decided as to who the trust would back." Now when I refer to trust you know what I'm talking about?-- Sure.

"The only possible exception was Brian Rowe as we were looking for a credible candidate to stand against Councillor Young and as far as I'm aware John Lang, the then President of the Coomera Chamber, recruited Brian." Now, would you agree with that, that that's what happened?-- John was the one that spoke to me and planted the seed and I suppose watered it, yes.

Right. So he eventually persuaded you to stand, did he?-- Oh, no. I had to make that decision. He wasn't making that decision for me.

There is an e-mail which the Commission has noted from Mr Janssen to Mr Lang which is dated the 25th of November 2003.

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WIT: ROWE B P

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Now just keep that date in mind because you announced your - publicly announced that you would be a candidate on the 28th in the Bulletin, and in this e-mail Mr Janssen says to Mr Lang, "Firstly I met with Brian today," referring to yourself?-- Yes.

That is Mr Janssen met with you on the 25th. "I met with Brian today for lunch and gave him my assurance of support. I hope I did not give him cause for concern. You know how blunt I can be at times." Now do you remember around about that time meeting Mr Janssen for lunch?-- Yes.

Him indicating to you his assurance of support?-- That was the meeting which John had asked me to go to. His - yes, support is a fair - a fair call.

So you went to that meeting at the request of Mr Lang?-- Yes.

And what was the point of going along to the meeting?-- I think it was just out of courtesy, the chair - Chamber of Commerce chair, the Chamber of Commerce chair that I was going to stand and as the Chamber of Commerce in Nerang - I'm presuming, I'm not putting words in John's mouth, I hope - that John as a matter of courtesy to a fellow chair asked that I go and speak with him.

He went on, as I've said, to say in this e-mail, "I hope I did not give him cause for concern. You know how blunt I can be at times." Can you shed any light as to what might - that might be a reference to? Anything that occurred at that luncheon that you had with him which might explain that remark?-- I think Bob was just one of many people that felt that I'd taken on a task that was bigger than climbing Mount Everest.

I suppose you knew that?-- Oh, yes.

Because you knew that it would have been a formidable thing for you to take on Mr Young?-- Yes.

And that might have - that would have been, I suppose, one of the reasons why you hesitated before deciding to run?-- Oh, no. The reason for my hesitation was not whether or not I thought I could win it, but whether or not I wanted to make the commitment to put my hand up and be counted.

Now, that commitment, of course, requires a number of things. One is you'd need to be assured that you had a body of support that you could depend on. Is that correct?-- Yes.

And you were trying to satisfy that in the contacts that you had with Mr Lang and people like Mr Janssen, and other business people. That you had a support base out there?-- Yes.

And you would have, I suggest, considered that support base, how many people you could identify, before you made a decision as to whether or not to run. Would that be correct?-- I don't

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know that I was ticking them off. There was general - there was a sense of change in the wind with regards to council. I think that there was probably some support for change in council, but I didn't necessarily go around ticking off those that were going to be marvellous support.

Well, let's see if we can identify the people that you talked to before making the decision to run. Mr Lang is one?-- Yes.

Mr Janssen is another?-- No, that's not correct. I made the decision to run, and it was only courtesy that I spoke with Bob.

Right. Mr Yarwood?-- I had discussed with Michael about what was going to be involved, yes.

Right. So he was one of those people that you referred to

earlier-----?-- Yes.

-----that you canvassed. Who else?-- Lex Bell.

Right. Yes?-- Colin Kleinschmidt, who had been the former member there. I think I spoke with Colin after I'd announced my candidacy, though, but there had been through John the fact that Col would be supported, but I don't think I'd spoken to him prior.

Other Chamber of Commerce people?-- No.

Did you know Mr Ray? Brian Ray?-- Brian. Oh, very well, yes.

Did you discuss the matter with Mr Ray?-- No, I did not.

Why didn't you discuss it with him if you knew him very well?-- I didn't come across Brian's company over that time.

If you knew him very well and you were considering running in the division and you were canvassing support, why wouldn't you not speak to a person like Brian Ray?-- Well, I knew Gary Baildon very well too, but I didn't speak with Gary. It's - there's a whole series of people I could have spoken to. I spoke with people that have involved with elections before and could give me an indication of what - campaigning and being involved in an election was going to be like.

Now, apart from human support that you were looking for, you also had to consider the question of how much it would cost. Is that correct?-- Yes.

Right. Did you consider that?-- Yes.

And how did you form some estimate as to how much it would cost and how you would fund that cost?-- The issue - once you decided to go, I suppose the issue was whether or not you were going to do it on a shoestring or you were going to be trying to do it bigger and better. I was always prepared to go-----

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WIT: ROWE B P

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You mean do it on a shoestring?-- If need be if I was - John was of the belief that we had enough local business support that we could probably generate reasonable support.

Right. Do you mean funding?-- Yes.

Right. By way of donations?-- Yes.

So you gathered that from conversations you had with Mr Lang. Is that right?-- Well, we spoke about issues, yeah.

I mean, you seem hesitant to-----?-- No, the-----

-----embrace it?-- -----issue of funding wasn't a contingency on whether or not I ran. My view on running was whether or not I wanted to make my statement and express my frustration at what was happening.

Right. So you did not consider the question as to whether or

not you had enough money, or would be able to get enough funding, if you ran before you made the decision to run. Is that what you say?-- That would be correct.

So you were determined to go ahead on your own, if necessary out of your own funds, and with whatever support you could get through your contact with Mr Lang?-- Yes.

And that was your position?-- Yes.

And when did you make the decision to run? When in relation to that public announcement on the 28th of November 2003?-- Are you talking about the time I personally made the decision?

Well, what other sort of decision would there be?-- Oh, well, yeah, it would have been in advance of that. I'd been overseas, and I think when I came back, it was probably around October-ish, early November, around then that I solidified my thinking.

Can I ask you to have a look at - this is in Exhibit 3, Mr Chairman, one of these articles, number - at page 6. Now, what I'm asking you to look at, Mr Rowe, is a Gold Coast Bulletin article for Saturday, the 22nd of November 2003, headed "Rowe Eyes Council. St Stephen's College principal, Brian Rowe, is considering contesting the March council election. Mr Rowe, who is on long service leave from his school duties, confirmed this week that he was toying with the idea of running in division 5 or division 3. He had been approached by a number of people keen to see him in council, and was yet to decide, said Mr Rowe, who has run the school since it was founded eight years ago", and then, "I'm considering a lot of options. There's a chance, he said. There's a lot of interest there. I've got to weigh everything up." Now, first of all, in so far as the comments attributed to you in that article, are they accurate?-- I think that's fair.

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Right. Well, this is the 22nd of November. The 28th was your announcement in the Bulletin?-- Mmm-hmm.

And it's been reported that you were toying with the idea of running. It doesn't suggest, Mr Rowe, that you had solidified things in early November?-- Oh, well I had.

Well, you mean to say you had but you weren't telling the Bulletin?-- That's probably fair.

Well, why would you do that?-- Oh, I think that was a fair enough statement at the time that I wanted to announce my candidacy in my own time, not through an incidental comment.

Well, this is really suggesting that you'd been approached by a number of people who were keen to see you in council. One of those we know about, Mr Lang. Who are the others?-- Oh, I don't know. You'd have to ask the person who knows the outcome.

No, no, you're the one - you've agreed that this is what you

said. Who were you referring to?-- John was really the only approach. I'd sought the counsel of others.

So that was just a bit of embellishment perhaps?-- Yeah.

"I'm considering a lot of options. There's a chance." Again, was it correct that you were considering a lot of options, or did you just say that?-- No, that was just - I - as I say, I wanted to announce my candidacy in my own time.

So that was incorrect. It wasn't correct you were considering a lot of options. You'd already solidified-----?-- That's correct.

-----making a decision to run?-- Yes.

And, "There's a chance." well, it was-----?-- It was a very good chance.

-----more than a chance?-- It was a very good chance.

That was also inaccurate?-- I suppose I could have changed my mind, but - but-----

well, how likely was that-----?-- Oh, it was-----

-----if you'd solidified it?-- -----very unlikely.

"There's a lot of interest there. I've got to weigh everything up again." That wasn't correct. You'd already weighed things up and decided to run?-- That's correct.

All right. Now, can I ask you to turn to number 29, or page 29 and you'll see in there - this is an article of the 25th of March 2004, the Ray Powers - the bloc article in the Bulletin, and in it you'll see a reference to yourself on the second

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page there if you go down about two-thirds of the way down the page?-- Mmm.

I'll just read this to you. You tell me whether you agree with what's attributed to you. "Former St Stephen's College principal Brian Rowe, who is running a \$40,000 plus campaign against Peter Young, said friends and family were largely responsible for his funding. His campaign has included at least four mail outs to every resident in the Division, one of which was a quality production video. He was yesterday unable to contact his campaign director, real estate agent John Lang, to obtain specific funding details. Mr Rowe was, however, aware that a trust fund was available to be used by certain candidates but said he did not know the source of those funds. He said it would not have surprised him to discover that money had been contributed by developers. 'I had money from a trust fund but I'm unsure who's made contributions to any of that,' said Mr Rowe. 'That's one of the things I presume John was talking about. He said he can't release names because he has to go back to them and ask if they mind because of the privacy laws. I've had enough trouble being a candidate let alone worrying about funding.'" And then you go on to say, "'At the time I was considering that (running for council) I knew that

we were going to need a budget. You don't go in with two and six. I was aware of the fact that there were moneys available if I was prepared to run as a candidate. The intricacies of where that money was coming from I'm unaware. Other money has come from family and friends.'" Now, was that all correctly attributed to you or will you disagree with any of it?-- Oh, it's fairly much the gist of the conversation we had, I think.

All right. Well, at the moment I'm not going to deal with the question of what you said so far as how much you're receiving and where it was coming from but I want to ask you about this comment that you made, "At the time I was considering," that is running for council?-- Mmm-hmm.

"I knew that we were going to need a budget. You don't go in with two and six"?-- Yes.

"I was aware of the fact that there were moneys available if I was prepared to run as a candidate"?-- That's correct.

Now that suggests that at the time that you were - prior to your announcing your candidacy that you had been made aware that there were moneys available if you did decide to run. Is that so?-- The only moneys I was aware that would be available are those that John Lang and myself had talked about with regards to support we'd get in the area.

John Lang and you spoke about support that you would get in the area?-- Yes.

And so, what, are you saying that when you made reference here to the Bulletin that you were aware that there were moneys available this was moneys that you were going to get in the area, not any moneys that eventually came to you from the so-called trust?-- Yeah, I was unaware of the moneys being

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available from the trust prior to my candidacy being announced.

You see, the Commission has received evidence to suggest that there were discussions in November involving Mr Ray and also involving Mr Power and that it was in November that the idea of a fund was decided upon and both of those gentlemen were involved in that decision, Mr Rowe having spoken to people about it and then having made a direct request of Mr Ray. Are you saying that prior to making-----

MR WEBB: I think my learned friend was-----

CHAIRMAN: Yes.

MR WEBB: Mr Power.

CHAIRMAN: Yes, I think-----

MR MULHOLLAND: Sorry, Mr Power.

MR WEBB: It's not making any sense.

MR MULHOLLAND: Are you saying that prior to announcing your candidacy on the 28th of November that you had no idea of a

fund that was to be gathered with a view to supporting candidates at the forthcoming election?-- Yes.

Had no idea of that?-- None.

If it was going on at the time you just didn't know about it?-- Yes.

And all of this, this conversation on the topic that you were having in March of 2004 with the Bulletin, that was a reference to other moneys? This is moneys locally that you and Mr Lang knew about but didn't involve the fund that you were eventually supported by. Is that what you're saying?-- Yeah, I didn't know about the existence of any fund prior to announcing my candidacy.

Well, starting then with your - with that - what you've just said, that it was moneys that were being made available or you expected to be made available if you were prepared to run, what moneys are we talking about? How much money?-- Oh, we hadn't put - indications from others that had been through - through campaigns suggested you're probably talking 30,000 minimum to run a campaign.

It would take 30,000 minimum. Right?-- That was the feedback, yes.

And how much of your own money were you prepared to - this is prior to making the decision - how much of your own money were you prepared to put towards that campaign?-- well, it wasn't going to be - wasn't going to be 30,000. I couldn't have afforded that.

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Right. Well, how much did you decide you could afford?-- we hadn't put a figure on it.

You hadn't put any figure on it?-- No.

Well, Mr Rowe, you're a headmaster of a school, an important job involving a lot of responsibility. Here you are making a decision to run for a Division at the council elections. Surely you would have considered in some considerable details - detail how much it would cost, how much you could afford to contribute and how much you would need from others before you made that decision?-- I suppose the amount that I was going to contribute was going to be dependent on what we could get from others, but in discussing with my wife we hadn't come up with a figure but we knew that it was probably going to attack our bank account in some way, shape or form.

You're really asking us to believe that you-----?-- well, look, you can-----

No, hold on. You're really asking the Commission to believe that a person in your position would leave things on that basis without having any idea at all how much it was going to cost you?-- No, I - our initial - our initial inquiries of those that had sat before suggested \$30,000 minimum would be what you were looking at to run a reasonable campaign.

Right. And of that 30,000 minimum how much did you consider that you would be able to contribute?-- well, until such time as we knew what sort of support we may get from local business and whatever I suppose I was in the position of picking up a shortfall.

Did you have any upper figure of what you would like to receive towards your campaign if 30 was the minimum? What was the upper limit?-- The campaign - the campaign was always going to be difficult. If we were going to - we were on a hiding to nothing. If we were going to be successful - we probably weren't going to be successful on 30 but we'd give it a good show.

Yes. Now, while you have those articles there, if you'd also go to the article for the 27th March. This is at page 33, have you found that?-- Yes.

If you go down again two-thirds of the way down the page, I'll read what is said in relation to you. This is an article in the Bulletin of 27th March headed "Three Admit to Fund" and in relation to yourself the article says this. "Brian Rowe, who is contesting division 5, yesterday told the Bulletin he had sourced money from the fund but did not know how much. His campaign director, Coomera real estate agent John Lang, said Mr Rowe's campaign had received three cheques from the fund for a total of \$20,000. The other \$40,000 had come from a range of sources including publicans, business people and developers. Mr Rowe said he stood by the concept of the trust fund and without it he would not have run for Council." Now

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is that in so far as what is attributed to you there correct?-- It's an incorrect statement.

What do you mean, that you didn't say that?-- well, I - I was running for Council prior to the existence or the knowledge of the existence of the trust fund, but I certainly couldn't have done it with anywhere near the sort of format that we did it before without the support of the trust.

So you mean to say, what, you're looking back in hindsight?-- No.

Mr Rowe said he stood by the concept of the trust fund and without it he would not have run for Council?-- Oh, well, look whether or not I said that as a quote, I can't - I can't recall but I certainly can say without the support of the trust fund I couldn't have run anywhere near the campaign that - that I had, but I was always running for Council.

Well, what I'm suggesting to you is that taken in the way in which I've put it to you, it's inconsistent with what you have said because it suggests that prior to deciding to run, you knew about the trust fund and you say you didn't?-- No, that's correct.

So that's why I say to you are you saying that you're really looking back in hindsight here and saying, well, without it you would not have run for Council?-- No, I was always running. I was always running. How vigorously I was running,

I suppose, is what it would be.

I thought you said, Mr Rowe, that you weren't always running but you solidified things in early November. Is that correct or not?-- Yes.

All right, so you're clear at least on this that so far as any decision to run is concerned, that decision was made before you had any funding support apart from the suggestion from Mr Lang that there was some local support there?-- That's correct.

Are you aware of - or more particularly, were you aware at the time that you were deciding upon whether you would run or not, that there was a statutory provision in regard to people who are offered benefits or ask for benefits in relation to their nominating as a candidate. Did you know that?-- No.

You didn't know that, do you know it now?-- No, other than what you've just said.

So no-one ever - Mr Yarwood or anyone else never spoke to you about a statutory provision in relation to asking for some benefit or being offered a benefit in relation to candidacy?-- No.

No-one ever spoke to you about that?-- No.

And you were ignorant of it until now?-- Yes.

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Can I now ask you to deal with the meetings at Quadrant to which you refer in your submission? Do you have a copy of your submission there?-- Yes, I do.

Refer to it if you need to. Perhaps that Exhibit 3 could be taken back now, Mr Orderly. I'm told that the microphone is not working out in the other rooms. They're not travelling out to the other rooms, Mr Chairman, perhaps we can fix it in the morning break.

MR WEBB: well, I think they'll be able to make it up as they go along.

MR MULHOLLAND: well, now, would you have a look at your submission. In relation to Quadrant, I attended meetings at Quadrant on December 18th and January 8th. Just in relation to that date we've heard of a meeting that has occurred on December 16th, do you think you might've been mistaken in relation to that date?-- It was the one that was attended by all those other people; if that was the 16th, yes.

Right. So you attended two meetings. You then deal with the people who you can recall being there and you remember Mr Power, Ms Robbins, Mr Pforr, Mr Betts and Mr Molhoek and yourself being there with Mr Morgan at both of the meetings, is that correct?-- Yes, and Greg Pforr's - Grant Pforr's wife.

Right, well, I'm just dealing with candidates here?-- Right.

Now so far as Mr Shepherd is concerned, you recall him being

present on the 16th December but not on the other-----  
?-- Correct.

-----occasion, and so far as Roxanne Scott is concerned you say that you do not disagree that she was only present at the first meeting. Does that mean that you don't remember one way or the other?-- No, I can't recall whether Roxanne was at the second one or not.

Now, we have your recollection of what occurred as being - it's a fairly meagre recollection. Is that the extent of your recollection of what occurred at those meetings, Mr Rowe, what you've said there in your submission? I mean, what you're saying here is essentially this. "It needs to be noted that attendance at the meetings of December 16th and January 8 was purely optional. I was told of the first meeting by John Lang or David Power but there was never a compulsion to attend. I subsequently attended for the purpose of educating myself as a candidate and to gain campaigning hints as I had never been involved with an election campaign before." Is that all you can remember about it?-- I can remember other things.

Well, let's deal with the first meeting, what else can you remember?-- I can remember Sue Robbins talking a lot, David Power having a few words to say, Ted Shepherd saying very little. I can remember reading Rob Molhoek's business plan for his - for his Council election, because it was outstanding.

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There was a lot of things said about assistance with regards to things like door-knocking and taking signs and leaving them out by your car. I remember that; Sue Robbins talking about that.

Why were you going to it?-- well, it was an opportunity to - to gain some more insight from people that have been involved in elections.

Why this particular group?-- Oh, John or David and I can't recall who - who said the meeting was on and you might like to attend.

Well, did you not know by this time that there would be a fund available?-- I - I already knew that, yes.

When did you first know that?-- when after the announcement of my candidacy, John then-----

That's - yes?-- Yes, John then set up a meeting with David to look at further funding options. We felt that we had some business people in the area that we could rely on. John felt that David may be able to assist with - with more.

So this is a meeting attended by yourself, John Lang and David Power?-- Correct.

Anyone else?-- No.

When would that have occurred in relation to the 28th of November?-- Oh, it would be after that.

Yes. Well, I think you've made that clear that it would be after that, but how long after it?-- Oh, I couldn't recall in terms of date.

You knew Mr Power, did you?-- Yes, yes.

You knew him well?-- Yes.

What, as someone who had attended the Chambers of Commerce meetings?-- Oh, he'd been the local councillor of - in the area where the school was. Then we had a lot to do with him on issues to do with safety and roads. We've had him as guest speaker at the school. The parents and friends had had been as guest speaker. Chamber of Commerce have been involved with him in the organisation of the fireworks which he had a very strong involve with - involvement with. I knew David well.

You described him in your submission as a friend. You said that you'd known him for approximately 10 years?-- Yes.

Yes. And so you went along to that meeting and you discussed funding, did you?-- Yes.

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And what did he say about funding at that meeting?-- I can't recall exactly. We felt that there was some business that my friendship with people, local people, that we felt we could rely on.

Friendship with, you say - your friendship?-- Yes.

All right. Your friendship with local people that you could rely upon?-- Yes.

Is this, again, part of the - what John Lang had said about local people-----?-- Yes.

-----supporting you?-- Yep.

Right?-- Yes.

What else?-- We felt that - and David listed some other business, he felt, might be supportive and he said - oh, I can't remember his words but he said, "If you like, I'll investigate some other opportunities as well or some other options" and I said, "Please".

Other options or opportunities; well, what was that a reference to, did you ask him?-- I don't think at that particular point.

Well, where did this meeting take place?-- I think it was in John Lange's office.

This is down at Coomera?-- Yes.

Right. How long did it last?-- I couldn't recall.

And what is your best approximation of when it took place?

How long after the 28th of November?-- It wouldn't have been very long after that because we were starting - once we'd made - we'd already made the decision but once we'd made the official announcement we were keen to start wheels turning.

Did Mr Power say anything about any discussion that he'd had with Mr Ray?-- No.

He would have known that you were friend of Brian Ray's?-- I don't know if he knew that. You'll have to ask David.

Well, he raised other options or exploring other option and other opportunities and you said, "Please do"?-- Yes.

Surely before making that comment or even at the same time you would be interested to know from him as to what he was talking about?-- No. No, if he can investigate other opportunities.

Well, what did you take it to be a reference to?-- That he would investigate other opportunities and people might also want to make a contribution to the campaign.

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But why wouldn't they fit into the group that Mr Lang had already identified, that is, the local group? We're talking about some other group apparently. Are we?-- Well, those people that we were talking about were probably in the southern end of division 5. They were only people that I knew. David may have had contacts with people that I didn't know that were also keen to make a contribution.

So you weren't interested in going further and finding out what he was talking about-----?-- Well, he-----

-----identifying who he was talking about?-- No. At that stage he wasn't identifying or talking about anyone.

Well, you didn't ask him?-- No, that's correct.

So when was it that you first heard of a fund?-- It was the next conversation that I had with David.

Right. And when was that in relation to, first of all, that first meeting that you'd had at John Lang's office?-- Oh, it would have been - it wasn't very long after that.

Was it a telephone call or a meeting?-- No, it was a meeting.

Right. Where did you meet?-- I think, again, it was John Lang's.

Right. John Lang was there as well?-- I can't recall but I would be very surprised if he wasn't because he was the one that was looking at the financial side of it.

Right. All right. So that's very close to, what, within a day or so?-- Yeah, I wouldn't have thought it's very long after.

And this is still a few weeks prior to the first meeting at

Quadrant on the 16th of December?-- Yes.

Right. Well, what were you told on this occasion by Mr Power?-- Oh, probably - I can't remember words, but there was a - there was a group of business people that were getting together a fund to look to support people to bring about change in council and he had been speaking to those concerned. He didn't want to reveal who they were but he'd been speaking to that and he was saying that he believed that some reasonable funding could come through that.

Right. Well, here's a sitting councillor telling you that money could be made available and were you - did you understand that you might benefit from this funding?-- My campaign, yes.

Yes. And did you understand that others who were standing as candidates might benefit as well?-- No, I didn't.

So you thought this was just for you?-- No, I presumed that they would not be just for me but I had no idea if anyone else

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was going to benefit. The fact they're wanting to bring about change, I presume, I wasn't the only one that-----

Now bring about change, well, they'd only bring about change if they'd achieve a majority on the council, wouldn't they?-- Oh, you can change faces but-----

Well, was there some discussion at either this meeting or the earlier one in relation to achieving a majority on the council?-- No.

Never?-- No.

So, what, you went into the meeting on the 16th of December without any idea of anyone and, in particular, Mr Power having wanted to or that Mr Power was wanting to work towards achieving a majority on the council? You never had that idea from what Mr Power was saying?-- No.

You're quite sure about that, Mr Rowe?-- Yes.

Yes. So these people that he didn't want to mention who he thought might assist with funding, did you ask him to tell you who those people were-----?-- Yes-----

-----or generally who they were?-- Yes, I said - I said, in what way - because it seemed - a group of business putting together a fund and I think I said something along the lines of "well, that's all very well, who are these people going to be?" and he said that you won't know because of the fact it's going to be in a fund that would make a contribution to you or to your campaign and I said, "Fine". I said, "what does that mean in relation to declaration when it comes to that because I was aware that any moneys that came in, you had to declare?" and David said that all that would be done - he said, "You would just put that in and that that would all be done after the election with regards to anyone who was making a contribution to the fund but it was important that the people that were being funded didn't know who was actually making the

fund".

So Mr Power's saying to you that after the election you would need to put in a return in which the people who were donating the money would be declared; is that what you're saying?-- No, that's not what he said to me. He said that I would have to be putting in a return which stated that as an income for the fund.

Right. And as coming from where?-- whatever the - well, from the fund.

From the fund?-- Yeah.

Right. Now, Mr - did Mr Power explain why you should not know who these people were?-- Yeah, he - I didn't quite - I can't remember the conversation but he spoke something in relation to something that was a precedent, to do with Gary Baildon or some fund or other, I can't recall the wording of that.

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This is what he said?-- Yes. And that it was in my interests that I didn't know, so that therefore you wouldn't be beholden to them for anything should you be successful.

Right. Well now, when he mentioned - he obviously knew?-- Oh, I'd presume so.

He's a sitting councillor talking to you about people donating to a fund which you were going to benefit from and he knew who the donors were. Now did that seem to you to be passing strange, that he was - he was in the know but you weren't going to be told?

MR NYST: Sir, I object to this being used as a basis for his questioning. It's been put - he obviously knew and Mr Mulholland seems to be presuming something, Mr Rowe has responded, "well, I presume so." Now for us to now go on from there questioning on the basis of, well, we're agreed that he knew seems to me to be a false platform to work off.

CHAIRMAN: I would have thought the question can be based upon this witness's assumption then of whether on that assumption as he said he presumed, on that presumption whether it seemed to him to be strange-----

MR NYST: No, he didn't.

CHAIRMAN: -----and that's the way I understood the witness - the evidence.

MR NYST: With respect, he didn't say he presumed back then. It was put to him he obviously knew and he said in answer, "I presume so." He presumes now. He can be asked about - if he made that presumption and had that state of mind at that time then what was going to his head, but to work off the basis of the presumption he's now making on the basis of something put to him by Mr Mulholland, it seems to me to be working off a false basis.

CHAIRMAN: All right.

MR MULHOLLAND: It was clear to you, Mr Rowe, from what was said by Mr Power that he knew who these people were who were donating, wasn't it?

MR NYST: Well, I'm sorry. With respect, I don't even know that - the evidence has not got to the point of saying people were donating. The evidence was that people were prepared to support people to bring about change. My understanding of all this man's evidence so far has been that there was discussion in which Power was saying, "I've had discussions with other people, they're indicating an intention to support" - sorry - "to support people to bring about change and he believed that money could be made available in that fashion. Now, it's not that people were already making payments or that money had been - now, if he was being asked about the people that he'd had the discussions with about indicating their willingness to

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support that's a different matter, but to be now moving on to questions about, well, you know, these people that were paying money, that hasn't been established on the evidence at all.

CHAIRMAN: Mr Nyst, I know we are lawyers and I know we are pedantic but do we really need to get down to that precise level of pedanticism?

MR NYST: I'm just worried that we might be-----

CHAIRMAN: At this stage? The evidence quite clearly I think from every witness who has given evidence relevant to this topic so far discloses that by the time of this period in the immediate lead up to the meeting of the 16th of December that there was going to be a fund, certainly that Mr Ray was going to be a donor to it, and that there was going to be a whole lot of other people who were going to be approached to see if they were prepared to donate as well.

MR NYST: But not people who had already donated.

CHAIRMAN: No, that's true. That's true.

MR NYST: I just don't want-----

CHAIRMAN: As at that stage there's no evidence that anyone had donated and perhaps if we are requiring that level of pedanticism we will need to have that they were going or expected to donate.

MR NYST: I just don't want the witnesses led into error.

CHAIRMAN: Well, I'm finding it very difficult to see how this witness who is obviously a man of some intelligence is going to be led into error by that sort of statement, Mr Nyst.

MR MULHOLLAND: Mr Chairman, could we stop at that point and resume after the morning break?

CHAIRMAN: The mid-morning break then. Yes, certainly.

THE HEARING ADJOURNED AT 11.12 A.M.

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THE HEARING RESUMED AT 11.20 A.M.

BRIAN PHILLIP ROWE, CONTINUING:

MR MULHOLLAND: We now have sound I think, Mr Chairman.

CHAIRMAN: Pleased to hear it.

MR MULHOLLAND: Mr Rowe, have you got your submission there?-- Yes.

Would you go to page 4 please. Just follow as I read this, this is what you say in relation to funding. "Following the decision to stand John Lang and I spoke with Councillor Power. To the best of my knowledge John Lang was the one who arranged the get together. Now that the decision to stand as a candidate for Division 5 had been made John believed it was necessary to have a general discussion with Councillor Power and to seek advice on how we would fund the campaign which we believed would need to be significant. Councillor Power informed John and I that he was prepared to investigate some funding options for the campaign. We asked that he do so. Some time later, days not weeks, Councillor Power informed me he had been able to secure some funding and explained the circumstances of that funding. Councillor Power and I also discussed who else may be able - may be prepared to contribute. Do to my friendship with John Fish and other businessmen in the area Councillor Power suggested they may also be supportive. It was felt the combination of such support could be significant and this was imperative since my decision to stand I'd heard nothing except how hard my job was going to be." Now, you said that there, you've said this is correct, you didn't want to add to anything, to add, however, to something that you've said today at the second meeting you think that Mr Lang was also present?-- Yes.

Okay. So that you understood that he was going to investigate some funding options, you understood that from the first meeting. Some time later, days not weeks, Councillor Power informed you that he'd been able to secure some funding and explained the circumstances of that funding?-- Correct.

What were the circumstances he explained?-- That was what I stated before.

Right. Okay. So you understood that there were going to be as it were two sources open to you in your campaign, the donors that John Lang was going to be able to help you with in your area in the southern part; is that right?-- Yes.

And then in addition to that there were going to be these donors that Mr Power was going to be able to tap into; is that correct?-- Yes.

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Right. And I come back then to the question that I was asking you after you indicated that you were going to be - he told you that you would know but you'd have to put in a return afterwards in which you'd declare who the funding came from but that wouldn't necessarily be the - that would be the fund rather than the donors; is that right?-- Correct.

Is that the effect of what he said to you?-- Yes.

Right. Well, it must have occurred to you as an intelligent person, Mr Rowe, that here was a sitting Councillor who was going to know what you were not going to know. He was going to know something you were not going to know - that is, he was going to be involved in this funding in relation to your campaign?-- Involved, I don't know if the word's "involved" but he was going to be a conduit to the funding, yes.

He was going to seek to tap into these donors, wasn't he, he was going to seek support himself for you?-- Yes.

Yes?-- Yes, for me.

Didn't that occur to you, well, this seems strange to me, a sitting Councillor who's going to be involved in gaining funds for my election campaign and I'm not going to know who the donors are but he in all likelihood will, now, what's going on here?-- No.

So did you think that was a good idea that you wouldn't know the donors?-- It was expressed by David that was the best way.

But I'm really interested in how you reacted to it, you see. If, in relation to the businesses around that Mr Lang knew about, the local people and so on, if you could know something about where the funds were going to come from, from there, what was the difference with these funding - with this funding that was going to come via Mr Power? Why wouldn't you know more about those funds and who they came from?-- It was going to come from a fund where the donors wouldn't be known to me.

But why was that going to be so? Why was it going to be important that you wouldn't know these particular donors as distinct from perhaps other donors?-- The understanding was I suppose you'd - you'd not be beholden to - to anyone.

Well, why you would have to be beholden to them?-- I just say that - I don't know why but I'm just using that as an example.

well - but Mr Rowe, you would know that once on the Council one of the tasks of the Council is to decide matters relating to development and planning matters?-- Yes.

So you would have been alert at this time to the fact that there was a possibility of developer funding?-- Yes.

Right. So did you know when Mr Power spoke to you or if not know believe that what he was talking about was developer funding and it was better you wouldn't know or that you didn't

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know who those people were?-- He didn't use the word "developer".

No, but I'm asking you - you have this meeting with him - just be frank about this - you have these meetings with Mr Power. After the second meeting or when you started to talk about this you must have known or at least have a very good idea that he was talking about developers who were going to provide these funds?-- He was talking about businesses.

Yes, but you knew that it was in all likelihood going to be developers and that's why he wasn't going to tell you who they were; is that right?-- No, I - I think he just mentioned the term "businesses" - "businesses" or "businessmen".

Do you think that - did you have any problem knowing the identity of developers if they were going to fund your campaign, did you have any problem with that?-- well, one of my good friends, John Fish, is also a developer and he funded my - my campaign extensively.

All very - all the more reason why in relation to this particular fund why you might also be interested knowing who those donors were. Why wouldn't you explore that?-- After the conversation with David and the way it had been explained I was happy in - in what David had said, I had confidence in him.

Did you have - did you gain any impression from Mr Power that the donors that he was going to be involved in approaching did not want their identities to be made public?-- No.

well, let's come to the meetings then of Quadrant, the first one on the 16th that I was asking you about and you were exhausting your recollection as to what happened. There was this group of candidates there. By the time the meeting was over if not before did you know that these candidates were going to be supported by the fund that you'd discussed with Mr Power?-- Yes.

And who told you that?-- I gathered that from the conversation that was being spoken about by Chris.

Right. This is Chris Morgan?-- Yes.

So at the meeting on the 16th. Is that what you mean?-- Yes.

And you knew that when you went along to the meeting that there would be other candidates there. Is that right?-- I was

aware that Grant Pforr was going to be there. I didn't know who else was going to be there.

You may not have known the identity, but you knew that there would be other candidates?-- Yes.

And, by the end of the meeting, you certainly knew that the idea was that this fund that you'd spoken to Mr Power about

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wouldn't support not only you, but other candidates also that were present at the meeting?-- Yes.

And the idea behind that was that these people would be, what, part of a commonsense, sensible, intelligent group of people who would be able to achieve a majority on the council and be able to put an end to the problems which had occurred in relation to the existing council. Does that sum it up?-- No.

It doesn't. Right. Well, you tell us what your view was from this meeting?-- I think there was - the term, I think, that I would draw back on what you've said there is "majority." That word was never used. Certainly, "commonsense" was a word that came out of that came out of that. I think Chris was the one that talked about commonsense. It was about, yeah, pretty much what you said, but remove the term "majority" because that was never spoken of.

Well, what - well, whether it was expressly mentioned or whether it was included was wanting to be achieved, surely you would have taken away from that meeting that was hoped for was that this sensible group of councillors would be voted in and then they would be a majority on the council and be able to put an end to the problems which had - which were regarded as having beset the existing council?-- No, I sensed - I sensed change. I think those people were there about change. I think that was what was being talked about. I think it was reflecting the mood of the community, but-----

Change?-- Yeah.

Right. Well, change from what was happening on the present council?-- Yes.

Right. Okay. So in order to achieve change you need a majority. Wasn't that the whole idea?-- Well, I don't know that the word "majority" - you can change - you can change personnel, you may still not have a majority, but-----

Well, you won't make any difference if you don't get a majority, will you?-- Possibly, yeah.

Did you regard the group of candidates present at the meeting on the 16th of December as likeminded working towards one end?-- That term "likeminded" has been put around a bit. I couldn't tell you if they were likeminded, I didn't know them well enough.

Well, did you include that you and the others were heading in the same direction - that is, the group who were there?-- There was no direction defined t the meeting.

Right. Well now, can I ask you is there anything else you remember about this meeting? You've told us that Mr - Ms Robbins talked quite a deal. Mr Power also. Mr Morgan. What about any of the candidates, did they say anything or did they just listen?-- I don't recall the candidates saying much at all.

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Did you say anything?-- No, I couldn't recall. I think it was more a listening time for us.

Can I ask you to have a look at perhaps Exhibits 9, 10 and 14 please, Mr Orderly. Have a look firstly at Exhibit 9, do you see that information for prospective candidates?-- Yes.

Did you ever sight that booklet?-- Yes.

When?-- I think it was in a yellow covered document which was given when the official nomination was done.

Right. That's in February?-- Yes.

So we're talking about - is that the - was that on the opening day of the nominations and that's when you received it?-- Yes.

Now, did you read it?-- I think that evening along with other information I was given and I think I sat down and perused all I'd been given that day.

Would you go to page 15 please. Did you read - when you sat down and read it - did you read there paragraph 16, "Candidates Handbook", did you read that paragraph?-- Oh I - it doesn't come flashing back to me, no.

Well, did you learn that there was a candidate's handbook that you could access?-- Oh look, I can't recall.

Had you ever attended any prospective candidate's evening at the Council office?-- No.

Did you know of any being held-----?-- No.

-----even if you didn't attend it - you don't know of one.

Well now, what about paragraph 17, "Disclosure of Election Gifts" and referring to a booklet, did you read that - that is, did you read that clause, 17?-- I've read the document, I can only presume that I read that.

Right. Would you have a look now at the other second document that you've got there, Exhibit 10, the handbook. Do you remember reading or seeing this handbook?-- No, I don't.

So you were never made aware of such a handbook?-- I can't recall.

So how did you go about informing yourself of the statutory obligations on you as a candidate?-- I relied very much on John Lang and Michael Yarwood.

And Michael?-- Yarwood.

Michael Yarwood. Well, did you tell them you were relying upon them?-- I don't think in as many words, no.

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Well, did they sit you down and tell you what the statutory obligations were?-- Not as such.

Well, what do you mean as such, Mr Rowe?-- Well, they didn't but from the questions I was asking about various things I'm sure that - I'm sure that Michael in particular understood that I was searching for information.

But no information was ever forthcoming, is that what you're saying?-- I don't know what you mean by that.

Well, did you know for example of obligations upon you if you were part of a group of candidates for example?-- No.

So when was the first time that you ever heard that there was a statutory obligation in relation to someone who was part of a group of candidates? Now, when I've put the question to you or-----?-- Probably when - I think in questioning earlier in this Commission hearing would have been the first time.

So this hearing is the first time you knew of such an obligation?-- Yes.

You never turned your mind to it because you never knew of it?-- It was never - it was never affecting me.

Well, I'm just wondering how you went into a campaign like this having regard to your experience and your background without wanting to ensure that you knew what statutory obligations there were upon you under the Local Government Act? Why you would go into a campaign like this in your position with your background without making sure you knew what the obligations were?-- I felt-----

It's your responsibility, isn't it?-- I don't deny that.

Well, why wouldn't you do that rather than say, "Oh, well, I left it to Mr Yarwood or Mr Lang to tell me"? You never told them that you were leaving it to them. How do you justify this stance that you took, Mr Rowe?-- I felt that I was informed about what my obligations were and what I had to do.

Well, how were you informed? You didn't - you didn't look to - you didn't even read, it would appear, properly the information booklet for candidates. You never went to the handbook to find out what they were. You never went to the Act, you never knew about any obligation in relation to a group of candidates situation. I mean, how could you possibly say that you thought you knew what your obligations were? You never even bothered to find out what your obligations were. Isn't that the truth of the matter?-- No, I read that particular document and some two years down the track when you're asking me to pull out relevant details of an evening where I read it I think is unfair. If I did have questions about anything along the lines Michael was the fellow that I

spoke to because he had been, as I said before, involved in previous campaigns and won himself.

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Surely the first thing that you would have done if you were assuming any responsibility at all in regard to your actions, the first thing you would have done when you decided to nominate was to find out what your statutory obligations were?-- In my conversations with Michael I was fairly - I was at ease. I felt that I had it under control.

Now, I want to ask you - all right. Well now, you say that you attended another meeting. Before we leave the first one have a look at the third document that I've given you, Exhibit 14, is it?-- Yes.

All right. Have you seen that document before?-- Look, I roughly remember it.

Right. Did you see that at this meeting on the 16th of December?-- Yes.

It says 2004, that's an error we've been told, and was this handed around to your recollection?-- whether it was on the table or handed around it-----

I suppose you would have been interested in it?-- It was circulated I think, yes.

And what was this circulated as? Who was it circulated by and what was it circulated as?-- I don't think it was circulated as anything. It was circulated by Chris.

Mr Morgan?-- Yes.

Yes. Well, you see, look at Objectors. "To achieve consensus among a select group of councillors and candidates that acknowledge public concern on five key issues and a type of mind across all Divisions." Remember reading that?-- No. No, I don't remember reading it.

Well, you just think back on it now. I'm not asking you to read - to remember it without aid of the document. You say the document was there, and that's what the document says, and what I'm suggesting to you, Mr Rowe, is that anyone who was present and read that would be in no doubt at all that the people who were present, whether they be candidates - well, all the candidates, whether they be new, prospective councillors or whether they be existing councillors who were present, were part of this select group. You couldn't come to any other conclusion, could you?-- Oh, I don't think that was addressed at the meeting in any way like that. That's - I guess that's Chris's words. Chris as a chairman has probably put together something to - in case the conversation doesn't flow he's put together some form of agenda.

Well, did anyone disagree to your recollection with that, that this was - this is - did anyone say, for example, "well, I don't agree with that, me being part of a consensus of this group that I'm here with, that's certainly not my idea. I want to go off on my own"? Did anyone say anything like that

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or "I don't agree with that"?-- I don't think it was discussed.

"And most importantly to promote a desire on the part of this group to jointly work together to achieve prompt cost-effective solutions." Remember that?-- No.

All right. Well, just have a look at the strategy heading, would you please, and the third subparagraph there, "An agreed media position once awareness of this resource for Campaign for Common Sense in Council working title, becomes public." Remember seeing that?-- No. I can't recall the document. I appreciate the document but-----

Well, you can recall that document being there?-- Certainly.

You just can't recall the details of it?-- Certainly.

Is that what you mean?-- Yes.

And if you go back to the objectives paragraph, you see the third dot point, "They are willing to adopt" - this is the councillors/candidates - "They are willing to adopt a joint common sense approach to solutions." Remember that?-- Common sense I can recall but I'm just reading the rest of it. "To focus public opinion."

Would you agree with this, Mr Rowe, that you left the meeting with a view that the group who were present that evening were going to be united behind a common sense approach to decisions on council once and if elected?-- No.

You didn't? Well, what did you think?-- I thought they were all - there were some older councillors there and a few of us that were very green and there'd been a sharing of ideas and obviously Chris was involved with the others with regards to some of their documentation. It was more in the form of an assistance group than a support group.

These candidates were going to be supported by a common fund?-- Yes.

You knew that? Well, presumably you would also have realised with the people who were going to donate to a common fund would want some sort of common approach on the part of those candidates, wouldn't that be a reasonable conclusion to come to?-- No, I don't think so.

You don't?-- No.

What, you think that people would be prepared to donate monies to a fund like that without wanting anything in return?-- Yes.

At least from what you've told us so far you understood that what was wanted was change from the position on the existing Council?-- That wasn't - you didn't have to be a Rhodes scholar to work that out, that was out in the community very wide.

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Some would say that you wouldn't have to be a Rhodes scholar to work out that you were there as a group who hoped to become a majority on the Council?-- No.

What occurred at the meeting on 8th January? You can return those documents?-- The meeting was far more casual. People came and go for - came and went. I think David had his children, Ted wasn't there, Sue was there, she was very busy. I don't think I was there for - I think I came late or one of the meetings I came late, but it was more of a sharing of material. Some had some materials done and it was a sharing, pinching ideas from each other.

What about talk of the funding?-- No.

Well, you still understood that you were going to benefit from the funding?-- Yes, I did.

In fact by that time you'd already received seven and a half thousand dollars, hadn't you?-- That's correct.

Did you know that you were the first candidate to benefit from any money out of the fund?-- No.

Now, so do you remember anything else, any material handed out? Any discussion that - who did the talking this time?-- Chris and Sue.

Chris and Sue, all right, so that's Mr Morgan and Ms Robbins?-- Mmm.

Can you tell us what they said?-- I think it was more about door-knocking, people were into their campaigns or they were - it was about strategies to do with door-knocking, it was to do with leaving things if people weren't home, making sure that you'd left a message that you'd actually taken the time to door-knock, those sorts of helpful hints. Chris was talking with others about where they were in their documentation and their pamphlets and things like that, but that didn't concern me.

Yes. Could I ask that you have a look at Exhibit 116? Now have you seen that document before?-- I don't think so.

Well, you see it is a document produced by the Nerang Chamber of Commerce, apparently, Monthly Newsletter for December. Remember seeing that?-- No.

Have a look at the first page, left-hand column, last paragraph, "Only one Nerang councillor refused to contribute to the eco tourism forum by a special division in Council." Did you ever, in December 2003, hear of some complaint about a councillor who had refused to contribute?-- Not that I recall.

You see Mr Janssen is given as the contact person at the foot of the-----?-- Yes.

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-----first page, and in the - on the second page under - in the right-hand column in that box headed Environment Protection or Environmental Terrorism, "there has been much in the media recently dealing with our city's infrastructure and lost opportunities," etcetera. Just read that, do you see that?-- Mmm.

"Business and growth suffer because of the philosophies of a small but influential minority". Can't remember ever being aware of that being in a newsletter like that at the time?-- No.

Well, what about what the sentiment expressed there about there being a "small influential minority on the Council". Do you remember - did you ever hear about a small but influential group-----?-- On Council?

-----causing problems?-- On Council?

Yes, well, Council or outside it. This does not say Council, it just says "business and growth suffer because of the philosophies of a small but influential minority." The way you responded to your question might suggest that you did know something of that but not in relation to the Council?-- No, your question was about a small group in Council, that's why I questioned that because I - I don't think that's - no, I think that's just Bob - I think that's just Bob Janssen with his axe to grind on that issue.

All right. Return that please. Now I want to come to the funds which you received and in particular the three amounts that I'm referring to, Mr Rowe, are the seven and a half thousand dollars which you received in December, the seven and a half thousand dollars which you received in January, and the 20,000 you received in February. Do you remember receiving those amounts?-- I wouldn't remember receiving them but they're there.

Well, let me - I'll tender these. They are probably before the Commission, Mr Chairman, but it's convenient to tender them as a bundle in each case. Have a look at these documents that I'm passing to you now and first of all there is an authority here from David and Power and Sue Robbins of 24th December 2003 addressed to Mr Tony Hickey of Hickey Lawyers. "We authorise a draw of up to seven and a half thousand dollars for campaign assistance for division 5 candidate from the commonsense trust." Now, you, I suppose, would not have seen that document?-- No.

But you would've been aware that funds had been authorised to be paid to you for your campaign?-- Yes.

And who communicated that to you, the first amount that came through?-- John.

John Lang?-- John Lang.

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All right, and I suppose you knew that he was in touch with David Power in relation to the money and just how the funds were going and so on?-- Yes.

So what you heard from John Lang was really that the funds had been approved, that is approved by David Power and Sue Robbins?-- I heard the funds were through. Whether or not he told me they'd been approved by David and Sue I don't know.

But you knew that they were the people who were controlling the funds?-- I don't think - I don't think I knew that at the time, no.

Well, certainly you would have known of David Power being-----?-- Yes.

-----the person who was in control of the funds, from the discussions that you'd had with him?-- Certainly, it was him, yes.

Right. Okay. So are you saying that you didn't know of Sue Robbins' involvement?-- Yes.

Did you make that assumption in relation to Sue Robbins or did you think it was just David Power?-- I wasn't even aware that David had to sign off on - on authorisation.

Well, you have referred to this as a trust or a fund. What did you understand of this trust fund so-called? What did you - what did you know it to be? This fund that was apparently supporting you?-- It was a fund of businesses, of businessmen that subsequently brought moneys together and they've made a - have made a campaign donation.

They made a campaign donation. You mean, what, a joint one? Is that what you thought?-- No, here. That's the funds. We've already established what the fund was and then making a donation here of 7,500 to my campaign.

The businessmen are?-- well, the fund it.

The fund is. So did you know that there were business people who were donating to a fund? That is by this time, late December of 2003, did you know that there was - there were business people who were donating or had donated?-- Yes, I was aware of that.

Or were going to donate?-- I didn't know if they were going to or had or whatever but I was aware of the concept of the fund and business people making contributions.

Well, by the time the first seven and a half thousand dollars came to you, you would have been aware that at least that amount was in the fund?-- Certainly.

Now, had it been explained to you that there was to be - the money was going to be held in the trust account of Hickey Lawyers?-- No, not to me.

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Not to you?-- No.

Well, you did find out that that is - what was happening, didn't you?-- Down the track, yes.

Down the track?-- Mmm.

Are you sure about that?-- Yes, I think so.

All right?-- Because I think the first - yes.

Well, let's just go to the next document. Now this is a cheque for seven and a half thousand dollars payable to you from Hickey Lawyers and this has come out of the trust account. Do you remember that cheque being received?-- This is the first one?

Yes, this is the first one?-- That we're looking at now?

Yes?-- I'm aware that it came but that would have gone to John and John would have given it to his PA/bookkeeper. I didn't actually see the cheque or the accompanying letter.

Well, there would have been no harm in you seeing those details because you wouldn't have been able to donate the donor which apparently was the problem, would you? But you say you didn't see the cheque?-- Yeah.

You see, what I can tell you had occurred was this, that on the 23rd of December 2003 a file was opened with Hickey Lawyers under the name Sue Robbins and David Power Gold Coast City Council Election Campaign Fund, and the account then operated under that name until March, the 4th of March 2004. Do you follow?-- Yes.

Well now, what we have here is a receipt which has been apparently made out by Ms Christoffel, is it?-- That's correct.

Is that the correct pronunciation?-- That is correct.

And you'd recognise that as her handwriting?-- Certainly.

Did you ever see one of these receipts?-- No.

The extraordinary thing about it is that it has at the top of it Received from Gold Coast City Council?-- Yes.

Well, did you ever - you never became aware of that?-- No.

A receipt?-- No.

In relation to funds going to your campaign were marked Received from the Gold Coast City Council. Anyone - well, if you'd seen it you would have known, well, that can't be right?-- Yes, I think John Lang told me about that later.

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Now what I want to ask you about this first deposit or first

money that came to you, this seven and a half thousand dollars, there doesn't appear to be any document which would support the cheque having been sent in the post to you or to your campaign office, and what appears to have happened, I would suggest, is that this cheque has been picked up. Someone has picked it up from Hickey Lawyers, because as we go on we'll see that the account details in relation to the Heritage Building Society were not provided to Hickeys until late - later in January 2004. Now what I'm asking you is whether or not you recall something like that happening, someone picking up this first cheque from Hickey Lawyers?-- No.

This would have been important to you, wouldn't it, because at this stage you were starting to spend, you had spent, I take it, quite a bit of money?-- Mmm.

We'll see that in other documents. You were starting to spend quite a deal of money, so this first payment out of the fund would have been quite an important event for you?-- Yes.

And you would know that they had been pursuing people associated with the fund, and in particular Mr Power, people on your behalf, Mr Lang, perhaps other people in your office, you knew that, didn't you?-- Yes.

Wanting that first cheque?-- Yes.

But you don't have any recollection of anyone picking up the cheque from Hickeys?-- Or it being delivered, no.

Yes, all right. I tender those documents.

CHAIRMAN: Yes, Exhibit 154 for those three documents.

ADMITTED AND MARKED "EXHIBIT 154"

MR MULHOLLAND: All right. Have a look now at these documents. Now this bundle of documents that I'm passing up to you are related to the second payment and what you see here first in order is an e-mail from David Power to Hickey Lawyers in these terms, "Tony, Requests have been made for draws for the following," I'll just read the relevant one, "B Rowe, \$10,000. These draws are authorised. Sue's confirmation will follow. David." See that?-- Yes.

And it was that email which occurred on the 21st and then on the 22nd there's an email to a similar effect by Sue Robbins, only in your case it states the amount of seven and a-half thousand dollars, not \$10,000; do you see that?-- Yes.

And also supporting the authority, this is to Hickey Lawyers. Now the next document, the 23rd of January 2004, this is an

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authority signed by David Power and Sue Robbins addressed to Hickey Lawyers and in relation to yourself authorising a draw of seven and a-half thousand dollars on the account;

correct?-- Yes.

Yes. And now this is - the next document is an email from Ms Christoffel to Hickeys, "Sandy, further to our conversation earlier today please find out, line below, account details for funds to be directly deposited when they become available" and this is the Heritage Building Society giving the BSB number and the account number; see that?-- Yes.

So this is what I was referring to earlier that those details appear to have been given in late January and in relation to in the expectation of the second payment but had not been given at the time of the first; you're with me?-- Yes.

Yes. Now is it correct that the Heritage account was an account which you opened in relation to your campaign?-- Yes.

And is it also correct that the first deposit into the account was the first seven and a-half thousand dollars you received in December?-- Oh, I wouldn't know that.

Well, do you agree that the signatories on the account were yourself, Mr Lang and Ms Christoffel?-- Yes, I would presume that to be the case, I couldn't recall definitively but, yes.

Well, did you pay any attention to the operation of this account which you were a signatory?-- When it was opened, I would presume. I can't remember who were the signatories but I would have presumed if was John and Barb and myself.

Now the next document is to - addressed to Ms Christoffel again. This is from Tony Hickey and indicating that the seven and a-half thousand dollars had been deposited; see that?-- Yes.

And that deposit is also referred to in the faxed - sorry, the email of the 28th of January 2004 from Mr Hickey to Councillor Robbins, copy to Councillor Power and Brian Ray; see that, indicating that there was sufficient moneys in the account to authorise a payment among other - to other - among other people, yourself, in the sum of seven and a-half thousand dollars?-- I'm on the wrong page, I think.

28th of January-----?-- Yep.

-----the email, at the top of it?-- With Barbara@langrealth.com?

No, it's this document?-- Thank you.

Do you have it now?-- Yes.

All right. Well, that's Hickeys indicating that there was sufficient money to make that payment; is that right?-- Yes.

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And in it, it says, "we have spent considerable time in the last 10 days trying to hurry people up but I'm sure that now the holiday season is over, the balance of committed funds will flow". Now I understand you to say that you didn't see these documents but you certainly would have been aware of

that time that the donors were being chased up; is that so?-- I know John was having some frustration in trying to secure funding so the frustration was probably about the fact that people hadn't made commitments perhaps.

And you would know also from Mr Power because you would have been having contacts with him during this period?-- No, I wouldn't have been having a lot of contact with David.

Then you'll see the transaction record of Heritage, seven and a-half thousand dollars, 29th of January, the amount seems to have been deposited?-- Yes.

You see that? And then again the receipt GCCC is supposed to have been the entity that it was received from, Gold Coast City Council, I suppose, that can only mean. You never became aware of that?-- No.

The receipt's dated the 13th of January 2004. If you had become aware of it, what would you have done about it, Mr Rowe?-- I would have suggested to Barb that that would have been incorrect.

Well, what would you have suggested should have been put there?-- Probably go back to the cheque and then have a look at the cheque and take off the name or the company or whatever was on the basement of the cheque.

All right. I tender those documents.

CHAIRMAN: Exhibit 155.

ADMITTED AND MARKED "EXHIBIT 155"

MR MULHOLLAND: Now will you have a look at these documents, please? Now these relate to the amount of \$20,000 which, you agreed, you received in February. I won't go through this in detail but the first one is from Brian Ray to Chris Morgan in relation to this and referring to your campaign, division 5, if you go down there, there's an email from Chris Morgan to Mr Ray referring to Brian Ray - sorry, Brian Rowe requires \$26,783.72 to cover existing commitments plus approval for a further \$9,620. Do you remember this that there was a lot of money that was being chased in February?-- Yes.

Was that causing you some concern?-- It was causing John and I some concern, yes.

Well, it was your campaign-----?-- Sure.

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-----so it was causing you concern, was it?-- Oh, John was in charge of our - the financial side of the campaign and he was getting very frustrated.

And you as well, I suppose?-- Yes.

That email from Chris Morgan goes on referring to you, "All the above pretty much in line with my earlier cashflow spreadsheet other than Brian Rowe". Now do you remember knowing of any spreadsheet that had been prepared by Mr Morgan in relation to these candidates that were being supported by the fund including in relation to yourself?-- The way I'd read that is he didn't have a spreadsheet on me and I'm unaware of the fact that he had one on other people.

Would you go to the next document, please? 18th of February from Ms Christoffel to Hickeys, "Councillor David Power has confirmed with us \$27,000 will be made available to Dave for the above campaign fund" from Ms Christoffel. Now that wouldn't surprise you at all to know that even though you weren't aware of this email? It wouldn't surprise you that David Power was involved in this matter of funds coming to you? That's what you expected to happen?-- Yeah, he was a go between, yes.

You didn't - that apparently just didn't seem to you in the least bit odd to have a sitting councillor involved in this way?-- No.

Never entered your head that that might be a bit odd?-- No.

For a sitting Councillor to be involved in supporting your campaign financially?-- He was supporting it financially.

Well, he was supporting it to the extent that he was apparently chasing up donors?-- I wasn't aware that he was chasing up donors but-----

I thought you were, from what he'd told you, aware that he was chasing up donors?-- No.

Are you saying you were never aware of him pursuing donors?-- No. I think he said - I think he had stated that businesses and businessmen were contributing to this fund. I don't think he ever stated that he was personally responsible for chasing them up.

Now, do you remember chasing an amount - as we have already established you received in this month \$20,000 but at this time - that is, on the 18th of February apparently more than that is being sought, \$27,000 was being sought. Do you remember that getting less than what you were asking for?-- No.

And then on the 19th of February there's the authorisation of Power and Robbins so far as yourself in the amount of \$20,000; see that?-- Yes.

XN: MR MULHOLLAND

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WIT: ROWE B P

□

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There is the heritage transaction record indicating the deposit of the \$20,000-----?-- Yes.

-----into the - your campaign account with Heritage on the 20th of February?-- Yes.

And again a receipt received from GCCC dated 22/04 in that amount, \$20,000?-- Yes.

You do I understand Mr Rowe never even after the campaign was over you never went back and looked at the records and what they showed in relation to amounts that came in?-- In donations? Yes, I did.

Yes, amounts that came in - you did?-- Yes, at the end.

Did you see these receipts?-- No. No. What they were, they were on a full list.

Yes, I tender those documents.

CHAIRMAN: It's Exhibit 156.

ADMITTED AND MARKED "EXHIBIT 156"

MR MULHOLLAND: Now, your return of the 21st of April 2004 discloses - keeps totalling \$87,100?-- Yes.

Do you know that?-- Yes.

I'll just remind you of it. Now, I'd like you to look at that and first of all tell us did you prepare that return?-- That's done on my behalf by Barbara Christoffel.

Right. So - on your instructions I suppose?-- Yes, she - she was the one that was keeping the ongoing financial accountability. John was in charge of finances and she was the bookkeeper.

Right. You checked this when you - before you signed it?-- Yes.

So you read it and checked the entries, did you, to make sure that they were correct and that anything that you wanted clarified was dealt with?-- No, I sat with John and Barb when that was tabled as the final document and I looked through that and I said, "John, that's it in entirety," and he - I think he said to Barb, "Is that it?" and she said, "Yes," and that was it.

Well, the name of the donor in relation to these amounts we've just been discussing is shown as commonsense trust. that's

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WIT: ROWE B P

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all it says. Commonsense trust, seven and a half thousand dollars in each case. Do you see that?-- Yes.

And then the 20th of - sorry - yes, 20th of February - commonsense trust, \$20,000. well, was that accurate to describe it as a commonsense trust?-- I think on the first one you showed me that came through with a letter it had the term "commonsense" trust.

But why would that not - why would that not be the donor? why wouldn't that at the very least be the name of the account

that it came from? Did you believe that there was a commonsense trust?-- Mr Chairman, can I - that very first one that was shown to me with I think-----

CHAIRMAN: Your - yes, I just quickly looked at that, that's - it is the mention on the letter from Councillors Power and Robbins to Mr Tony Hickey. We authorise the draw up to seven and a half thousand for campaign assistance for Division 5 candidate Brian Rowe from the "commonsense" trust. Did you ever see that letter?-- I didn't see that letter but I can see why Barb would have listed it as the commonsense trust.

You're right, the word "commonsense" trust is on that letter from the Councillors to Mr Hickey?-- Yes. And I - I would have no difficulty with the fact that Barb - and probably putting it in inverted commas she's probably taken it from there and she's duplicated it twice more. I think that's-----

She wouldn't have seen that letter because it went to Mr Hickey?-- I don't know-----

MR MULHOLLAND: I mean the commonsense trust doesn't tell one looking at the document too much about the identity of the donor, does it?-- It's come from that trust.

What trust?-- The commonsense trust at Hickey Lawyers.

Well, what - you say from a trust, what trust? Was there ever any instrument of trust that was suggested as being in existence in relation to this money?-- Not that was discussed, no.

I mean, you knew, didn't you, that the money at some stage - and you would certainly have known it by this time - that the money had gone into the trust account of Hickey Lawyers?-- At the time I-----

Prepared this return?-- Yes.

So you knew that the money that had come to you had come from Hickey Lawyers?-- Yes, as - yes.

Did it occur to you whether or not you ought to include the name of the account?-- No, I thought - I wasn't unhappy with commonsense trust.

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WIT: ROWE B P

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Can you tell us this, Mr Rowe, did you understand that there was some trust that had been set up, some document, which had been prepared, some instrument of trust, in relation to these funds from which you were going to benefit?-- Not at the early stage, no.

No, no, at any stage. I mean, you know, you speak about a trust, I'm just interested to know what sort of trust did you understand it to be? You mentioned Mr Baildon or someone else, you see, there might be an instrument of trust prepared, a deed of trust - do you follow what I mean - with beneficiaries and settlor and so on, trustee. Now, is that the sort of trust that you understood was involved here or was

it some other kind of trust and if so what?-- I don't know. I just understood that through Hickey Lawyers there was a trust fund as indicated here on the form.

Did you understand anything more than the fact that the monies had come out of the trust account of Hickeys?-- No.

So when you speak of a trust fund, you mean it in the sense of the monies having come out of the trust account at Hickey Lawyers?-- That would've been my understanding, yes.

Yet you never asked anyone, "well, is there any - can I have a look at the" - or at least ask, "Is there any trust instrument-----"?-- No, I didn't ask.

-----in relation to this. Where did you pick up first the mention of a trust fund? Who first mentioned a trust fund to you, was it Mr Power?-- I couldn't - I wouldn't know.

Now, while there, that is in relation to while you've got your return there, do you see four companies, W-O-N-E-A-W-A-L-L-A-N Wongawallan Holdings, Coomglen Pty Ltd, Minuet Pty Ltd and Cresthill Pastoral. Now do those companies mean anything to you?-- I've forgotten the-----

I'll see if I can remind you?-- Yes, if you would, please.

You know that they were each associated with a Mr Curry?-- Yes.

And that Mr Curry donated through those company a sum - a total of \$6,000?-- Yes.

Now it shows also Lang Realty, so did you receive from Mr Lang's company \$1,000?-- And I think there was further over the page-----

A further sum of two and a half thousand dollars?-- Yes.

CHAIRMAN: Just, Mr Mulholland, that one of Wongawallan, Coomglen and Minuet, I notice the next one, Cresthill Pastoral, and it's got the same post office box 328, Oxenford. Is it connected in with that same group to your knowledge, Mr Rowe?-- Yes, they're all the same, Brett Currie's companies.

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WIT: ROWE B P

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Right, so that's seven and half thousand.

MR MULHOLLAND: Thank you, Mr Chairman, yes?-- No, it's only six, Mr Chairman.

CHAIRMAN: I never was good at maths; yes, you're right, six.

MR MULHOLLAND: Yes, sorry, I left that one - I got the total right.

CHAIRMAN: You mentioned three and said six, yes.

MR MULHOLLAND: Yes, my apologies. Well, then you've mentioned the two land donations-----?-- Yes.

Then there's a Mr Yu. Now Mr Yu is associated with Sanctuary Cove, is that correct?-- I'm unsure what Mr Yu is associated with.

And a developer company?-- Yes, he's a very good friend of John Fish.

Right, who's also a developer?-- And a very good friend.

Now there the amount of 24,000, so you referred to that earlier. You received a sum directly of \$24,000 from Mr Fish's company?-- Yes.

Do you remember attending a meeting with Mr Fish on 23rd February 2004?-- Yes.

At about 2.30, and also present at the meeting was Mr Power and Mr Pforr?-- Correct.

Did you mention this in your submission that you'd attended a meeting on that date with Mr Power?-- No. No.

What, didn't you think it was relevant?-- No, I didn't delete it for any reason, I just-----

What you said in relation to it is that - this is on page 4 and I've read part of this previously, in fact I read this. You referred to Mr Fish. This is on page 4, do you see that, halfway down?-- Yes.

I won't read it out again, and in Mr Yarwood's contribution of 11th October 2005, if you go to the second page in B, it says "Whilst John Fish is not specifically mentioned, it is the case that his company is Fish Developments Pty Ltd. Brian notes that John advised him that he would be providing funding assistance to Brian's campaign, at which time Brian commented he would need to speak to his campaign manager, John Lang. Brian notes that John Fish had commented that Brian would owe him a beer." That's what seems to be what you'd said in relation to this matter up till now. Is there any reason why you left out this meeting?-- No.

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WIT: ROWE B P

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Well, do you agree that this meeting on the 23rd of February 2004 occurred and at this meeting Mr Fish offered support? Do you remember he actually offered Mr Pforr support?-- He was talking to Grant more than to me, yes.

And that is community and support in kind. Is that right?-- That wasn't to me, I think that's a conversation he had with Grant, isn't it.

Why were you present at that meeting?-- I was wanting to speak to John about funding. We'd had some early contact with him and I didn't speak with him on that occasion. I asked if he'd come down to John Lang's office and we have a chat and that was - and that happened subsequent to that.

So, what, you were trying to give him some support, were you?-- Who?

Mr Pforr?-- No. No, it was just - I think it was David said he was going out there with - with Grant and did I want to come along, and I said, "Sure," because I needed to speak with John.

All right. Do you remember there being mention at that meeting by Mr Fish of some problem that he'd had with Councillor Young?-- Yes.

What do you remember him mentioning about that?-- Oh, I think that there'd been some dealings with a previous development he'd done and I can't remember the finer details of it but I gather that Mr Young and Mr Fish didn't part friends.

Right. So - well, what was - what did you understand the purpose of Mr Fish mentioning that at the meeting to you?-- I think he was very keen to - when I said that, you know, come down to John's office and we'll have a bit of a chat he was pretty keen to give some assistance.

Well, he provided his assistance on the 10th of March. This is not long before that?-- Mmm-hmm.

Is he making - did he make it plain to you that he had some axe to grind with Councillor Young?-- Yes.

And he wanted to see you defeat Councillor Young?-- They wanted to support me.

Well, it was very substantial support he was providing?-- Yes.

To you, and what had the problem with Mr Young been so far as you understood it from what Fish said?-- Oh, there was something to do with a reclassification of a property or something and-----

So, what, some development matter, was it?-- I-----

Or zoning or-----?-- Look, I don't know.

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WIT: ROWE B P

□

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Some problem he'd had with the council and in particular with Mr Young?-- No, I think it was prior to him being in the council, I think it was before Mr Young became Councillor Young.

Well, you would have known by this time that Mr Young was perceived as being one of those people who were being targeted in the election through you. You were being funded to defeat him?-- Yes.

So he's indicating - this is before he's donating this substantial amount of money to you or to your campaign, he's indicating to you what he thinks of Mr Young?-- Yes.

Because of some past perceived injustice. Is that right?-- Oh, injustice, I don't know. It was - it was a dealing or some conversation they'd had or something.

And Mr Young was one of those people on the existing council

who you knew was a problem so far as the people who were supporting the funding of you among others. Is that correct?-- I - there was a frustration on - I think expressed by a lot of people at the time that council was not making the big picture decisions and that several people were probably destabilising in that.

And Mr Young was one of those destabilising people or who were perceived to be?-- Yes.

Now, did you say anything to Mr Fish when he told you this at this meeting?-- No.

Did you know that he was considering making a substantial donation?-- I think in an earlier conversation with John he had already indicated he was going to be supportive and this was just to touch base before he came back down to John's office.

Well, here is a developer who is making a very substantial, within a week or two - makes a very substantial donation to your campaign. He indicates to you quite clearly his unhappiness with Mr Young and you know that you're part of this campaign to unseat Young. Did you consider the difficulty that this might create for you when you - if you were elected to the council?-- The issue that John had with Peter was a personal matter, I don't think it was council-related, and I was appreciative that John as a very good friend was prepared to support my campaign.

Now, there is also shown on this return an amount from - amount of \$10,000 from Aurora Development Pty Ltd. Is that Mr Craig Gore's company?-- I understand that to be the case, yes.

Also a developer?-- Yes.

And then Quadrant is shown as \$1,000 in kind. How was that worked out?-- When we were filling this out I didn't receive a bill for work that Quadrant had done through the Christmas/New

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Year period when my graphic designer was on holidays and we'd never received a bill but they certainly had done some work for me and I said to John, "Did we ever receive a bill?" and he said, "No," and I said, "well, they did that work for us, we'd better put something down." So that's why we put that down.

Well, did anyone think to contact Quadrant to ask what the situation was?-- No.

All right. Now, I want to show you a document which came from Mr Lang. Just have a look at this collection of documents. Particularly there are some Heritage documents first of all and then there are some reconciliation for want of a better word documents in relation to your election campaign. Now they're what I'm particularly interested in. Would you go to the document titled Brian Rowe Campaign Fund Account. Have you got that document?-- Not yet. Yes.

Have you seen this document before?-- Yes.

Right. When did you see it first?-- I guess it was ongoing.

Right, so this is a document that you were made aware of as your campaign went on? This was kept up to date, was it?-- Yes.

And how often would you check to see how the expenses and amounts paid were going?-- John would've been doing that. I at the conclusion of it, when we realised we had to mop up, became very interested at that point, but John was doing it on a - an ongoing basis through the campaign.

Well, now we see there the first heading is Fast Proof Press. Was that some printing work?-- Correct.

Whose company was that?-- Printing company in Nerang.

Right, well, who was the individual, do you know?-- No.

Now would you go to the end of it and the total expenses according to this document is \$99,556.33, do you see that?-- Yes.

And then there is an amount paid of \$78,154.81 and a balance of 21,401.52. Now if you were to look at the amount that you have declared in your return, it's \$87,100?-- Uh-huh.

And if you are to go to the next page of the document that I've just been asking you to look at from Mr Lang's records, you'll see amounts received there total \$86,120. Do you see that?-- Yes.

Now that, apart from the \$1,000 and a few dollars represents the amount you declared in your return, doesn't it?-- Yes.

So does that mean that as the records show \$99,550.33 as the total expenses of the campaign, that you would have

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contributed personally an amount of \$13,046.33; that is the difference between 99,000 etcetera and the \$86,120? Is that what that means or does it-----?-- It would be-----

Is there some other explanation?-- No, it would be very close to that.

So your best estimate then is that you contributed that amount of your own money towards your campaign?-- I don't recall it being that much. It wasn't in the vicinities of - if you come back two pages-----

Yes?-- I'm working - I'm presuming the one that you're looking at, that 20,000 outstanding or whatever it was, if you come back to that-----

No, I've just looked to see where I got that from; the 21,401 is on that final page in the right-hand column. Do you see the balance?-- Yes.

The 13,000 that I've referred you to is the amount that may have come from you personally, is the difference between the 99 and a half thousand odd and the \$86,000 odd?-- Yes.

That's where I've got the 13,000. Now you want to show us something?-- No, I think that's - there were several accounts in there which-----

Well, are you referring to the earlier document. Perhaps I should take you to that and ask you if you can add anything. Do you have a similar reconciliation document with an amount handwritten and some other handwriting at the end of the document-----?-- Yes.

A sum of \$10,229.52?-- Yep.

Is that the - see that \$10,229.52 and then a handwritten amount?-- Yes.

Below it?-- Yes.

Do you recognise the handwriting?-- Yes, that's Barb's handwriting.

Is this an earlier document?-- I would suggest that's the latter document.

Right, well, what is your recollection of then how much you contributed personally?-- When I - I was starting to mop up all of the unpaids.

So can you tell us what your-----?-- I wouldn't be able to tell you in graphics, but I can see there Clancy's Sign and Graphics, that was paid-----

No, no, what I'm asking you is what your personal contribution to your campaign was?-- Oh, I couldn't tell you exactly but I would've thought probably between five and ten.

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Well, now, what I'd like you to do however is to come back to that list of the amounts received. Now let me just point out to you what I suggest to you can be gained from it. Do you have that document?-- Yes.

Total of \$86,120. The three amounts that we've already discussed that was received from the campaign fund and you would know that the money that came to you, that's the \$35,000 in total being the 20,000 and the two sums of seven and a half thousand dollars-----?-- Sure.

That that was developer backed money, you'd know that by now-----?-- Yes.

-----Mr Rowe?-- Yes.

Yes, and on top of that there's the \$24,000 from Mr Fish, the \$10,000 from Aurora, the \$6,000 from Mr Curry, the \$5,000 from Mr Yu. So what we're talking about is out of the total amount over \$80,000 appears to have come from developers or developer related entities. would you agree with that?-- well, I would - I don't think John Fish donated to my cause as a developer. I would regard that as a donation by a friend. Brett Curry-----

It's his company, isn't it?-- Pardon?

It's his company?-- Yes.

What does the company do? Doesn't he use it as a developer company?-- Yes.

But you regard that as donation from a friend?-- Yes.

Right, okay. Yes?

CHAIRMAN: You were going on to mention, Mr Curry, Mr Rowe?-- Yes, Brett Curry. Brett and I have been good friends for a long time, I was appreciative of his support, John Lang's, not only for his monetary support, for his other ongoing support, Tom Stone was a good friend. No longer at The Ox but a good friend, so there were a lot of people in there that I think because of their friendship with me chose to make donations.

MR MULHOLLAND: Why do you see the need to make a distinction between them and the developing or the development entity that they represented? Why do you want to make that distinction?-- I don't think John would've made any donation to my campaign if it wasn't for our friendship.

What I'm pointing out to you is that development monies contributed the very substantial proportion of the monies that you received to fund your campaign. The overwhelming amount of money came from developer related entities, and what I wanted to ask you, Mr Rowe, in relation to that is firstly that seems to be a huge amount of money to come from that

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WIT: ROWE B P

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group towards your election. Do you agree with that?-- No, I think that I would make a distinction between developer, as you term it, and what I would consider support of friends.

Well, they didn't - they didn't make the donation in their own names, did they?-- But I don't believe they would have donated if it wasn't for our friendship.

All right. Well, at any rate do you - did you or do you see now any possible problem created by having such a huge contribution coming from developers?-- No.

Do you see any problems so far as candidates for a local election being dependent upon an amount of money or a proportion in that respect coming from developers?-- I distinguish again between the developer funding and friendship funding.

So, what, you think that if a developer is a friend of the candidate then that's okay, that doesn't cause any problems at all, it would cause a problem if he said, "well, now, I'm not contributing as a friend, I'm contributing as a developer," you make some distinction like that in your mind, do you?-- If Fish Developments had chosen to make a donation and me not knowing John that would have been from a developer, but knowing John as well I did I know he wouldn't have - he wasn't going to make that donation but for our friendship.

But doesn't it cause this problem, that after the election, so far as the people who have provided these funds are concerned, I'm not even talking about your position, but so far as their position is concerned aren't they likely to want something in return? Aren't they likely to want greater access or greater influence than they would - than they would otherwise have if they hadn't donated that sum of money to you?-- Are you talking about developers or friends?

Well, I'm talking about - I'm talking about developers. I'm talking about here are development companies making a contribution to your fund. You say that you're a friend. I'm talking about from the developer's point of view. Don't you see, no matter in what guise it comes to you, whether you see it being made as a friend and not a developer or not, but so far as the developer is concerned they're not wanting something or not likely to be wanting to give something for nothing, at least they'd be seeking greater access or greater influence. Now wouldn't you agree with me in regard to that proposition?-- No.

You wouldn't. What, do you think that they're just likely to say, well, that's fine, \$24,000, or \$30,000 or whatever it is, it won't mean that after the election is won by Mr Rowe that we'll be able to, you know, see him in regard to any problems we have?-- No.

Or get access? Oh, Mr - Mr Rowe, are you seriously maintaining that position?-- Yes, I am.

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WIT: ROWE B P

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CHAIRMAN: Mr Rowe, could I just ask you one thing before we adjourn? If you had been elected would you have felt able to vote on any development application that came before you as a councillor as part of the council on behalf of any of Mr Fish's development companies?-- I would have sought advice on that. The situation - I said to John, I said, "I appreciate this," I said - and that was hence the "you owe me a beer." I said, "It's a no strings attached, you know that?" and he said, "Look, you just owe me a beer." And-----

So you'd have sought advice?-- I would have sought advice as to whether or not I had to declare the-----

Who would you get that advice from?-- I would presume the Mayor or-----

Right?-- -----someone in a position that you would-----

Okay?-- -----expect to get the advice from.

Yes. You're tendering this last lot of documents?

MR MULHOLLAND: Yes, Mr Chairman.

CHAIRMAN: It will be Exhibit 157.

ADMITTED AND MARKED "EXHIBIT 157"

CHAIRMAN: We'll adjourn till 2.15.

THE HEARING ADJOURNED AT 1.07 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.18 P.M.

BRIAN PHILLIP ROWE, CONTINUING:

MR MULHOLLAND: Thank you, Mr Chairman. Mr Rowe, I want to take you back to a meeting in November and ask you whether you have any recollection of it. Do you remember being present at a meeting at the Gold Coast Brew pub?-- No.

In relation to this? No? You being present along with Mr Tait. Do you know Mr Tait?-- I know Tom, yes.

XN: MR MULHOLLAND

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WIT: ROWE B P

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He's a previous president of the Surfers Paradise Chamber of Commerce. Is that correct?-- I think he's current president.

So you would have known him in that capacity I suppose?-- Not at that time, no.

All right. So you don't recall being present along with Mr Power, Mr Lang, Mr Solomon and Mr Janssen along with Mr Tait?-- No.

In which there was a discussion of the need for funding for like minded candidates?-- I wasn't there.

And you didn't attend any meeting in which there was discussed the need to attract funding from the top end of town?-- No.

Namely from developers?-- No.

So if that meeting took place you weren't there, is that right? Now I also asked you about a meeting and you've agreed with being present at such a meeting on the 23rd of February 2004. You remember that meeting?-- Yes.

This with Mr Fish and Mr Power?-- Yes.

Do you remember this? That during that meeting Mr Fish commented on difficulties he was experiencing with Mr Young in relation to the resort development in Sickie Avenue?-- No.

Hope Island?-- No.

And that Councillor Young had dragged him through the Environmental Court?-- No.

Well, it's been suggested that you were present at such a meeting, that Mr Fish alluded to a conversation that he had with Councillor Young and which he had allegedly taped, tape-recorded the conversation. Were you present at that meeting?-- I can recall - I can recall something about a tape recording but-----

Was that a tape recording allegedly made by Mr Fish?-- Yes.

And it was a conversation that he had allegedly tape-recorded that he'd had with Mr Young?-- To my understanding that was on the other issue that the two of them had before Mr Young became Councillor Young.

Yes. I'm not suggesting that they were related to the other matter which I've just discussed but all I'm asking you at the moment was whether you remember there being a discussion about a tape recording that he'd made?-- Oh, John mentioned something about a tape recording, yes.

That he had made?-- I think that was the context of it.

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WIT: ROWE B P

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And that that related to land that was owned by Councillor Young at Oxenford that he wished to sell. Remember that?-- I remember the fact that the two of them were at loggerheads over something. I can't remember the details of what it was.

Now, were you aware that in the campaign that there was a negative campaign conducted in your interests by Mr Janssen?-- Yeah, I'm aware of that now.

You're aware of it now?-- Yes.

Do you mean you weren't aware at the time?-- No.

So when did you first become aware of this negative campaign?-- I was door knocking in an area - I think it was Nerang - and I went to put something into a letterbox and there was this negative pamphlet - paraphernalia - that had been placed into the letterbox.

So when would this have been?-- I'm guessing, probably in about the last week of the campaign.

Right. And the election of course was held on the 27th of March 2004 so in that last week?-- That's a guess but probably a pretty good one.

Can I ask you to have a look at Exhibit 117 please. Sorry, 115 - 115. And could you get 117 as well please. Now, have you seen this material previously?-- No.

You know - you'd have no knowledge of this being used in

relation to a negative campaign against Mr Young?-- I have not seen that before.

Have you been right through it?-- Yes.

I mean, it's speaking about the sitting Division 5 Councillor?-- The document I saw wasn't this one.

All right. Yes. would you have a look at the - and you see how - just going to the last page, have you got to the last page - it takes eight votes and support to get it done. At the end of the day a Councillor must have the support and vote of seven other Councillors et cetera. Know nothing about this?-- No.

This other exhibit, 117, which I'll ask you to have a look at. You know of that document?-- Yes, I do.

And at what stage was that used in your campaign?-- Within the last month.

Now, this is really a message to electors in your Division that the smaller business community was supporting you, that's really what this is about, isn't it?-- Yes-----

XN: MR MULHOLLAND

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WIT: ROWE B P

□

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In fact, the small business community - if you look at the second paragraph under "To the residents of Division 5" - the small business community et cetera?-- Yes.

The silent majority, many small business owners, tired of the squabbling and at times ineffectual representation. This was the message that you were getting out?-- It was being got out by the five people at the bottom, I was happy - it didn't say anything that I was uncomfortable with.

would you have been comfortable if it referred to the heavy support that you were getting from the developers?-- I never had to cross that bridge, it didn't say.

Well now, when I asked you about a negative campaign being conducted against Mr Young the evidence would suggest that Mr Janssen and Sue Robbins agreed that Mr Young was a destabilising force within Council, now that's something that you also knew about, didn't you?-- Yes.

You knew of the fact that he was regarded as a destabilising force by those people who were persisting to mount the funds?-- It was also my view.

It was also your view?-- Yes.

And that Mr Janssen could write something in relation to a negative campaign and that she agreed that Mr Janssen could access the account held at Hickeys. Now, do you know anything about this?-- No.

Nothing at all about it?-- No.

And that eventually Mr Janssen was an occasional member if I describe him that way of your campaign committee?-- He wasn't

a member but-----

Well, he was an occasional member, he did go to some meetings?-- I'm not going to debate with you whether an occasional member or member, he wasn't a member of our campaign committee.

And it was agreed that Mr Janssen could access the account at Hickeys and he was eventually paid \$5,200, he never spoke to you about this?-- No.

You have no recollection of any conversation with him about this matter at all?-- No.

And that 600 drop mailers, A4 size, titled "Know Your Councillor" were prepared; did you know anything of that?-- The first I knew was when I saw one in a letterbox.

And that's what it said, "Know Your Councillor"?-- I think that was the one; the one that you showed me before it wasn't.

And you stopped the campaign, did you?-- Yes.

XN: MR MULHOLLAND

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WIT: ROWE B P

□

07112005 D.12 T21/SJ3 M/T 3/2005

Well, why did you intervene?-- the campaign that I had been running - and Bob was well aware of it - was one that was very clean, very out front. We weren't - we weren't engaging and that was in direct contravention and Bob's aware of that.

So in the last week of the campaign, once you became aware of what was happening, what steps did you take? How did you pull that negative campaign?-- When I - when I saw the thing in the letterbox I then rang Michael Yarwood and I said, "Do you know anything about this" - I probably didn't say it as politely as that - and I said, "Do you know what - you know, the background of this," and Michael said he knew a little bit about it. I said, "well, you make sure that it is stopped."

Right. He knew a little bit about it?-- That's what he said to me.

Is that all you heard from Mr Yarwood?-- At that particular time.

So you didn't speak directly then you're saying to Mr Janssen about it?-- No.

740 of the transcript. Well, now, did you know of any involvement of a Mr Wise in relation to the negative campaign?-- No.

Even subsequently you didn't hear about that?-- I have subsequently.

Well, when did you hear about that?-- He was apparently the fellow that endorsed it.

Yes. Now what do you say to this, that so far as Mr Janssen was concerned, that it was considered that by becoming an official part of your campaign may reflect badly on you and so it was decided that he would take an unofficial

position?-- What, are they Bob's words?

I'm referring to Mr Janssen's evidence, didn't know anything about that?-- No.

Do you remember exhibiting curiosity about what Mr Janssen was doing and questioning him on it?-- I think Bob made a statement that he was planning a big finish to the campaign and I said "what's that about?" and he said, "Oh, don't you worry about that," or words to that effect, and I said, "well, Bob, I can't stop an individual doing what an individual is going to do," but I said, "you do know the way in which this campaign has been running."

Well, he puts it slightly different. He says that he in effect told you to "back off, that you didn't need to know and that way you would have credible deniability." Do you remember him using those words to you?-- Not at all.

Well, they're unlikely to be forgotten if they were used and that's what he says that you don't need to know, as that way

XN: MR MULHOLLAND

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WIT: ROWE B P

□

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you would have credible deniability. You're denying ever had a conversation with him in those terms?-- Correct.

Did you, when there was this brief conversation apparently, with him, did you have any idea at all what he was up to?-- No.

Well, why would you say to him, "well, Bob," you know, "you know the way things are being run," etcetera; why would you have that conversation with him?-- I didn't know Bob all that well, but Bob can be a bit of a law unto himself. Subsequently, I know him a little bit better, but some people had suggested that he can be a little bit of a loose cannon on occasions.

And-----?-- Well, that's why I had the conversation.

So when he referred to that, you didn't really know what he was up to?-- No.

You had no idea?-- No.

Would it be correct to say that you didn't know what he - that you didn't want to know what he was up to?-- Bob would've made it clear he wasn't going to tell me anyway.

Right. Well, now, do you know anything at all about Mr Chris Morgan's involvement in a negative campaign against Councillor Crichlow?-- No.

Did you have any discussions, apart from what you've already told us about, Mr Rowe, with Roxanne Scott, Mr Janssen, Mr Lang or anyone else in relation to negative campaign?-- No.

Now do you remember as the election was approaching, this is in March, that it was mooted that there would be a "meet the donors" evening. Now let me remind you of this. First of all there was going to be such a meeting on 10th March 2004 at Lakelands - that's the golf club I think, is that

right?-- Yes.

And then again there was a meeting that was going to be arranged on 25th March, a couple of days prior to the election, at the Innovations Showcase at Coolangatta which was to be hosted by Mr Barden. Now do you remember something about it - those meetings that were going to occur?-- Not the first one but the second one.

Right, so you know nothing about any meeting that was going to take place at Lakelands?-- On the 10th?

Well, any time. I put to you the 10th, but did you know of any meeting that was going to occur, where you were going to get together with the donors? I'm not suggesting it went ahead, but it was going to occur and it was going to take place at Lakelands?-- No.

XN: MR MULHOLLAND

1093

WIT: ROWE B P

□

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Well, you seemed to hesitate when I mentioned Lakelands, is there any reason for that?-- Yes, I attended a meeting at Lakelands very close to the election which was for booth captains.

Right, and who else attended apart from the candidates or the representatives of the candidates?-- At Lakelands?

Yes, did you go?-- Yes.

And there were other candidates there?-- Several. Lionel Barden spoke, Chris Morgan spoke, I think that - that's probably it.

Was there any other candidate apart from yourself?-- Grant Pforr was there, Roxanne Scott was there. I think that would be - and there was lots of other people there, supporters or booth captains or people that were-----

Now was this in relation to the practicalities of what was going to happen on election day?-- Yes.

And is that all that it was about?-- Yes.

So the only candidates who attended were some of the candidates that had been part of the group who met at Quadrant in December and January, is that correct?-- Yes.

Now did you know of a "meet the donors" that was going to take place on 25th March at Innovations Showcase at Coolangatta?-- Yes, I had an email about that.

Now, were you going to go to that?-- I don't think I ever made a decision. I think when I rang Chris to talk about it he said it had been cancelled.

Did you know why it was going to be cancelled?-- No.

You said that there was an e-mail about it. You understood that this was going to be hosted by Mr Barden and attended by people who were donating to the fund. Is that what you

understood?-- That's what I think the e-mail said, yes.

Yes. Now - all right. Have a look at this please. Is that the e-mail to which you refer?-- Yes.

I tender that, Mr Chairman.

CHAIRMAN: Yes, it's 158

ADMITTED AND MARKED "EXHIBIT 158"

MR MULHOLLAND: Now, I asked you before lunch some questions in relation to chasing up funds or the funds being chased up

XN: MR MULHOLLAND

1094

WIT: ROWE B P

□

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on your behalf, and it is true, is it not, that after the election funds continued to be chased up so that people who had contributed or put their own moneys into your account or into your campaign would be reimbursed. Can you remember this? Mr Lang, for example?-- Mmm-hmm.

Is one of them and you were another. Can you remember that?-- Yeah, I think that would make sense, yes.

Right. Do you remember at one point that a sum of \$4,000 was received from Mr Power, \$2,800 of which was given to Mr Lang and \$1,200 given to you? Do you remember anything about that?-- No. No.

Well, I'll ask you if you can assist us with this note. Now this is a document I can tell you that came from Mr Lang's files and it's addressed to Barb, that's obviously Ms Christoffel that's been referred to?-- Yes. Yes.

"Could you do an update out of the attached." Do you recognise the handwriting?-- Yes.

Who's that?-- That's my handwriting.

Your handwriting. Now, what it says is \$4,000 was received from DP, well, that's obviously David Power, isn't it?-- You would expect so.

Something's been crossed out by you, \$2,800 given to John Lang, \$1,200 given to Brian Rowe, and then it appears, and this is linked to you, "who added \$39.70 of his own money to pay Clancy's Signs and Graphics"?-- Yep.

And then there's an e-mail address. What's that e-mail address relate to?-- That's my e-mail address in Western Australia.

Now, what can you tell us about this document?-- This 4,000 was never received and I can't recall - I can't recall writing that, but in the event it was going to be received I would presume that's how it was going to go, but the 4,000 was never received.

But it says it was received?-- It wasn't.

Well, why would you write that it was received when it wasn't?-- I may have written that in hope that it was coming, but it wasn't received.

Well, that seems to be an odd approach, that you'd say that it was received?-- Yes, it might have been - it might have been scribbled on-----

If it hadn't been received?-- It might have been scribbled on the run but the 4,000 was not received.

When would you have, or when did you write this note, Mr Rowe?-- I would have no recollection of when I did that.

XN: MR MULHOLLAND

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WIT: ROWE B P

□

07112005 D.12 T23/LM9 M/T 3/2005

This is after the election?-- I would presume so. I can recall - it's certainly my scribble.

Well, \$4,000 was received from DP so at one stage, accepting your explanation, \$4,000 was going to be provided by Mr Power from somewhere?-- Yes.

The question is from where?-- I don't know.

You don't know?-- No.

Well, presumably you got this information from someone. I mean, you're communicating this to Ms Christoffel?-- Yes, that's correct.

As distinct from her communicating it to you, so this is information in your possession that you feel she should know about. You've obviously been speaking to someone and may I suggest to you that it's likely that certainly you would have been speaking to Mr Power about this. Do you agree with that?-- I can't recall the incidents around this, no.

Well, what happened - this suggests that you were short of \$1,200. Were you short of \$1,200 after the election?-- I was short of more than \$1,200.

Well, did you get the \$1,200 at least back?-- No.

You didn't?-- No.

Can I ask you to now have a look at Exhibit 157 please again. You looked at this this morning. Now if you go to the reconciliation or what I've referred to as the reconciliation and the one which is - has the handwriting at the foot of it?-- Yes.

Which you said was you thought the later one, and do you see there Clancy's Signs & Graphics, \$1,239.70?-- That's correct.

But if we match that up with what is there does that assist you, what this was about?-- No, the maths is - the maths is correct. I paid that \$1,239.70 in three instalments to Clancy's Signs.

Well, looking at the notes which you've - appears at the foot of this document does that assist you at all in relation to what became of this money that was being chased up apparently through Mr Power?-- I'm sorry, help me again.

Does this assist you, this Exhibit 157, does it assist you and the handwriting to tell you what became of this money that was being chased up?-- No.

Now, your recollection is that you didn't receive this money?-- No.

What about \$2,800 to John Lang?--No.

XN: MR MULHOLLAND

1096

WIT: ROWE B P

□

07112005 D.12 T24/NNG22 M/T 3/2005

Yes, I tender that document, that handwritten note by Mr Rowe.

CHAIRMAN: Yes, Mr Mulholland. Exhibit 159.

ADMITTED AND MARKED "EXHIBIT 159"

MR MULHOLLAND: All right. Have a look at this document please. I took this - he took you to this document in Exhibit

3. This is the article in the Gold Coast Bulletin of the 20<sup>th</sup> of February 2004 and I just want to take you back to the commencement of what is attributed to you or connected to you. It says, "Mr Rowe, who is running an expensive and high profile campaign said he was totally independent and was funding his efforts from generous community donations." Did you - you told the Bulletin that I think you agreed this morning?--No, that's the first time I've seen that.

Righto. Well, I might have been mistaken there. It might have been another one but this article, did you say that to the Bulletin?--I couldn't recall but it would surprise me.

Is it - is it correct, the first part, that you're running an expensive and high profile campaign; that was correct wasn't it?--Yes.

That you were totally independent, did you say that?--I was probably asked the question if I was and I said yes.

I suppose that's something everyone wants to say. Whether it be true or not. Did you mean it when you said that you were independent?--Certainly.

You didn't feel that by being part of this funding group that you were compromising your independence?--No.

"And was funding his efforts from generous community donations." Do you agree that you told the Bulletin that?--I would be surprised if that's all I said because I was careful to say all the way through, "family friends and business".

Yes. Of course, you wouldn't want to say that you were

getting support of developers I suppose, would you? How do you think that would have gone down in your division if it knew, I'm not suggesting you did know, you've told us what your position is in relation to knowledge but do you think it would have affected your chances adversely if your electorate had known that you were substantially funded by developers?—Well, again, we come back to the development verses friendship.

I'm not quite sure where – where exactly we come back to but go on. Do you want to add anything?—Oh no, I'm quite happy to say that friends that were supporting me were developers.

XN: MR MULHOLLAND

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WIT: ROWE B P

□

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There's no need to attend to that. That's already in, Mr Chairman. Yes?

CHAIRMAN: Number 25 in Exhibit 3 deals with this topic as well, Mr Mulholland, I just note.

MR MULHOLLAND: Would you have a look at number 25. Now, this is an article in the Gold Coast Bulletin for the 22<sup>nd</sup> of March, again, close to the election and if you go down in the article there is a reference to yourself, "the candidates in division five", do you see that? "The incumbent Peter Young and the challenger, Brian Rowe" about half a dozen lines down?—Yes.

And then Mr Young is quoted, then it refers to you about halfway down, "the Foundation Headmaster of St. Stephens College", do you see that? Could you just read that to yourself. And then referring to your position it goes on, "Although he maintains he has had no funding from developers and is running as an independent, 'you don't have the experience I've got and hang on to someone's coat tails'. Mr Rowe does have substantial financial backing." Now, had you maintained that you had no funding from developers?—At that particular stage there was no very positive, yes, to be answered to that.

Sorry, did you maintain, did you tell the Bulletin that you had no funding from developers?—Yes.

Was that correct?—Yes, I think, at that point.

What do you mean, that you – to your knowledge you didn't have any?—Yes.

Is that what you mean?—Yes.

Well, adopting the position that you had taken in relation to the matter, you wouldn't know whether you had developers behind you or not, would you?—That's correct.

You had, of course, by that time, received a substantial amount from the fund, hadn't you?— Yes.

And you didn't know the identity of the donors there. You had also received some \$6,000 from these companies?— Yes.

Yes. You'd also on the 10th of March received \$24,000 from

Fish Developments?-- Yes.

Now, are you - I just want to know what your position is here. Are you saying that you were telling the newspaper the truth in relation to the matter as you saw it or not?-- Those donations that you're talking about with regards to the four companies and Fish Developments, I had no difficulty in placing that under the - under the topic of friends giving support.

XN: MR MULHOLLAND

1098

WIT: ROWE B P

□

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So you regarded saying that you had no funding from developers as being accurate because in relation to Mr Fish he was giving it to you as a friend-----?-- Yes.

-----not as a developer?-- Yes.

And that's certainly what you understood. Is that right?-- Yes.

What about the money that you had received from Mr Currey, was that received as a friend as well?-- Oh certainly.

Mr Yu, was that a friend?-- I was unaware at that stage that Edwin had made a contribution.

You could hand that back now. Yes, thank you, Mr Chairman.

CHAIRMAN: Yes, thank you, Mr Mulholland. Mr Yarwood, how do you stand here? It's a little bit strange when you're being mentioned as - almost as a - well, as a - certainly a party in all of this, your name's mentioned in despatches.

MR YARWOOD: I can - I'm happy-----

CHAIRMAN: Whether you knew about a negative campaign and that you knew a bit about it et cetera. Do you think you are appropriate to be asking questions of this witness?

MR YARWOOD: I actually have no real - no further questions, Mr Rowe's elaborated since lunchtime the two main issues.

CHAIRMAN: That solves the problem. To you, Mr Nyst.

MR NYST: Mr Rowe, I think you said that you came to this decision to run around mid-2003; is that right - have I got that right?-- No, that was when John Lang first raised the idea with me.

Right. And subsequent to Mr Lang raising it with you, you sought counsel from various people including Mr Lex Bell?-- Yes.

And I think you spoke to your wife about it?-- Yes.

Perhaps you're not sure whether you spoke to Mr Kleinschmidt I think, you spoke to Mr Yarwood and so forth. Is that right?-- Yes.

So you spoke to people that you knew and respected about it but you didn't discuss it with Mr Power at all, did you?-- No.

You announced your candidacy without any reference at all to David Power?-- Correct.

And he didn't in any sense - any sense at all - recruit you?-- No.

XN: MR NYST

1099

WIT: ROWE B P

□

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To run for Council?-- No.

Your reasoning in ultimately running for Council was that you thought - you felt that things were not as they should be in the Gold Coast City Council?-- I had a frustration on big picture issues.

I think you said you had a personal view and you put it as, "I had a personal view along with a lot of other people on the Coast," remember saying that to Mr Mulholland?-- Yes.

And the situation is this, isn't it, that in 2003 in the general Gold Coast community there was a good deal of frustration being voiced in various circles about the antics of the Councillors of the Gold Coast City Council or some of them?-- Yes.

There was a view that some of them were carrying on in a manner not befitting their elective position?-- Yes.

Not showing sufficient respect for each other or for the task that they'd been entrusted with, the task of running the city?-- Yes.

And that was a matter of broad community debate and discussion?-- Yes.

It was a common topic of conversation both in business and social circles?-- Yes.

Very common at that time on the Gold Coast, wasn't it, people saying, "what the heck are these Councillors up to, they're behaving like a bunch of school kids"?-- I wouldn't have used the term "school kids" but yeah, I think the lack of respect for their given position, their elected position.

As a principal you probably wouldn't have but - but that was the feeling, the general feeling that was out there, wasn't it?-- Certainly.

In many circles. And it was consistently and continually voiced when you went around the community?-- Yes.

And you'd known David Power for a long time, hadn't you?-- Yes.

For about 10 years; is that right?-- Yes.

And you'd known him as a Councillor but you also knew him in the context of having worked together, the two of you, on

community tasks, isn't that right?-- Yes.

And so you knew how he operated in working on such tasks?-- Yes.

You respected him?-- Yes, I did.

XN: MR NYST

1100

WIT: ROWE B P

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And he for his part had been exposed to you in that working environment, you could see what sort of a person you were, how you applied yourself to tasks and so forth?-- Yes.

And would you consider yourself a sensible, hardworking person?-- Yes, I would.

And he had the opportunity to make that assessment of you as well, hadn't he, through your dealings?-- Yes.

Over a lengthy period of time; is that right?-- Yes.

And tell me this; during 2003, did he at times echo some of the comments that have been made in other circles about frustrations about the way some people were behaving in Council?-- Yes.

That they were misbehaving, that they were acting irresponsibly and quite inappropriately; he expressed that concern-----?-- Yes and I think the lack of decision making was-----

All right. Well now you said that following your decision to run, you - Mr Lang suggested that you have a meeting with David Power-----?-- Yes.

-----is that right, which you did and the idea of that was - well - or John Lang was saying to you was that it would be useful to have a general discussion with David Power, to seek his advice on how you might fund the campaign and issue such-----?-- Mmm-hmm.

-----is that right?-- Yes.

And when you had that discussion, you talked about a meeting sometime - I think you put it in late November, but at that meeting, Power suggested that you could look to businesses in that area and your friendship with local people - these were possible sources for you to go and seek funding; is that so?-- Yes.

Now I think you said he then also asked you or said to you, "If you'd like, I'll investigate some other options as well" and you said-----?-- Yes.

-----"Yes, please" or words to that effect?-- Yes.

But he did not at that point make any mention of any specific person providing funding, did he?-- No.

That might even provide funding?-- No.

Nor did he talk about developers as a group of people?-- No.

Did he talk about any group of people that he might investigate the options with?-- Not specifically, no. No.

XN: MR NYST

1101

WIT: ROWE B P

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07112005 D.12 T26/JJD24 M/T 3/2005

He just said, "I'll - if you like, I'll investigate some options and see if I can help you"; is that right?-- Yes.

Well, the next meeting, you said, was a few days later, at John Lang's office and you said that at that meeting, Mr Power reported that there was a group of business people prepared to support people to bring about a change in Council. Now at that meeting - by the way that was a reasonably short meeting, wasn't it, about 20 minutes?-- It wouldn't have been too lengthy. Yes.

All right. But at that meeting, when Power talked about people being prepared to support people and bring about a change, he was specific, wasn't he, about the change that they were talking about? They were talking about a change - a behavioural change in Council; isn't that so?-- Yes.

And he was talking about going back to this subject that you heard him speak about before, people behaving irresponsibly and inappropriately in Council?-- Yes.

The matters that you talked about, people carrying on in a manner not befitting their elected position; is that so?-- Yes.

And that was an observation you'd personally made yourself, was it?-- Yes, I don't think I was on my own there, but that was my own feeling.

Yes. Well, I was going to come to that, but you had personally made this observation-----?-- Yes.

-----plus you'd had discussion in the broad community and it appeared many many other people had a similar view?-- Yes.

And so it was very clear to you at that meeting, wasn't it, when Power was talking to you about business people prepared to support people to bring about a change, it was very clear from everything you said that he was talking about this behavioural change?-- Yes.

There was no suggestion by Mr Power at that meeting or at any meeting that you had with him, about him wanting to work towards getting any kind of majority in Council or voting ticket or-----?-- No.

-----caucus in Council?-- No.

And nor did he at that meeting or any other meeting suggest that anybody was going to support some sort of a move to further the interests of developers or pander to the interests of developers?-- No.

The development industry was not mentioned at all in that meeting, was it?-- Not that I can recall. No.

well, you said that he did talk about the proposition that money would be placed in a fund and that you would have to -

XN: MR NYST

1102

WIT: ROWE B P

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07112005 D.12 T26/JJD24 M/T 3/2005

that as you understood what he was telling you, you'd have to put in a return which stated the income had been received from the fund?-- From the fund, yes.

Now you specifically questioned him about this, didn't you? You questioned him in terms of saying, "well, what has to be done in terms of declaration, et cetera"?-- Yes.

And the view that Power was expressing to you at that stage was, "well, yes, it'll have to be declared, but it's only declared as being the name of the trust fund that has paid out"?-- Yes.

Right. And the explanation to you was this, wasn't it, that in that way, the donors would remain removed or at arm's length from the donees or from the candidates?-- Yes.

Right. And that was put across - the opinion that he was putting across to you - was that that seemed to him to be a good thing, that there could be no suggestion of any kind of - of anybody being beholden to any of the donors?-- Correct. Yes.

And indeed, you mentioned there was some discussion about Gary Baildon, that was the then Mayor, wasn't it-----?-- Yes.

-----and he said words to this effect, didn't he, "I think Gary is doing something similar. Apparently he's looking at setting up a central fund for people to donate into" - words to that effect?-- Yes.

And the idea was that these sort of funds would be useful because there could be no perception, no reality or perception being put across, no reality or perception of anybody being beholden to the donors?-- Yes.

All right. But not at any stage during that meeting was there any suggestion that the donors would be in any way confined to developers?-- No.

Nor were developers mentioned at that meeting?-- No.

Well, that takes us then to the meeting of 16th December 2003. I think you said either John Lang or David Power asked you to come along to that; is that right?-- Yes.

And you said that David Power had a few words to say at that meeting; is that right?-- Yes.

Now, again, this was really - the things he said at that meeting echoed what he said at the earlier meeting, didn't they, in terms of his concerns about the behaviour of councillors?-- Yeah, I think David was the one who spoke on that issue, yes.

That issue. I suggest he said words to this effect to the collective group there, "we have some serious behavioural

issues with some of the councillors in Council at the moment."

XN: MR NYST

1103

WIT: ROWE B P

07112005 D.12 T27/BC5 M/T 3/2005

Do you remember him saying words to that effect?-- Yes, probably words to that effect, yes.

I'll put to you the effect of what I suggest he said, along these lines, "we've been hitting the headlines for the wrong reason. The reason we're talking to you people is because you appear to be sensible, rational, well behaved people and we're anxious to end up with a Council that knows how to behave properly and professionally. We want to be surrounded by councillors who behave with some dignity." Do you remember him saying words to that effect?-- Yes, similar, similar.

And that was a message that echoed the message he'd given at your earlier meetings with him, wasn't it?-- Yes.

Right. And that was a very clear message, I suggest, at the meeting of the 16th; it was clear that what was being talked about here was support being given to you, the candidates, who were perceived to be sensible, well-behaved, responsible people?-- Yes.

There was no talk at all about a voting bloc of any kind?-- No.

In fact, Mr Power said words to this effect at that meeting, didn't he, "we're not looking at forming any sort of a ticket for alliance in Council; people on the Gold Coast expect their councillors to be independent and so it's very important that you remain independent at all times." This being, you, the collective group of candidates; isn't that so?-- Whether or not he put it in those terms. I think they're the-----

I'm not suggesting he put it in those exact words, but what I'm saying is that was the message he was clearly getting across?-- Yes.

We're not setting up any sort of a ticket-----?-- That is correct.

-----or voting bloc, or anything else, or alliance; it's very important for all of you to remain independent?-- Yes.

If you become councillors, you've got to be independent councillors and you've got to look after the interests of your constituents?-- That's correct.

I'd suggest he went on to say words to this effect, "But at the same time, you don't have to be discourteous or disruptive in the process. If you've got a different opinion to someone else, that's fine, nobody cares, but if you've got a different opinion, then you argue it logically and sensibly and politely you don't just attack your fellow councillors and grand-stand in Council for purely political reasons." Did he say words to that effect?-- Yes.

Right. Again, this was consistent with the whole message of the meeting, wasn't it, that what was being addressed here was

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WIT: ROWE B P

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the poor behaviour of some people in Council in recent times?-- Yes.

You told my learned friend, Mr Mulholland, that - you were asked whether these people were like-minded. You said, "I couldn't tell you if they were; I didn't get to know them well enough." Well, it is the fact, isn't it, that at that meeting nobody was canvassed for their political views?-- That's correct.

There was no discussion about whether people were pro-development or anti-development?-- That's correct.

All that was discussed were these issues about if you get into Council, we want you to behave sensible, rationally, politely?-- Yes.

Now, at that meeting, my learned friend, Mr Mulholland, showed you a document which is marked as Exhibit 14. It's a document that is said to come from Mr Morgan, I think. You said you didn't remember reading it. Do you know the document I'm talking about?-- Yes.

Do you remember seeing it?-- It's vaguely familiar.

Vaguely familiar. All right. well, in that document on the front page under Objectives is a - this was referred to earlier on, but an objective to achieve a consensus amongst a select group of councillors, and you said you didn't think that was addressed at that meeting. I suggest to you that that was not discussed at that meeting, that nobody spoke to that?-- I can't recall it being raised.

Can't recall it being raised. I suggest that there was no talk about consensus or caucus at all?-- No.

Now, in February, you went to a meeting with Mr Power and Mr Pforr, you went to see John Fish; is that right?-- Yes.

Now, John Fish is quite a close friend of yours, isn't he?-- Yes.

Has been for many years?-- Yes.

In fact, is it right that his sons were both at your college - was it his sons?-- No, two daughters and a son.

Two daughters and a son?-- Yes.

And they were-----?-- Foundation students, right at-----

Foundation students, like student number 5, 6 and 7, something like that?-- Yeah, they were early-on enrolments, yes.

And Mr Brett Curry, his children were students number one and two, weren't they?-- One, two and three.

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WIT: ROWE B P

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One, two and three, and so these were long-term friends of yours?-- Yes.

Who you'd had a lot to do with, I take it, from very early in the piece?-- Very much so.

Very much so, and so when you talk about them accepting money from them in the sense of being friends, you very much thought of them as friends first, I take it?-- Oh, yes.

Okay. Well, now, going back to Mr Fish then, firstly, not only was he - had he been a friend for a long time but he was a close friend, wasn't he?-- Yes.

And you said that you went along that day to that meeting, you wanted to see John Fish about something else, did you?-- No, I was going to see John about - having a chat about some funding.

About some funding?-- Yes.

Now that - the discussion about Mr Young that came from Mr Fish at that meeting was in the nature of a complaint, wasn't it, by Mr Fish to - particularly to Mr Pforr and Mr Power about Young's behaviour?-- I think that he was - he was not happy with what had transpired between the two of them at that time.

Yes, he claimed, didn't he, that Mr Young had held up a residential application of his on Cox Road years back?-- Yes.

By lodging an application without any proper grounds, that's what he was saying, wasn't he?-- Yes.

And he claimed in the context of that, didn't he, that Mr Young had offered to pull the appeal out if Mr Fish paid him a million dollars for his house?-- Yes, I think that was the essence of it.

And so the nature of what he was saying, whether it was true or not, was he was saying it in the context of saying that Mr Young was unfit to be a councillor, wasn't he?-- That was certainly his view.

Right, so it was a complaint by him to you people generally, specifically to Power and Pforr, about this person who was a councillor but was unfit to be so?-- Yeah, I think there was a degree of anger in it still too.

But he didn't ask, did he - at any time in Mr Power's presence he didn't ask for any sort of favours to be given to him by any councillor?-- No.

Didn't suggest that by supporting Mr Pforr or Mr Rowe, yourself, that in any way he should get any-----?-- No.

-----favour in return?-- No.

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WIT: ROWE B P

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His - the whole tenor of what he was saying that day was we've got a person in the moment, Young, who is just unfit to be there?-- That was certainly John's view.

And again I'm not - whether or not it was true, he was almost insinuating that he was dishonest?-- Yes.

All right. Well, he didn't ask Mr Power for any favours?-- No.

Nor did he ask anybody else for any favours in Council in the presence of Mr Power?-- No.

Mr Power has never asked you or never asked you to even consider giving anybody unfair treatment, did he?-- No, no.

He never proposed to you that you'd vote in any particular way if you got into Council?-- No.

Didn't discuss with you supporting developers or anything?-- No.

His discussions with you about raising funds was always on the basis that he'd be going out to try to get support of the business community at large?-- Yes.

It was not a developer-centric exercise, if you like? wasn't focussed on developers?-- No.

He, Mr Power, never asked you to in any way ever misrepresent anything to the press, did he?-- No.

Or even to be coy or secretive to the press?-- No.

In any way?-- No.

He didn't ask you to misrepresent anything to anybody, did he?-- No.

Never asked you to breach any obligation you had at law to disclose fully and completely?-- No.

And he never suggested to you or proposed to you any sort of negative campaigning of any kind?-- No.

In fact he didn't have anything to do with your campaigning other than what we've heard in terms of his involvement in the funds, is that right?-- That's correct, yes.

All right, thank you, sir.

CHAIRMAN: Yes, Mr Webb.

MR WEBB: A couple of questions I'd like to ask, and really in the question of fairness, one stems from the frame of question - just before lunch. You might recall Mr Needham, the

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WIT: ROWE B P

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Commissioner, was asking before we broke for lunch that as to whether you'd really looked into the crystal ball as to whether or not you'd have to - how you'd handle yourself if Mr Fish's matters came up or something of that nature, and you said that's a matter on which you might have to - you saw or saw that you might have to obtain some advice. Now, was that because of your very strong long and public friendship with Mr Fish or for some other reason? In other words, is it a conflict just because he happens as one of his business interests to have some developmental interests or was it because he was well known widely as a friend of yours?-- I think it would've been his connection with business interests that would've been concerning me.

All right, now those business interests, I don't know if you're very familiar with them, but he, I believe through this company for promotional purposes, is associated with Team Australia. Do you know of that?-- No.

I see. He has some interests in wine products, do you know anything of that?-- Oh, he's - I know that he's got a hotel and Fish Liquor, I don't know that he's got his own label. I wasn't aware of that.

I see, Fish Liquor being a barn type-----?-- Yes, it's-----  
-----activity?-- Yes.

Right. Thank you, Mr Chairman.

CHAIRMAN: Thank you, Mr Webb. Yes, Mr Radcliff?

MR RADCLIFF: Mr Rowe, I appear for Mr Shepherd. I only wish to ask you some questions concerning his affairs and I see from your response to the Commission that you say in your supplementary statement, "I attended meetings of Quadrant on December 18 and January 8. Present at both those meetings were Councillors Power, Robbins," et cetera. "Councillor Shepherd was present only on December 18"?-- Yes.

And you also go on to say, "I met Councillor Shepherd for the first time at the Quadrant meeting and cannot recall seeing him again before the election". That's what you said?-- Yes.

Therefore your only contact with him during the whole of the campaign. Mr Shepherd says in his statement, "I had no further contact with these people throughout the balance of their election campaigns." That was correct, vis-à-vis yourself and Mr Shepherd?-- From my recollection, I - yes.

Yes, all right. Now, therefore dealing with that one meeting Mr Shepherd says in his disclosure documents that, "with regard to Grant Pforr, Brian Rowe, Robert Molhoek, Roxanne Scott and Greg Betts, I can say that I was invited to attend a meeting at the offices of Quadrant during December 2003," and he then goes on to say, "where I was asked to attend to brief

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prospective candidates on how I ran my campaigns and what were  
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my impressions of the role of a councillor." Now is that a correct statement of what he had to say, or a correct summary?-- I think Ted struggled to get a word in, to be honest. They would have been perhaps the things that Ted would have but certainly he wasn't dominant at the meeting, it was - it was really Sue.

All right. And he also says in his document, "I am not tied to nor influenced by any commitments to a voting bloc and maintain that all times my individuality to determine issues according to my own knowledge and/or the assessment of information placed before the council." Was that the position that you all had at this meeting?-- Yes.

Now, he also goes on to say, "Other candidates for elections from other Divisions and the Mayoralty also ask for my guidance in running council, and I gave general advice as did most sitting councillors." Did he give you general advice at this meeting at Quadrant or was it, as you say, that he could barely get a word in?-- I don't remember him being radical in his views. If he did have anything to say it would have been very general, I think.

Thank you. I'll now deal with some documents which we've been provided which is a censored version of a document by Mr Young and Mr Young talks about certain pro-development councillors who went out to secretly recruit new candidates such as yourself. Was there any secret recruiting of yourself and councillors, Pforr, for example?-- No.

All right. He goes on to say, "Some of the new candidates, Mr Rowe and Mr Pforr, had close links to existing councillors." Did you have any close links to existing councillors other than Councillor Power that you've explained?-- No, occasional contact with some but no, wouldn't have been close links.

Now, in so far as yourself, it's suggested that - by Mr Young that "support, advice and strategic direction was provided in a secretive and highly organised fashion." Was that a correct statement?-- I wouldn't put it as highly organised.

But secretive?-- It wasn't a secret to me.

And Councillor Young also suggests that those who were encouraged provide or seek financial support were told by councillors that there was a desperate need to counter a group of green candidates?-- No.

No. Now, I haven't got very many more to go through. We've heard today about this common sense group. Was there ever a de facto political group or de facto caucus formed called the Common Sense Group of Candidates?-- No.

Councillor Young goes on to say, "The common sense candidates who lied to the community were successfully elected and won their places by deception." Are you saying there was no such group?-- No.

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WIT: BARDEN L J

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Just one other area. I think it's been canvassed by others but I'll ask you once again. whilst Councillor Shepherd was

there, was there ever any suggestion that you would be joining with him to form a group which would become the majority within the council?-- No.

Thank you. Nothing further, thank you.

CHAIRMAN: Yes?

MR T FYNES-CLINTON: No questions, Mr Chairman.

CHAIRMAN: Yes, Mr Mulholland?

MR MULHOLLAND: I have nothing further, thank you, Mr Chairman. May the witness be excused?

CHAIRMAN: Yes, thank you, Mr Rowe, you are excused. Thank you for your evidence.

WITNESS EXCUSED

MR MULHOLLAND: I call Lionel James Barden.

LIONEL JAMES BARDEN, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Lionel James Barden?-- Correct.

And what is your position, Mr Barden, your occupation?-- Occupation. I'm a mentor to small business.

Right. So you run your own business?-- I run my own business.

And you attend here today in response to a summons or notice to attend?-- Yes, I do.

Would you have a look at this document please. Is that the notice?-- Yep.

I tender that.

CHAIRMAN: That will be Exhibit 160.

ADMITTED AND MARKED "EXHIBIT 160"

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WIT: BARDEN L J

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MR MULHOLLAND: Now, were you also served with a notice to discover-----?-- Yes, I was.

-----in relation to documents?-- Yes, I was.

And did you in response to that notice provide documents to the Commission?-- I did.

First of all would you look at this notice please. Is that a copy of the notice?-- Yes, it is. Yes.

And would you have a look at these documents please. Are those the documents you supplied to the Commission?-- Yes, they are.

Were those all the documents that you had in your possession, Mr Barden, in relation to the matters referred to in the - covered by the notice?-- If everything here is what I supplied, yes it is.

I tender the notice and the documents, Mr Chairman.

CHAIRMAN: That will be Exhibit 161.

ADMITTED AND MARKED "EXHIBIT 161"

MR MULHOLLAND: Now, one of the documents - by the way, do you have a copy of the documents that you did supply before you?-- No.

You don't have a copy-----?-- I've got only my statement.

You've got your statement?-- Mmm.

All right. One of the documents that you provided to the Commission was a letter of the 22nd of August 2005 addressed to the Commission, is that correct?-- That's right.

I'd like to take you to that document. First of all is there any comment that you wish to make in relation to the accuracy or the documents that you were able to supply to the Commission - the accuracy of this document or the documents that you supplied to the Commission?-- No.

So this is true and correct, there's nothing you want to add to it?-- As I recall.

All right. Now, I want to take you to a number of matters you refer to in that letter. You begin by referring to an article that had been run in the Gold Coast Bulletin on the 26th of December 2003 referring to a power bloc. Not the power bloc as it became known but another power bloc; is that correct?-- That's correct.

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And you then go on to say that by the end of December you had retired from the Robina Chamber Presidency - "as my business interests were all now at Coolangatta. I had no further involvement in the combined Chamber decisions." Then you go on to deal with the election campaign. Are you implying by that that you waited until you had no further involvement so

far as any office that you held was concerned with the Chamber of Commerce before you did anything?-- No.

Or the reference to the bloc that you had referred to so far as this earlier Gold Coast Bulletin article was concerned, that that had anything to do with your - what you decided to do; are you implying that?-- I'm not sure I understand.

Well, your reference to the bloc-----?-- Yep.

-----what has that got to do with the involvement that you then had in the campaign?-- I - as the President of the Robina Chamber - as a number of presidents of chambers - over a number of months we were concerned with this group of people.

So you were concerned about the impact, as you say, in your letter. You were concerned about the impact of those - of their policies?-- Correct.

And the policies were policies of various people, including the Councillors, Peter Young and Dawn Crichlow-----?-- Correct.

-----according to you. All right. Well now you go on to say this, "Once the election campaign commenced, I was invited to a number of the candidates' meetings" and so on?-- Correct.

Now we know that the official - nominations officially opened on the 11th of February 2004-----?-- Correct.

-----and closed on the 27th of February 2004. When you say the election campaign commenced, what period of time are you speaking of?-- I'm not sure, but I can tell you that I went to a number of Chamber meetings in various Chambers that were held a couple of months before the election and there were people who were either going to stand or put up their hand already and that was at those meetings that - I attended those.

Right. Well, can you tell us what - or any of those meetings? Can you give us any more detail in relation to any candidates who were present at these meetings?-- At the Nerang Chamber meeting, as I recall and I can't give you a date, there were a number of the people who were mentioned in the - in this 26th of December. They attended that Chamber meeting and they sat together at the table as a group.

Yes. So this is the group you referred to in the first paragraph?-- Yes, that's right.

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WIT: BARDEN L J

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Okay. Including Mr Young and Ms Crichlow?-- No, no. No. Some of the group, I said.

So not those two people?-- No. I think Guy Jones was there. I can't think who else.

All right. Well, were there any Councillors present-----?-- Linda Brown. Sorry?

Were there any Councillors present?-- Gee whizz. I can't remember.

All I want to know is-----?-- No, I understand your question, but I honestly can't remember. There were - there was a number of people there who were either going to run or were running for Council at that time and that was in a couple of different Chamber meetings. Who was there, I can't actually give you their names.

All right Can you give us any more detail about any of the other meetings? You've mentioned Nerang as being one of the Chambers that had one of those meetings, where else?-- Either Robina or Mudgeeraba; I can't remember. And can you remember the attendance of any particular candidate for the election at any of these other meetings?-- No. No. I can't - I mean I can't give you exact names, no.

Well now you go on to say, "I continued to be concerned that there seemed to be a well organised and well funded group of candidates, whose policies would, in my view, be detrimental to the continued economic development of the Gold Coast. I discussed my concerns with David Power and suggest that he make sure he had the resources to properly conduct his campaign". Now this well funded group of candidates, did that include Peter Young and Dawn Crichlow?-- The - what I meant by that was that there was a group of people who had joined together, who had put their names on a - and put themselves down as a group and there was associations, as I understood it, from other people. I can't give you that I knew exactly, but they had - as I said, I was concerned because that's how it had come across to me.

Well, the concern that you had, concern a well funded, well organised group and all I'm interested in is whether the concern that you had included those two Councillors?-- well, the answer to your question is "Yes".

Right. Did it include Mr Sarroff?-- No, it didn't.

All right. You said that you had - you discussed your concerns with David Power; when was that?-- Probably over a period of about two or three months, leading from probably back in November/December.

So-----

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WIT: BARDEN L J

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MR NYST: Sorry, back what?-- Probably November/December. Yes. I mean it just - there were discussions.

MR MULHOLLAND: The way in which this reads and this is why I want to clarify, the way in which your letter reads is "By the end of December, I had retired from" and then you say, "Once the election campaign commenced". Now, you're not suggesting that this is what you then did, that is continued to be concerned after the end of December-----?-- Yes. I mean I was concerned all the way through. I think if you-----

Well then you go on to say, "I discussed my concerns with David Power and suggested that he make sure he had the resources to properly conduct his campaign". The way it reads conveys that this had occurred after the end of December and you've agreed with me yourself-----?-- Oh, I don't disagree, but I mean I'd probably had discussions with him right up to February.

Right, well, I'm just wishing you to tell us what you mean because we've got to understand what you're meaning here, you see, Mr Barden. So, when you - when that particular paragraph which begins, "Once the election campaign commenced", may we take it that you are referring to some time after the end of December?--Yes, that'd be correct.

Now, you discussed your concerns with David Power and suggested he make sure he had the resources to properly conduct his campaign. Was this one discussion or a number of discussions?--I honestly don't know when that was raised but I remember raising it with David, that there was this group and he should look - look out for the fact that they were well organised and well funded.

Right, and what, to make sure that he had the resources?--Yeah.

Well, how did he react when you said to him that he ought to make sure that he had the resources?--Oh, he just probably commented to me as he would have - we were friends, we were having lunch as - from different time to time and that would come up in the conversation and I remember saying that to him and I remember it coming up in the conversation and he said, yes, I'm recognising that and I'm probably comfortable with it, but I can't give you the exact words because that was - I mean, you're asking the question. All I can say is that's how I think he would have answered.

No, I'm interested to see how this developed?--Okay.

Because Mr Barden, you understand that you are a figure of some importance having regard to the return which you've put in, in regard to this matter and the position you occupy in relation to a fund of money that was used towards the campaign success of a number of candidates. So, I want you to concentrate please on this contact that you had with Mr Power and the reaction that he had when you suggested to him to make sure that he had the resources. Now, this is in the period January, is that so?--well, I-----

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WIT: BARDEN L J

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January/February?--I said to you somewhere between December and February.

Right. There's only January in between?--Yeah, I know that but it was over a number of meetings. It came up in conversation.

Right. Well, you didn't seem to loom very large in your - in your memory at any rate?--well, I mean, I raised it and put it in there.

Did Mr Power, when you spoke to him, indicate to you that he had already discussed the matter with Mr Ray and others?--No,

he didn't.

Did he discuss with you that Mr Ray had actually asked or that he had asked Mr Ray to be involved and that Mr Ray had agreed to be involved in funding?--No, he did not. At no time.

Right. Did he discuss with you at the time that there had been an account which had been opened at Hickey Lawyers and moneys paid into a trust account of Hickey's; no?--No. Not in those conversations, no.

Did he-----?-- Not in any conversation actually.

Right, well, did he - did he tell you that an account and file had been opened at Hickey Lawyers in the names of himself and Sue Robbins?--No, he didn't.

So, he never had that discussion with you?--No.

Right, well, you had these discussions which you have referred to in that paragraph. You then go on to say this, "On or about the last week of January". Now just in regard to this date, "on or about the last week", how are you able to fix that?--I didn't fix it, I said, "on or about", I couldn't remember the date.

Right, well, did you refer to any documents-----?--No, they-----

What made you think it was on or about the last week of January?--No, I had no - I had no documents to refer to.

Well, is this a guess or what?--It's a guess. It's as close as I could understand the date.

All right. "On or about the last week of January I was approached by David Power and Sue Robbins", so, this was a joint approach?--Yes, at different times though.

At different times. Well, let's read on. "I was approached by David Power and Sue Robbins to act as a trustee of a trust account which people from a broad business spectrum could donate funds to support a counter group of like-minded candidates who would make positive and cohesive decisions for the economic development of the city." Now, that almost

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WIT: BARDEN L J

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sounds like a campaign statement. Is this more than one meeting that you're talking about?--No, in fact, it was - it was a meeting I had with David and he asked me.

Well, you say approached by David Power and Sue Robbins?--Yeah, but Sue Robbins rang me and asked me later on, probably a day later, two days later, was I comfortable with the position to do.

Right. The first approach was by David Power?-- Correct.

And whereabouts did you have that meeting with Mr Power?-- Over lunch.

Do you remember where?-- No. In fact, I think it was on

Chevron Island but I can't give you the name of the restaurant.

Right. And what was discussed at this meeting?-- David asked me would I put my name to a trust where the money could go to that particular set of circumstances, but those words, if you like, are my words because it probably comes from the fact that I wanted something to happen that way.

That could you put your name to a trust?-- would I be prepared to.

Anyone ever on any other occasion ever ask you if you could put your name to a trust, or was this the first time?-- Probably the first time.

Right. Well now, when he asked you that, how did you respond?-- I said I had to think about it. We talked about it. I guess I-----

Just flesh out what was discussed, you see. Tell us as much as you can?-- Well-----

What he said and what you said?-- It's not what happened in that conversation that triggered - that I guess triggered it for us. I mean, I'd been to some extent for years campaigning for the Gold Coast to lift its profile. So I was known for that actively. I-----

To lift its profile was-----?-- It's known as sex, drugs and rock and roll, and if you don't know that, I mean, that's what the Gold Coast is known for. We were trying to lift the business profile. Starting when I mentioned before, I approached David about making sure that he was well resourced because I had a lot of respect for him, and he was involved in economic development as I was from an outside point of view.

Right?-- Then he asked me on this particular day would I put my name to the trust fund as they wanted somebody who was independent and-----

Independent of what?-- Independent of any activity. I had no call on Council. In fact, the premises that I took at that

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WIT: BARDEN L J

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time was on Gold Coast Airport, and Gold Coast Airport did not answer to Council even for signage. So, I was completely independent of any ramifications. I wasn't effectively any part of a group anymore because I'd left the Chamber as President, and therefore I wasn't influential in any way. So I said under those circumstances, yes, I would.

Now, you were - the two of you were like minded in the sense that you wanted to advance the profile and in particular the business profile of the Gold Coast; is that correct?-- Correct.

What precisely did you have in mind there? You mean business development. I think those are the words you used?-- Business development, that's right.

So you wanted more development?-- No. I'd have to say I'm not

sure what you mean by development. I-----

Well, you mentioned the-----?-- No, I said-----

You used it?-- No, economic development.

Right. Well, what does that mean?-- well, for instance, we are - the Gold Coast has the shortest number of places in universities in the whole of Australia. We are not funded in the same way as a city. We're not funded as a regional area. On two occasions, I went to Canberra with Council to get in front of politicians the fact that we were not seen as a true city. That's economic - looking for the structure and the underpinning for true economic development in the city.

Right. Now, Mr Power was one of these people who you saw who could help you reach your goals in that regard?-- well, he was the councillor at that stage as I believe it who oversaw the economic development body of the Council, as I recall. So we had a lot of work, interactive work.

Right. And so was it part of what you would see occurring that Mr Power would assist to have like-minded people elected to the Council - that is, who were concerned about economic development?-- well, any development - yes, any economic development, I would see him saying that people would be seen that way, but that wasn't the - I mean, that was my requirements, but that's not necessarily what I was talking to him about under the circumstances. We were talking about image and the image of the Gold Coast was extremely poor.

Right. Well, come back to this meeting that you had with him and tell us as much about what he said and what you said?-- I can't remember what we said.

Well, you've said-----?-- The outline was that he asked me would I take the position.

Because he saw you, and you've told us that you saw yourself as someone independent?-- Independent, yes.

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Now-----?-- Of influence.

Independent of influence?-- Correct.

Now, of course, I'm correct, am I not, that you had yourself been funded by the Council in 2003?-- No, not correct.

Innovations Showcase?-- Yes, they took space in the Council. That was done through the bureaucracy of Council, had nothing to do with the councillors except that they all had to vote on at the end.

Well, that's something to do with the Council, isn't it?-- Yes, but that was in a business investment that the Council made as the State government made as the - as the Federal government.

And you were the person who were responsible for establishing that Innovation-----?-- Yes, I was.

-----Showcase-----?-- Correct.

-----at the airport?-- Correct.

And a sum of money - how much was it, \$24,000 or thereabouts?-- Something like that, yeah, thereabouts.

Was voted by the Council?-- Mmm. Yeah, well, that was six, eight months before.

Now - all right, so you saw yourself at the time this discussion was occurring as being completely independent and being able to fulfil the role?-- Correct.

Now what exactly was the role? You were going to act as a trustee or you were being requested to act as a trustee of a trust account? Is that what he said to you?-- No, he asked me would I put my name to a trust account where money could-----

Sorry, a trust account?-- well, I can't remember whether it's trustee for a trust account or - or an account where I was the - it was in my name.

Did you say a trust deed?-- No, I didn't, no.

A trust account or the trust account could be in your name?-- My name to the trust account.

And this is something that's never - had never occurred to you previously?-- Correct.

And he explained to you why?-- He said that if people were to submit money and we discussed this because I asked the question if we were to take money for raising funds, those funds would be independent of people who - who may be candidates and we discussed that at the time.

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Right, well, tell us what you discussed?-- well, that's what we discussed.

Yes, well, what did he say? what did you say? Do the best you can, you see?-- As I understand it, we - we talked about the fact that there would be some funds raised which would go to individuals who were running for the Council as candidates.

Certain individuals?-- Yes, certain individuals, and that one of the most important things was that the monies that went to those individuals, that they didn't know where it came from and that the people who put the money in, they didn't know who the individuals were who actually received the money and the money wouldn't go direct to the candidate.

Right?-- And that was a lot that I had to say about that.

So what, you were making the point-----?-- So I said, "This looks good, because if we did it this way it's very independent, it's probably the most democratic way you can do it."

Democratic?-- Well, right now, a developer can put some serious money and you used the word "developer", can put serious money into a councillor, they know exactly where it comes from.

Right?-- Major monies, so-----

So is that what you had in mind that this would be a way to hide, if you like, from the candidate concerned?-- Well, I don't like the word hide. I mean, that's been used before but-----

Well, what word would you like to use?-- Well, at least the fairness is that the individual candidates don't know where - who actually submitted the money.

Remain ignorant of?-- Yeah, you could say that.

All right, so you weren't particularly concerned at that?-- I thought it was - was a good way.

Now you said democratic, did you mean in the sense that that would possibly avoid any conflict so far as the candidate was concerned?-- That later on - yeah.

If elected?-- Yes.

Now, of course, all this pre-supposes that there are - who is the selected candidates who are going to be supported by the fund, so presumably you had some discussion with Mr Power about that?-- Yes, at that stage we knew that there were a number of people were standing but I don't think we actually discussed individuals at that stage.

Surely, Mr Barden, you had some discussion about well, who are these people that I'm supposed to be the trustee of the

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account for?-- Yeah, that - that came within days and weeks after that.

Because, well, you say days and weeks, this is the last - on or about the last week of January?-- Yeah, well, within the next week.

And you would have - correct me if I'm wrong - you would have, I suggest, have wanted to make sure that the people who were being supported by this fund are people who you could support being funded in this way?-- Correct.

Right, so what did you do in order to satisfy yourself of that?-- Well, we discussed who they were.

Right, and you heard about what Mr Molhoek, his name was mentioned to you?-- I knew - I knew, I knew Rob, I knew Brian-----

He was one of those?-- Yeah. I knew Brian.

Brian Rowe?-- Yeah, I already knew they were standing.

You knew - and Roxanne Scott's name was mentioned too?-- Yes.

Mr Pforr's name was mentioned to you?-- Yes. Yeah, I didn't know him at the time.

You didn't know him. Did you know of any councillors who were associated with this fund? Like, for example, Mr Shepherd?-- No.

You knew Mr Power, of course?-- Mmm.

You knew, if you didn't know on this occasion when you were speaking to Mr Power you shortly thereafter knew that Ms Robbins was also-----?-- That's correct.

-----connected with it. Yes, I think I might have missed out one. But any rate, is there any other name that was mentioned to you?-- Greg Betts.

Right, thank you, Mr Betts. All right. Now, was that all said at this first discussion that you had with Mr Power?-- I don't know.

If not the first, within a short time afterwards?-- Sure.

Now, where did it go from there? Is there anything else that you can remember about this discussion? What about how much money?-- No, I don't think - in fact I'm really not sure I even gave an answer on that day. I think we just discussed it on that day.

Right. So no mention of Mr Ray?-- No, not at all.

You're quite certain about that?-- Not at all.

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Was there any discussion about, well, where is the money going to come from? Do you have any money already?-- No, I didn't ask that question. I-----

Well, you were going to be the trustee?-- Yes, I understand that. I didn't ask the question, "Do you have any money at the present moment?" and it wasn't about the money, it was about was I comfortable with the position, who are the people who are going to be there. Those things about how much and those things come later.

All right. Well, is that all you can remember, all you can now recall about this first meeting?-- Yes, it is.

Well, tell us what - how it developed from there?

CHAIRMAN: Just before you go on from that, can I ask, did you - you said you didn't know Mr Pforr. Did you know Roxanne Scott?-- I think I'd met her once before.

But you didn't know her well obviously?-- I didn't know her personally, no.

And you were-----?-- I knew her profile.

You knew her profile?-- I think so.

Right. And Mr Betts?-- No, I had never met him before.

Okay. How did you find out then if Mr Pforr and Mr Betts were people who would deserve your support?-- I think that - that their names were mentioned to me from Sue Robbins. I think.

Did you ask Mr Power as to-----?-- Yes, I mean, we did but I'm not sure, sir, that it was on that particular day.

No, but over the-----?-- Yes, over the period, yes.

Over the next week or whatever it is?-- Yes, yes, correct.

And what were you told about these people as to be able to-----?-- Well, I made my own-----

-----make you - enable you to make up your mind as to whether they would deserve your support?-- I made my own - went out and found out about them myself.

Did you ask Mr Power about them or Ms Robbins about them?-- I could have done but I know I asked a lot of other people around town.

Okay. Thank you.

MR MULHOLLAND: Do you mean other business people that you asked?-- Yeah.

So you did that in thinking about this offer or request that it be made?-- Request, mmm.

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How long did you take to think it over?-- Again it has to be days but I can't give you an exact date.

Well, tell us the next contact you had with Mr Power or Ms Robbins?-- It can only be by phone call and as I said, Sue Robbins rang me within a day or two to say was I comfortable and I think at that stage I gave David an answer that I said I'd be prepared to do it. I think I spoke to Tony Hickey because he was the lawyer that was looking after it.

You spoke to Mr Hickey?-- I think I did, yes. I think - I think I did that before I told David, yes.

All right. So why did you - did you know Mr Hickey?-- No, never met him. I think I'd met him once or twice before over some - yes, I did, I had lunch with him once about two years or three years before in a business lunch.

Right. So had you told Mr Power you were going to contact Mr Hickey or did you just ring him?-- I don't remember.

So what were you interested in knowing from Mr Hickey?-- well, he was a lawyer. I wanted to make sure that everything was above board and if he was running it then I was comfortable.

Right. So what did you ask him?-- I can't remember.

well, you-----?-- I mean, you'd ask him the normal things but I can't answer.

What are the normal things?-- well, I mean, "Are you running it? Are you going to look after the payments? What's the part that I play?" I guess.

All right. well, what did he tell you?-- I can't remember. Enough to make me confident to say yes.

well, did you ask him if there was any trust document?-- No.

well, normally if you have a trust, the sort of trust that you were talking about you'd expect there to be some trust deed, wouldn't you?-- well, it wasn't a trust in the sense of a trust deed. It was a trust account as I understood it.

Right. So you understood that what was happening here is that moneys were being donated into an account - that is, into the trust account at Hickeys; is that correct?-- Correct.

And then the moneys would be paid out of that account on someone's say so?-- That's right.

And the identity then of the donors would not be known by the candidates concerned?-- Correct.

Now, did you tell Mr Hickey when you spoke to him the reason for the enquiry - that is to say, that Mr Power had approached you in regard to the matter because he wanted you to be

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involved and how he wanted you to be involved, he wanted you to be the trustee I think is the way you put it?-- well, yes, I mean, I can't remember the conversation but the basis of the conversation that made me say yes was I was comfortable with the conversation. I can't give you the detail.

You would know from your own business experience, Mr Barden, that Mr Hickey, the person that you were speaking to, was a statutory trustee in relation to trust moneys held within his trust account. You would know that?-- Okay.

well, did you know that, that a solicitor has a trust account and is a - you know, there's a statute which governs what he must do; did you know that?-- well, I've got a fair idea but I'm not a lawyer.

So I'm just interested in how you were going to be as he had put it to act as a trustee, what exactly were you - role were you going to perform?-- well, as I understand it and understood it then and still understand it my job was to make sure that the payments that were made were legitimate and aboveboard and I would sign off on all those payments.

Right. So presumably there was some discussion about what that would entail, what you would have to do in order to make sure everything was aboveboard?-- Probably but I can't recall that conversation.

well, who were you going to do this with? were you going to

sign off on some invoices?-- Correct. With Quadrant.

Is that what Power said to you?-- I'm not sure whether it was Tony or David.

Tony or David? Well, can I-----?-- Tony Hickey or David Power.

Can I just point this fact out to you; you see, the evidence here clearly establishes that until the 4th of March 2004 the moneys held in Mr Hickey's trust account were in the names of Power and Robbins?-- I understand that from listening to the case.

Right?-- And reading the information.

How does that sit with what you were being told by Mr Power and what you heard from Mr Hickey in the conversation you had with him?-- I don't know that it's got anything to do with it. I mean, I didn't - I didn't know at that stage and I still don't understand that there's any - when I took it over and that's what you're saying, that's what people said - I took it on as the Lionel Barden Trust Fund and as far as I was concerned when I went to Quadrant they had no orders, they hadn't been given an authorisation so I wrote out an authorisation which is a piece of housework and as far as I knew at that stage that was as much as I had taken on and that's what I understood.

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Well, all that you took on in regard to this - and we'll come to the documents shortly - but all you took on was to authorise with Quadrant or by - in respect of Quadrant invoices - that a certain amount was okay to be paid?-- Correct.

And how did you do that? How did you satisfy yourself that work had been done for example?-- Because Quadrant submitted the invoices to me from the people that they were actually passing - doing the work for them and I checked with those and I was happy with the amounts that they were being charged out at so I signed off on it.

So you looked at the amounts to see whether the amounts seemed reasonable?-- Yeah, I mean, once you - once you check out who their suppliers are you know that certain amounts are reasonably paid so, yes, they weren't excessive, they didn't appear to be out of order so I signed off on them.

Well now, what the evidence shows is that as I say that Power and Robbins were the controllers of the account held within Hickey's trust account up to the 4th of March?-- Okay.

In relation to Quadrant, Power and Robbins again were in control of the account there up until early February?-- Okay.

All right. Now, did you know that?-- No.

You didn't?-- No. Why should I?

Are you sure that Mr Power or Ms Robbins didn't say to you,

well look, what's happened here is that it's our account at the moment but we want to change the account name from our name to your name?-- No.

No-one ever said that to you?-- No, not in that - no. Well, you know now that that's in fact what happened?-- No, well, you just told me.

Oh, Mr Barden, are you telling us that this is the first that you have heard that that is-----?-- No, no, I'm saying, in this - when this - this CMC Inquiry opened up, that's the first I knew about it.

The first you knew about it?-- Mmm-hmm.

Well, does that disturb you, that when you were spoken to by Mr Power, by Ms Robbins and by Mr Hickey and you agreed to lend your name in the way that you've suggested to this fund, that you did not know that in fact Robbins and Power had been in control of the account at Quadrant and they remained in control of the account, the trust account, or the account within the trust account of Hickeys until the 4th of March?-- I don't understand that they were in charge of Quadrant. I don't understand the question, because I mean the only things that Quadrant did were provide invoices from the suppliers and I signed off on them, so I don't know where the

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control comes. I mean I don't control all the things that happen in Quadrant.

So you don't know that there had been any account within Quadrant in the name of Robbins and Power - you don't know of that?-- No.

And you don't know, in relation to the Hickey trust account, that there was any name of the Power and Robbins, in relation to that account?-- I - I'd have to be honest with you and tell you, no, I don't.

Mr Barden, do you realise that after you agreed to lend your name to this trust account, that there were direct payments that were made to candidates in February of 2004 - this is after the time when this change occurred - direct payments made on the authority of Power and Robbins?-- No, I didn't know.

You didn't know? well, does that surprise you or disturb you?-- In what context?

Well, belief. You're lending your name to be a, what you believed to be a trustee, or you're lending your name to the account; did you - did you believe that you would be controlling the payment of funds from the account held within Hickey Lawyers?-- Yes. Yes, I do.

Well, I'm telling you that there were amounts paid out to candidates, totalling \$33,000 in February of 2004, after you had taken over and those were paid out on the authority of Power and Robbins?-- Okay.

Well, you didn't know that?-- No, I didn't.

Well, you would have expected that if payments were being made out of this fund in February of 2004, after you had become the "trustee" of this account, then you would have had some say in it?-- Yeah.

In fact you had no involvement at all in any payments made to candidates, did you?-- No, none at all.

It was only - your connection was only with Quadrant?-- Through the invoices that they submitted, yes.

So if we can be - I want this to be crystal clear, Mr Barden-----?-- Mmm-hmm.

-----you're saying that there was no discussion that you had with Ms Robbins, Mr Power or Mr Hickey, in relation to the reason why a name would need to be changed from Power and Robbins to your name?-- A change was never mentioned.

You thought you were the first account name?-- Well, I thought he approached me on that basis.

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Well, having regard to the fact that we know that is not the case, do you feel that you were misled?-- In what way?

Misled in regard to the circumstances in which you were being asked to be the name of this account. Wouldn't you expect - wouldn't you want, if I tell you that that is in fact the case, wouldn't you expect to have been told that by the people who were talking to you about you lending your name to this account?-- Was it a change of name or was it two different accounts?

Two different accounts. The name of the-----?-- Well, I was asked to put my name to - to a trust account in the Lionel Barden Trust Fund. As far as I knew that's what I did. When I discussed it with Tony Hickey that's what he told me.

So your understanding then in relation to what was happening within Hickeys left-----?-- No. I said I understood that I was in - the trust account was in Lionel Barden's Trust Fund which was the name, that I was prepared to give my name to a trust fund. I didn't know that - you're saying to me that it was some other trust, I didn't know that.

No, some other trust - I'm just saying to you that up until the 4th of March the name of the account of this fund within Hickey Lawyers was Robbins and Power?-- Okay.

And your - you had no knowledge of that?-- No, I didn't.

You thought that when you were agreeing to lend your name to it that this was just a new account?-- I - I didn't - yes, that's the answer.

Right. Now, after that discussion that you had - that next discussion that you had with Mr Power what then happened? You

spoke to Ms Robbins on the telephone?-- Yes.

Did you have any further telephone discussions with Mr Power?-- I probably did have, I don't remember the odd you know direct phone calls.

Did you have any meetings at all with-----?-- No. No, I didn't - the only - the only meeting I had was with Quadrant, the next meeting I had was with Quadrant.

Right. So up until the election on the 27th of March and after the initial meeting that you'd had with Mr Power did you have any meetings with Power or Robbins?-- I don't think I did.

So it was all telephone?-- Probably telephone, yeah.

Were there many telephone discussions that you had?-- I don't think so. I think you know basically I had a small - it was a small position, I - I wasn't playing a major role in the campaign. I don't think I had any - any - there was a lot of work to be done so - and it was-----

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By who?-- By me. Over and above what was - I mean, checking all the invoices, making sure that everything was legitimate. I don't think we did anything - I worked very closely with Quadrant.

And what you think would happen with these invoices that you approved for payment?-- That they-----

In February?-- They would be paid for by the trust fund.

Paid for by the trust fund?-- Yeah, because when I - as I understood it I didn't sign the cheques, the cheques would go out directly from Hickey Lawyers and therefore all I had to do was to sign off of them.

Yes. We'll come back to this statement. You said - you go on to say to act as a trustee of the trust account which people from a broad business spectrum could donate funds to support. Were you ever told the identity of the people who were donating funds?-- No, I wasn't.

When did you first learn of the identity of the donors?-- I think probably in June. I knew some of them. I knew by the fact that - Brian Ray got a front page in The Bulletin so I knew he was in and Sahiel had been named - Sahiel Abedian had been named as well because that was in The Bulletin as well, there were two or three names in The Bulletin, but after that I - my full knowledge of that was when it was submitted to Council.

Right. So did that seem strange to you, that you believed you were the trustee of a trust fund and you didn't know who the donors were?-- No, I thought that was probably a good thing as well.

And did you know the amount of money that was being raised?-- I knew what Quadrant's budget was, what they were looking for

to get.

What did you understand that to be?-- Somewhere 120, \$130,000.

Who told you that?-- That's off the top of my head. I think Chris - Chris Morgan told me what his budget was, what he needed, minimum, and that's when I was working with him.

All right. Now, so far as these invoices that you approved for payment by Quadrant was concerned, all of the invoices that you have you've supplied to the Commission?-- Yeah, I'm not sure that that's all of them because I didn't see any need for me to keep those of records because Quadrant had the records and Hickey Lawyers made the payments so there - there really wasn't any - and it just so happened that I happened to have copies, those copies that I had and I was asked to submit them.

Yes. The - so far as those invoices were concerned, before you gave your approval to them, were they sent to you or did

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you go to Quadrant or what?-- No, no, I would go to Quadrant two or three days a week.

And what, sit down with the invoices?-- Sit down and go through the invoices with - with Chris Morgan.

And would you then approve them?-- I approved them once I - I - yeah.

Is there any invoice that you did not approve?-- No.

So you just talked to Mr Morgan about it, he'd walk you through what they related to?-- Oh, yeah, and also - and also what they related to and who submitted them and he - he kept excellent records so it was an easy job.

Yes, all right. Well, now could you go, please, to the letter - do you have a copy or you wouldn't have a copy of this. I want you to go to the letter that you eventually signed. Perhaps I'll pass this up?-- Thank you.

Now this letter is dated 10th December 2003?-- Correct.

It's already an exhibit. Just tell us please the circumstances in which this letter was prepared and signed by you?-- Basically what happened was that when I first went to Quadrant, Quadrant had no letter of appointment and they'd been doing work back to the 10th December and I felt - they felt that it was necessary that for their housekeeping they needed a letter of appointment and I agreed that that should be done, and therefore I gave them that letter of appointment they've backdated the 10th December.

Well, who prepared this? What's your recollection of the circumstances in which this was prepared?-- I think - I think it was done in conjunction with Chris Morgan.

Sorry, with?-- With Chris Morgan, sorry.

Chris Morgan?-- Mmm.

Well, was this document - when did you first see it?-- When you - when you say first see it, when did I first prepare it or when did I first see it?

Well, yes, you typed it up, did you?-- Yeah, I think I did. I think there's some - there were some notes that we took together at a meeting.

Who's we?-- Chris and I, Chris Morgan and I.

Right?-- And he needed to be covered in a particular way which I felt comfortable with. He'd been operating since that date so I then typed up the letter and gave it to him.

Right?-- That was within days of me meeting with him just after I - that took place.

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Well, you had agreed to do this with Mr Power and Ms Robbins?-- Correct.

What involvement did you understand them to have in this matter? I mean, they were the ones making the request of you?-- Yes. I - I guess it was a sort of follow on from - from our discussions when I said that they should be doing something about making sure that, you know, that there was - there was a strong team of people who I believed and they believed and everybody in the business tended to believe was needed to make a strong Council.

Who was organising it though?-- In what respect?

Well, in any respect. Who was the person who was responsible for getting the funding?-- well-----

To your knowledge?-- David, as I understand was-----

David?-- Yeah, was involved in raising the funds.

So did you in the conversations you had with him-----?-- Sorry, that's - only in discussion with David did I know and understand that he was the one raising the funds. I don't know who else was raising funds. There could've been many other people raising funds, I don't know.

Well, in the discussions that you had with Mr Power up to the election on 27th March, did you ask him how it was going? How the raising of the funds was going?-- No, I - because Chris Morgan, I understand, was in contact with him and they knew that we were - that they - there were - they were short.

So, was it David Power who put you in touch with Mr Morgan?-- Yes, it was.

Did you have any contact with Mr Morgan before this time?--No, in fact I'd never met him before.

So, was the meeting arranged that Mr Power attended?--No.

Or did you go and see him yourself?—No.

What, he just said, you go and see Mr-----?—No, I don't know that it was like that. I mean, as I said, I discussed it with Tony Hickey, I discussed it with David Power, I rang up Chris Morgan, I can't say that I got a direct line. I rang up Chris Morgan and he made an appointment and I went down and saw him.

These words which we see in this letter, was that your draft or was it a product of what you and Mr Morgan agreed should go in it or what's-----?—which letter - the letter - the December?

Yes of the 10<sup>th</sup> of December?—Yeah, it was discussed between Mr Morgan and myself.

Did you get any advice on the letter before you signed it?—No.

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Were you comfortable with having it backdated?—Oh yes, I mean, in the business I'd been in before we'd backdated letters when authority was needed - when people were acting without the authority and everybody knew that it was in line, there wasn't any damage.

But if people had been donating funds into this account prior to the time when you became trustee using that term, didn't it interest you that the money had been donated to a fund that was under different control than yourself?—well, I didn't know that it was under different control and I was signing off on a letter of action so that the invoices that Quadrant could supply were legitimised.

I may have misunderstood you. Is your evidence that in fact you believed that the funds were only donated after you came into the fund, is that the decision?—It dawn on me to be any different.

So, you thought that once you agreed to lend your name to it that the donations were made after that date?—Correct. In fact, the letter to some extent confirms that because it's almost like, at the time Quadrant had no authority that they were actually active.

Right. And that being so because you were in a situation where you believed that no money had been donated?—well, I didn't say that no money had been donated but I just took it for granted that the trust fund had started at that time.

But so far as you knew no money had been donated and no money had been paid out of the fund therefore. That must follow?—To Quadrant, yeah.

Mr Chairman, would that be a convenient time?

MR WEBB: Mr Chairman, just before we rise. I'm just concerned about one matter that arises out of Exhibit 99 and Exhibit 156 where my learned friend was putting that 33,000 came out of the fund which this witness had agreed to act as trustee for under the direction of other people. Exhibit 99 establishes that the fund in this witness's name was commenced

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on the 4 of March. So, he wasn't in - he wasn't the trustee of the fund prior to that time. There was no fund and yet my learned friend put that the payments of 33,000 which were

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under the authority of 19 February 2004 were made after he became trustee of the fund. well, that's just not factually correct and I'm concerned, if it's left where it is at the moment it will be reported as if those are facts whereas they're not facts. I'm quite sure my learned friend was not attempting to mislead the witness but that's how it came out and if it stays like that, it is misleading.

CHAIRMAN: well, we'll make it plain. It was after this witness agreed to become the trustee of the fund-----

MR WEBB: But before he became.

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CHAIRMAN: -----and it was after the fund name in Mr Morgan's office in Quadrant was changed to his name from counsellors Power and Robbins but it was before the account name was changed in Mr Hickey's firm.

MR WEBB: That's - well, I don't know about the Quadrant part because I was looking for that but I hadn't looked that up

CHAIRMAN: well, Mr-----

MR WEBB: -----but the fund hadn't changed in name, in fact, that's the trust fund with Mr Hickey. That's the point that I'm-----

CHAIRMAN: That's certainly my memory. That Mr Morgan said that he was told towards the end of January about - that Mr Barden was to become involved and then it was in early February and I think we actually had exhibits of instructions going out to his accounts staff-----

MR WEBB: Yes.

CHAIRMAN: -----and being tendered which shows that that name change was effected. But your point is correct that - but I think that was Mr Mulholland's point. Was this witness aware that after the time that he understood that he was a trustee payments were still being made out on the authorisation of counsellors Power and Robbins.

MR WEBB: Yes, but in fact he hadn't become the trustee. That's what I've - so that it wasn't reported as a fact that while he was in fact the trustee of the fund others were - because that's not the case in fact. Those are the exhibits.

CHAIRMAN: I think it's - I think it's been made plain now. Thank you, Mr Webb.

MR WEBB: Thank you, Mr Chairman.

CHAIRMAN: 9.45 tomorrow please.

THE HEARING ADJOURNED AT 4.31 P.M. TILL 9.45 A.M. THE FOLLOWING DAY.

XN: MR MULHOLLAND 1131 WIT: BARDEN L J

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