



## Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST CITY COUNCIL

BRISBANE

..DATE 09/11/2005

..DAY 14

**WARNING:** The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

THE HEARING RESUMED AT 9.47 A.M.

MR BOYLE: Mr Chairman, I call William Roche.

CHAIRMAN: Yes, thank you, Mr Boyle.

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WILLIAM ROCHE, SWORN AND EXAMINED:

MR BOYLE: Mr Roche, you can be seated. Now, witness, your name is William Roche, is that correct?—Yes.

You're a Director of the Roche Group Limited?—Yes.

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Proprietary Limited?—Proprietary Limited, yes.

You were served with an attendance notice to appear here this morning. I'll show you a copy of that attendance notice?—Yes.

That was the notice that you were served?—Yes, it was.

I'll tender that attendance notice. It has the oath of service attached, Mr Chairman.

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CHAIRMAN: Yes, that will be Exhibit 179.

ADMITTED AND MARKED "EXHIBIT 179"

MR BOYLE: I'll show you the - a Notice to Discover which was issued by the Crime and Misconduct Commission on that company?—Yes.

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Is that a copy of the notice that was served on your company?—Yes, without going into it, yes, in detail, yes.

All right. I'll tender that Notice to Discover, Mr Chairman.

CHAIRMAN: Exhibit 180.

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ADMITTED AND MARKED "EXHIBIT 180"

MR BOYLE: As a result - as a result of that notice your son, his name's William Damien, is it?—That's it, yes. He got a second name.

He's - he's known as Damien Roche?—That's it.

He sent a response in?—Yes.

But you've seen those documents relating to what he sent to the Crime and Misconduct Commission?—Yes, I have.

All right and they were shown again to you this morning?—Yes.

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All right, I'll just show you this group of documents. All right. So, that's the group of documents that was produced by the company in response to the notice?—Yes.

I tender those, Mr Chairman.

CHAIRMAN: Exhibit 178.

MR BOYLE: Thank you.

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CHAIRMAN: I'm looking at the wrong page. Thank you, 181.

ADMITTED AND MARKED "EXHIBIT 181"

MR BOYLE: I'll just show you. Now, the company Roche Group Pty Limited, what sort of work does that company - is that company engaged in?—Well, for the last 35 years it's been involved in the cosmetic industry.

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All right?—In more recent years after we - we sold that main portion of our business we were left with some property that the had acquired over many years and we - some of it we've actually developed. Some of it's just investment property and we took a direction, I think, which was our whole business was basically that cosmetic thought and we decided then that we would move into some form of tourism and property investment - and property development that we - property that we've had.

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What area was the property investment and development?—Our company had - owned property in Japan and Canada, New Zealand, in fact, through Asia and in most states in Australia and it was used primarily for our cosmetic industry.

Right but - well, I'll ask you, was your company involved in any property development or in property investment on the Gold Coast?—Yes, we had some investment here at Jacobs Well that we acquired some 20-odd years ago. Yes.

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Right, is that the only-----?—No, we have - we had some other domestic property-----

Okay?-- -----on Main Beach and-----

Now, there was a \$10,000 paid to hickey Lawyers on the 2<sup>nd</sup> of March 2004 and I want to get some background to that?—Yes.

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If you - have you - if you've got the statement there?—Yes.

The response?—Yes.

You see below the section that says in answer to section three and it said, "Mr Roche had a telephone conversation with Mr Power"?—Yes.

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"On the 26<sup>th</sup> of February 2004 in relation to a donation in connection with the Gold Coast City Council elections in March 2004." Now, were you the person that was the Mr Roche referred to there?—Yes, I am.

Okay. Can you tell us what that conversation was about?—Yes, to the best of my recollection, you know, obviously, we observed local council in areas that we had any investment in-----

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CHAIRMAN: Would you like some water, Mr Roche?—May I just do that.

Yes?-- -----and the - and we'd followed the activity of - of council in South - in the Gold Coast Council and we were aware that there were - there were certainly conflict going on about development and pro-development and anti-development, so to speak, and we had our views on that and obviously, south-east Queensland like for many Australians and none the less for our company, we see as progressive and we were interested in the progressive people within the council and so when I had that call which came to me from David Power who was looking for support we didn't hesitate. We decided we would proceed to support that.

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MR BOYLE: All right?—Now, to the best of - the detail of that conversation I can't tell you but that was the - that was the principle of it. They were looking for support for the - for a group of people to field to get the numbers to have a vote I imagine.

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You say "imagine"?-- Oh well - well-----

Can you just say did he mention anything about "get the numbers" or did he use those words?-- No, I don't - I can't be sure of that.

But it did involve a donation-----?-- Of 10,000.

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-----where the money was to be used to promote the election of a number of candidates, is that right?-- Yes, that's it.

And you've stated generally the reasons why you thought that was appropriate-----?-- Yes.

-----to give a donation?-- Yes.

You mentioned - you talked about the distinction pro and anti-development and then you talk about progressive people?-- Mmm-hmm.

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Do you mean progressive in the sense of being pro-development or something of that sort?-- Well - well, I mean it's - I don't think there's any secret in the fact that south-east Queensland has progressed remarkably well in comparison with the rest of the nation in recent years, so somebody has to be making those decisions and we saw that at local Government level that that was the group of people that seemed to me to be positive about life and seeing things happening.

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Well, was there any discussion with Mr Power about his views or your views on the types of candidates that you'd want?-- No, I - I don't - I don't know Mr Power terribly well. I suppose in the 15 or 20-odd years that I've been coming to the coast I've probably only met with him on eight or 10 occasions in total and most of those have been in Council meetings, so the conversation was not lengthy at all.

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Right. Well, was there any discussion as to who had the control of the money?-- No, no, that was not - except that he did indicate that the funds would be administered through a - a group, the details of which I can't recall exactly, but that Tony Hickey of Hickey Lawyers would be in touch with me to detail the method of making - of resuming the funds.

In that conversation did he mention any other councillors?-- No, not really that I can recall.

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And he didn't - or did he mention any candidates that were to receive the benefit of it?-- No, not to me.

Or how the candidates were to be selected?-- No.

And after it went to the Hickey trust account did he say anything as to what was to happen to it, the money?-- I don't think I spoke to him after it went to the Hickeys trust account. I only had one other further meeting with him since then.

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When was that?-- Some few months ago. We have a development at Jacobs Well and there was a comment about some of the vegetation that was on the site. We'd grown - over the number of year that we'd held the site we'd grown a number of palm trees and there was a nursery on site there and some of the new Council regulation was indicating that palm trees, et cetera, were not the most viable things to be putting in the new developments. I made the comment that we'd grown them there for the 15 years, they were part of the landscape there and Council - we wrote to Council formally about that as a result of his direction and that's - and subsequently that - they stayed in place.

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Okay?-- He - he was not the only one at that meeting of course, there was - there were three or four other - I believe

the engineer was there, there were several other people involved in that meeting.

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So this - was this after the election, was it?-- Yes, it was in pretty recent times.

And this was a decision that then once you sent the letter in it was just made at Council officer level?-- Yes, only.

Following the discussion with him on the 26th of February-----?-- Mmm-hmm.

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Or there's a letter there that you've produced which is dated the 26th of February?-- Yes.

That's the letter you received obviously after your telephone call?-- Yes, yes.

And it refers to a number of things in there. One is - refers to a community based fund, can you remember him talking about that in the discussion with him?-- I can't be sure.

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What about the in-fighting?-- Oh, I think there - you know, I was aware of that because of the local press, et cetera and I think that was mentioned during our conversation, there'd been quite a bit of in-fighting going on in Council, but that was fairly obvious.

What about bringing dignity back to the Gold Coast?-- I think such words could have been used, I don't recall them exactly. But I think that some of the slanging matches that have gone on in Council we were aware of just from the press from time to time and so - and I guess they were fairly undignified, most would agree with that so - but I don't recall him actually using those words in our conversation.

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There was certainty in the decision-making process?-- No, I've never really at local Government level over the years seen a lot of certainty in Government decisions-----

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All right?-- -----until it's signed, sealed and delivered.

The next dot point in your statement says, "Mr Roche had a telephone conversation with Mr Hickey-----?-- Mmm-hmm.

-----on or about 2 March 2004?-- Yes.

Can you tell us about that conversation? That was you obviously?-- Yes, it was. I met Mr Hickey on one occasion by accident at an airport travelling back to Sydney and so he just introduced himself and we went straight to the - he went straight to the point that we'd had a conversation with David Power in regard to making a contribution and that they were - they were the repository for the funds and would be looking after the - the fighting fund I think was much the word that was used and - and - for the election and gave me the details of - of his account, et cetera, and where to send the money

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and I passed that then through our people in our accounting department, et cetera, and it was forwarded off accordingly.

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Well, we're just focusing on the telephone conversation. There was no more detail given at that point about the type of candidates that would receive that money?-- With Tony Hickey, no, not at all, not that I recall, that was purely about gathering of funds.

Following that you received the e-mail from him dated the 2nd of March 2004?-- Yes. Yes.

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There's a sentence there, third paragraph, "These funds are then dispersed to candidates in accordance with the signed direction by David Power and Sue Robbins?-- I'm not sure of that particular-----

Sorry?-- Is that part of this-----

Yes. It should be the third paragraph?-- Third para, is it? I'm sorry, I don't see that here.

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Right below the account details on the-----?-- I don't think that's part of this.

Okay?-- I may have it over here on another - no, I don't see it. I'm sorry, I don't see that.

Sorry, I might just have a look at that?-- Sure. That's the letter from Tony Hickey.

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Do you see that paragraph?-- Yes, now - yes, I do.

Were you aware of that at any stage prior to receiving this e-mail?-- Quite frankly, no, and I haven't paid any attention to it because how they were being used or distributed was not part of any discussion that I'd had. I just knew that the funds were heading in the direction of assisting that element of the Council to win the election.

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All right?-- So now how it was distributed or to who was never part of my understanding. I didn't know the other councillors anyway.

Right, so-----?-- It wouldn't have meant anything to me.

So you didn't know who actually benefited from this?-- No.

And-----?-- Well, when I say that, I knew who was - who I hoped would benefit from it and it would have been that group of people that were - that I felt were the progressive element of the Council.

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Right?-- But the individual, no.

Well, did you have any particular understanding as to who would make that decision then of this to the candidates to get it?-- No, I didn't know the - well, I mean obviously somebody

had to be in charge of that and whether that was a group committee or what I was just not - not aware of that, no.

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Or you didn't think about that at all?-- Didn't think about it at all.

It mentions there Sue Robbins, she wasn't ever brought up in discussions with-----?-- No.

-----Power or Hickey?-- No. I don't know the - I didn't know the lady so-----

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Had you had any dealings with - well, you said you've had a number of dealings with Mr Power, Councillor Power, over the years?-- Mmm.

Is that in his role as chair of the Northern Planning Committee?-- He was - our involvement was at Jacobs Well and that was part of his - for want of a better term - his electorate or area there. So when we were looking to developing that area - and boy, this is going back a lot of years now - I would have had some discussion with him, it was fairly - we're talking about 15, 18 years ago probably.

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Back when you were talking to him about that?-- Yes, yes.

Okay, well we won't worry about that. Did you have any knowledge of the involvement of Quadrant in the campaign?-- No. In fact, I'm not even familiar with what Quadrant is as you ask me now.

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Is there any reason you chose to donate in this way instead of directly to a particular candidate?-- No. I didn't know any of the other candidates. The only one that I - that I really probably knew at Council would have been David Power and that's through that much and all as it's fairly spasmodic and over a lot of years, but I knew that he was - from press and from observation - aware that he was very active and - and was probably leading that group of people that we, as our own company group, would have favoured or did favour.

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Were you aware of anyone else who donated to the fund?-- No, I just knew that there were a number of people.

He didn't say in general terms who would be donating to the fund?-- No, no. I think it was talked about as people that had an interest in the progress of the - of the area and were involved in developing and - it was general terms like that, I don't recall any names ever being - I'm not very much involved in that industry, if I may just make the comment. It sounds odd. Here we are with a major development here and to say I'm not involved, but I'm not aware or involved with any of the - any of the major developers up here, I don't know them.

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Did you have any concerns as to the donation being made public, the fact of Roche Group?-- Well, I think we - we made political donations from time to time and they're always subject to some public - in reality, I guess, one trusts that

our business is private in whatever we do, but we also recognise that it can be made public and we accept that.

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Were you told anything about - from any discussions - that the candidates were not to know the source of the funds from donors?-- No, I can't recall anything of that nature at all.

Or vice versa, that the companies don't know the - or the donors don't know who the candidates are?-- I can't imagine who that would have been put to me by either. It certainly wasn't part of any discussion with Power or Hickey.

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Were you aware of any meetings, proposed meetings, to meet candidates?-- No and I never did.

Excuse me one moment, Mr Chairman. I'll just show you the document that's part of Exhibit 97?-- Mmm-hmm.

It's a copy of a receipt - sorry, one copy's for the Chairperson - it's a copy of a receipt, trust account receipt issued by Hickey Lawyers to the Roche Group?-- Yes.

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And it's got the names Sue Robbins, Councillor and David Power, Councillor on it. Is there - have you ever seen that receipt?-- No, I don't recall.

Okay?-- The - my company actually has a - I act as Chairman in the company. We have a Managing Director and a General Manager. My son occupies that role as the General Manager. Such a thing I just wouldn't have seen.

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Thank you. Thank you, Mr Chairman.

MR NYST: Mr Roche, were you living on the Gold Coast during 2003?-- I've been living in Sydney up until just recently. I visit the Coast on reasonably - 2003 - no I wouldn't - apart from maybe a few weeks on odd occasions. I wouldn't have been here. I have a home on the Gold Coast.

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Well, I take it, in any event, during that year you were exposed to various business and social circles on the Gold Coast from time to time?-- Mmm. We come up here to get away from that.

Yes, but in coming up here, when you come up here you stay on the Gold Coast?-- Yes.

And you mix with people on the Gold Coast. You read newspapers and so forth?-- Mmm-hmm.

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That so?-- Mmm. To a limited degree.

Limited extent, all right. But did you become aware, in any event, during the 2003 of a deal of public discussion about the behaviour of certain councillors in the Gold Coast City Council?-- To truthfully answer that, I'd - I may have seen

that in the local press. It may have been part of some discussion in a social group or whatever.

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Mmm-hmm?-- But, quite frankly, I couldn't put names or time to it at all.

No, no, I'm not asking you to put names or times?-- No.

But you said, I think, to my learned friend Mr Boyle that you were aware of infighting, I think you said, "Most people would agree that some of the behaviour in Council was undignified" and so forth?-- Yes, sure.

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This awareness, did this come as a result of your mixing socially and in business circles and general conversation on that topic?-- My wife was Chancellor of Bond University during those years and quite a bit of our activity would have been in and around that.

Right?-- And we probably would not have escaped that sort of comment. But-----

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And - sorry?-- Go ahead, I'm sorry.

And some people had strong views in the community about that, didn't they? There was a level of frustration in various circles? A view that people on the Gold Coast City Council behaving inappropriately?-- Is that a statement or a question?

That's a question?-- Well, I think it was quite obvious that - yes.

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It was obvious, all right. And this was something that was becoming obvious to you by what you read in newspapers and by these conversations with people at the Bond University and elsewhere; is that fair?-- Yes. But I want you to get that in perspective, however. That did not occupy a lot of my time or thinking.

Yes?-- It was from fairly casual, social comment.

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Mmm?-- But I had an awareness.

Yes?-- Yes.

And you said, "We were aware there was conflict going on", you mean "we, in the Roche Group"?-- Yes.

All right. And aware by these sort of sources that we're talking about now, just general conversation and what you read in the press about goings-on in Council; that fair?-- That's fair.

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Right. And that understanding included a view that there seemed to be a lot of in-fighting, a lot of personal conflicts, personality conflicts, I should say, in the Council?-- Mmm. I don't know that I really read that much detail into it.

Okay. You were just aware - you did talk, I think, about conflict but you were aware of conflict but not the level of what it came down to; is that?-- Yes, I - you know - I'd read - how can I recall - you know, some of the individual comment that might've been made at the time and I probably thought that was not - that was a bit undignified. I probably would've had those sort of thoughts.

Yes?-- Yes.

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And you, in Roche, came to a view that some of the people in Council were not or may not be particularly progressive people?-- I think in - I'm 70 years of age - and over the years we've had a little philosophy in our business that you're green and growing or you're brown and dying. South-East Queensland has been green and growing and I think that that should be attributed to some of the decision makers that have been involved in the green and growing process and I think we sort of - well, I certainly had, come to the conclusion that - I'm wandering a bit - correct me if I am - that I'm not - I'm involved in a couple of environmental committees on one or two Councils. I'm not too sure of what the koala population was 50 years ago, 20 years ago or what it is today. I think - I'm pretty sure though that it would've increased substantially and I find things like major road infrastructure stopped because of some of these sort of things in the brown and dying parcel.

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But now these were views that you held and-----?-- Oh yes, they're personal views, yeah.

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-----others in the Roche Group held through discussion, is that-----?-- Maybe they're-----

Sorry, I should say expressed through discussion within the group?-- Well, they would probably be intimidated by my attitude, yes.

All right. But you won't a friend of David Power's or any sort of social associate-----?-- No.

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-----of his, were you?-- No.

These were not things that you spoke to him about?-- No.

Your contact with him, apart from some 15 or 18 years ago, had been extremely sparse, hadn't it-----?-- Yes.

-----leading up to 2003?-- Look, when the Gold Coast boat facility was opened there at Coomera I remember getting an invitation to that and David I think was the person that invited me, I'm not sure, it may have been a Council invitation. But he was there and I know hosted us around. I could almost tell you the occasions on one hand of when I met with him and what they were, otherwise they were in Council chambers with a group of people.

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Well, you didn't sit down and discuss those views that we've just discussed now with him?-- No, no.

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But he rang you out of the blue one day, is that right, about this matter?-- Yeah, pretty much, yes.

And there was a short conversation, you've told us that?-- Yes, yes, wouldn't have been long.

And he said something to this effect, didn't he, that there'd been a good deal of concern expressed about how things were going in Council and that there seemed to be a perception that "we", the Councillors - or that "all we're doing at the moment is fighting with each other and some people are more concerned with personalities than actually getting the job done," do you remember him saying things like that?-- You're really taxing my memory, I can't recall that.

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Well, you wouldn't cavil with the suggestion that something of that effect was said?-- No, that could have been said.

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And I suggest you went on to say words to this effect, "A couple of us are trying to drum up a bit of support for a few of the candidates who we think will be sensible and behave with a bit of dignity in Council"?-- Once again, that would make sense to me if he said that and he may have said it or words to that effect.

Yes?-- Yes.

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And I suggest he went on to say words to this effect, "We're just canvassing for any financial support for some of these candidates in the hope we might be able to get a more sensible Council in place"?-- Well, you're leading me into some words there that I don't know that were said.

No, but-----?-- But basically he - he said that we need financial support for our group and - and he nominated the amount.

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And he was talking, wasn't he, about getting sensible people, people that would behave with some dignity?-- Well, I think that was - that would have been an obvious thing, he would hardly ring me and say that he was going - he was trying to get together a bunch of-----

Ratbags. No. But beyond that he didn't talk politics at all, did he? He didn't say, "We're trying to get together people who will be pro-development or will be pro this or pro that?-- Well, I think he would have - he would have unquestionably said that "we're interested in the progress of the-----"

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The city?-- "Of the city" as indeed were my sentiments too. I mean, I've already commented earlier that most of Australia recognises south-east Queensland as being a very vibrant and exciting place to be and things are happening here.

Well, that's the way you understood the conversation to be-----?-- Mmm.

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-----that he was ringing about talking about having some progressive people?-- Mmm-hmm.

That right? Sensible people?-- Yes, I - I - yes, that would be the mood of it, yes.

And you understood that to have been people that would advance the interests of the Gold Coast?-- Yes.

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And I suppose that translated in the context of your business as being open to sensible development - I'm talking about real estate development?-- Mmm-hmm.

That right? And what I'm saying to you is that-----?-- Well-----

-----his words were along these lines, "We're trying to drum up a bit of support for candidates who we think will be sensible, behave with a bit of dignity and we're looking for financial support for candidates in the hope that we might end up with a more sensible Council" that sort of - those sort of words?-- Well, some sensible decisions maybe, or some clear cut decisions maybe.

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Yes?-- But-----

But you don't cavil though with that general proposition as I put it to you?-- No. In fact it would have been to the contrary, I don't know whether I would have had any interest in contributing to it.

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He didn't mention any of the candidates names?-- Not that I recall.

Nor did he mention what their politics were?-- Well, I assume exactly what their politics would have been and they would have-----

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Yes. But I'm not asking you what you assume I'm asking you what he mentioned?-- Okay.

I'm suggesting to you he didn't mention anybody's politics in that conversation?-- I can't be sure of that. I - bear in mind that the various people-----

Sorry, if I could just stop you for a moment?-- Yes, sure.

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You say you can't be sure. I'm putting it to you on my instructions-----?-- Yeah.

-----that he did not mention anybody's politics, you don't cavil with that or argue with that, you're not in a position to contest it?-- That he said?

That he mentioned anybody's politics at all. See, I suggest he didn't mention any names and he didn't mention any politics, he didn't say what people's-----?-- He may have - he may well have mentioned a few names, I don't recall.

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Yes, but-----?-- But they wouldn't have meant anything to me because quite frankly I did not know the other councillors.

He may well have done that. I'm putting to you on instructions he didn't, didn't tell you any names?-- No.

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And you don't argue with that?-- No.

And beyond that I'm putting to you that he didn't mention anybody's politics, you don't argue with that?-- No.

And nor did he discuss any of the policies of anybody, you don't argue with that?-- No.

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And I suggest he didn't say anything about getting the numbers or vote in Council or anything of that nature?-- Oh, I think clearly the inference was that they needed to have the numbers to maintain the ongoing attitude that they were looking to prevail for the betterment of the city.

Well, that's what you inferred from what he was saying about-----?-- Yes.

-----trying to get sensible people in and so forth?-- Yes.

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But I'm putting to you that he didn't use those words, he didn't say anything about getting the numbers or trying to get a vote together or anything else in that nature?-- Look, I would have assumed in needing a fighting fund you would need to get the numbers to have the vote.

Yes?-- So I mean it just goes without saying, I would have assumed that.

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I understand the assumptions you made-----?-- Yes.

-----and the inferences you drew, what I'm saying is he didn't say anything about that, I'm putting that on instructions, you don't cavil with that?-- He may have inferred that, he may have - but I don't - I can't argue one way or another on that.

All right. Now, you said of Mr Power that you knew that he was very active and was probably leading that group whom we would have favoured, those were your words to Mr Boyle. By that do you mean through all of your dealings with Mr Power you'd always found him to be what you would term progressive?-- When you say all of my dealings with him I didn't have very many. They've been through - they've been-----

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But those that you had with him?-- -----basically through the offices of the Council.

Yes, yes?-- And so the occasions that he would have been involved or influenced any of those things would have been rare.

Yes?-- I could-----

Okay?-- Mmm.

But whenever you did have any contact or dealing with him you found him to be a sensible, rational person?-- Oh yes, very definitely, yeah.

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Always very professional in his approach to-----?-- Yeah, I've always found that, yes.

Not in any sense ever cutting any corners of any kind?-- Didn't know it.

Pardon?-- Never saw it. No, I always found him quite upright and expressive and clear.

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And so I take it you meant when you said "he was probably leading a group that we would have favoured" you mean by that "our impression of him was that he was a person, such a sensible, rational, well-behaved person, that people he would be associated with would be the sort of people we would favour?-- Yes.

Now, could I just ask you then in relation to the meeting that you had with Mr Power subsequent to the election-----?-- Mmm.

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-----you said that you were there, there were three or four others, the engineer was there, were your legal people there?-- No.

This was a discussion about some development you people were involved in?-- Yes, it was related to those trees and items that I've mentioned, yes.

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And it was a totally normal usual procedure, was it, in terms of-----?-- I'd - I'd actually I think been advised that we couldn't use that or our development manager had and I - and I intervened in that and I said, "I think we should get-----"

Couldn't use-----?-- I'm sorry?

Sorry, couldn't use what?-- Tree, things that were growing on the site-----

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Oh, I see, yes?-- -----in our nursery there.

Yes?-- And I said, "I think we should intervene in that and I don't accept that, I think they've been there for 15 or 18 years, they're part of the vegetation so to speak and new rules should not take out things that have historically been there and I think that I should call on the local councillor and various officers of the Council and we should go and

represent our case." To that end, as I recall, Bob Walsh, who's our project manager, met with David Power, who did kindly attend that meeting, together with certain of the other officers, one of them was the engineer, and there were two or three other people there whose names escape me and - and was duly - we were advised that we should put that in writing and that it would be looked at in due course and they favourably accepted that.

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So all you did was to go along and state your case to-----?-- Yes.

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-----the people that you thought were the appropriate officers?-- Yes, yes.

You did that and you were advised by all at the meeting, "Well look, the correct way to deal with this is put it in writing so that the Council officers can consider it"?-- That's it.

And you did that-----?-- Yes.

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-----and it went to the Council officers, as far as you know-----?-- Yes, yes.

-----and they made-----?-- The letter's on record, I'm sure it would be there.

Yes. And they made the decision without any input so far as you're aware from Councillor Power or any other councillor?-- Yes.

30

Councillor Power has never made any suggestion to you that he'd provide you with any kind of favours in-----?-- We don't look for one.

-----response to your putting money into any fund?-- No. No.

All right. Thank you, sir?-- Definitely not.

CHAIRMAN: Anything in reply, Mr Boyle?

40

MR BOYLE: No further questions, may Mr Roche be excused, Mr Chairman?

CHAIRMAN: Yes, certainly. Thank you, Mr Roche, thank you for your evidence?-- Thank you very much

WITNESS EXCUSED

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MR BOYLE: Mr Chairman, I call James Raptis.

JAMES RAPTIS, SWORN AND EXAMINED:

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MR BOYLE: Mr Chairman, this witness is represented by Mr Perrett of Clayton Utz.

CHAIRMAN: Yes, Mr Perrett.

MR PERRETT: Yes, Mr Chairman, I seek leave to appear on behalf of Mr Raptis. Just one preliminary matter, Mr Chairman. In terms of your directions of I think the 10th of October my client has no objection to the taking of still photography whilst he's being sworn in and giving his preliminary evidence, but would prefer that his evidence not be video filmed and I'd ask in those circumstances that you make the appropriate direction.

10

CHAIRMAN: Yes, all right. That direction will be given. So only photographs during the initial few minutes of Mr Raptis's evidence and if the video camera can perhaps be turned to the questioner instead of to the witness. Okay. Mr Perrett, we do have the practice - it's entirely in your hands - as to whether you desire to take Mr Raptis through his evidence firstly before Counsel Assisting does or whether you'd prefer to leave it that Mr Boyle takes Mr Raptis through and then you have the opportunity to ask questions later.

20

MR PERRETT: Mr Chairman, I've spoken briefly to Mr Boyle. I'm comfortable for Mr Boyle to take the evidence. However, I have mentioned to Mr Boyle that at my request Mr Raptis has located a couple of additional documents and it may be convenient at that point for me to lead the evidence in relation to those documents.

30

CHAIRMAN: All right. Well, I'll leave it between you and Mr Boyle then.

MR BOYLE: Mr Raptis, your name is James Raptis, is that correct?-- Yes, it is.

40

You're the managing director of Rapcivic Contractors Pty Ltd?-- Yes, I am.

You've been served with a notice to attend here today. I'll show you a copy of the attendance notice. That first document there that's the attendance notice that was served on you?-- Yes.

I'll tender that document that has the oath of service attached, Mr Chairman.

50

CHAIRMAN: That's Exhibit 183, I believe. I didn't-----

WITNESS: That is correct, sir.

CHAIRMAN: I didn't formally mention that that last receipt that you tendered, Mr Boyle, is 182.

ADMITTED AND MARKED "EXHIBIT 182"

MR BOYLE: It was part of another exhibit I think.

CHAIRMAN: Oh, it became part of 181.

10

MR BOYLE: I know - it was tendered previously with -  
through-----

CHAIRMAN: Okay.

MR BOYLE: -----Mr Hickey as Exhibit 97 so-----

CHAIRMAN: So it doesn't need to be tendered. So this will be  
Exhibit 182 now then.

20

MR BOYLE: Thank you. Your company was served with a notice  
to discover issued by the Crime and Misconduct Commission, is  
that correct?-- That's correct.

And I'll just show you that document now. Okay. So that's a  
copy of the notice to discover served on your company?-- Yes.

All right. I'll tender the notice to discover, Mr Chairman.

30

CHAIRMAN: Exhibit 183.

ADMITTED AND MARKED "EXHIBIT 183"

MR BOYLE: In response to the notice to discover you've  
provided a statement, is that right-----?-- Yes.

40

-----and also some documents?-- Yes, I have.

I'll show that to you now. That's the copy of your statement  
and there's some attachments there, is that correct?-- That's  
correct.

That's what you produced?-- Yes.

I'll tender the statement and attachments. It might be  
convenient now for Mr Perrett to-----

50

CHAIRMAN: Yes. All right. Well, Mr Raptis, is the contents  
of that statement true and correct?-- Yes, it is.

Yes. All right. That's Exhibit 184.

ADMITTED AND MARKED "EXHIBIT 184"

MR PERRETT: Mr Raptis, I think you gave evidence that you were the Managing Director of Rapcivic Contractors-----?-- Yes.

-----Proprietary Limited?-- Yes.

10

That was the recipient of the notice-----?-- Yes.

-----from the Commission?-- Yes.

If you see in paragraph 3 of your statement, you have produced to the Commission, in response to that notice, not only documents of Rapcivic Contractors but any documents of entities within the Raptis Group?-- Yes, I have.

20

And is it the case that as a result of inquiries, that you caused to be undertaken, at my request, that you since located some additional documents that may be relevant to this matter?-- Yes.

Could I just ask you to look at this bundle of documents? Mr Raptis, could you firstly just explain to the Commission what, in a broad sense, these documents are?-- These are the daily phone calls that were received during the normal business dealings and are put together by my Secretary and given to me at the end of each day.

30

So these record phone messages received by your Secretary?-- That's right.

And what is her name?-- Josephine John.

And how long has she been your Secretary?-- Ten years.

If you look at these documents, do they record some entries of telephone calls received by Mrs Johns, either by Mr Tony Hickey or by Mr Hickey's office?-- Yes, they do.

40

And if we can just identify those specifically. You'll see on the first sheet, entries to the 17th of December 2003?-- Yes.

And is the second message on that sheet such an entry?-- Tony Hickey, yes.

Then if you go to the second sheet, there's an entry on the 13th of January?-- Yes.

50

That records a message from Mr Hickey's office?-- Yes.

The next sheet, the 28th of January 2004, the fourth entry?-- Yes.

That records a message from Mr Hickey's office?-- Yes.

1

And then on the final sheet, the 12th of February 2004, the final entry for that day records a message from Mr Hickey?-- Yes.

Now, Mr Raptis, apart from those four entries that I've directed your attention to, are there any other entries on these documents that relate, in any way, to the Gold Coast City Council elections of March 2004?-- No.

10

Is it the case that the rest of the entries relate to other business or personal matters, completely unrelated to the matter of the election?-- Yes.

What's Mrs John's usual practice, in terms of giving you notes of these type?-- Um - she would normally take the messages and give me the information in relation to phone calls and the requests.

And when would she do that?-- Ah, at the end of each day or if she doesn't see me then, she'd leave the messages and probably the next day.

20

And what would you, then, do in response to that document?-- I would look at the phone calls, prioritise them, and try to return the calls as quickly as I can.

Now, can I just ask you, whether you took leave over Christmas 2003?-- Yes, we broke up at Christmas Eve and I was away till about the 22nd, 23rd of January.

30

So for that month, you were away between the 24th of December the 22nd or 23rd of January-----?-- That's right.

-----2004. Were you in Australia or primarily overseas?-- Overseas.

You were overseas?-- First week in Australia, the rest of it overseas.

40

And can I just return your attention to the message of the 17th of December 2003?-- Mmm-hmm.

That's a message to phone Mr Hickey in relation to the Council election?-- Yes.

Did you do that?-- Yes, I would've done that probably before we broke up.

So, it's likely you returned that call some time between the date of this message your leaving-----?-- And the leaving, yes.

50

-----on the 24th of December?-- That's right. We try to catch up with all our phone calls before the break-up.

Beyond that, are you able to be any more specific as to when you returned that call?-- I couldn't specifically mention a

day but it would've been before I broke up. It was a busy week that week and I couldn't recall the day.

1

Mr Chairman, that's all the evidence I wanted to lead about these documents. It's a matter for my friend as to whether he wishes to tender them. But you will see I've handed up-----

CHAIRMAN: Yes.

MR PERRETT: -----an original and an annotated copy. My submission would be that the - if something is to be tendered, it should be limited to the annotated version.

10

CHAIRMAN: I'd certainly agree with that.

MR BOYLE: Yes, I do, your Honour.

MR PERRETT: For completeness, we-----

CHAIRMAN: Yes. We'll make the annotated, as you call it, version of these telephone calls, Exhibit 185 and thank you for producing these Mr Raptis?-- Thank you.

20

ADMITTED AND MARKED "EXHIBIT 185"

MR NYST: Sir, I haven't seen the other copy but I assume that this is just-----

30

CHAIRMAN: Look, the other one has other notations of matters that, as Mr Raptis said, are purely personal. I've been through them. They have nothing that relates to this issue and being personal it's better that they not become publicly available. I'll return that to you Mr Perrett.

MR PERRETT: Thank you, Mr Chairman.

40

UNIDENTIFIED SPEAKER: And this copy is-----

CHAIRMAN: Yes, that's the Exhibit. The others can be returned to Mr Perrett.

MR PERRETT: And, Mr Raptis, could I also ask you to please look at this bundle of documents? Sorry - Mr Chairman, did you obtain a copy?

CHAIRMAN: Well-----

50

MR PERRETT: I think Mr Raptis has two copies.

CHAIRMAN: Well, it'll come to me in time.

MR PERRETT: Mr Raptis, in the statement that Mr Boyle has taken you to - that can be provided to the Chairman - in the statement that Mr Boyle will take you to shortly, you referred

to donations made by Raptis companies to certain individual candidates in relation to the March 2004 election?-- Yes.

1

And have you asked your Accounts Department to locate the transaction ledgers for the companies that made those donations?-- Yes, I have.

And is that what these documents represent?-- That's what they do.

10

The first is a ledger of Noraville Pty Ltd?-- Yes.

There are two entries there, on the 21st of April 2004, did they record donations in connection with the election?-- Yes, they do.

The next ledger is a company Bernays Pty Ltd?-- Yes.

You'll see an entry there on the 21st of April 2004?-- Yes.

20

Is that also an entry that relates to the election?-- Yes, it does.

You'll see other entries on that ledger in the nature of political donations. I take it they're unrelated to the Gold Coast?-- Unrelated and they're just general political donation we make to other parties.

And then the third ledger is a company called Carlingdon Pty Ltd?-- Mmm-hmm.

30

Is it the case that that company has since changed its name to Bindalay Pty Ltd?-- I've been informed by the Account Department that it has.

And it, again, records a donation on the 21st of April 2004?-- Yes, it does.

Now when you agree to make donations of the type that are set out in this ledger-----?-- Mmm-hmm.

40

-----what happens? Do you personally write out a cheque?-- No. If I've agreed to - if I pledge a donation I would instruct my personal assistant that I have done so and she informs the Account Department and they draw the cheque when appropriate.

And do you direct which Raptis Company is to make the donation?-- No, I don't. We have something like 40-odd companies in our stable and I leave it to the Account Department to what they do.

50

Now the council elections were held on the 27th of March 2004?-- Right, yes.

Do you - does that accord with your recollection?-- That's right.

Those entries, I've taken to you, were paid on the 21st of April 2004?-- Right.

1

Can you recall whether you pledged those donations before or after the election?-- Before the election.

And the candidates in respect of those donations, were they all successful at the election?-- No. They weren't all successful. Some lost.

10

And notwithstanding the election had passed and some had lost you, nevertheless, honoured those pledges?-- We all kept to our pledges. When we say to people, we give money to all donations, we always kept our pledges.

Chairman, I have nothing further in respect of those documents. Perhaps they should also be tendered.

CHAIRMAN: Yes.

20

MR PERRETT: My friend-----

CHAIRMAN: Yes, Exhibit 186.

ADMITTED AND MARKED "EXHIBIT 186"

MR PERRETT: And am happy for my friend to really pick up his examination from that point.

30

CHAIRMAN: Thank you, Mr Perrett.

MR BOYLE: Mr Raptis, Rapcivic Company - Rapcivic Contractors Pty Ltd, what type of work is that company engaged-----?-- They're our building company.

40

Building company?-- Yes.

Whereabouts do they do building work?-- Mostly on the Gold Coast.

Now you've got a company - I'll just show you a copy of a - your statement?-- Yes, I have.

You've got a copy?-- Mmm-hmm.

50

Paragraph 9 seems to be the first discussion with anyone relating to making a donation to the election; is that right?-- Yes.

Now looking at your diary entry, was the 17th of December that a message was left for you and you returned the call sometime before the 24th of December; is that right?-- Yes.

So that paragraph 9, that conversation occurred sometime in that period?-- That's right.

Right. The conversation, I'll just take you to what you've said there in paragraph 9-----?-- Mmm-hmm.

-----he talks about - that money was to be allocated to candidates?-- Mmm-hmm.

Did he say who the candidates were?-- No, he didn't go into that much of a detail at the conversation. He might have mentioned Power but I can't recall any other names but even Power is just a memory that it is but I can't recall any other names.

Did he talk about anything about the policy or what they represent, those candidates?-- No, it was more a conversation that he's called for donation of election and my response was, "Here we go again. The election's on. I didn't think they were on so early" and went straight into, "What are you looking for?" He explained to me about the raising of funds and I said, "How much are you after?" and he mentioned the figure 10,000 to me and, well, said that I would donate the \$10,000. I pledged that.

I see. So is it your understanding who was to control that money in that trust?-- No, he didn't go into that. I just took it that it's a normal trust account that solicitors have and we didn't go into that detail at all.

Did he mention anything as to how the candidates to be beneficiaries of this trust fund would be decided?-- No, he didn't mention anything at all right. Though what I did mention to him was that - I said, "Look, 10,000 is a bit rich but" I said, "if - I would like all the candidates that would receive this fund, whoever they are, that they do know they received the funds and I don't want them coming back and asking more through phone calls and so on" as there normally as - it does happen at times but I didn't go into detail who they would be or otherwise but I did request they inform them whoever they are.

Okay. Well, what was your reason for making the donation?-- Well, when elections come around, we always get asked for - to help candidates and, in this instance, it came from our lawyer and putting together asking - asking for funds and normally you get calls, not from candidates themselves, but mostly from people that are helping them run the campaigns and I took it as being one of these - one of the calls and we just give out money to - it's - when business - we're in the business in the Gold Coast and when we are asked to donate to certain political parties or otherwise we always try and do the best - the right thing as to help the political process.

Well, was there any concern on your part that the money would go to candidates who would have views consistent with your own?-- Sorry?

Was there any concern on your part in ensuring that the money was to go to candidates which would have views consistent with your own?-- I did go into that thought process at the time when he asked me the money - when he asked for the donation. It was more a request. It came from our lawyer. I said, "Yes" and it was one of those normal business quick conversations and did not stop to think otherwise.

So the money to your mind was to be used to promote the election of a number of candidates; is that right?-- That's right.

And you don't know how many candidates?-- No.

And you advised him that the individuals who were to benefit from it-----?-- Mmm-hmm.

-----were to be told that you donated-----?-- Yes.

-----to the fund-----?-- Yes.

-----to prevent those particular ones contacting you again?-- Yes.

All right. Did he say anything in response to that?-- No.

There was no-----?-- He might have said, "Fine" and that was it.

I take it, you don't know who actually benefited from it?-- At that conversation, no, I didn't know.

Or before the election?-- No.

The money was to go obviously into his trust account. You don't know what was to happen with it after that?-- No, not at all. I took that I'd be distributed but not to how or when.

He didn't place any conditions on it?-- No, no conditions at all.

It was really that whoever controls it, their absolute discretion?-- Absolute, yes.

Now paragraph 12, you say, you don't - didn't Lionel Barden; is that right - oh, sorry, they weren't mentioned to you-----?-- They weren't mentioned.

-----Lionel Barden was never mention to you-----?-- Never mentioned.

-----at any stage?-- No.

And there was a cheque drawn on the - all right, there was a cheque drawn on the 18th of February-----?-- Yes.

-----\$10,000?-- Mmm-hmm.

And then you got a receipt back which is another attachment to your statement?-- Mmm-hmm.

It's got on it, Sue Robbins, councillor-----?-- Mmm-hmm.

-----and it's David Power, COU?-- Yes.

Was - you said, the initial conversation, he may have mentioned Councillor Power?-- Yes.

10

Was that the first you knew of any possible involvement of Councillor Robbins?-- That would have been the first time, yes.

Okay. You mentioned there - oh, sorry, in paragraph 15 as to other candidates, you weren't approached by anyone else other - apart from what you've mentioned in your statement?-- That's right.

20

Did you have any dealings with Councillor Power at any stage relating to the election-----?-- No.

-----donation?-- Not at all.

Had you had dealings with Councillor Power when he was chair of the planning committee, the North Planning Committee?-- No, I didn't. My office might have had dealings with David Power but not myself personally.

30

Did you have any knowledge of Quadrant-----?-- No, no knowledge of that.

-----in relation to the campaign - election campaign?-- No.

Okay. You've made donations to individual candidates obviously in this election?-- Yes.

And this time you donated to a trust fund. Was there any reason you chose to donate that particular way?-- The request was made that way so we donated it because it was requested.

40

Are you aware who else donated to the fund?-- No. Am I aware not or was I aware then?

Then?-- No, wasn't aware.

Before the election?-- Only - it was in the newspapers or whatever but not directly.

50

Did you have any concerns as to the fact of your donation being made public?-- Not really. Anything over 15 hundred dollars is publicly - public knowledge.

Were you aware of any proposed function to meet the candidates?-- No, I wasn't.

No further questions, thank you, Mr Chairman.

CHAIRMAN: Yes, thank you.

MR BOYLE: Sorry, there - I might - I do have something else. I forgot about these documents. The telephone messages for the 13th of January 2004, were you still overseas at that point?-- Yes, I was.

When did you return?-- 22nd - 23rd of January.

10

Okay. All right. Now did you respond to Tony Hickey's message then on the 13th of January?-- I can't recall whether I had responded on that message. He's left a message there. I would have spoken to him on general business because he's our lawyer later on but whether I called in response to that - he left a message and I understood the message.

All right. Well, can you recall, since returning, any further discussions with Mr Hickey about the making of the donation?-- No, I can't recall.

20

Then entry on the 28th of January 2004, it's just got "Tony Hickey's Office 10,000"-----?-- Yes.

What does that represent?-- That would be his office calling our office, my personal assistant, to remind us - or - to a donation that we pledged.

Right. And then there was another message on the 12th of February 2004, basically, chasing-----?-- For the same, yes.

30

-----the money?-- Mmm-hmm.

Yes, I don't have any further questions. Thank you.

CHAIRMAN: Yes?

MR NYST: Mr Raptis, you've been in business on the Gold Coast for a long time, haven't you?-- Yes, I have.

40

And the Raptis Group, it would be fair to say, it is one of the biggest businesses on the Gold Coast?-- If that's as described. I wouldn't see it that way but okay.

But it's certainly - it's on a large scale?-- Yes, okay.

And perhaps that reason or for others, you are regularly canvassed for donations?-- True.

50

Of all kinds?-- That's right.

And you try to be a good corporate citizen, don't you?-- We try.

I think you've said that you - you're in the business community, I think you put it, "We're asked - we try to do the right thing" or words to that effect?-- That's right.

1

And in the political context, I think you said, "We try to do the right thing to help the political process"?-- Any general community charities and so on.

Yes, I mean, to put it in context, in politics, for example, in the last State elections, I see from Exhibit 186, you donated to both the National Party and the Australian Labor Party?-- That's right.

10

Well, I take it you say you're there to help the political process, you weren't looking for anything back at that stage?-- Not at all.

You weren't promised anything-----?-- Nothing.

-----by the Labor Party or the National Party?-- No, nothing at all.

20

You just give that money, no strings attached, to be a good corporate citizen?-- Nothing - no strings attached. Maybe we're a soft touch.

I see - soft touch - I see - that's been your reputation, sir, for many years. I see, in paragraph 5 of your statement, you list some of the donations you make on a regular basis; is that right?-- Yes.

30

Queensland Orchestra, you give \$20,000 or you gave \$20,000 to in the last year; is that right?-- That's right.

Queensland Ballet?-- Yes.

Neither of them promised you anything back?-- Not at all.

Are you sure?-- Normal sponsor things that happen.

40

Just try to be a good corporate citizen?-- That's right.

Five thousand dollars to the Salvation Army?-- That's right.

No graft or corruption with the Salvation - the Salvos weren't promising you an extra bowl of soup or anything?-- I don't think so.

Just trying to be a good corporate citizen?-- That's right.

50

It's been - the question's been asked with some incredulity, if you like, "Why would a developer pay money over unless they expected something back?" And are are telling us that the answer to that is that you just try to take your place in the business community and be a good corporate citizen?-- That's how I see it and that's what we do. It could be seen differently by other people but that's how the system works. If someone can find another way for business to support the

local candidates, as we do State and Federal, I'd be pleased to comply.

1

And you - the corporate group and you personally, have been recognised, haven't you, over the years on many occasions as being a good corporate citizen and a good individual citizen-----?-- If that's how we're seen.

-----of the Gold Coast?-- If that's how we're seen, that's good.

10

Pardon?-- If that's how we've been seen, that's good.

But, I mean, you've been publicly recognised for that, haven't you?-- Yes. Yes.

You've been awarded and acknowledged over the years from time to time for taking this position in the community?-- Yes.

And this donation that you made pursuant to the request of Tony Hickey-----?-- Mmm.

20

-----was in that context?-- In that context.

It was just trying to be a good corporate citizen, no strings attached, not being promised anything and not asking anything?-- Absolutely.

You had no conversation with David Power about it, at all, did you?-- Not at all.

30

And I think the grounds probably been properly covered, but to be certain on it, you weren't told who this money might go to, nor did you care, did you?-- Yes, well, it didn't overly concern me as to who the individuals were.

Right. It was a bit akin to State Election comes along, give some money to the Labor Party; give some money to the National Party. They might be against each other but as a good corporate citizen, we donate to let the political process-----?-- Take shape.

40

-----do its thing - take shape?-- That's right.

Simply doing your support - your bit to support that process?-- Under the process that's there at the moment, yes.

And Mr Hickey didn't tell you who the candidates were nor did he discuss their politics?-- No, he didn't. As I said, he might have mentioned Power's name, but that's as far as it went and didn't discuss politics detail or anything, yes.

50

Okay. No, talk about policies or people being pro-development or anti-development?-- No, it was just a general conversation.

Just a request to kick in to the election and you, as you do, year in, year out, thought "We will to continue our role as a good corporate citizen"?-- That's right.

Thank you, Sir.

CHAIRMAN: Thank you, Mr Nyst. Yes, Mr Webb?

MR WEBB: Two matters. Mr Raptis, I understand your evidence to be that you saw no difference between making the donation here in a Local Government context, to making a donation in a State or Federal Government context?-- That's true.

10

I don't think we need ask the other question. Thank you, sir.

CHAIRMAN: Yes, anyone else? Mr-----

MR PERRETT: I just have one matter, Mr Chairman?

CHAIRMAN: Certainly, Mr Perrett.

20

MR PERRETT: Mr Raptis, you were taken by Mr Boyle to the receipt that was received from Hickey Lawyers attached to your statement?-- Yes.

In the ordinary course of the business of your companies, would receipts like that come to you?-- Ah, not necessarily, no.

30

Do you recall seeing that receipt prior to preparing for these proceedings with the CMC?-- No.

Nothing further.

CHAIRMAN: Thank you, Mr Perrett. Yes, Mr Boyle?

MR BOYLE: No further questions. May Mr Raptis be excused?

CHAIRMAN: Certainly. Thank you, Mr Raptis. Thank you for your evidence.

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WITNESS EXCUSED

MR BOYLE: Mr Chairman, I call Graeme Ingles. He's represented by Mr Bartley.

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CHAIRMAN: Sorry, Mr Bartley?

GRAEME INGLES, SWORN AND EXAMINED:

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MR BARTLEY: Mr Chairman, my name is Brian Bartley, Brian Bartley and Associates and I appear on behalf of Mr Ingles.

CHAIRMAN: Thank you, Mr Bartley.

MR BOYLE: Witness, your name is Graeme Ingles, is that correct?-- That's correct.

10

And you're a director of the Ingles Group Queensland Pty Ltd?-- That's correct.

You were served with an attendance notice to appear here. Could you just have a look at this document. That's the document you were served with, Mr Ingles?-- Yes, I believe so.

I'll tender that document, it has the oath of service attached, Mr Chairman.

20

CHAIRMAN: Yes, it's Exhibit 187.

ADMITTED AND MARKED "EXHIBIT 187"

MR BOYLE: I'll show you a notice to discover that was issued by the Crime and Misconduct Commission on your company. Is that the notice that your company received?-- Yes, it is.

30

As a result of - I'll tender that notice to discover, Mr Chairman.

CHAIRMAN: Exhibit 188.

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ADMITTED AND MARKED "EXHIBIT 188"

MR BOYLE: I'll also ask you - as a result of being served with that notice to discover you prepared a letter which is dated the 16th of August 2005 which contains certain information, is that right?-- That's right.

50

And also you attached some document in response to the notice?-- Yes, that's right.

Just have a look at that. Is that the letter you produced and the documents you produced?-- Yes, that's the letter.

I'll tender that, Mr Chairman. Are the contents of the letter true?-- Yes, they are.

I tender that.

CHAIRMAN: Exhibit 189.

ADMITTED AND MARKED "EXHIBIT 189"

10

MR BOYLE: Mr Chairman, Mr Bartley will conduct the examination at this point.

CHAIRMAN: Certainly.

MR BARTLEY: Thank you, Mr Chairman. Mr Ingles, the last document you were shown, Exhibit 189, your response to the Commission-----?-- Yes.

20

Perhaps for convenience I can hand another copy to Mr Ingles. I've opened it at page 4 of the document, which comprises a schedule of contributions to the various persons. Mr Ingles, could you have a look at that schedule. Is that an accurate record of all contributions made by you or any of your companies, the companies you control, which relate to the 2004 Gold Coast City Council election?-- Yes, that's correct.

And that schedule records five donations totalling \$36,000 and one payment of \$1,000 in respect of a luncheon organised by or on behalf of David Power, is that correct?-- That's correct.

30

Mr Ingles, were you approached for a donation by or on behalf of any other candidate apart from those mentioned in the schedule?-- No, not to my recollection.

The schedule includes reference to a donation of \$10,000 to the Lionel Barden Commonsense Campaign Fund on the 16th of March 2004. How did that donation come to be made?-- There was a - it's the result of a phone call I received from Tony Hickey from Hickey's Lawyers and - which he said he was opening on behalf of Brian Ray and that Brian Ray had set up a fund to assist candidates who were running against existing councillors and that these candidates were deemed to be sensible candidates to have in Council and they were looking for support - for money for their campaign funds.

40

Did he say anything about the existing councillors against whom these proposed candidates would be running?-- He did name them, yes.

50

And did he name the candidates who would benefit from the fund he was organising?-- He did, but I had - I didn't know them at all, so the - it didn't mean a lot to me.

Now, Mr Ingles, is it the case that within the various companies in your group there are three applications which are, or have in recent times, been before Council for

consideration and I'll take you through those. You're the managing director of a company Down Lane Pty Ltd?-- Yes, that's correct.

1

And is it the developer in respect of a 72 lot residential subdivision located in Finnegans Way at Coomera?-- That's correct.

And that's an application that was approved by Council earlier this year, is that the case?-- Yes, I have had preliminary approval.

10

A preliminary approval?-- Mmm.

Secondly, are you also managing director of a name Driftsale Pty Ltd?-- Yes.

And is it the developer in relation to an 844 lot subdivision in Coomera?-- That's correct.

20

Is it the case that an application in respect of that residential subdivision was recently before Council?-- Yes, that's correct.

What was the outcome of that?-- I have an approval for stage 1 and a preliminary approval for the balance of the estate.

Then thirdly, are you also managing director of a company called Westgala Pty Ltd?-- Yes.

30

And is that company undertaking a residential subdivision also in Coomera in Cunningham Drive?-- Yes, it is.

And what's the current status of Westgala's application to Council in respect of that residential subdivision?-- The application has been lodged with Council and I have an information request which we're currently replying to, so it's not yet been approved by Council.

Has it been before the planning committee yet?-- Not yet.

40

Is it the case that that development involved the aggregation of various blocks of land purchased by your company from various third parties?-- That's correct.

Did those third parties include a Gold Coast councillor?-- Yes, Councillor David Power.

Could you have a look please, Mr Ingles, at this contract and could you tell me what that is, please?-- Yes, that's a contract between my company Westgala and Councillor Power and his wife to purchase some land in - in Coomera.

50

Is the date shown on that contract the 22nd of May 2003?-- The 26th of May-----

The 26th of May, yes, I'm sorry?-- -----2003.

I think the statement on the front page is the 22nd of May, but the contract itself is the 26th, is that right?-- Yes, that's correct.

1

I tender that document.

CHAIRMAN: Yes, that contract of sale will be Exhibit 189, 190, sorry.

10

ADMITTED AND MARKED "EXHIBIT 190"

MR BARTLEY: Mr Ingles, could you look then at this document and could you tell me what that map depicts?-- That's a map of property owned by my company, Westgala at Coomera. The land that my company owns is the land marked in yellow and the piece marked in green is the piece that was purchased from Councillor Power and his wife.

20

And is also now owned by Westgala?-- Also owned by Westgala.

Could you perhaps hold up the plan and just indicate in a general way where that land is located in relation to the two earlier subdivisions that we've just been talking about. Firstly, the Down Lane subdivision, where is that in relation to this land?-- It's to the - it's to the south. If I go the other way maybe. The property owned by my company Driftsale is immediately to the south here and the Down Lane property is - is to the south and the east of that property, yeah.

30

CHAIRMAN: I can follow that, that's all right.

MR BARTLEY: Now, Mr Ingles, is it the case that some valuations were obtained in relation to each of the properties which comprise that Westgala subdivision?-- Yes, that's correct.

40

And from who were they obtained?-- From Landmark White, the valuers.

And what was the purpose for which those valuations were obtained?-- The purpose was to obtain funding to sell the properties.

So for the benefit of your-----?-- My company, for Westgala to obtain funding from financial institutions to make settlement on the properties.

50

Could you look at this document - sorry, I should tender the plan.

CHAIRMAN: Yes, the plan will be Exhibit 191.

ADMITTED AND MARKED "EXHIBIT 191"

1

MR BARTLEY: Mr Ingles, do you have there a document or a bundle of documents?-- Yes, I do.

Could you describe those, could you explain what they are?-- These are extracts from various valuations of the - the properties owned by Westgala at Coomera. It's a summary page out of each - each valuation which gives the property description and the value put on the property by Landmark White.

10

I tender that.

CHAIRMAN: Could I see that, thanks. Just - I see. Where it has "owner" that's the name of the owner of the party that you purchased from?-- That is correct.

20

So we'd be able to identify the Power's property?

MR BARTLEY: I think it's about the second last in the bundle, Mr Chairman. Yes, it is the second last-----

CHAIRMAN: Your memory is good, Mr Bartley, it is the second last. Yes, that will be Exhibit 189, sorry, 192.

30

ADMITTED AND MARKED "EXHIBIT 192"

CHAIRMAN: Yes, thank you, Mr Bartley.

MR BARTLEY: Now, Mr Ingles, have you caused a schedule to be prepared containing information about each of the properties comprising that subdivision being undertaken by Westgala?-- Yes, I have.

40

Would you look at this document, please. Is that the summary?-- Yes, it is.

Now, if you could explain the contents of the summary for the benefit of the Commission. As we go across the column we've recorded there - or you've recorded there the settlement date of each contract ?-- Yes, that's the date on which my company Westgala get paid for the property.

50

Yes. The lot number, that is the real property description?-- Real property description.

The name of the vendor in each case?-- Yes.

The purchaser, in each case Westgala?-- Yes.

The area of each block of land?-- In hectares, yes.

1

The figure recorded in the valuations, the summary pages of which have just been tendered?-- Correct.

An analysis which produces the valuation figure per hectare, so it's the valuation divided by the area in hectares?-- I think it's the purchase price divided by - by the hectares.

I see. And then the last column is in fact the purchase price?-- Actual purchase price.

10

Yes. I tender that.

CHAIRMAN: Yes, that will be Exhibit 193.

ADMITTED AND MARKED "EXHIBIT 193"

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CHAIRMAN: Thank you.

MR BARTLEY: Is it the case, Mr Ingles - it's apparent I think from the schedule itself that some of the contracts were entered into at figures higher than the valuation, some at lower than valuation and some for the valuation figure, is that right?-- Yes, that's correct.

30

And is it the case that in the case of Mr and Mrs Power's property that the purchase price paid by Westgala was the same as the valuation figure?-- That is correct.

And is it fair to say that there's a general consistency between the rate per hectare paid to each of the vendors, that is to say there's some variation around an average figure, but they're all in the same ballpark?-- That's correct. Some - they do vary, but in the same ballpark, yes.

40

Has Mr Power, Councillor Power, said anything to you about his attitude to the application for development made by Westgala in relation to this property?-- Yes. He said he'd have to absent himself from any debate about the application of this property.

Mr Ingles, the last name on the schedule is Carmody. Do you know who that person or persons are?-- Yes, I understand that Mrs Carmody is Councillor Power's sister.

50

And is that something that you knew at the time of the contract that was entered into-----?-- Not at the time.

-----by Westgala?-- Not at the time.

You've learned that subsequently?-- I have.

Thank you. Mr Ingles, did any of the candidates to whom you or your company made donations offer any benefit in return, whether by way of favourable consideration of development applications or otherwise?-- Definitely not.

1

Did you ask for any of those candidates to provide any such benefit?-- No.

Have you or any of your companies received any special consideration since the election in relation to any development application?-- No, I haven't, quite the contrary. My applications have been going extremely slow, have been there for two years plus, so quite the contrary.

10

Thank you. I have no more questions.

CHAIRMAN: Mr Bartley, just before you sit down. It might be an oversight, but on the summary of contributions there's none to Mr Shepherd whereas I note the last receipt that's included seems to have one to Mr Shepherd, Ted Shepherd campaign.

20

MR BARTLEY: I suspect - I'll clarify that with Mr Ingles. May I borrow the exhibit for a moment?

CHAIRMAN: Yes. Exhibit 189. I just raise it to-----

MR BARTLEY: Yes.

CHAIRMAN: -----if it needs any clarification, that's all.

30

MR BARTLEY: Mr Ingles, the page to which the Chairman is referring is a cheque butt of the 14th of April 2005 so subsequent to the election by about a year?-- Yes.

And it's made out to Ted Shepherd campaign, \$1,390; could you explain what that payment represented?-- It was a payment to attend a wine tasting evening to raise campaign funds for Councillor Shepherd for the next council elections which, I believe, is 2008 and I didn't include any detail in that because the document I had from the CMC, I thought, only was that the 2004 election.

40

And is it your understanding from what you've read in the press that Councillor Shepherd intends to run for the council election in 2008?-- Oh, no, I've read recently he intends to run for Parliament.

Thank you. Does that clarify that, Mr Chairman?

CHAIRMAN: Yes, thank you, for that. Thank you. Can I just ask? Was that given just as a donation or did people, in fact, attend?-- People actually attended. 20 of my staff attended.

50

Right. And the same with Councillor Power's luncheon, it's a \$1,000 there, did that requisite number of staff attend-----?-- Yes.

-----for the \$1,000?-- I had a table for 10. So it was 10 people at a \$100 a head.

1

Yes, thank you. Yes, Mr Boyle? Perhaps - I know Mr Webb always like a break mid-morning. Perhaps we'll take it now for 10 minutes.

MR WEBB: Am I being singled out here. Could I, in the break, see some of those exhibits, in particular, the valuation?

10

CHAIRMAN: Certainly.

MR WEBB: Thank you.

THE COURT ADJOURNED AT 11.30 A.M.

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THE COURT RESUMED AT 11.44 A.M.

GRAEME INGLES, CONTINUING EXAMINATION:

MR BOYLE: Mr Ingles, just ask you about the three properties that we were discussing just before; the first one was Finnegans Way; is that right?-- Yes, that's correct.

30

So this is - all these three properties are in the general vicinity?-- They're all in Coomera.

Right. And that - that's owned by Downlane?-- That's correct.

And you're a director of that?-- Yes.

And the shares are held by Ingles Shares Pty Ltd?-- Which is my parent company.

40

Okay. All right. And then ultimately it goes through Ingles Family Pty Ltd to-----?-- Yep.

-----you, is it?-- Well, effectively, it's with me, yes.

And you're the director of Downlane Pty Ltd?-- Yes.

Westgala Pty Ltd?-- Yes.

50

Ingles Family Pty Ltd?-- Yes.

And Ingles Shares Pty Ltd?-- Yes.

And Ingles Group Queensland Pty Ltd?-- Yes.

Okay. So the first one is Downlane and, you say, that's been through council?-- Yes, I've got preliminary approval for development.

1

Okay. So that's been through the planning committee?-- Yes.

And the council?-- Correct.

Did that go through before the election?-- No, since the election.

10

Okay. And in respect of that particular development, did you have any discussions with Councillor Power about that development?-- No.

Councillor Shepherd?-- No.

All right. And Councillor Shepherd would have been head of the planning committee at that point?-- Yes, that's correct.

20

And did you say Driftsail Pty Ltd?-- Yes, that's correct.

That's the second property?-- Yes.

And that was the property - that's also in Cunningham Drive; is that right?-- Well, the one you first mentioned, Finnigans Way-----

Yes?-- -----Driftsail is Cunningham Drive. The ones to the north owned by Westgala, I refer to as Dixon Drive although Cunningham does pass it as well but they're all the same - same general location.

30

Right. Now that's been through - going to the second one, the Driftsail Pty Ltd one-----?-- Yes.

-----that's been through council - sorry, the planning committee and council?-- Correct.

And there's been a permit recommended for 110 dwellings, I think. There's 855 proposed?-- Correct.

40

A 110 dwellings in stages 1 and 2 subject to certain conditions-----?-- Yes.

-----has been approved?-- Yes.

Now did you - that got some report in the media, I understand?-- Correct.

50

It went through-----?-- Correct.

-----through the planning committee?-- Yes.

Did - have you had any discussions in respect of that proposal with - just so I get the dates right, it was the 4th of October 2005, it went to City Planning Committee and on the

7th of October, it went to council. That be about right?-- That's about right.

1

Okay. Did you have any discussions with Councillor David Power about that particular development?-- Not in recent times, maybe two years ago when the thing was first lodged with council. I have spoken to Councillor Shepherd more recently about it since the election, talking about my frustration about the thing not being attended to by council. It's been over two years since I got my approval. It was lodged in August of 2003, is that right? It was 2003, yeah. So I spoke to Councillor Shepherd of my frustration with meeting with the council officers and the application going nowhere and he did convene a meeting with the council officer which he attended and set up working committees to try and finalise the application but Councillor Power weren't involved in that.

10

All right. Well, when did you talk to him about it?-- Quite some time ago. I can't remember in what regard but probably the early planning stages of the application, probably when he was head of Planning North. I would have had a meeting with him about the initial application.

20

Oh, sorry, this is Power?-- Power.

Councillor Power?-- Yes, Power.

Okay. All right. So that was before the election?-- Yes, yes.

30

And not since the election?-- Not since the election.

And then you had the discussion with - did you have a discussion with Councillor Shepherd?-- Yes.

Sorry, who was it that set up this meeting?-- Councillor Shepherd.

Right, Councillor Shepherd. so that was since the election?-- Yes.

40

And then since that time it's gone through City Planning?-- Yes.

Do you know when it was since the election that you spoke to Councillor Shepherd, spoke of your frustration?-- It was in 2005 so some time earlier - earlier this year. After I'd spoke to him it still took probably another three or four months, it would have been earlier - earlier this year.

50

So what that before his function on the 11th of May?-- No - no, it would have been - would have been after the function.

After the function?-- Yes.

Now, if we go to the third property - the property concerning Councillor David Power was 66 Cunningham Drive, Pimpama?-- I just know it by a lot number.

1

Okay?-- I think it's lot 45 from memory. But it does run into Cunningham Drive, that's correct.

The contract was signed on the 26th of May 2003?-- Correct.

Were you involved in any of the dealings with Councillor Power in respect of the purchase of that property?-- I wasn't. I had an acquisitions manager who dealt with people who were selling properties, a man called Neville Haines, and in fact he didn't even deal with Councillor Power himself, it was handled by a gentleman by the name of Taplin, a Mr Fred Taplin, and he acted for a few of the owners in the area to try and obtain the same price for everybody and the - Councillor Power's property and that also of Carmody were negotiated with Mr Taplin so no-one from my company spoke to Councillor Power about his property.

10

20

CHAIRMAN: Mr Taplin was one of the vendors?-- That's correct.

MR BOYLE: Well, at any stage did you discuss with David Power the proposed development of that area?-- I did at a later stage after I'd signed the contract to buy his property. I had a meeting with him about the proposed development.

When was that?-- It was some time ago, I'm just trying to think - put a date on it but it was after the date of the contract, probably - maybe six months after the date of the contract, something of that type.

30

Okay. Before the election then?-- Before the election.

Could you tell us about those discussions?-- There was a discussion at Council and basically I put the plan in front of Councillor Power what I intended to do with it - with the amalgamated site - and Councillor Power's division does include Coomera and as well he was the head of the planning committee at that stage. I don't recall who was present at the meeting. Certainly myself, probably some other of my staff and consultants so there was probably more people than Councillor Power present. The only thing I can recall from the meeting is that - several things - one that he was happy with the proposed development but he'd talk about greater density and also that he said that he would have to absent himself from any meeting at Council in relation to that property because of the fact he sold it to me and he wouldn't be able to attend the meeting on it.

40

50

So that was the only time - the one and only time - you discussed with Councillor Power anything about the proposed development of that property?-- Yes. Yes.

What about Councillor Shepherd, did you talk to him about your proposal for that property?-- No. With that property there's been numerous meetings with Council officers on basically the

density and the planning and the parks and so forth but I don't think any had been attended by Councillor Shepherd and it's not been discussed with him or any other Councillor.

1

And as I understand you said that hasn't yet gone to the city planning committee?-- No.

Or Council itself?-- No, I have an information request on it but it hasn't gone to planning yet. They're still replying to the information request.

10

All right. I'll just take you to the donation aspect-----?-- Yes.

-----of your evidence now. You said you got a phone call from Hickey Lawyers, is that right?-- Yes.

Is that from Tony Hickey?-- From Tony Hickey, yes.

And he was acting on behalf of Brian Ray he said to you?-- Yes.

20

And he used the expression "sensible" candidates. Did he expand on that at all?-- My recollection not exact words, it's a bit hazy but I understood it to mean that sensible candidates as opposed to some that were currently in Council who were against everything that was put to Council. But the problem as I understood with community service back in - for that time was that the - it was frequently deadlocked on the voting and the Mayor had to use his casting vote to break the - break the deadlock and the City just wasn't going anywhere, nothing was being decided or attended to. That's what the general concern was in the development industry, that the - that the Council was too much in-fighting and nothing was being decided and the City was going backwards on infrastructure, traffic and so forth.

30

So it related generally to any issue going to Council?-- Yes.

And did you discuss that with Mr Hickey?-- Sorry?

40

Did you discuss that with Mr Hickey?-- Yes.

Okay. And Brian Ray was to organise the candidates, is that what he said?-- He said that Brian Ray was getting together a fund to fund these candidates and that's what I understood to be the situation, yes.

You made a decision at that point to make a donation?-- I said I'd consider it and I asked him what - what amount people were contributing and he mentioned to me an amount of \$10,000 and I subsequently got a letter and after thinking about it, receiving the letter, I donated \$10,000.

50

Now, you have your statement there in front of you?-- Yes.

Or sorry, your letter?-- Yes.

Paragraph 2 on page 2 refers to a common - sorry, do you know when this phone call was?-- This is a letter from Tony Hickey and it was prior to me receiving the letter. I think the letter's dated 11th of March 2003 so it's a date - a date to prior to that. A date immediately prior to that.

1

Well, you see there in your paragraph 2 you refer to what your understanding was?-- Yes.

Now, you've got in quotes "commonsense candidates", was that term used by Mr Hickey?-- I believe so.

10

What about that expression "who were not radical greens or environmentalists"?-- That's probably more my understanding of it than anything he said to me.

Well, where was it that you got that understanding then?-- Well-----

From what words?-- I think the discussion about Councillor Peter Young that you know I know that he's a green environmentalist and was causing a lot of obstruction in Council so I knew they were going - this fund was supporting a candidate to run against him so it was more particularly in relation to Councillor Young that I understood that.

20

So he mentioned him by name?-- Yes.

Did he mention anyone else?-- Yes. I can't remember - he names a few people, I can't remember them all but I recall Dawn Crichlow - they were running a candidate against Dawn Crichlow which I - I wasn't prepared to support that.

30

And ultimately that was a condition-----?-- Yes.

-----you put on your donation?-- Yes.

Okay. And you say there as part of your understanding that it be allocated at the discretion of that fund?-- Yes.

40

Do you know whose discretion, was there any talk about that?-- No. I understood that Brian Ray was behind it and that - I assumed that Tony Hickey had - was involved as well seeing it was his trust account but I wasn't aware of who was making the decisions.

You obviously had at least some views as to which candidates it should go to, some rather than others, is that right?-- I didn't know any of the new candidates so I - I didn't really know them.

50

But you at least to the extent said none of this fund should go to any opposing candidate to Councillor Crichlow?-- Correct.

Okay. But apart from that you didn't-----?-- I had no opinion.

Right. So it was really at the absolute discretion then apart from the conditions you put on it?-- Yes. Yes.

1

Was Councillor Power mentioned in the conversation?-- No, he wasn't.

Were you aware what was to happen to the money after it went into the trust account?-- Not at all.

It was Tony Hickey that rang you, is that right?-- Yes.

10

And you've attached there a fax which has the details of the account to which money was to be sent?-- Correct.

To Hickey Lawyers?-- Correct.

And that's dated the 11th of March 2004?-- Yes.

Can I just clarify paragraph 2 of your letter, it says, "Our understanding was that the donations to the Lionel Barden commonsense campaign fund" - and then goes on?-- Mmm.

20

Was there any mention of Lionel Barden in that initial conversation?-- No, there wasn't.

Okay?-- I didn't know who he was.

Okay. So that's something that you constructed later I suppose?-- Yes. I don't know about - no, not the letter - but the-----

30

Your understanding?-- Yes, I had - I had the name - I had the name of the fund, it was on the letter from Hickey Lawyers at the time, in March of 2003. I had the name of the fund but I didn't know who Lionel Barden was until recent times.

I see. Now, in your letter of the 14th of March making - enclosing the cheque for donation you say, "I have already made a contribution directly to David Power's campaign fund," is that - that's right?-- Yes.

40

Now, that was for \$1,000 for the dinner?-- Yes.

And it was also a \$9,000 donation, is that correct?-- Yes.

And I think the \$9,000 donation was made the same day as the function?-- Yes.

Was that done before going to the function or at the function?-- I'm not sure. If it was the same day maybe we took the cheque to the function. I'm not sure.

50

And in saying that in your letter is there any reason why you specifically refer to the fact that you've contributed directly to David Power's campaign fund?-- Yes, I think at the time I didn't know exactly what the money was being used for and I wasn't sure whether any money was going to David Power's

campaign so I just pointed that out that I'd already donated money to him.

1

But you had no knowledge of his involvement in this fund?-- No.

And Councillor Power's function, you had, I think, the chairperson may - Chairman may have asked you questions about this; that was eight people attended at \$125 a head-----?-- Okay.

10

-----so eight people from your-----?-- Right. I'm wrong about that. I thought it was 10 but that'll be correct, yes.

All right. And so far as Councillor Shepherd's function, that was two tables of 10-----?-- Yes.

-----at \$695 each; is that correct?-- Yes.

You have any knowledge of any involvement by Sue Robbins in this fund?-- No.

20

Did you have any knowledge of Quadrant in terms of the election campaign?-- No, not at the time. I subsequently know but not at that time, no.

You were aware that the money from this fund was to be used to promote the election of a number of candidates?-- Yes.

Were you aware as to who else donated to the fund?-- Only subsequently. I wasn't aware at the time.

30

Is it - prior to the election, did you know?-- At some stage it was published in the paper so I don't know whether that was prior to the election or subsequently.

Okay. So apart from the paper?-- No.

No one told you who else was going-----?-- No.

40

-----to contribute?-- No.

And did you have any concerns as to the donation, the fact that your company making a donation being made public?-- Not at all.

Were you aware of any function - proposed function to meet the candidates?-- No, I wasn't.

Sir, I don't have any further questions. Thank you-----

50

CHAIRMAN: Yes. Any - Mr Nyst?

MR NYST: Thank you. Mr Ingles, just so far as that property is concerned that you bought off Mr Power-----?-- Yes.

-----you told us that Mr Fred Taplin stepped in on behalf of various of the landowners-----?-- Correct.

1

-----and did all of the negotiations?-- Yes.

You weren't yourself involved in all of those negotiations?-- I was involved in none of them. Actually I had a staff member, a Mr Haines, who did the negotiations.

Right?-- But he dealt with Mr Taplin in relation to various properties including Councillor Power's property.

10

Right. And he, Mr Haines, would be reporting back to you?-- He reported to me.

And do you understand this to be the case; that Mr Taplin did all of the meetings. Sometimes other people would come along, some of the other land owners, but Power never came along?-- I'm not aware that any of the landowners came along really. I thought that Mr Haines, who worked for me, was dealing with Taplin on his own as far as I knew.

20

Right?-- If anything else happened, it's news to me. I thought he was dealing with Taplin on his own.

Okay. But certainly Power had no involvement in-----?-- No involvement.

-----any negotiation at all?-- No.

30

Just kept his nose right out of it?-- Yes.

And you said that some purchaser's prices were above valuations and others on valuation. That, I take it, depended on how the vendors negotiated?-- Yeah, that's correct. I mean, it's not so much to do with the valuation. If you look at the rate per hectare that I paid-----

Yes?-- -----some were high, some were lower. The ones that are high are Councillor Power's property and the ones that are lower, so it depended on how they negotiated it.

40

Right?-- Correct.

But Power just accepted what the valuation was?-- Yes. I mean, all the people in the Taplin Group were paid the same amount per hectare.

Yes?-- But at the last moment Taplin put his hand for more-----

50

I see?-- -----so he got slightly more but the rest of them were the same amount.

Okay. All right. Now just in relation to this approach that was made by Mr Hickey, you told my learned friend, Mr Boyle, that you didn't - you don't have any recollection - sorry,

your recollection, the exact words, is hazy, I think you said?-- Correct.

1

But your recollection is that Hickey - Mr Hickey was talking about trying to seeking support for sensible candidates for election-----?-- Correct.

That was the thing that was coming through-----?-- That was correct.

10

-----was interested in sensible people and you had no discussions at all with Mr David Power about that?-- None at all.

And so you ultimately donated the \$10,000?-- Yes, I did.

Pursuant to your discussion with Mr Hickey?-- Yes.

All right. Nothing to do with Mr Power?-- No.

20

You hadn't spoken to him at all?-- No.

No. But you were not promised anything in return for your \$10,000?-- Not at all.

Nor did you expect anything in return?-- No.

You didn't ask for anything in return?-- No.

All right. And is it the fact that you've never received any sort of favouritism at all from the council?-- That's correct. In fact, quite the contrary, as I said before, had massive delays with my development application so I certainly had no favours.

30

Now with that Downlane matter-----?-- Mmm-hmm.

-----did you see the original council's - council officer's recommendation to council on that?-- I don't believe so.

40

No?-- No.

Do you recall whether there was - the recommendation was that the application go through without any conditions at all?-- I don't know about that but we certainly got conditions. It's only-----

It ended up with conditions?-- Yes, it was only a preliminary approval, yes.

50

Yes. But you don't recall the specifics of it?-- No, I don't.

No, all right. All right. Well, look, just in summary, your dealings with Mr Power - David Power, you've never known him to be anything other than an honest, scrupulous councillor; is that so?-- That's my opinion of him, yes.

He's also behaved in a-----?-- Yes.

-----professional and honest scrupulous fashion-----?-- Correct.

-----in your dealings with him?-- Correct.

Thank you, sir.

MR WEBB: Just a couple of questions, if I may, Mr Commissioner. Would it be fair to say that you describe yourself as a business man?-- Yes, that's fair.

And you actually have some professional qualifications?-- Yes, I'm a qualified accountant.

CPA or-----?-- CPA.

Yes. Nothing further.

CHAIRMAN: Yes, Mr Bartley?

MR BARTLEY: I've got nothing further, Mr Chairman.

CHAIRMAN: Yes.

MR BOYLE: I have no further questions of Mr Ingles. May he be excused?

CHAIRMAN: Yes. Thank you, Mr Ingles, you're excused?-- Thank you, Mr Chairman.

Thank you for your evidence?-- Thank you.

WITNESS EXCUSED

MR BOYLE: Mr Chairman, I call Phillip Sullivan. I'm told that Mr Sullivan is represented by Mr Macgroarty of counsel instructed by Minter Ellison.

PHILLIP KEITH SULLIVAN, SWORN AND EXAMINED:

CHAIRMAN: You appear, Mr Macgroarty, for Mr Sullivan?

MR MACGROARTY: I appear for Phil Sullivan. Thank you.

CHAIRMAN: Thank you. You're instructed by, Mr Macgroarty?

MR MACGROARTY: I beg your-----

CHAIRMAN: Instructed by?

MR MACGROARTY: Instructed by Minter Ellison of the Gold Coast.

CHAIRMAN: Mr Macgroarty, we normally do it - well, we do it one of two ways. Either you can allow Mr Boyle to take your client through his evidence-in-chief and you reserve the right to ask any questions later or if you pref you may take your client through his evidence-in-chief with Mr Boyle questioning him subsequently.

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MR MACGROARTY: I'm happy for Mr Boyle to question him. Thank you.

MR BOYLE: Witness, your full name is Phillip Keith Sullivan, is that correct?-- That's correct.

Now, you're the managing director, chief executive officer of City Pacific Ltd, is that correct?-- That's correct.

20

And you're also a director of Ronglan Pty Ltd trading as Sullivan Constructions?-- That's correct.

You were served with an attendance notice to appear. If you could just have a look at this document, sorry the first one?-- Mmm-hmm.

The first one is the attendance notice for you to appear here, is that correct?-- That's correct.

30

I tender that, Mr Chairman.

CHAIRMAN: Exhibit 194.

ADMITTED AND MARKED "EXHIBIT 194"

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MR BOYLE: And the second document you have there is a notice to discover, which was issued by the Crime and Misconduct Commission issued to you, is that correct?-- That's correct.

CHAIRMAN: Exhibit 195.

ADMITTED AND MARKED "EXHIBIT 195"

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MR BOYLE: As a result of that notice to discover you prepared a statement and also sent the Commission a number of documents?-- That's correct.

And what you have there is a copy of your statement and some relevant documents you've attached?-- That's correct.

I'll tender that as well, Mr Chairman.

CHAIRMAN: Exhibit 196.

ADMITTED AND MARKED "EXHIBIT 196"

CHAIRMAN: Are the contents of that statement true and correct, Mr Sullivan?-- Yes. Probably there are a couple of additions that will obviously come out in discussions.

MR BOYLE: Okay. I'll just give you a copy so you've got one to work from. If at any stage you want to point out any error in the statements you say so?-- Thank you.

Now, the companies you were involved with, the donation which went to Hickey Lawyers Trust Account went from Ronglan Pty Ltd, is that right, trading as Sullivan Constructions?-- That's correct.

Now, what sort of company is that?-- It's a small construction company, development company.

Okay?-- Private.

Does that operate on the Gold Coast?-- It operates on the Gold Coast.

It's involved in developments on the Gold Coast?-- It has been.

How long since it's been involved in them?-- It's been involved in development for the last - possibly the last 10 or 15 years.

And still current?-- Still current, but there's nothing currently on the books.

What about City Pacific, what company is that?-- City Pacific is a financial services company listed on the stock exchange and its main business is advancing capital to people in the development industry.

Now, if you'd just look at your statement there. You say some time early January 2004 - this is the bottom of page 1 of your statement?-- Mmm-hmm.

Paragraph 6?-- Yeah.

"Brian Ray came to my office"?-- Mmm-hmm.

He referred there to what you say on the top of page 2 as that a group of candidates needed support?-- That's correct.

And you say he didn't actually mention the names of candidates?-- No, not that I can recollect. He said that there were a group of candidates that needed support and that he needed - or felt that the Council needed a balancing effect.

1

Did he in general terms say anything about the candidates, as to what they might represent?-- No, not really.

Other than to say it would balance the Council?-- Mmm-hmm.

10

You say in paragraph 8, I believe, that other people he had spoken to were contributing?-- He did.

Did he say who else he had spoken to?-- No, he led me to believe that there were a number of other Gold Coast and Brisbane people that were contributing.

He didn't say the type of people that were contributing-----?-- No, not that I can-----

20

-----from any particular industry?-- Not that I can recall.

And at that point he suggested the figure of \$10,000?-- He suggested a figure that everybody was contributing, 10,000.

And he also told you about making a contribution to Tony Hickey's trust account?-- He did. Now, at this stage I might say that subsequent to making the statement we have seen that there was an e-mail that Brian Ray sent to I think it was a fellow by the name of Chris Morgan and it was dated the 19th. I have subsequently checked my diary and seen that there was a luncheon with Brian Ray on the 18th and it is possible that the date that I referred to here as being the 14th - the - early in January, it is possible that that date might have been as early as the 18th of December.

30

Sorry, your diary said that there-----?-- My-----

-----was a lunch with him-----?-- My diary - on checking my diary and going back to the 18th of - or around about the 19th, which is the day Brian sent an e-mail to Chris Morgan I checked the diary for any entries with Brian and on the 18th I did have lunch with Brian.

40

That's the 18th of January?-- The 18th of December.

18th of December. Okay. So did these discussions - to the best as you can remember - did those occur at the lunch?-- In my initial statement I said it happened early in January. I'm assuming now that it did happen at the lunch.

50

Okay. Well, you also say he came to your office?-- Well, if we have lunch he usually comes to my office and we just walk up to a restaurant up the road.

Okay. Did you know or did he say anything as to who was to control this money?-- No, he didn't. Other than that it was to go to Tony Hickey or Hickey's trust account.

1

And you know - or from your understanding the money was to be used to promote the election of a number of candidates is that correct?-- That's correct.

Did you discuss with him how candidates were to be selected?-- No, not at all. I left that to Brian.

10

So it was your view that it was really at his total discretion as to which candidates got the money?-- That's correct.

Were you aware after it went to Hickey what was to happen to the money?-- Only that it was to assist a number of candidates in their election campaign.

Why was it that you made the donation?-- Brian Ray was a very important client to me and I saw that this - the contribution was important to him and I agreed to the donation. He was an extremely important client to us.

20

So it was more out of a favour to him?-- Correct.

Was that the only time you had any discussions with Brian Ray about making the donations?-- There would have been another time when he - either he or his office phoned me and asked me to make sure that the cheque went over to Hickey's office. That would have been later on in the month of January.

30

Right. You refer in your statement there to an email on the 14th of January?-- Yes.

Getting a reminder email?-- Yes.

But you can't recall any more specific discussions with Brian Ray about anything-----?-- No.

-----about the fund?-- No, nothing more.

40

And you didn't place any conditions on the donation?-- No, not at all.

You didn't have any knowledge as to who was to benefit?-- Not at all.

At any stage - you can't recall the names of any candidates being mentioned at all?-- I don't recall the names of any candidates.

50

And you weren't aware of any involvement in this fund of Councillor Power or Councillor Robbins?-- No, not at all.

And I think in your statement you say - well, at paragraph 25 you say there was only one occasion you've met with David Power?-- That's correct.

And you did not know Sue Robbins at paragraph 29?-- That's correct.

1

And you weren't told anything about this - any discussions about the fund about Lionel Barden either?-- No, not at all.

Any discussions about - were you aware of any involvement by Quadrant?-- Not at all.

Were you aware as to who else donated to the fund?-- No.

10

Did you have any concerns as to the fact of the donation by you being made public?-- At what stage?

At any stage?-- No, not really.

Did you have any knowledge of any proposed function to meet the candidates?-- If there was any - if there was any function and I was invited I didn't attend and I would have declined the invitation.

20

Was there any discussion about whether the donors and candidates should know each other as to-----?-- No, not really. If there was - if there was one enquiry I think John fish might have said to me, "Are you - are you making any donation?" and I said, "Yeah, I'm making a donation."

When did he speak to you?-- Would have been around about the time that we made the donation.

30

He ring you, did he?-- That was a call that was made this morning to John Fish and I discussed the newspaper article yesterday and the only - the only thing that he can recall talking to me about was whether or not I was making a donation and whether or not he was so it's something that happened this morning.

Oh this morning, today?-- Yeah.

Oh, okay. Well, for what-----?-- At that time I knew of no other - no other parties that were donating.

40

Well, prior to the election were you aware that John Fish was making a donation?-- No.

You'd never discussed with him making a donation yourself to the fund?-- Not that I can recall.

There's a cheque butt that's included there which - for the \$10,000 cheque on the 28th of January 2004 for \$10,000 and it's - I think you said the writing on that cheque was Fred Greaves, my account manager?-- That's correct.

50

Written on that is, "Contributions David Power and Sue Robbins"?-- That's correct.

Do you know where he got that information from?-- He would have got that information I believe from Tony Hickey's office.

He didn't get it from you?-- No, not at all.

And you can't recall either of those two being mentioned in any of your dealings with Brian Ray?-- Not at all.

There's another document there which may be the same writing which is a National Bank statement-----?-- Mmm-hmm.

-----for Ronglan and again refers to David Power and Sue Robbins. Do you know whose writing that is?-- I can only presume it's - I'll put my glasses on - excuse this, right at the bottom of the - yeah, that's - it looks like Fred Greaves' writing. It's very small and it hasn't come out correctly, but I would say that's Fred Greaves' writing.

10

Now, one of the other documents that you've produced is a receipt, trust account receipt, from Hickey Lawyers, Sue Robbins and David Power?-- That's correct.

20

Prior to getting the documents together to respond to the notice had you seen that document before?-- No, never.

No, I don't have any further questions, thank you, Mr Chairman.

MR MACGROARTY: Thank you, sir.

CHAIRMAN: Would you prefer to wait till after perhaps anyone else has asked questions and then you can see if anything arises?

30

MR MACGROARTY: I'm happy to do that.

CHAIRMAN: Mr Nyst?

MR NYST: Mr Sullivan, you had nothing at all to do with David Power in relation to this matter, did you?-- Nothing at all.

Your only discussion was with Brian Ray so far as this trust fund was concerned?-- That's correct.

40

And you mentioned that so far as you recall you didn't mention the identity of any of the candidates that were supporting or wanting to support?-- Not at all.

Nor did you mention anything about what their issues were or what they supported or what they stood for?-- No.

You weren't even interested in that, were you?-- I wasn't interested.

50

Perhaps it follows from that that - I take it you didn't expect anything from any of the candidates in return for your donation?-- No, not at all.

You didn't even know who they were?-- Nothing.

Didn't know what they stood for or anything else. Your only interest really was in supporting Brian Ray?-- That's correct. 1

Because he was an important client to you?-- That's correct.

I understand. And look, as a member of the business community there you do try to - your group tries to be a good corporate citizen, is that so?-- We do.

And from time to time you make donations of a charitable and other nature, is that right?-- We make a number of donations. 10

For example, I see from your statement you make an annual donation of \$10,000 to the Salvation Army?-- That's correct.

You expect nothing in return?-- Nothing at all.

It's just about being a good corporate citizen?-- That's correct. 20

Thank you, sir.

CHAIRMAN: Yes?

MR WEBB: Thank you, Mr Chairman. Mr Sullivan, you're a businessman, that's so?-- That's correct.

And your business is that - now is of finance, is that so?-- The main business is finance, yeah. 30

And that was so at the time of this election?-- That is correct.

And that would be well-known to Brian Ray, who as you point out in your material he was an important client of yours?-- That's correct.

In that capacity?-- That's correct.

Mr Ray, as we're well aware, is-----?-- Mmm-hmm. 40

-----no longer able to present himself, but did he present himself as a leader in the business community?-- Well, Brian was a very good networker and, yeah, he did present himself as a - as a leader.

He had a - I'm not speaking ill of the dead - he was no doubt, from what we see, somewhat of an egotist, liked to promote himself I mean by that?-- Yeah, he liked to promote himself. 50

And promote business on the Gold Coast generally through his networking?-- That's correct.

And that's obviously how he got to you?-- Correct.

And although you hadn't thought deeply about it, as you say in your statement you were interested in having a balanced

Council, a Council that would do the right job?-- That's correct.

1

Nothing further.

CHAIRMAN: Yes, Mr Macgroarty.

MR MACGROARTY: Well, you've already stated that you're a businessman and your main business is in the financial world, is that right?-- That's correct, yeah.

10

For some years you had a construction company-----?-- Mmm-hmm.

-----that did do small developments, is that right?-- That's correct, yeah.

But as at the present time how long since that construction company, Sullivan Construction, did any developments, can you say approximately?-- Over the last five years we would have done maybe three - three homes, four homes.

20

Have you done any since the election of the Gold Coast City Council in March 2004?-- We've completed maybe three homes.

Three homes since then?-- Mmm.

Now, Mr Brian Ray was a client of which of your companies?-- He was a client of City Pacific.

So there was no real business relationship between you and Mr Ray to do with Sullivan Constructions?-- No, not at all.

30

So as a client of City Pacific he was a client to do with financial matters?-- Correct.

Now, you also said this in answer to Mr Boyle, that you got an e-mail - and indeed it's in your statement - you got an e-mail from Brian Ray on the 14th of January 2004 by way of a reminder about sending the money?-- Mmm-hmm.

40

On that date or subsequent to that did you send the money?-- I wasn't in the office on the 14th. I would have seen the e-mail either the following day or soon thereafter and I didn't send the money immediately, no.

Now, subsequently you also said in answer to Mr Boyle that Brian Ray rang you?-- Correct.

I take it you mean when he got no response to his e-mail to you on the 14th of January-----?-- Yeah.

50

-----at some later date he rang you?-- Correct.

Now, we know from the documents before the Court that the letter from Sullivan Constructions sending the deposit slip of \$10,000 to Tony Hickey trust account was signed by your employee Fred Greaves?-- Fred Greaves, yeah, the account manager.

And Fred Greaves was your accounts manager, was he?-- That's correct.

And we know that letter was dated the 29th of January 2004?-- Mmm. 29th or the 28th.

All right. Have you looked at your diary for January 2004 and if you have can you tell me where you were on the 27th, 28th and 29th of January 2004?-- I was in Brisbane on all three days.

10

Doing business in Brisbane?-- Correct.

Looking at your diary does that help you recollect when it was that Brian Ray rang you?-- Brian Ray would have rung me and I presume on my mobile and would have asked me to sort out the payment for the \$10,000.

And did you then decide to send the payment?-- I would have rung Fred Greaves and asked him to sort it out.

20

All right. Can you remember what you said to Fred Greaves?-- I would have just told him to ring Hickey's office and sort it out, find out the details and get the cheque over.

And you - and of course I presume you told Fred Greaves what amount to send?-- I told him it was a \$10,000 cheque-----

But otherwise your instruction to Fred Greaves was you ring Tony Hickey's office and sort out the details there?-- That's correct.

30

And your handwriting doesn't appear on anything, the cheque butt or the bank statement or anything like that?-- No, not at all.

Pardon me. You told Mr Boyle that the - you thought it was Fred Greaves handwriting on the bank statement. Do you know when that was written there in point of time?-- No.

40

Okay. The only other thing I wanted to mention was John Fish. You said John Fish rang me today. Apparently there was some publicity about Mr Fish in the paper yesterday, is that right?-- That's correct.

John - first of all, your company, City Pacific, does it have a subsidiary company, City Pacific 1?-- CP1 it does, yeah.

CP1, thank you. And is that company involved in some development down in Victoria?-- That's correct.

50

And that company CP1, are you a shareholder director of that?-- I'm a director and City Pacific owns the major portion of the stock.

Was John Fish associated with you in that development in -  
sorry, not with you - with CP1 Limited in that development in  
Victoria?-- He was.

1

Is that your connection with John Fish?-- That's correct.

Thank you. Thank you, sir.

CHAIRMAN: Thank you, Mr Macgroarty. Mr Boyle.

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MR BOYLE: No further questions, may this witness be excused.

CHAIRMAN: Yes, certainly. Yes, thank you, Mr Sullivan.  
Thank you for your attendance and your evidence.

WITNESS EXCUSED

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MR BOYLE: I call Gregory Phillips.

CHAIRMAN: Thank you, Mr Macgroarty.

MR MACGROARTY: Thank you.

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GREGORY DAVID PHILLIPS, SWORN AND EXAMINED:

1

MR BOYLE: Your name is Gregory David Phillips, is that right?-- Yes.

You were served with an attendance notice to appear here, is that right?-- Yes.

10

I'll give you a look at that document, is that a copy of what was served on you?-- Yep.

I'll tender that and the oath of service is attached, Mr Chairman.

CHAIRMAN: Yes. What number are we up to now?

MR NYST: 197, sir.

20

CHAIRMAN: Thank you.

ADMITTED AND MARKED "EXHIBIT 197"

MR BOYLE: And the second document I've shown you there is the - a notice to discover which was issued by the Crime and Misconduct Commission which was served on your, is that correct?-- Yes.

30

And you've supplied as a result of that a letter and some documents, is that right?-- Yes.

I'll tender the notice to discover.

CHAIRMAN: Exhibit 198.

40

ADMITTED AND MARKED "EXHIBIT 198"

MR BOYLE: I'll show you your letter, it's dated the 31st of August 2005. And that's - that's the two page letter you produced in response to the notice and there was a document you also produced which is a supply a quick report, is that right?-- Yes.

50

I'll tender that, Mr Chairman.

CHAIRMAN: Yes. That's Exhibit 199.

ADMITTED AND MARKED "EXHIBIT 199"

1

MR BOYLE: Now, I'll show you - I'll have another copy of that given to you. Now, it refers there to the Phillips Group. Now, is there a number of companies that you're a director of which fall under that banner, is that right?-- Yes.

What sort of work does the Phillips Group involve itself in?-- Property development.

10

And that includes property development on the Gold Coast?-- Yes.

And it seems from what you've said that - in your document - that you provided donations to Hickey Lawyers totalling \$30,000?-- Yes.

There was one cheque on the 23rd of January 2004 and - for \$10,000?-- Yes.

20

And one on the 10th of March 2004 for \$20,000?-- Yes.

Now, I'm going to ask you about the approach for funding. You say there you were approached by some people, you mention Toney Hickey and you say you can't recall the other people. Do you have any further ideas now as to who it was that approached you?-- No.

30

But you can recall Toney Hickey?-- Yes.

How was that contact made?-- By phone.

Did he ring you?-- I assume so, yes.

And that was obviously before the first donation?-- Yes.

Can you recall what he said to you?-- No.

40

Can you recall him mentioning any names of councillors?-- No.

Or who was involved in the administration of the fund?-- No.

Did he give you any idea in general terms which candidates it may go to?-- No.

Or how the candidates were to be selected to benefit from it?-- No.

50

Or what was to happen to the money after it went to Hickey?-- No.

Was it a very short conversation?-- Absolutely.

Why was it that you decided to donate to the fund?-- I donate to many people.

Right. But specifically in this instance can you give a reason?-- Probably because the council had dead-locked 8/8. Anything to break the stupid deadlock. That's probably the sole reason.

1

Can you tell us how the second payment came about? He contacted you, obviously, before the first payment. Did he contact you again?-- I can't remember who contacted me, but it was his office. I don't know whom.

10

It may have been him or it may have been someone else?-- It may have been a girl. I'm not sure.

Was there any more conversation then about the issues I raised about the details of the fund and who administered it?-- No.

And you didn't give any directions as to who was - directions as to - conditions or directions placed on the donation given by you?-- No.

20

Do you - did you ever get any knowledge as to who actually benefited from the fund prior to the election?-- No.

Did you have dealings directly with any candidates?-- No.

Were you aware of the involvement of the company, Quadrant, in the election campaign?-- No.

From what Mr Hickey told you, did you know that the money was to be used to promote the election of a number of candidates?-- I believe so, yes.

30

Is there any reason you went - or you decided to donate in this way as opposed directly to a candidate?-- It was the way I was asked.

When you say the council was dead-locked 8/8, what do you mean by that?-- It appeared nothing ever went through just be reading the newspaper that the old council voted one way on the Gold Coast, the Albert Shire side voted the other way. It was just plain ridiculous.

40

Did you have any experience of that?-- No.

Are you aware of anyone else who donated to the fund?-- No.

Even in general terms?-- Only what I read in the paper.

Did you have any concerns about the fact that you making a donation being made public?-- No.

50

Were you aware of a function - proposed functions to meet candidates?-- No.

I'll just show you two receipts. It's part of Exhibit 97 and 99. These are two receipts relating to your donations issued by Hickey Lawyers. Can you see that?-- Yeah.

Did you ever see copies of these?-- Never seen these before in my life.

1

All right. And from your discussions with Mr Hickey, you'll see on one receipt there a reference to "Sue Robbins" and "David Power." There was no mention of those two?-- No.

And on the other one it's "Mr L Barden, Commonsense Campaign Fund". Was there any-----?-- I've never read these before.

10

No, I - but in - from your discussion with Mr Hickey or-----?-- No discussion with Mr Hickey. He just asked me for money and I gave it.

Right. There was no mention of Lionel Barden in any discussions?-- No.

I don't have any further questions of this witness.

CHAIRMAN: Yes, thank you, Mr Nyst?

20

MR NYST: Mr Phillips, you said that Tony Hickey contacted you by telephone - you think by telephone on one occasion, and then somebody else from his office you think?-- Yes.

But you didn't speak to David Power at all about-----?-- No.

-----this contribution. Is that right?-- No.

30

And that you - have you never spoken to him before about it? I mean prior to making-----?-- No.

-----any payment. All right. Well, you said you donate to many people. By that you mean your business donates to-----?-- Both and private.

And private as well. Would this include political parties, for example?-- Yes.

40

Charities?-- Charities, yes.

And various institutions?-- Local Canungra football team, whatever.

Right. Football, sporting teams, et cetera. And you do this without expecting anything in return?-- Absolutely.

It's just part of being a good corporate and private citizen. Is that right?-- Yes.

50

Well, in this case you donated money. You didn't ask for anything in return?-- No.

Didn't expect anything in return?-- No.

And certainly David Power has never promised you anything in return for your donation?-- No.

1

Nor suggested that you in any way receive any sort of favouritism or anything at all?-- No.

Thank you, sir.

CHAIRMAN: Yes, thank you, Mr Boyle?

10

MR BOYLE: No further questions. May Mr Phillips be excused?

CHAIRMAN: Thank you, Mr Phillips, for your attendance and evidence.

WITNESS EXCUSED

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CHAIRMAN: That's the evidence for this morning?

MR BOYLE: Yes.

CHAIRMAN: We'll resume at 2.15.

MR NYST: Can I just raise, sir, before we rise? I was given a list that anticipated Mr Sarroff giving evidence this afternoon as a possibility.

30

CHAIRMAN: I was given a similar list that Mr Sarroff is the next witness.

MR NYST: I've only - I don't have any material on Mr Sarroff other than a letter - a copy of a letter which was sent to the Minister, and I hope that's not-----

CHAIRMAN: I have no material at all on Mr Sarroff, so you're one ahead of me.

40

MR NYST: Right. Well, I've got that letter. I'm just, I suppose, rising to say if the - it's intended to cover more ground than what we know of, then it may be difficult for us to-----

CHAIRMAN: We'll have to see how we go at a quarter past 2.

MR WEBB: Yes. All right. I'd just like to clarify the morning adjournments are really for my instructor's benefit.

50

CHAIRMAN: I'm pleased to hear that, Mr Webb, that there's no problem with you.

THE HEARING ADJOURNED AT 12.55 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.34 P.M.

1

MR MULHOLLAND: Mr Chairman, I call Edgar Sarroff.

EDDY SARROFF, SWORN AND EXAMINED:

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MR MULHOLLAND: Sit down, Mr Sarroff. Would you state your full name, please?-- Eddy Sarroff.

And have you been served with an attendance notice in relation to today's hearing?-- I have.

Would you have a look at this document, please? Is that the notice? I tender that - are you saying "Yes" to that-----?-- Yes.

20

-----Mr Sarroff? I tender that, Mr Chairman.

CHAIRMAN: That will be Exhibit 200.

ADMITTED AND MARKED "EXHIBIT 200"

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MR MULHOLLAND: Did you also - were you interviewed by Commission investigators on the 4th of November 2005?-- Yes, I did.

And subsequently a transcript of that record of interview was prepared and you have seen a copy of that. Is that correct?-- I'd seen part of it.

40

You've seen part of it. All right. Well-----?-- I've only just received it on my way in.

All right. Well, I'd ask you to just have a look at this transcript. Does that appear to be the transcript that you have been looking at?-- Yes.

I tender that, Mr Chairman.

CHAIRMAN: Exhibit 201. Mr Sarroff, perhaps you could read that at a later stage and let us know if there's any significant discrepancies in it?-- I browsed over it in the waiting room and what I read seems to be correct.

50

ADMITTED AND MARKED "EXHIBIT 201"

MR MULHOLLAND: Now, I want to - do you have a copy of the record of interview?-- Yes.

1

First of all, at the 2004 March election of the Gold Coast City Council you were re-elected to Division 10. Is that correct?-- Correct.

Now, when were you first elected as a councillor?-- In March 1995.

10

And between 1995 and 2004 there had been amalgamation of councils, is that correct?-- Correct.

Now, your division is a division which includes the area of Burleigh?-- No. My division-----

Sorry?-- -----is Broadbeach.

Broadbeach?-- Yes.

20

Thank you. And what other areas apart from Broadbeach?-- Broadbeach, Mermaid, parts of Clear Island Waters and a small part of Surfers Paradise, the southern end, and Nobby Beach.

Now, Mr Sarroff, I would like you to go to - I'd like to take you to a couple of matters that you have mentioned in the interview with Commission investigators and if you go to the transcript, this is the first of the transcripts there being two tapes, at pages 6 and 7. You there refer to calling a Press conference. You will see in line 200 a reference to the Press conference?-- Yes.

30

Do you see that? And on those pages you deal with the question that you were asked at 188, "Do you have any firsthand knowledge of hearing any candidates state they were self-funded when in fact you believed they may have received money from a separate fund?" and you then refer to the Press conference. Now, can I ask you to look at this article, or a copy of the article. That article in The Gold Coast Bulletin of Friday the 26th of March 2004, which is Exhibit 3 number 32, is a Press conference to which - or refers to the Press conference that you're speaking about in that record of interview. Is that right?-- Correct.

40

And can you, very shortly, tell the Commission why you called that Press conference?-- In actual fact, this Press conference was called in conjunction with Councillor Crichlow and Councillor Peter Young and it was after several rumours that have been surfacing for a long period of time in relation to the so-called slush funds and the concerns that were raised by members of the public in relation to the existence of this fund. So when it became evident that there was a slush fund we felt that it was important that we call a Press conference and put it to all candidates to reveal whether they'd been funded from that trust fund as it was indicated there was substantial amount of money that has been - gone into that fund.

50

Now, this - the date of this press conference was, of course, after the revelations by Mr Ray had been published in The Bulletin; is that correct?-- Correct.

1

And the election, of course, was the next day on the 27th of March?-- Correct.

All right. So, that was the reasoning behind your calling of a press conference and that's what you're referring to there in the interview with Commission investigators?-- Correct.

10

Thank you. Now, if we go to page 9 of the transcript and in line 318 there's a reference to infrastructure charges policies; do you see that?-- Yes.

Now, over the following pages, in fact, right through to page 14 you discuss these infrastructure costs and some changes which were tempted or mooted in relation to those infrastructure costs. Can I, first of all, ask you in relation to this to look at this article. Now, this is not in Exhibit 3, Mr Chairman. Now, that is an article in The Bulletin; is that correct?-- It might be The Gold Coast Sun.

20

The Sun, is it, all right. Is it an article of Wednesday the 24th of March 2004?-- Yes.

And does that relate to some public statements you made concerning the suggestion that there might be some changes to the infrastructure costs?-- Correct. This article would have been the media release or the article following a council meeting where the issue of the infrastructure charges would have been discussed and obviously it's the article where myself expressed some concerns at attempts to put a moratorium on those charges.

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Now, I'll ask you a few questions about that but that's the article at any rate?-- That's the article.

I tender that, Mr Chairman?

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CHAIRMAN: Yes, that's Exhibit 202.

ADMITTED AND MARKED "EXHIBIT 202"

MR MULHOLLAND: Now, these infrastructure costs, are they costs which were imposed on developers as a result of the decision of the council?-- Yes.

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And had that decision been taken prior to the 27th of March 2004 election?-- Approximately a month before that.

Right. Now, shortly prior to the election after that decision had been taken was there some talk of the decision being changed?-- It was certainly - certainly a lot of feedback that

certain people were not happy with the new charges, there was in fact a number of press releases where members of the industry or some members of the industry indicated they weren't happy with the charges, there was certainly-----

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What industry are you speaking about?-- The development industry.

Yes?-- And it really wasn't until about that very last meeting of council that we had - the council had that opportunity to debate the matter only because there was a suggestion that we should be putting a moratorium on the charges, we should be reviewing the charges when the charges had only been in place for about a month or so.

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Now, these infrastructure charges which had been imposed, as a result of the decision of council, what essentially were they directed to?-- The charges were reflecting the costs of - for - the contributions for transportation, contributions towards upgrading parkland and obviously the water and sewerage infrastructure charges.

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All right. Imposed on developers?-- Imposed on developers and some of those charges previously we were not able to impose but since the introduction of the policy they became law.

Right. Now, you say that there was talk, and the last meeting of council, you mean the last meeting of the outgoing council prior to the 27th of March 2004-----?-- Correct.

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-----election?-- Correct.

Is that right? And was there any decision taken at that council meeting in regard to those charges?-- No, there wasn't a decision. I recall it may have been a general business matter. I recall there was a resolution that was already drafted. The resolution was in the hands of the chief executive officer. We were alerted to this items coming up. I don't believe it was an item on the agenda and I, in actual fact, confronted the chief executive officer, and saw that resolution in his hand and I took it away, copied it and passed it on to some of my colleagues in order to be able to respond if the matter came up and if the resolution was put to council.

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Right. Do you recall what - who made the suggestion that there should be a re-examination of the question which had already been resolved by counsel?-- I beg your pardon, a re-examination of the policy?

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Yes?-- There was a little bit of debate at the council meeting and the CEO was asked to advise the council whether he was being instructed by councillors to prepare that resolution and it was later revealed that a number of councils had approached the CEO with a view of preparing something to put to the committee and the chief executive officer's position was that it's not uncommon for councillors to ask the officers to prepare a general business item and the wording for that.

Right. Was there any vote taken?-- No, the matter didn't get to a vote. There was certainly some heated debate. I-----

Did you oppose any change?-- I was aggressively in opposition to that matter coming forward. I was angry and very disappointed as it had taken us three years to put the policy together and in that three years we had involved the industry, we involved the community, council officers were involved and the State Government was involved in putting those policies together.

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Now, do you recall if the move to make some change came from any particular councillor or councillors at that past meeting?-- My recollection Councillor Power was involved in that - in that issue. I'm aware that he was - he had received correspondence from individuals perhaps in his capacity as the chair of planning at the time but at the meeting it - it wasn't specifically mentioned who was driving that particular agenda and the chief executive officer wasn't prepared to outline exactly where the instructions came from but he did say it was in response to some councillors.

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Well, you remember a Councillor Power speaking in support of it, of some change; is that right?-- Councillor Power had been pretty public in terms of his criticism of the policy.

MR RADCLIFF: I object to the answer. It's not an answer which responds to my friend's question and really this is another difficulty we face. Mr Chairman, the witness is just rambling on. The question was, "Did Mr Power speak about it?" and he said that his answer - well, his answer was that he was in support of it but we don't know the answer. I ask my learned friend, Mr Mulholland, to try and make the witness to respond to the answer if he can - respond to the question if he can because it's really indicative of the evidence coming out. It won't help you in the end result. That's what I'm saying.

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CHAIRMAN: Well, when he says, you know, "Did he speak to it?" and he said, "He was in support of it".

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MR RADCLIFF: Well, he did-----

CHAIRMAN: Is a layman's way of saying, "Yes, he spoke in support of it", isn't it?

MR RADCLIFF: Well, we don't know the answer to that. With the greatest respect, we don't.

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CHAIRMAN: All right.

MR RADCLIFF: And I recognise that this is not a matter - presently it affects my client. I've endeavoured, as best I can, to constrain myself as to matters that do affect my client but this is just indicative of how we get a rambling story but just won't help you in the end. I think we need to

descend to peculiarity especially where there is suggestions of this kind and have him answer the questions.

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CHAIRMAN: All right. Well, your version of a rambling must be slightly different than mine but perhaps if you can perhaps try and keep the witness as specific as you can, Mr Mulholland.

MR NYST: Sir, could I just ask whether we have as yet established what it is? I might have missed it but I - in support of it, I'm not quite sure. It was some motion but-----

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CHAIRMAN: Well, the whole topic that was being discussed on that particular day. This is the motion referred to in this press release - sorry, this press article.

MR NYST: Support of the infrastructure charges, I'm not sure - my friend's been talking about some change but I'm not sure what that is and it'd be helpful to know.

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CHAIRMAN: Well, I suspect, you haven't been listening closely enough to the evidence, Mr Nyst.

MR NYST: Maybe I haven't but I've been anxious to know and perhaps I haven't been listening carefully enough but I-----

CHAIRMAN: Well, Mr Mulholland might clarify it for you.

MR NYST: Perhaps it could be cleared up.

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MR WEBB: I'd certainly like to know if there was a specific motion, I don't know.

CHAIRMAN: You'll have your chance, Mr Webb, this witness has given evidence which I quite frankly had no great difficulty in following. He said there was no vote at this particular occasion-----

MR WEBB: I'm sorry, I didn't mean to be rude.

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CHAIRMAN: -----it was - this matter was being discussed but perhaps if you can make it clearer, Mr Mulholland?

MR MULHOLLAND: Yes. What do you recall about the discussion that occurred at the last council meeting concerning this topic?-- I clearly recall, there was a great deal of concern about the charges and that there were moves to have the charges either reduced or suspended.

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By who?-- By - to the best of my knowledge, Councillor Power was the driving force for that matter and the reason why I mention Councillor Power is because I attended some of the meeting where the infrastructure charges were being discussed and that whole process and he certainly made some of his views - his views at that stage known and they were along the same lines as what we're speaking about now.

Well, was there any other councillor who spoke in support of any change?-- I don't recall that but I - as I said before, I was aggressively against the changes.

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Now subsequent-----

CHAIRMAN: Just excuse me, Mr Mulholland. Was this a formal motion to remove it or just a general discussion about the topic as to whether it should be removed or not?-- My recollection, it was a matter that was coming up in general business. My recollections were that the Deputy Mayor informed me after the meeting, the Deputy Mayor at the time, Alan Rickard, informed me that he had received some phone calls the night before in relation to a motion coming up where the charges were going to be suspended and he indicated his disappointment at that move given that he had chaired the infrastructure charges committee.

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But what happened actually at the meeting on this day? Was there a motion to remove it or was it just a general discussion about these charges?-- Yes, Mr Chairman. Once the topic was being discussed and given the tone of the discussion and the climate that generated after that, there was a reluctance for anyone to put forward the motion that was already prepared so-----

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All right. Well, the answer is there was no motion put forward?-- No motion.

All right.

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MR MULHOLLAND: Did you refer to a piece of paper? Did you see any motion? Did you see any piece of paper?-- Yes, as I indicated before, the Chief Executive Officer already had a motion that was drafted. He had it in his hand and when I snatched it out of his hand he responded by saying, "This is political. It's not the administration's position. We were asked to draft this motion".

Now who is the Chief Executive Officer to who you're referring to?-- I was referring to Dale Dickson.

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Right. You took this motion draft on a piece of paper, what happened to it? What did you do with it?-- I quickly got the draft - I had it photocopied and circulated to those councillors that I felt would be taking a similar position and arguing in the public interest.

Did you retain a copy of that?-- I recall retaining a copy of it but I don't have it at hand.

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All right. Now afterwards, that is, subsequent to this council meeting, did you go public in relation to the issue?-- Certainly, and at the press conference that was held - the press conference that we referred to earlier on, I certainly made some very strong statements in relation to the infrastructure charges and it was one of the issues that I highlighted in that press conference-----

Well, it's referred to in the newspaper article-----?-- Yes.

-----that's been tendered?-- Yes.

Now subsequently what happened in relation to any suggestion of a change to these infrastructure costs? Did that go any further after the election of the new council or not?-- Yes. The main issue that arose was an agenda item on the 24th of August which I have with me here today and that agenda item was headed, "The timing of implementation of developer contributions".

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So was any change made to the policy which had been decided prior to the election of the 27th of March?-- This - this agenda item sought to reduce the charges, the new charges. It had-----

What happened in the end, what was the upshot of it all?-- The upshot of it all is that this particular agenda item in my opinion was politically driven. I make the-----

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MR RADCLIFF: I object to this.

MR MULHOLLAND: No, no, no, Mr Sarroff, if you'd just concentrate on the question that I'm asking you. What in the upshot happened? Was there any change in the policy which had been decided by Council prior to the election of the 27th of March 2004?-- There was no change and-----

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MR NYST: Sorry, could I just interrupt again. I'm sorry. I hadn't understood there was any decision prior to the election and my friend's now talking about a change. I apologise if I'm a bit slow on this, but I had not understood there was any position taken that-----

CHAIRMAN: Yes. I didn't pick that up. Did you-----

MR MULHOLLAND: There was. The witness Mr Sarroff said that the decision was a decision to impose infrastructure costs, that's the decision to which I'm referring, not the discussion which had occurred at the last Council meeting.

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CHAIRMAN: Yes.

MR NYST: I think that's a statutory requirement.

MR MULHOLLAND: Yes, the policy that had been adopted is what I was speaking about.

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CHAIRMAN: As I understand it, it's a policy that's adopted by Council under the Integrated Planning Act.

MR NYST: Oh, I thought it was a statutory requirement under the new Act.

CHAIRMAN: Yes. No. And had this policy been adopted at an earlier stage to this March meeting and there was a discussion

at the March meeting as to whether there should be a moratorium on the implementation of that policy?-- Correct.

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Is that - in imposing the actual charges?-- Well, the charges came into force some time in February.

I see, all right?-- And - and at the meeting of the 20th - some time around the 20th of March that's when the issue was discussed.

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So then in the meeting in August there was an agenda item seeking to reduce the charges and the result of that was that there was no change in the charges?-- The results was that there were no changes and that was primarily because Council at the time this agenda was prepared had not sought legal advice in terms of whether they can - they can proceed as was recommended.

MR MULHOLLAND: And was legal advice subsequently obtained?-- Legal advice was subsequently obtained and-----

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And in the end there was no change to the policy?-- There was no change to the policy.

Now, I want to show you an exhibit - Exhibit 34 please, Mr Chairman. Now, just to deal with what this exhibit is about, this is evidence that the Commission has already heard concerning a discount granted to Sunland and in particular to a company Calm River Pty Ltd, it concerns a discount of \$13,822.45 on a late payment of a rates notice issued on the 28th of January 2004 due on the 2nd of March 2004 and paid on the 25th of March 2004. Now, subsequently - and this is what I would like you to deal with please, Mr Sarroff - subsequently did Sunland raise with Council the question as to whether or not it should be entitled to pay the discounted amount, that is not to have to pay the \$13,822.45?-- My recollection is that representatives from that firm attended a finance committee meeting which I'm a member of and put forward their argument as to why the discount should be allowed.

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Now, did you attend the meeting of the committee and also the meeting of Council-----?-- Yes, I did.

-----in relation to that matter?-- Yes, I did.

The meeting of the committee was a meeting of the finance committee, is that correct, on the 9th of November 2004?-- You have that information in front of you.

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Do you have-----?-- I have-----

I've asked you just to have a look at the exhibit?-- The date. Can I just have another look at the date?

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You can accept I think that the meeting of the committee was on the 9th of November. Are you able to recall the finance committee having a report prepared by a Council officer

recommending the request for discount be refused?-- Yes, that's correct.

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Now, it would appear from the records that there was a vote taken at the committee and then subsequently the matter was raised by Council. What do you recall first of all as to what happened at the committee meeting?-- Thanks. The - the committee-----

Leave that there just in case you need to refer to it?-- As is the case with any matters that come before the committee there's discussion on these matters. I can only recall that I was not in support of the - of allowing the discount given the report was pretty clear in outlining why we shouldn't allow it and I recall Councillor Crichlow was also in opposition.

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The record suggests that Councillor Crichlow moved and you seconded the officer's recommendation, and that motion was lost?-- Then that's correct.

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That's your recollection?-- Yes.

And then Councillor Clarke, the mayor, moved and Councillor Power seconded a motion that the discount be allowed, and that motion was carried?-- That's correct.

Now, was any member of the company, any company officer, present at that committee meeting?-- At the committee meeting? I recall there were two people there.

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At the committee meeting?-- At the committee meeting. From memory, Dave Brown and another lady that I'm not familiar with.

Were you aware, at the time of your actions in relation to this matter, that the Local Government Act required that, to allow the discount, the council had to be satisfied that the circumstances were beyond the person's control? Were you aware of that?-- I spoke with the officers in relation to this matter.

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MR RADCLIFF: Well, that's not responsive of the question.

CHAIRMAN: Well, how do you know?

MR RADCLIFF: Well, he's now telling us what he spoke to other people about.

CHAIRMAN: Yes, and he might have been going on to tell us that they told him of that, so he was aware of it.

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MR RADCLIFF: Well, perhaps you're correct.

CHAIRMAN: Yes.

MR RADCLIFF: Perhaps I was precipitous, but it seems like he's going on to another-----

CHAIRMAN: We'll wait and see.

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MR RADCLIFF: Yes, all right.

WITNESS: I spoke to the officer in relation to the item.

MR MULHOLLAND: Is this the officer whose recommendation it was?-- Yes, on the report it states the name of the officer, and I enquired in relation to the history of the issue. I certainly had a couple of discussions and I was certainly satisfied that the circumstances did not warrant the discount being granted. And I do have a habit of ringing the officers if there are matters that need to have further clarification and, given that I was previously the Chair of finance, I don't recall allowing the discount even though we have numerous approaches in the past.  
Right.

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CHAIRMAN: Councillor Sarroff, can you try to listen to the question and answer the question that you were asked in each occasion. That occasion you were asked by Mr Mulholland if you were aware of that provision in the Local Government Act. So you've answered a different question. It will help if you can try to listen to the question and answer the question you were asked?-- Sure.

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MR MULHOLLAND: I did ask you whether you were aware that the statutory provision required a discount be allowed in circumstances where the council was satisfied the circumstances were beyond the person's control. That's essentially what was required?-- I'm aware of that.

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Right. And you were satisfied that there were not such circumstances in this case?-- And that's why I made that phone call.

Now, can you recall - what is your recollection as to the reason why the committee decided to go against the council officer's recommendation?-- There would have been debate in relation to the appropriateness of going against the officer's recommendation. I don't recall the specifics, but it was mentioned the applicant is a major contributor in terms of rates on the Gold Coast and that this had to have happened in the past. I think that was my main recollection; that the rates were being paid on time with the many properties that they hold and the arguments were basically around that.

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So this particular company, or the Sunland Group, paid rates on time in other cases and should be granted a discount on this occasion?-- Yes.

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Is that what you recall?-- To the best of my recollection, that was one of the arguments that was put forward.

Now, do you remember anything else being said at that committee meeting in relation to this topic or not?-- Not any more.

Subsequently the matter, according to the documentation, came before the full council on the 22nd of November 2004, and at that full council meeting it was moved by Councillor Crichlow, again seconded by you, that the council officer's recommendation be adopted. And a division was called for by you and in support of the motion Councillors Power, Pforr, Young, Crichlow, Douglas and yourself voted, and those against were Councillors Clarke, Attwood, Molhook, La Castra, Shepherd, Grew and Betts, so the motion was lost. Now, you recall that occurring?-- Yes, I do.

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Do you remember Mr Betts declaring a conflict and leaving?-- I think, from memory, one of the Councillors said should anyone be declaring any interest and I believe - I recall maybe Councillor Betts leaving the room.

Then was it moved by Councillor Molhook and seconded by Councillor La Castra that the committee's recommendation be adopted. You also called for a division and, on this occasion, in favour of the motion were Councillors Attwood, Power, Pforr, Molhook, La Castra, Shepherd, Grew and Clarke, and against the motion were Councillors Young, Crichlow, Douglas and yourself?-- That's correct.

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In other words, there were a couple of councillors, in particular Councillor Power and Councillor Pforr, who on this occasion voted in favour of the motion. Is that correct?-- To the best of my knowledge.

Now, do you remember anything in regard to any debate that occurred at that time and, in particular, as to the reason why that motion was eventually adopted; that is, a motion essentially in favour of the committee's recommendation and against a recommendation of the council officer?-- I can perhaps remember my position on the matter, and I would have reflected or informed the council that-----

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Well, did you inform the Council of your view?-- To the - to the best of my knowledge, I - I would have, and I - and to the best of my knowledge, I would have said that I don't recall granting this discount to pensioners who have come forward during my time as chairman and allowed that discount.

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Can I ask you just in relation to your time as chairman. Now, at this stage, the chairman of this committee was Councillor Molhoek?-- Correct.

Is that correct?-- That's correct.

Prior to the election of 2004, had you been chair of the finance committee?-- Correct.

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Up until the budget of 2004?-- That's correct.

When was the budget in 2004?-- Budget is normally towards the end of June.

Right. How long had you been chair of the finance committee?-- Well, I'd chaired - I believe I handed down some three budgets, so approximately three years.

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Right, so in about June, you stood down from the committee?-- That's correct, after I handed the budget.

As chair?-- Yes.

And is that the committee that was considering this question?-- The - these matters go before the finance committee, and the chair of finance, obviously is-----

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So the meeting on the 9th of November-----?-- Yes.

-----the committee meeting on the 9th of November, is that the committee that you had previously chaired?-- Sure - yes.

Right. And was now being chaired by Councillor Molhoek?-- Right.

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And you say that you had had experience in the past of discounts being sought by different people?-- Certainly. The first point of call is to the chair of finance when people tend to believe that there should be - there's argument about whether the discount should be allowed.

So, in your experience, had any circumstances comparable to the circumstances in which the discount was granted on this occasion been allowed previously?-- My experience would be that if Council was at fault, then the discount would be allowed, so - and there's obviously certain circumstances where that could happen, and then it's reasonable to allow the discount.

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Now - but in circumstances comparable to the circumstances in which the discount was allowed on this occasion, had you any experience of a discount being allowed in those circumstances?-- No. To the best of my recollection.

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All right. Whilst on the question of your presence on committees, had you also been the chair of the audit committee?-- That's correct.

What was - what role did the audit committee have?-- I think one of the - the crucial roles was to oversee that Council's policies are being implemented.

Right?-- And-----

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Yes? Now, prior to the election of 2004, you had been chair of that committee?-- That's correct.

Did that committee involve not only councillors, but also officers of the Council?-- Um-----

In other words, was it a joint committee?-- It was a joint committee.

And how long had you been chair of that committee?-- For approximately five years.

Now, subsequent to the election of 2004, did you remain chair of that committee?-- No, I was actually removed as chair of the audit committee by Council resolution.

Tell us - tell us briefly the circumstances in which that occurred?-- The circumstances is there was debate as to the appropriateness of a member of the finance committee being represented on the audit committee, then there was arguments that there should be no councillors on the audit committee, and - and basically the Council, by majority, decided to change the format and have no councillor represented on the - on the audit committee.

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Right. When was that decision made?-- It would have been made some time late in '04. I don't recall it exactly.

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Was it close to the election, or was it later in the year?-- It was after the election, it was in the life of the-----

Yes, I'm just wondering how long after the election?-- Possibly six months after the election.

All right. And was that against your wishes?-- It certainly I - I expressed some very strong views that - that it was important to have councillors on the audit committee given that we were answerable to the community, not the bureaucrats. I had a very close working relationship with the audit team, they were of the very strong view that it was important to have councillors on the committee, and they've appreciated my position, and - and the role I've played.

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Now, what about in other Councils, were you aware of the situation so far as other Councils are concerned, as to whether or not councillors serve on such a committee?-- Yes, from memory, we did a survey. There are many Councils where - where there are two and three councillors on the audit committee. There was the odd Council where all the councillors were on the audit committee, and I believe there was one or two Councils that didn't have any councillors represented on - on their audit-----

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You mean - are you talking about Queensland-wide?-- Yes, this - this was Queensland.

Yes, now, why did you stand down as chair of the finance committee?-- I felt that as chairman of finance, you need to have the full support of your colleagues. I - I believe there was a number of issues that came up where there was a big difference in our opinions. The issue of infrastructure charges was one, for argument's sake, and there was - I felt that the chairman should have had the full support of - of the Council, and chairman's view should be, in many cases, respected, and there was - in particular, an incident with the

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transit centre where I felt that it wasn't in the public interest to sell the asset. I certainly didn't agree with some of the arguments that came forward in relation to the sale, and the financial position that was presented-----

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So you had some unhappiness that you did not have the support that you felt that you should have?-- That's correct.

And you stood down. When did you do that?-- I stood down after handing the 2004 budget. So it would have been around June '04.

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Now, are there any planning matters involving donors to campaigns, that is, election campaigns - or, election campaigns for the March 2004 elections which in your view could raise the perception that donors were shown favouritism by the council?-- I can't point to any specific example. There was certainly a number of applications that we were dealing with where there was substantial funding to candidates, but I cannot refer to any favouritism to any particular applicant.

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Do you remember there being - I'm talking here about a perception that might give rise to a perception. Do you remember any issues that arose in relation to the Yarrayne development at Coomera?-- What do you mean by issue?

Well, any issue in relation to the conditions which were imposed in relation to that development?-- Yes, I recollect with this particular development there was a condition dealing with stormwater treatment and those conditions were changed at the committee level.

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Now, is this - just to briefly - or, to shorten this, is this a site of some 104 or so hectares of farmland as it was at Coomera?-- It was a very large site. I don't know the exact-----

And council officers in relation to this had recommended that seven lots be deleted from the project in order to accommodate stormwater quality improvement devices. Is that correct?-- That's correct.

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Essentially, treatment?-- That's treatment.

So that as it were, the developer would lose these blocks?-- That's correct.

Now, do you recall on Tuesday the 3rd of August 2004 at the planning committee, it was moved that lots be reinstated, that is, to seven lots which had been recommended be deleted, be reinstated?-- That's correct.

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And who moved that?-- To the best of my knowledge, Councillor Power.

And did Council Power argue in support of stormwater treatment plants be that they could be incorporated in council's parkland downstream of the development?-- Correct.

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Was that seconded by Councillor Attwood?-- I have no recollection who seconded.

Do you remember whether or not it was supported by Councillor Pforr and Chairman Ted Shepherd?-- I have no recollection.

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Did the issue become public?-- The issue became public because there was a great deal of debate at the committee and members of the press were present and yes, there was certainly - it certainly generated some debate.

You have written a letter to the Commission dated the 18th of August 2004 in relation to this matter. Is that so?-- Yes, I did.

And is it the situation then - you deal with this in your letter, that on Thursday the 5th of August 2004, you and Councillor Crichlow spoke to council officers in relation to the matter?-- Yes, we did.

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Essentially, it was a question not only so far as the seven lots which I've mentioned, but also another lot identified as lot 206, as to whether that would also be affected, is that correct?-- I'm only going by my memory, but-----

As to whether or that that-----?-- -----lot 206 might have been a site for a convenience store. If that's the lot you're referring to, then that's correct.

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Yes, all right. Well, was the compromise affected in relation to the matter?-- The meeting that I had with Councillor Crichlow and the officer was the meeting on-site to discuss the issues. Given that the officers were of the strong view that what was suggested was not in accordance with policy and that it was inappropriate to have the stormwater treated off-site in council's land, so we undertook to have a site inspection to discuss these matters and at the site inspection, the officer indicated that there is other solutions in relation to this matter and indicated that that would be coming - that would be the changed recommendation to what was moved at the committee meeting two days prior.

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Did Councillor Power agree that lot 206 should not be deleted?-- I have no recollection in that.

And was - is it the case that what in the end occurred was it was agreed that there would be a new condition requiring small treatment devices throughout the development?-- And that was what the officer indicated to us at that site inspection on the Thursday prior to the matter being dealt with at full council on Friday.

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Right. It was finally decided on Friday the 6th of August 2004 that the new recommendation would be accepted. Is that the case?-- And it was my expectation that that would be-----

No, hold on. Would you just deal with that? Was it decided on Friday the 6th of August that the new recommendation would be accepted. That is the smaller - the smaller treatment devices throughout the development?-- My recollection is that the minutes that appeared on that agenda on Friday reflected that as the new condition, but it was certainly not the condition that was moved at the committee meeting. At the committee meeting it was made absolutely clear that the intention is to move the stormwater treatment offside into the council's parkland and I had discussions again with the officers to clarify that issue, to confirm whether that's in line with council policy and that's why we had the meeting with another officer on site prior to the matter being dealt with on the Friday at that council meeting.

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And it was decided that it would comply with council policy?-- The suggestion of having the other devices on site was satisfactory to the officers.

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Right. The point you're making, however, is that the question in relation to smaller devices throughout the development that that had not been raised on Tuesday the 3rd of August, is that the point that you want to make?-- And it was certainly not-----

No, no, is that the point that you're trying to make?-- That was not the thrust of the motion that was moved on the floor.

On the-----?-- On the floor on the Tuesday.

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On the floor on the Tuesday. In the result was the new recommendation accepted on the Friday?-- The new - on the Friday, the minutes already had the recommendations that we just spoke about-----

Right?-- Without it being entertained or debated in the council chambers.

So what happened?-- It-----

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What was decided?-- At that point I certainly raised a concern that the minutes that were before us did not reflect the true position that was taken on the Tuesday.

CHAIRMAN: That's the minutes of the Tuesday meeting?-- The minutes of the Tuesday-----

-----reflected the compromise solution worked out subsequent to the meeting?-- Exactly.

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I see?-- The-----

So the minutes weren't a true reflection of what occurred on the Tuesday?-- That's correct.

MR MULHOLLAND: Right. So was the new recommendation eventually accepted?-- The new recommendation was accepted but you will notice that my name is voting against it because I

was against the motion that was put forward on the Tuesday. So I'm on the record being seen to be voting against something that complies with council's policy because it didn't form part of the-----

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CHAIRMAN: But what happened on the Friday? Were those minutes accepted or amended or-----?-- I think technically there was an issue where the minutes were put up and they were quickly resolved and when we got to the item at that point when I was trying to discuss the issue they said it's too late the minutes had already been resolved. So we weren't able to go back and correct the minutes and there was no direction from the CO or anyone else to say, "Well, we need to go back and correct those minutes" and it was deemed that what appeared before us was a reflection of what was decided at the meeting on Tuesday and that the words had been massaged.

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MR MULHOLLAND: So in the end so far as this development is concerned - and you may have already dealt with this, but so far as this development is concerned the developer was required to have the smaller treatment devices; is that correct - throughout the development?-- From the beginning the officers felt that the stormwater needed to be treated on site and whether it's the new devices that became part of the condition or the previous conditions that were imposed by the officers it meant that the outcome was acceptable, but it was very different to what was proposed at the meeting.

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All right. Now, can I just ask you in relation to the donations that you received towards your election campaign for the March 2004 election - this is contained in Exhibit 4. Do you have a copy of the material that you were provided in relation to this? That is provided to the returns and the accompanying material? Do you have that there?-- I don't have that here, no.

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Would you have a look at this, please?-- Thank you.

Now, your returns - I'd just like you to explain this to us, Mr Sarroff. Your return showed gifts totalling how much?

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CHAIRMAN: Is this the interim return?

MR MULHOLLAND: Sorry. The total in the - in your final return, what is the total in your final return?

CHAIRMAN: I'm only going by the schedule in four-----

MR MULHOLLAND: Yes, yes.

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CHAIRMAN: -----and it shows interim, a final and an amended final-----

MR MULHOLLAND: Yes, yes.

CHAIRMAN: -----so, you might need to make it clear what you're referring to.

MR MULHOLLAND: Well, perhaps if we can shorten this, would you go to the memorandum of the 24th of December 2004, do you have a copy of that from you to Tony - to Tony Davis, manager officer of the CEO and you say, "Following our discussion last week in relation to the return of the gifts register, I have sighted the forms and make these comments. My interim return cover the period up to the 5th of May 2004 which showed an amount of \$4,453.50. My final return covered the period from 5/5/2004 to 28/6/2004 with the value of the gifts received being \$3,801.20." Is that correct?-- That's correct.

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"To avoid any confusion, can you ensure that when the register is being inspected, that both returns are presented. For the purpose of providing the information that is required by the Council resolution, the total donations would of course be a combination of the interim and final returns totalling \$8,254.70."?-- Correct.

Right. Now, so, you had included those two amounts, the first amount \$3,801.20 in the interim return. The \$4,453.50 in the final return and finally the combined amount in the amended return. Is that correct?-- That's correct.

20

Now, could you just explain how that occurred?-- I - I believe when I did my final, I showed the final amount of 3,801 instead of adding the 3,801 onto the interim amount.

All right?-- So - and - and that's why I've made the clarification there that the-----

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It was meant to be a combination-----?-- It's a combination-----

A combined amount?-- Yes.

All right. Now, that - did you receive any amount from a developer in relation to your campaign?-- No, my donations are disclosed there. The-----

What would be the total amount that you spent on your election campaign, Mr Sarroff?-- I - I would suggest what the total amount there of 8,400 would be probably - might add some party - celebration party which I - which I don't believe it needs to be disclosed on this.

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Had you - had you used any personal moneys of yours, apart from that received by gifts?-- No, these are - this would be the true cost of my campaign-----

So, the family companies which you refer to in your returns?-- Yes.

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That's the extent of the personal moneys that you expended?-- The family one being the label X amount, yes.

All right.

CHAIRMAN: You were asked if you received any donations from developers and your answer was my donations are disclosed in my return?-- Yes.

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But that doesn't answer it for me because I don't know what some of these are. Do I take it that you're saying that none of these entities named in here as having donated to you are developers?-- Yes, and what I was seeking to say is the McIlwain family may have had development interest in the past but it's a family friendship and they posted me a donation.

10

They-----?-- So, I'm not treating them as a developer.

They donated \$500?-- Yes.

Okay and then MNB Services?-- Yes.

Is that a developer?-- No.

No. All right.

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MR MULHOLLAND: Now, you - may I ask you this, Mr Sarroff, in relation to the question of accepting donations from developers. Do you see anything wrong in accepting payments from developers towards an election campaign?-- My view is, no, there isn't anything sinister or wrong with developers contributing. I feel, however, that it is important because of the public perception that if there is a donation from a developer that, regardless of what the law says, that the individuals should excuse themselves from dealing with matters to deal with - when dealing with that particular developer.

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Right. What about so far as making public, in advance of an election, donations generally, what's your attitude to that?-- I think there's obviously a strong argument now for donations to be all disclosed well before the election. I would suggest at least 14 days so the community can be aware who's funding the campaigns and give the community an option to ask questions.

40

So, if you were obliged to disclose publicly any donations you received in the course of a campaign, you would have no objection doing so?-- No and I strongly recommend that if there's changes that might come out of this inquiry that - that it be a high priority.

So - so in the end you had no objection to receiving developer monies providing that there is public disclosure, so the public is aware of it?-- Provided there's public disclosure and provided that the successful candidates are excluded from making decisions relating to that developer.

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That's subsequent to the election if elected?-- Yes.

And - but more generally, you would have no difficulty in disclosing all donations that are from developers, or otherwise, in advance of an election?-- No. I think it should be - it's a must.

Yes. Now, can I ask you please to look at exhibits 9 and 10?-- Sorry, what am I looking at?

Well, just hold on for a moment and we'll get them for you.

CHAIRMAN: Just - well, before you go on to that, perhaps, while we're dealing with that other topic, I'm interested to hear your comments on this issue of disclosure, but can I ask a couple of things on it? You say that your suggestion would be that a councillor who receives a donation from a developer, say, should refrain from voting on any application, or any issue dealing with - coming from that developer? That's what you're saying?-- Absolutely.

10

The difficulty I see in that though is that we could have it where one, two, three, four or more councillors are unable to vote on a particular development application that comes before the Council. In particular, if we have it that a development is within - say if there was a development within, mooted within your division and you'd received a donation from the developer proposing that, you would not be able to vote and all the people who voted for you at the election would in effect be disenfranchised from having a voice on that particular matter. They couldn't make - it would be useless making a representation to you as their local councillor because you can't vote on it?-- Well, in regards to the first part of your question, I would have to query why would a developer be funding a number of candidates.

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Well, we've seen some instances here where that's happened?-- Yes. And therefore it's in terms of within your own area that's where it's important that we consider the public perception because with any development, and we've seen in recent times a lot of controversial development, the community has its concerns, particularly when developers are seeking to increase the density and heights and seeking other relaxations. So, they look to their councillor to make sure that they represent their community. So, I would suggest in the first instance, we steer away from those donations when we know we're going to be putting ourselves in a position where we have to decide how do we deal with the public perception and how do we also get an outcome for our community that's acceptable?

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Mmm?-- And it's not difficult to say no to a donor. There's a lot of people that knock on your door, leading into a election, wanting to offer money. You can easily say no, to one and possibly consider a different - if there's a need for it.

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Mmm. All right. Well, do I take it from that you're saying then that your recommendation, your suggestion would be that candidates or councillors standing for re-election could receive a donation but they have to disclose that fact at least 14 days before the election and then the electors could take into account that that candidate, or councillor, would

not be able to vote upon a particular issue of that developer before the subsequent Council?-- Correct.

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Is that what you're saying?-- Yes.

And the electors would have to take that into account in whether they choose to vote for that person?-- Sure.

So, are you suggesting that there should be - that we should recommend a change to make it compulsory for a councillor to not vote on any issue involving a person who has made a substantial, over a certain figure donation, to them?-- And that could be the other answer to it is that it can be a dollar figure limit.

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All right. Because we shouldn't just confine it to developers, of course, it should be to anyone who makes a substantial development - sorry, a substantial donation?-- I-----

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All right. Do you see that as working or any-----?-- Well-----

-----unforseen effects that that might have upon the subsequent running of the council?-- I - I would doubt that it would have any - any impact and I - I believe, again, as I said before, we've got to start dealing with the public perception because-----

Yes?-- -----perception is as important as the real thing.

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All right. And the other issue is, disclosure 14 days out but see, if I take your own case and admittedly, there was nothing stopping you taking donations at any time but your - two significant donations that you received were received only a week out from the election so are you suggesting that, you know, to make that worthwhile, one would think you would have to then have some mechanism to stop people delaying the receipt of their donations until after the 14 days when they don't have to declare them then and it only comes out after the election or alternatively, would you suggest there should be a prohibition on the receipt of any donations after the 14-day period?-- I think if - if the - if we're requiring people to disclose it 14 days before the election, that would have to be the deadline-----

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Mmm?-- -----and certainly, it's going to have some impact but bottom line is what benefits would it have in terms of getting the clarity of - and transparency.

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Yes. All right. Thank you.

MR MULHOLLAND: Can I ask you - sorry. Can I ask you to address another issue as a follow-up to those questions and it is this: As I understand it, you spent on your campaign something in the order of \$8,200. Now, the Commission has evidence of the spending of amounts in excess of \$80,000 by others. Should there be, in your view, any limit on the

amount of campaign funding for any individual candidate?-- I think at the moment, the disclosure laws are changed and there will be much less funding, in my opinion, coming forward. It's-----

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I suppose, what I'm asking you is whether there's any danger that you can see in relation to an unlimited finance really, being able to be gathered, if it is possible, by a candidate for the election. Should there be any limit on it?-- I think going over the last election and - perhaps, there should be a limit. I've mounted an effective campaign, \$8,000. Perhaps, there should be a limit but I - I suppose, I can only talk from my position. I've been in there long enough and I - the community knows me. I don't have to sell myself to the electorate so from - from my point of view, there should be a limit. From a newcomer's point of view, maybe that limit should be a little bit flexible and I've got to say that in my first election, I spent in the order of \$50,000 of my own money so - so it's a difficult question you're putting to me and it's different for an incumbent as opposed to a newcomer.

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CHAIRMAN: If any further thoughts occur to you that you want to express to the Commission on these issues as we've said with other councillors, we'd be quite happy to receive any further comments in writing from you at any stage?-- Thank you.

MR MULHOLLAND: Now, one final matter please, Mr Sarroff; would you have a look at these two documents. The first, Exhibit 9, is an information for prospective candidates-----?-- Yep.

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Is that a document that you're aware of?-- Yes.

And is that a document that you would have received prior to the March 2004-----?-- Yes-----

-----election?-- -----yes.

Were you familiar with its contents?-- Yes.

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Would you have a look at the handbook, Exhibit 10. Is that a document that you-----?-- Yes-----

-----were aware-----?-- -----I'm aware of that.

Were aware of-----?-- Yes. I'm aware there's-----

And you're familiar with the contents of those documents?-- Yes, I am.

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Did you - were you satisfied prior to the election of 2004 that you understood your legal obligations in relation to disclosure?-- Yes.

How did you ensure that you were aware of those obligations?-- Through my experience being in council and being aware of what the disclosure laws are and - and my

requirements and - I haven't particularly gone out and grabbed a document and had to study it. I thought there was a lot of common sense in it as well.

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Did you know, for example, that there is an obligation if you were one of a group of candidates to put in a group return?-- To be quite frank, no.

When did you find that out?-- I've been watching the inquiry. It's - and I read that with interest.

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Yes, thank you.

MR RADCLIFF: Mr Chairman, I take it that the last brace of evidence concerning Mr Sarroff's opinions about the Act would be relevant only to the second phase of your enquiry. Therefore it would be irrelevant to the first phase. Secondly-----

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CHAIRMAN: Well, you can take that as being correct, yes.

MR RADCLIFF: Yes. Yes, of course. I'm in a position where I was provided with this information only at 2 o'clock. I understand my friends Mr Nyst and Mr Webb are in a similar position and we need instructions. There are councillors here who would like to ask questions and they're prepared, I understand, so if you would-----

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CHAIRMAN: I have no difficulty with that. Are you ready, Mr Pforr? Are you happy to ask questions now?

MR PFORR: Yes, Mr Chairman. I seek leave to, please.

CHAIRMAN: Certainly.

MR PFORR: Can you hear me all right?

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CHAIRMAN: Yes, yes.

MR PFORR: Mr Chairman, if I may, I'd just like to pass a copy of the return of gifts to Councillor Sarroff so he can refer to it.

CHAIRMAN: Sorry, the internal?

MR PFORR: The return of gifts.

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CHAIRMAN: Gifts, yes.

MR PFORR: If I may, to Councillor Sarroff. I may like to hand him copies of two others that I'll refer to later as well. This one first.

CHAIRMAN: Could I just ask if the election gift return could be forwarded back to me so I can follow it?

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MR PFORR: Mr Chairman, they're just copies of the returns for councillor Sarroff. The additional two are Councillor Young and Councillor Crichlow, so I'll refer to those in relation to other matters.

MR NYST: Could I just ask has the witness got Exhibit 4 at the moment?

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CHAIRMAN: I don't know. I had Exhibit 4.

MR NYST: Apparently it's part of Exhibit 4.

CHAIRMAN: Yes. This document is part of Exhibit 4, yes.

MR PFORR: Councillor Sarroff, I'd just like you to turn to the flag in your return. I'd just like to, if you wouldn't mind, just commenting on your association with each and every one of those line by line if you may, because I had a question in relation to one of them.

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CHAIRMAN: Mr Pforr, we have a couple of returns. Can you just indicate so we can follow it, which one you're referring to, the interim return or the final?

MR PFORR: I'm referring to the final return conclusion 28th of the 6th. That would have been attached to the memo.

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CHAIRMAN: Right, thank you. Yes, I have that one now.

MR PFORR: I think you've already explained the first one. I think the Chair clarified that point in relation to that family, so I'm quite happy to move onto the second one. My question, Councillor Sarroff, was in relation to your association with each of the line items, those particular people-- So we've dealt with McIlwain.

Yes, we have?-- MMB Services.

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Yes please?-- The principal is a very close friend that's assisted me in previous campaigns.

That's fine. Label X?-- Label X is a company associated with my wife and from time to time I prop that company up, and MMB Services-----

Okay, that's fine. Can I refer you to the other two documents in relation to the other two - and if you could turn to again the flagged item, it's in relation to Councillor Young and Councillor Crichlow?-- What am I looking at? Sure. What's the question that you're asking?

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CHAIRMAN: Are you asking Mr Sarroff his knowledge of the entities on Councillor Young's return?

MR PFORR: That's correct. And Councillor Sarroff's I'll refer to-----?-- So Mr Chairman, is that relevant? I'm happy to answer it if I can, but I'm not sure if it's relevant.

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In relation to Councillor Crichlow, it's the last-----

CHAIRMAN: All right, taking a broad approach, so if you can answer it.

MR PFORR: The last line item in relation to Councillor Crichlow's declaration?-- Hang on a second. Crichlow's first.

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CHAIRMAN: So - just so I can find it, she is in division?

MR PFORR: Six.

Last one Leanne Sarroff?-- Okay. I've got the - Councillor Crichlow who doesn't look anything this.

Okay. Can you then to Councillor Young also, he's the second line item in Division 5?-- Yes.

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And again Leanne Sarroff?-- Sarroff. And what's the question?

I haven't got to that yet, I just wanted to make sure you got - you've got those. You're referring to I think it was Label X, is that correct, that is your wife's-----?-- Yes, yes.

-----wife's company?-- Yes.

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So Leanne Sarroff, that is the same - you wouldn't say that's one and the same, Leanne Sarroff is Label X?-- Yes.

That's fine. So in relation to those-----

CHAIRMAN: You'll have to take this a bit slower. I'm not following. Is there - is Label X in someone's return?

MR PFORR: Yes. Councillor Sarroff's return. So Label X, Mr Chairman, is Leanne Sarroff.

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CHAIRMAN: I ask you to take it slowly because I don't have the return so I've got to find them on this big schedule. Okay.

MR MULHOLLAND: Page 10.

CHAIRMAN: Is Label X there?

MR MULHOLLAND: No, no. It's the individual-----

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CHAIRMAN: Leanne Sarroff. Yes, that's in both of them. But were you asking if Label X is in this as well?

MR PFORR: Label X if I may, Mr Chairman, I believe Councillor Sarroff has answered that his wife is - that is his wife. His wife's company.

CHAIRMAN: All right.

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MR PFORR: So what I'm trying to associate is that Councillor Young, Councillor Crichlow and Councillor Sarroff received in kind support from Leanne Sarroff.

CHAIRMAN: Right.

MR PFORR: Is that clear?-- Correct.

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Correct. Did you supply any further hats to any other candidates through - did your wife, sorry, to the best of your knowledge?-- Look, I - to the best of my knowledge I didn't but if I can say if any candidates in the future want to buy those hats they can have a good price.

Always working.

MR WEBB: That's like the ABC, you shouldn't allow that, Mr Chairman.

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MR PFORR: So are these hats to Councillor Young's campaign and Councillor Crichlow's campaign and yourself, were they all of similar style?-- There were - yeah, they were bucket hats - as they come down.

So you could say that - possibly that you, Councillor Sarroff, and Councillor Crichlow and Councillor Young were all of like mind and similar approach to the 2004 election with those bucket hats?

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CHAIRMAN: Well, they were certainly like hatted.

WITNESS: No, we were certainly all trying to promote my wife's business.

MR PFORR: Thank you, Mr Chairman.

CHAIRMAN: Did they have different markings on their hats or were they all the same?-- Label X had the marking called EEL and EEL stands for Edward Emily and Lily, my children.

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I see?-- But the ones that we'll be selling to the candidates in the future won't have EEL on it because they want to be able to put their name on it.

All right. And the ones that went say to Councillor Crichlow I presume would have something to do with her on the hats, would it?-- I believe she went to the printers and did her own printing - screen printing.

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Similarly for Councillor Young presumably he put something on the hats for his workers?-- Yes.

Yes, all right.

MR PFORR: Thank you, Mr Chairman, I've finished that line of questioning. Councillor Sarroff, I believe you've already

been handed a transcript of the Gold Coast Bulletin, Friday, March 26th?-- Sorry, this-----

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I'd just like to show you the actual article itself. As our learned colleague has just said we just received your statement so I've only just briefly had the opportunity at lunch time to have a quick look through and some of the questions here that I had in relation to - you obviously called the press conference according to page 6?-- Yes.

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But then a couple of lines down you said we called the conference, who is "we"?-- I believe it was myself in the first instance and Councillor Young and Councillor Crichlow.

Okay. They're seated on the left and right of you?-- Correct.

Okay. So you and they called this conference?-- Yes.

And - so you invited these other candidates in the photo with you to this press conference?-- That's correct. I could - possibly I might have called some. Councillor Young might have called some others. But they were contacted.

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Okay. Did you make that offer to any other candidates, like myself or-----?-- Um, no.

Okay. So, would you say that this potentially would perceive as a group of candidates?-- No.

You wouldn't? So, what if I was to say that during the campaign some of those candidates appeared on Boxing Day, the 26th of 2003, stating that they were publicly declaring that they were a group of like-minded candidates?-- Um, not to my knowledge. They may have - some of them may have formed that position and not - I wasn't a party to that.

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Okay. So, to the best of your knowledge, you believe this group that have had publicly declared that they are a group, running under a like-minded campaign, whether they are actually representative of the ratepayers group and did they submit a group return, to the best of your knowledge?-- To the best of my knowledge, these people appeared because of their concern that there was a party being formed, there was a group of councillors that were being specifically hand-picked and funded by individuals and they appeared because of their concern that there is some substantial funding that's been made available to these - to other candidates which has taken away the independence - their independence.

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So, to answer my question, you're not aware that they submitted a group return?-- I'm not aware.

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Okay. But you were aware that on December the 26th, they publicly declared like-minded common-sense candidates?-- Not to my knowledge. I wasn't involved in that.

So, you didn't see the Boxing Day front page?-- Um, I've got three children. I spend it with my kids.

Okay. Sorry, Councillor Sarroff, I would just like to point of clarification if I may, Mr Chairman. It's referring back to that final return and the memo to Mr Davis. Just in my calculations, do you think you may have incorrectly added that up? I've got a total of \$8,354.70. On the memo you state \$8,254.70. Do you think you may have been incorrect in your adding up there?-- Mr Chairman, if I have made an error, I'm happy to own up to it.

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MR MULHOLLAND: That's not the arithmetic we have.

MR PFORR: Well, correct me if I'm wrong, the first amount was for-----

CHAIRMAN: Well, I think, we can each do the figures and work it out. I don't think we need to sort it out here as to who's correct.'

MR PFORR: I just suggest, Mr Chairman, that he is incorrect.

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CHAIRMAN: Your suggestion is noted.

MR PFORR: Thank you.

ORDERLY: Mr Chairman, is this being tendered as an item or not?

CHAIRMAN: No.

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MR PFORR: I think-----

CHAIRMAN: Well, we already have it in. I'm happy to keep it in my bundle with that particular one.

MR RADCLIFF: It's relevance is the photograph. But I'll advance that tomorrow.

MR PFORR: Sorry, Mr Chairman, I have only three more questions, if I may?

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CHAIRMAN: Yes.

MR PFORR: Councillor Sarroff, given you have a copy of the final return in front of you, is this the only funding you received in the 2004 election?-- Yes and I've stated that previously.

Just like it for the record, that's all. So, you'd not received any further funding before or after the 2004 election which you have not declared?-- No. I have not received.

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So, you've declared all funding at all your elections?-- Yes, I did.

That's fine. Thank you, Mr Chairman.

CHAIRMAN: Thank you, Mr Pforr. Yes, Mr La Castra?

MR LA CASTRA: Thank you very much, Mr Chairman. Just a few questions for Councillor Sarroff. Councillor Sarroff, have you ever publicly endorsed or assisted any other candidate at an election for the Gold Coast City Council?-- Yes, I did.

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CHAIRMAN: Well, can we split that in two? Have you ever - firstly, have you ever publicly endorsed, and then secondly, have you ever assisted?

MR LA CASTRA: Have you ever publicly endorsed any candidate at a Gold Coast City Council election?-- Yes, I did.

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Can I please ask who that candidate or those candidates were?-- The candidate was Councillor Peter Young and that was in the 2000 election.

How did you publicly show your support for Councillor Young? Was there a declaration in the press or-----?-- Yes. I took a photograph with Councillor Young and I shook his hand. And we made a media release, sent it out to the press and said that I

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I'll just come back to that in a moment, but is there any other candidate that you have publicly endorsed since then?-- In the most recent bi-election I was approached by Mr Kelly and I was happy to endorse - or rather than endorse, I was happy to give him my support. I think I was asked by the media and - and Channel 9 did an interview where I've stated that it's either a candidate that I felt would be worthy of support, I did that publicly.

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Councillor Sarroff, just going back to the second part of the question as to whether you had assisted any candidates at any election, have you assisted any candidates in-----?-- In the 2000 election I handed some how to vote cards for Peter Young. Are you referring to financial assistance?

Just any assistance, I didn't necessarily mean-----?-- No, that's the assistance - the extent of my assistance was a photograph which made it into the newspaper and handing out cards.

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And might I ask what your relationship with Councillor - or was not then a councillor, but candidate Peter Young's - what was your relationship with Peter Young's opponent, then the councillor for division 5 and Deputy Mayor Colin Kleinschmidt?-- Look, I believe we had a professional relationship. The previous deputy mayor had made a great contribution to the city, but we certainly had differing views on a lot of issues. Flood mitigation was one of those issues or development on the flood plain. But we certainly had two different opinions in terms of certain development.

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Did you ever, Councillor Sarroff, make any public accusations against Councillor Kleinschmidt re his conduct in any way shape or form?-- Look, we've had disagreements and we were able to from time to time shake hands and get on. I don't recall any - any adverse - I don't - don't recall anything of the nature that you've just mentioned.

You don't recall ever making any accusations about his conduct in relation to development applications or anything else?-- Oh, certainly when we had disagreements and - on planning matters expressed my view in terms of what I felt was appropriate. As I said before, we had differences in opinion in terms of a lot of planning matters and unfortunately sometimes the debate in Council leads to certain comments being reported in the press, but that's the extent of what I can recall.

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Just getting back to Peter Young for the moment, did you meet with him at any time in the lead-up to the 2000 election?-- 2000 election, yes.

You did. Did you offer any advice to Peter Young in relation to conducting his campaign for Councillor Kleinschmidt?-- No, my - I think my assistance was limited to showing my face with him.

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So you didn't mentor him in any way?-- Sorry?

You did not mentor him in any way?-- I didn't think he needed to be mentored. I, if anything, would have suggested that he should be doorknocking. It's a - it's a bit of advice that I give to anyone that might ask me for advice of how I would - to contest an election.

Councillor Sarroff, just moving onto another issue. Have you ever been ejected from a Council meeting?-- Yes.

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Can you recall how many times you have been ejected from a Council meeting?-- I can - I can recall why I was ejected from a Council meeting. Would you like me to-----

Can you recall how many times you have been ejected?-- Can I - can I through you, Mr Chairman, even though I don't have legal representation, respond to - to that question?

CHAIRMAN: Well, I think you can answer the question firstly and then you can go on to explain why?-- Well, my answer to that is I recall being ejected at least once and in that instance it was in relation to a move to change the code of conduct to remove a provision in the code of conduct where councillors with a conflict of interest or - or even a possible conflict of interest had to excuse themselves from debate. That provision was being changed, I opposed it and there were circumstances that followed that led to my ejection. So - and that's why I clearly recall that matter.

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Councillor Sarroff, were you ejected from the council meeting-----

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MR MULHOLLAND: I object to this, Mr Chairman. Unless the witness - unless the questioner makes this question relevant - some basis needs to be laid for it because otherwise if we're going to go into that sort of behaviour within the council,

there'll be no end to it. So I'd like some indication as to what issue this is relevant to.

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MR LA CASTRA: I'm quite happy to provide that, Mr Chairman, as to what it's related to. Quite clearly, Mr Chairman, there has been a lot of debate with witnesses throughout this inquiry as to why there was support from the business community and why the community for certain candidates as to behavioural problems in council and the behavioural problems related in particular to three councillors. So I am trying to establish whether Councillor Sarroff has been ejected and what the reasons for the ejection were from the council meeting, because I think it establishes quite firmly as to why there was support for other candidates.

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CHAIRMAN: Well, can we speed it up? If you say he was ejected, say, three times, put it to him and see if he agrees.

MR LA CASTRA: Okay.

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CHAIRMAN: And if you say it was because of loud interjections or whatever, just put it to him and see if he agrees.

MR LA CASTRA: I will try and speed it up, Mr Chairman. Thank you. How many times roughly do you think you've been ejected from a council meeting?-- Mr Chairman, I possibly might have been ejected twice. I recall the first incident clearly. I think the - I don't have a recollection as to the reasons behind the second ejection. I think, from memory, I walked out rather than being ejected, and I had to question whether I was ejected the second time.

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So you walked out of the meeting-----?-- In protest.

-----over Doug Daines' dismissal when you threw agendas at the Mayor. Is that when you walked out? You weren't ejected when you threw something at the Mayor. You walked out?-- I wasn't ejected at the incident where the councillors dismissed the very - the owner.

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So you walked out. Might I just ask you-----

CHAIRMAN: Doug Daines for the record is D-A-N-E-S, is it?

MR LA CASTRA: D-A-I-N-E-S.

CHAIRMAN: D-A-----

MR MONTGOMERY: D-A-I-N-E-S.

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CHAIRMAN: D-A-I-N-E-S.

MR LA CASTRA: Yes. Councillor Sarroff, may I just ask you, when you have been ejected from council meetings, is it only under the current Mayor, Ron Clarke, or were you ejected under the former Mayor, Councillor Baildon?-- I don't believe I was ejected under the - this new council.

CHAIRMAN: Well, I think the only relevant ones - only possibly relevant ones would have to be before the election?-- Mmm.

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Because that's all we're concerned with. On the basis that you said, it can only be ones that occurred before the time that you're talking about-----

MR LA CASTRA: Yes, I-----

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CHAIRMAN: -----which is before the council election.

MR LA CASTRA: But we did have the council election - sorry, you're saying that - yeah, what you're saying is I can't bring up whether Councillor Sarroff has been ejected under the current Mayor. You're only talking about prior to 2004.

CHAIRMAN: On the basis that you put it, I can't see any relevance of what's happened since the election.

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MR LA CASTRA: Right. On other occasions have you been forced to withdraw comments or to retract comments that you've made about council officers by any chairman of the council meeting?-- Mr Chairman, I've been there 11 years. There's been a lot of issues that have come up. There's been a lot of debate over items that has brought rise to disagreements. It's the nature of the job. I make no apologies for standing up for the community in either times, and I don't see any of this as relevant at all.

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CHAIRMAN: Well, I assume you've got Mediterranean blood in your, Mr Sarroff?-- Yes, I've got some Mediterranean blood.

And you have the passions of the people with such blood in them?-- Thank you. I'll take it that you're my lawyer. Can you put my questions through the Chair?

MR LA CASTRA: Mr Chairman, I'm sure I have Zulu blood, but I've never thrown a spear. I would just - Mr Chairman - sorry, I'll try and speed this up. Have you ever been ejected from any other statutory meeting apart from council meetings? For instance, the - I'll try and speed this up. The strategic growth management meeting?-- There was an issue in recent times at this strategic growth committee dealing with car parking contributions in Surfers Paradise, and it was revealed at that meeting that the contributions in lieu would have to be increased to approximately \$50,000. In putting that into context, I indicated to the Chair that that means the sale of the Transit Centre will translate into 600 car parks at \$50,000, being 30 million dollars of ratepayers money being-----

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Mr Chairman, I only asked the question. I feel that we're taking too much time on whether he had been ejected. Were you ejected for using foul language in that meeting by the Chairman of that committee?-- I expressed a view in relation to the new charges. I wasn't allowed to debate the issue.

Well, Councillor Sarroff, the question was were you ejected for foul-----?-- I wasn't given my rights to debate. I wasn't given-----

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CHAIRMAN: Well, sorry, you asked the question. If you choose to ask the question, he's entitled to say his reasons why he thought what he did was okay.

MR LA CASTRA: Mr Chairman, I asked if he was ejected for foul language, not what his reasons were, with due respect.

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CHAIRMAN: And if he's going on to say that he was ejected, he's entitled to say the reasons why. Might I say this: that, look, I've allowed you because I want to give some leeway in these things.

MR LA CASTRA: Yes.

CHAIRMAN: But might I indicate my view on these things. Quite frankly, I find that at the moment - and I'm open to be persuaded, but I find it somewhat irrelevant as to whether or not the perceptions that obviously were there about certain councillors were right or not. If they were right, so be it; if they were wrong, it doesn't matter. People are entitled to have their views about other councillors and they're entitled to oppose them at elections.

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They're entitled to solicit donations to oppose them. None of those things are at issue here. As I've said before, developers are entitled to make donations; we're not here investigating any of those sorts of things. The only issue here is whether there was any incorrect election returns, whether there was any misleading of electors, all those sorts of issues.

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MR LA CASTRA: Thank you, Mr Chairman.

CHAIRMAN: We will not be making any judgment at any stage of whether you were right or wrong - and when I say "you", I make this general, not directed just to you - as to whether you were right or wrong in choosing to oppose various councillors on the council because of the views that you had as to their conduct. It's really not relevant in the final results, as I see it.

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MR LA CASTRA: Yes. I understand that, Mr Chairman. As I say, I was just trying to establish reasons behind, but I take that on board. I will stop that line of questioning because I do have a few more questions in relation to council officers, so I won't do that.

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CHAIRMAN: Look, as I say, I'm happy to give you some leeway. If you want to do it just very quickly and put to him, look, our problems with you are this: boom, boom, boom, boom. And just do it like that. If you want to do that, I'm prepared to allow you to do it.

MR LA CASTRA: I will make it very, very quick because I have a last and then I've got three more questions. So, thank you, Councillor Sarroff. Have you ever made any accusations in relation to former council employees or directors, or council officers on the floor of council; accusations which you've been asked to withdraw?-- I have made some statements in relation to, perhaps, the quality of the information that has come forward. I may have been asked to withdraw and I may have chosen not to withdraw those comments. If there were any accusations that were serious accusations, they've certainly been referred on. So that's the extent of what I can offer here.

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I won't - there's a more specific question there, but I understand you are giving me some leeway so I won't test your patients, Mr Chairman. I won't ask the next question, but what I will actually - just if I could just finish off with three questions. Councillor Sarroff, roughly - if you can recall - how many times have you referred complaints to the former CJC and the current CMC since your election to council, and that's complaints to the CJC, CMC in relation to councillors and council officers?-- Well, I've referred matters that I felt should be referred. I have an obligation to do so if I felt that there were matters that the CMC or CJC's attention-----

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You can't recall how many times you've done that, roughly?-- There's been a lot of incidents which needed to be referred.

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A lot?-- But I've referred those that I've felt were relevant and should be thoroughly investigated.

So there have been a lot?-- I didn't say there's been a lot, I said there's-----

A lot of incidents.

CHAIRMAN: No, I think he said there are a lot of incidents and I referred those I thought should be investigated.

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WITNESS: Yes.

MR LA CASTRA: Right. Okay. And how many times have the complaints that you've referred been upheld by the CJC or the CMC?-- Some of them have been heard through this enquiry, some of them are still pending. Some didn't fall within their jurisdiction, which I can understand and, Bob, you were there in 2000 when I was being accused of influencing an officer. And when the document that came from the officer had the paragraph whited out which said, "At no time did Councillor Sarroff try to influence me," that was referred to the CMC but it didn't fall within their jurisdiction. I thought it was extraordinary that a paragraph can fall out of a statement when a councillor was accusing me of influencing an officer, yet the officer in his own statement says sorry, there's been no influence. And the paragraph disappears, whited out.

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But that was not under the jurisdiction of the then  
CJC-----?-- CMC.

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-----or the CMC, or CJC. Final question, Mr Chairman?-- I  
think there was a lot of people left with-----

Sorry?-- -----red - red face.

Thank you. Final question, Mr Chairman. I do thank you for  
your time. Do you consider yourself to be like-minded with  
Councillors Young and Crichlow?-- I find myself along with  
Councillor Crichlow and Young, having to fight battles that we  
shouldn't fight, such as the battle of infrastructure charges  
where we shouldn't have come together to mount an argument in  
the public interest to stop the policy being overturned by the  
same councillors who endorsed the policy in the first  
instance, and I found that there was a few of those instances  
where we - we must have obviously thought alike, so, put the  
label you want on that.

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Thank you very much. Thank you very much, Mr Chairman.

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CHAIRMAN: Thank you, Mr La Castra.

MR RADCLIFF: Mr Chairman, I can commence - I note the time,  
but I can commence in respect of one area at least.

CHAIRMAN: Mr Radcliff, there was one of the copies of that  
press article was just there, you might need it.

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MR RADCLIFF: Yes. We might deal with that later. Councillor  
Sarroff, I appear for Mr - for Councillor Shepherd?-- Thank  
you.

I want to talk to you now about the Sunland rates matter, and  
we can deal with that fairly succinctly. You're aware of  
Section 1021 of the Local Government Act, are you not? I'll  
read it to you?-- Oh, yes.

If a local government is satisfied that a person liable to pay  
a rate has been prevented by circumstances beyond a person's  
control from paying the rate in time to benefit from a  
discount under Section 1019 or 1020, the local government may  
still allow the discount. You're aware of that provision, are  
you not?-- Yes.

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And that was the nature of the Sunland rates circumstances -  
Sunland, through its - one of its directors, Mr Abedian,  
sought the assistance of the Council to grant a discount which  
had been not granted because the rates had been paid late. Is  
that a correct summary of what we're talking about?-- Well  
that was their view.

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Well, is that what Sunland wanted? They hadn't - they had  
missed their discount and they asked for the Council to  
consider whether that discount would be granted?-- They felt  
that the circumstances in issuing the rates notice was

exceptional and - and should be a matter for Council's discretion to deal with-----

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Now-----?-- -----and - and a matter that I - I disagreed with.

Yes. It's a matter that you disagreed with, but let's deal with how the Council allows these discounts. It's true, is it not, that in a normal circumstance, if someone misses their rates, and they can show an officer of the Council good cause, that an officer of the Council can grant the discount over the telephone even though the rates have not been paid?-- I can't comment on that.

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Why can't you comment on that?-- I'm under the understanding that if Council is at fault, then they can.

Oh, I see. I'll just read you the section. The section provides that it's - if they are prevented beyond - by circumstances beyond a person's control, that's when the Council can at its discretion, grant the discount even though they've paid late? Isn't that the case?-- No comment.

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No comment? All right. We'll leave it at that. I'll go on to the next aspect. I'll put it to you again, that a Council officer - full - if someone such as myself, if I fail to make my rates payment, and I can demonstrate just - to an ordinary person, not the Council, but just an ordinary employee of the Council, that for good cause, I failed to make my rates payment on time, that my discount can be granted?

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CHAIRMAN: But for good cause?

MR RADCLIFF: Yes. If for - if for a good reason, I've - using the words again-----

CHAIRMAN: Well, good cause is a different attest to what the section says-----

MR RADCLIFF: I - yes, it is, your Honour. Yes, it is, Mr Chairman, I'll withdraw that question and put it again to you. If I can demonstrate circumstances beyond my control, that a Council officer could grant me the rate?-- My - Mr Chairman, my only response to that is I'm not aware that we - we have dealt with rates - discounts in this nature before. It was made absolutely clear to me by the officers, that they didn't see the circumstances-----

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CHAIRMAN: Well, no, I think you're going beyond the question that you were asked. Really, what Mr Radcliff is now asking you - he's read out to you the test under the Act, he is saying that if someone can show they fall within that test as set out in the Local Government Act, then the discount can in fact be granted to them by a Council officer. In other words, it doesn't have to come to the finance committee?-- I - I can't, with certainty, respond to that.

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Okay.

MR RADCLIFF: All right. And if that single officer, when I telephoned to explain my circumstances, doesn't feel confident about that, the Council has delegated authority to four officers to consider the matter, and those four officers can, if the single officer is not happy with it, those four delegated officers can grant the discount, for reasons set forth in Section 1021 of the Act. Do you agree with that?-- You're reading from the Act?

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CHAIRMAN: No, that's not in the Act. That's apparently Council-----

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MR RADCLIFF: That's Council process.

CHAIRMAN: -----It's been suggested to you that's Council process?-- Well, I'll take it that that's Council process.

MR RADCLIFF: Well, do you agree with that, or not? Do you know?-- Look, I'm not - I - Mr Chairman, I haven't familiarised myself with that aspect of this policy and therefore I am not able to respond in a confident manner.

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All right. Well, I'll keep going. If those four delegated of authority, officers, feel uncomfortable about granting this, it's only at that point that it's referred to the Council itself. You're nodding your head, do you agree with that process?-- I take it that's correct.

All right. Well, that's what happened in respect of the Sunland discount, that it was referred to the Council because of the size of the - of the discount that was involved?-- It was referred to Council because there was obviously an issue there that had to be dealt with. If I can elaborate on that and refer back to what I said previously? The officers looked back at the circumstances-----

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Yes?-- -----where the rate notice was sent-----

Yes?-- -----and all the other arguments that were put forward, the officers expressed a view to me that, that was not consistent with what they believed was the case.

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Yes?-- So, they didn't see those circumstances that you're referring to and they were adamant that the discount should not be allowed.

All right. If the officers made a recommendation and you, and councillor Crichlow, I believe, recommended that it be not granted and follow the recommendation of the Council - the Council officers?-- The officers recommendation is what we were embracing.

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Yes. Yes. Now, the factors that were put before the Council, your evidence, I think, was that Mr Abedian's group of companies were a major contributor to rates. That's what you said in evidence in chief before. That was one of the factors you said?-- Yes. It's a - they're a big property-----

And secondly, and a second factor that you said that was considered was that they normally paid their rates on time?-- They've always paid their rates on time.

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They've always paid their rates on time?-- Yes.

Who presented this argument to the Council, can you recall?-- From my recollection, Councillor Molhoek, and the statement that I made before was also my recollection of the event.

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Mmm. All right. Excuse me for two seconds. I suggest to you that, and I ask you to comment on this, a Mr Sahiel Abedian in fact addressed the Council on this very issue? Can you recall that?-- I believe at the committee meeting it was Mr Brown. I - I don't have a recollection that Mr Abedian-----

Who is Mr - Mr Brown?-- I believe he's the general manager or CEO of the company, or the-----

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CEO of the company?-- -----I'm not sure. He's an employee of that company.

Yes. All right?-- This is again my recollection, Mr Chairman.

All right. But if the Council, I suggest to you, that Mr Sahiel Abedian addressed the Council to explain the problem of this discount?-- I don't recall.

You can't recall it, or what?-- I don't recall that.

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I'll test your memory?-- I do recall Mr Abedian perhaps donating the amount at a later stage.

Well, let's get on to that in a moment. Mr Abedian explained, I put it to you, that the Council - this his companies had changed address in the building by way of moving their office and were not aware of this actual rate notice being issued. Can you recall that?-- I recall there was mention of that specifically, no.

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Specifically no?-- I don't recall what was said in relation to that. I-----

That was what - the company's representative told the Council that they were not aware that the rate notice had issue. It was issued in the name of a company called Calm River or something like that, wasn't it?-- I don't know. I have nothing to offer there.

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Yes. And Mr Abedian said to the Council that if the discount was to be allowed, some 13 odd thousand dollars, it was his intention to donate that \$13,000 to charity?-- I don't recall that. I'm aware that it was donated at a later stage.

It was in his intention, he said to the Council, that it would be donated to charity?-- I don't recall that.

All right.

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All right. Now, I ask you to go back on your own evidence today and reconsider what you've told us about the granting of discounts. What is your recollection about granting of discounts out of time? I think you've said that you've never allowed it yourself or never voted for it?-- I think what I said is from time to time we receive phone calls from residents-----

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Yes?-- -----who've missed the discount date-----

Yes?-- -----for one reason or another-----

Yes-----?-- and that it's my recollection that those discounts weren't allowed unless council was at fault.

Weren't allowed unless council was at fault?-- Yes.

Could you look at this document, please? I have some copies and I thank the Commission's officers for getting this from the - Mr - sorry, Councillor Sarroff, I ask you to look at not the first document immediately, if you go to the second document it's a memorandum to Councillor Molhoek dated 3rd December, 2004?-- That's - it's from Graham Finlayson to Molhoek.

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Yes. Yes?-- Okay. And what am I looking at?

Well, just read through it?-- Okay.

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Do you accept that that's - the contents of that document are true and correct?-- Documented here?

Sorry? The memorandum from Graham Finlayson?-- Yes, I read that but I have no knowledge of what those special circumstances are.

No. He said that over 1000 requests have been received in the five month period, that's from 1 July, 2004, to December 2004 and that 953 of those requests were granted?-- The same officer explained to council that he didn't believe that this particular one that you're referring to, the Sunland one, falls under that special circumstances.

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All right. All right?-- It's the same officer-----

Yes?-- -----who gave advice at that committee meeting-----

That's right?-- -----that he didn't believe that it should be granted.

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But - my question - you see that he says that 953 requests in that five month period were granted by the council?-- And your point?

Yes, do you accept that that's correct?-- It's stated here.

And that over \$100,000 - or almost \$100,000 worth of discounts have been allowed?-- Point taken.

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Now, go to the first - I note the time, Mr Chairman, or I'm happy to continue this tomorrow if you like?

CHAIRMAN: Well, we could just finish this.

MR RADCLIFF: All right. He, in fact, in this memorandum - this was a memorandum requested by Mr - Councillor Molhoek and provided to him on 3rd December, 2004. And on the second page of the first document he gives examples of when special circumstances might be contemplated by the council or by council officers?-- Is there a question?

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Yes. You see, do you agree that this is what - how the council deals with these matters and that the granting of discounts is a quite frequent circumstance rather than what you've put to us in evidence?-- With 200-odd thousand rate notices there could certainly be issues with Australia Post-----

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Yes?-- -----there could be a number of other circumstances that fall under that special circumstances and I'm not going to try and guess-----

No?-- -----what were those circumstances that were granted in these - in these 900 cases.

But it's not a circumstance, as you would have this Commission believe, that discounts were never given out of time, is it? That's not just true, is it?

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CHAIRMAN: Well, I don't think he said they were never given.

MR RADCLIFF: He couldn't recall the one being-----

CHAIRMAN: No, he said they were only - his understanding was they were only given where council was at fault.

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MR RADCLIFF: Yes. Where council was at fault, that's right.

MR RADCLIFF: Where Council was at fault. That's right.

CHAIRMAN: Yes.

MR RADCLIFF: But that's not the case, is it, when one reads this document. They're granted in other circumstances, are they not?--I would probably still maintain that Council would have had to have been at fault.

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Well, that's not what the Council officers say is the circumstance when you read this document, and you'll have the opportunity to do so?-- Perhaps between today and tomorrow I may research this issue and come back and-----

Yes, well I'll ask you further questions tomorrow, so yes, I'm happy to-----

CHAIRMAN: It doesn't - the witness' evidence on that doesn't really matter terribly much, does it, because it's the section, and clearly the section can cover matters that are beyond merely matters where the Council was at fault.

MR RADCLIFF: Yes, it does. Yes, of course.

CHAIRMAN: Clearly it can cover more than just Council-----

MR RADCLIFF: Well, contrary to what this witness will have you believe. That's-----

CHAIRMAN: Yes. Yes, the witness has to be wrong in that. There's no doubt about it.

MR RADCLIFF: I'll tender the document.

CHAIRMAN: Yes.

MR RADCLIFF: But Mr Sarroff needs a copy, so I'll provide him with mine and we'll renew that tomorrow.

CHAIRMAN: That's Exhibit 203. Thank you.

ADMITTED AND MARKED "EXHIBIT 203"

CHAIRMAN: Tomorrow I will not be able to start until at least 10 o'clock and it might be a little bit later. But I'll get here as soon as I can. But it won't be before 10 o'clock.

MR NYST: Mr Chairman, just before you rise. As you know, we got the material on Mr Sarroff quite late today. But I noticed that in the material there's reference to a complaint document that we don't have - or I don't have-----

CHAIRMAN: Well, if you take it up with counsel assisting, I'm sure they'll be able to - I'm sure it can be sorted out, Mr Nyst. Adjourn till 10 o'clock.

THE HEARING ADJOURNED AT 4.43 P.M. UNTIL 10 O'CLOCK THE FOLLOWING DAY

# WITNESS LIST

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|   |      |    |
|---|------|----|
| WILLIAM ROCHE, SWORN AND EXAMINED: .....          | 1216 |    |
| WITNESS EXCUSED: .....                            | 1230 |    |
| JAMES RAPTIS, SWORN AND EXAMINED: .....           | 1231 | 10 |
| WITNESS EXCUSED: .....                            | 1244 |    |
| GRAEME INGLES, SWORN AND EXAMINED: .....          | 1245 |    |
| WITNESS EXCUSED: .....                            | 1262 |    |
| PHILLIP KEITH SULLIVAN, SWORN AND EXAMINED: ..... | 1262 | 20 |
| WITNESS EXCUSED: .....                            | 1272 |    |
| GREGORY DAVID PHILLIPS, SWORN AND EXAMINED: ..... | 1273 |    |
| WITNESS EXCUSED .....                             | 1277 |    |
| EDDY SARROFF, SWORN AND EXAMINED .....            | 1278 | 30 |

# EXHIBITS

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|---|------|----|
| ADMITTED AND MARKED "EXHIBIT 179" ..... | 1216 |    |
| ADMITTED AND MARKED "EXHIBIT 180" ..... | 1216 | 40 |
| ADMITTED AND MARKED "EXHIBIT 181" ..... | 1217 |    |
| ADMITTED AND MARKED "EXHIBIT 182" ..... | 1232 |    |
| ADMITTED AND MARKED "EXHIBIT 183" ..... | 1232 |    |
| ADMITTED AND MARKED "EXHIBIT 184" ..... | 1233 |    |
| ADMITTED AND MARKED "EXHIBIT 185" ..... | 1235 | 50 |
| ADMITTED AND MARKED "EXHIBIT 186" ..... | 1237 |    |
| ADMITTED AND MARKED "EXHIBIT 187" ..... | 1245 |    |
| ADMITTED AND MARKED "EXHIBIT 188" ..... | 1245 |    |

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## EXHIBITS (Continued)

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|---|------|----|
| ADMITTED AND MARKED "EXHIBIT 189" ..... | 1246 |    |
| ADMITTED AND MARKED "EXHIBIT 190" ..... | 1248 |    |
| ADMITTED AND MARKED "EXHIBIT 191" ..... | 1249 |    |
| ADMITTED AND MARKED "EXHIBIT 192" ..... | 1249 | 10 |
| ADMITTED AND MARKED "EXHIBIT 193" ..... | 1250 |    |
| ADMITTED AND MARKED "EXHIBIT 194" ..... | 1263 |    |
| ADMITTED AND MARKED "EXHIBIT 195" ..... | 1263 |    |
| ADMITTED AND MARKED "EXHIBIT 196" ..... | 1264 |    |
| ADMITTED AND MARKED "EXHIBIT 197" ..... | 1273 | 20 |
| ADMITTED AND MARKED "EXHIBIT 198" ..... | 1273 |    |
| ADMITTED AND MARKED "EXHIBIT 199" ..... | 1274 |    |
| ADMITTED AND MARKED "EXHIBIT 200" ..... | 1278 |    |
| ADMITTED AND MARKED "EXHIBIT 201" ..... | 1278 |    |
| ADMITTED AND MARKED "EXHIBIT 202" ..... | 1280 | 30 |
| ADMITTED AND MARKED "EXHIBIT 203" ..... | 1319 |    |

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