



Transcript of Proceedings

CRIME AND MISCONDUCT COMMISSION

MR R NEEDHAM, Chairman

No 5 of 2005

PUBLIC HEARING INTO GOLD COAST
CITY COUNCIL

BRISBANE

..DATE 22/11/2005

..DAY 21

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THE HEARING RESUMED AT 10.22 A.M.

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CHAIRMAN: Yes, Ms Hamilton.

MS HAMILTON: Yes, Mr Chairman, we apologise for the late start. Mr Fish has not, at this stage, taken legal advice. He has not, at this stage, produced a tape. As you would be aware he was yesterday issued with a notice to produce. He is, however, willing to cooperate in further inquiries being made this morning which means he will not be able to return to the witness box until this afternoon unfortunately. So at this stage we would seek to proceed with other witnesses.

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MR BODDICE: In those circumstances-----

CHAIRMAN: Mr Boddice.

MR BODDICE: -----could I ask that it be not before 2.15 so that I can go away?

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CHAIRMAN: Certainly. Yes, yes. So you have a definite time. 2.15 will be early enough?

MS HAMILTON: I believe that is the time that he's been asked to return.

CHAIRMAN: All right. Well, we'll make sure we don't put Mr Fish back into the witness box before 2.15, Mr Boddice.

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MR BODDICE: Thank you, Mr Chairman.

CHAIRMAN: If there is any difficulty we'll - perhaps counsel assisting could let you know if there's going to be any difficulty even with him starting at that time.

MR BODDICE: I appreciate that, thank you, Mr Chairman. May I be excused?

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CHAIRMAN: Certainly.

MR MULHOLLAND: Good morning, Mr Chairman. I call Jan Elizabeth Grew.

JAN ELIZABETH GREW, SWORN AND EXAMINED:

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MR MULHOLLAND: Is your full name Jan Elizabeth Grew?-- Yes.

And Ms Grew, do you appear here today under an attendance notice?-- Yes, I do.

Would you have a look at this document please. Is that the attendance notice?-- That's the original one, yes.

I tender that, Mr Chairman.

CHAIRMAN: That will be Exhibit 271.

ADMITTED AND MARKED "EXHIBIT 271"

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MR MULHOLLAND: Now, were you also served with a notice to discover?-- Yes, I was.

And did you, in response to that notice, provide a statement together with supporting documentation?-- Yes, I did.

Would you have a look at this - first of all the notice to discover and confirm that that is the notice?-- Yes, it is.

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And would you now look please at this material. Is that first of all the statement which you provided to the Commission in response to that notice, the statement being dated the 15th of August 2005?-- Yes.

And the material attached to that statement, is that the material that you supplied to the Commission in response to that notice?-- Yes, it is.

I tender that material, both the notice and the statement together with supporting documentation.

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CHAIRMAN: Yes, that will all be Exhibit 272.

ADMITTED AND MARKED "EXHIBIT 272"

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MR MULHOLLAND: Ms Grew - sorry, do you - is it Miss, Miss Grew?-- Yes.

Miss Grew, what division of the Council do you represent?-- I represent Division 11 which is from Miami Beach right across to Robina.

And for how long have you represented-----?-- This is my twelfth year.

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So you first were elected in what year?-- 1994 I think and that was to the Albert Shire Council and shortly after that we were amalgamated with Gold Coast City Council.

That occurred in about 1995?-- Mmm.

Now, the material that you have provided to the Commission in response to the notice, is there anything you wish to change

in your statement or anything you wish to add to what you have said there?-- I don't believe so, no.

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Did you provide a return - subsequent to the election of 2004, did you provide a return in relation to any gifts that you had received during the course of the campaign?-- Yes, as part of my return.

And the amount that you - the amounts that you have disclosed there, do they represent the totality of gifts that you received in relation to the - that period?-- To the best of my knowledge, yes.

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So the total amount is represented by a gift from Mrs S Atherton of \$3,688.22 being in connection with advertising and printing?-- That's correct.

And also a Mr and Mrs J McIlwain of \$500?-- Correct.

Otherwise, your campaign was self funded?-- I run a very low key campaign, Mr Mulholland, and I paid for the rest, it - it really doesn't amount to a great deal of money. Being as I've run about six elections now.

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Could you tell us approximately what you would have spent from your personal funds?-- Probably another \$1500, something like that. I don't really know. I don't recall.

So in total both your own private funds together with the gifts that you declared representing the total of the costs spent on your campaign would be what, less than \$10,000?-- Oh absolutely.

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Now, do you have a copy of your statement in front of you?-- Yes, I do.

Could I just ask you to look at this - and by all means if you wish to refer to any other document in answering these questions just say so - one of the matters you deal with in response to the notice is your knowledge of Mr Barden and you say, "I have known Mr Lionel Barden and his wife Suzie for some years and consider them to be friends. As stated in the Gold Coast Bulletin article of March the 25th 2004 Mr Barden advised that his only involvement with me for the election was to hand out how-to-vote cards. This is a correct statement of fact"?-- Correct.

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You then say in relation to the election, "I had no knowledge or dealings with prior to and including the 2004 election the Lionel Barden Commonsense Campaign Fund, the Lionel Barden Commonsense Trust, the Commonsense Trust, the Lionel Barden Trust or the Power and Robbins Trust or any other fund"?-- That's correct.

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Now, apart from what you read in the newspaper or were aware of through the electronic media, did you have any knowledge of the operation of a developer backed fund which contributed to

the campaign funds of selected candidates for the March 2004 election?-- No knowledge whatsoever.

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In particular you had no knowledge of any account held at Hickey Lawyers, that is as part of the trust account, by Power and Robbins?-- No knowledge whatsoever.

Or by Lionel Barden?-- None whatsoever.

You knew of no account held within Quadrant, the marketing advertising firm, whereby the selected candidates to which I have referred were supported during the course of the campaign?-- I have no knowledge whatsoever of any of that.

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Did you - well, you say in your statement that "I have worked," and this is at the foot of page 1, "I have worked with David Power, Bob La Castra and Ray Hackwood for a number of years as a councillor and have always maintained a friendly working relationship with them. I have worked with Ted Shepherd prior to my becoming a councillor and in my role as a coordinator of the Tropicarnival Festival and the organiser of the Tropicarnival street parade." And you go on to refer to some more to Ted Shepherd. You say, "Ted was at that time a council traffic officer and in charge of road closures for the parade. I also regard him as a friendly colleague. I met Grant Pforr on several occasions over the years in my capacity as councillor for Division 11 attending social functions." Now is that the extent of assistance that you can give us in relation to any contact that you had with David Power, Bob La Castra or Ray Hackwood in connection with the matters before this inquiry?-- I had no contact with them whatsoever relative to the election.

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How much contact would you have had with Mr Power during the period, let's say from the end of November 2003 through to the election on the 27th of March 2004?-- We haven't had contact to discuss the election. I had nothing to do with the trust funds or any knowledge of them so we just simply didn't discuss it. We were all fairly busy running our own election campaigns and we just don't discuss it.

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So that even if - even after there was publicity in the media immediately prior to the 27th of March you didn't have any contact with Mr Power or any discussion about such funds?-- I think the only thing I can recall saying to him is "I didn't know you had" or that this fund even existed. That's about the only thing I can recall ever commenting to him.

Yes. Now, you, of course, as is clear from your statement - by the way, have you - did you keep a diary during the course of the election?-- Not really, because as I've said, it's a fairly low key election campaign that I run so I have my normal work diary but I don't really have anything much-----

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Did you check it-----?-- -----that would relate to the actual election.

Right. Did you check it before responding to-----?-- Yes, I did.

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Right. And there's nothing in that diary?-- Well, no, because I just basically do it all myself.

Right. So there's nothing in the diary in relation to the matters before the-----?-- Not that I could see.

Hold on. Before - there is nothing in the diary in relation to the matters before the Commission?-- Not that I could see.

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Now, as-----?-- May I just add, Mr Mulholland. I did check my diary because I was extremely concerned at the allegations raised by Councillor Molhoek placing me at two meetings which he claims I attended, so I in fact went right back through my diary to just be able to submit to the Commission, and I did submit a letter to you, saying I was not at those meetings, I've checked my diary, I was doing all sorts of other things. I actually sent a copy of a week's diary in to you to just show that I wasn't ever at those meetings, and I certainly am disappointed that anyone would make an allegation that I was.

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Well, maybe they thought that you were there but no, that was incorrect?-- It certainly was.

And was incorrect in view of what you say. You say that you weren't at those meetings in December 2003, January 2004?-- Correct.

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Those meetings at Quadrant?-- That's correct.

And you're quite positive about that?-- Absolutely.

Now, it is clear from the material that you've supplied to the Commission that you received no developer moneys in relation to your campaign?-- No, I don't.

And what is your attitude so far as funding by developers is concerned as a councillor now of many years? Do you see any dangers in the - in a non-disclosure of developer funds in advance of an election? If you can-----?-- Are you suggesting that people would need to make this disclosure which they are not required to make under the terms of the election under the Local Government Act?

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Let me - the question wasn't very easy to follow. Let me approach it in stages. First of all, do you see any harm at all in candidates for an election receiving moneys from developers?-- I don't think that there is a problem with anyone receiving money from anyone for an election.

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So-----?-- Providing your returns are filled out correctly as you are required to do for an election.

Right. In other words comply with the law?-- Correct.

Is what you're saying?-- That's correct.

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So would you, if offered, take moneys from a developer for an election campaign?-- I've never had to do that and it hasn't been a consideration because my election campaigns are fairly small, fairly tightly run because I do it myself, so I haven't entered the realms of needing substantial amounts of funding.

So you've never been offered moneys from-----?-- No.

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From developers?-- Not that I'm aware of or can recall.

Now, taking the point that you make that providing that disclosure is made, that there - you can see no harm in it, what about the non-disclosure in advance of the election of funds coming from developers, having regard to the fact that the electors would not know until after the election if such moneys was available? Do you see any harm in that?-- Well, Mr Mulholland, I believe that people who run for an election need to abide by the rules and regulations of that election. Those rules and regulations don't say prior to the election you must make sure that everybody knows where you got your money from. They say after the election you must fill in your electoral return and declare all the funding you received. Now if people are doing that they are adhering to the requirements placed on them for the election.

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Well, what I'm asking you is really the benefit of your experience and you may wish to think about this question and perhaps at the second stage of what the inquiry is looking at, supply some written response. But at this moment, I'm really asking you whether you think the system would be improved if monies received, during an election campaign, were required to be disclosed as they were received, or certainly, a period of 7, 10, 14 days before the election so that the voters would know what the funding position was? What do you think about that?-- I think you raised - yes - I think you raise a very valid issue, but I think it's also valid for - not just for local government. I think it's valid for state and federal governments too because many of the people who contribute to local government are also substantial contributors to state and federal elections and I think that if you're going to make a regulation like that, I think it has to be across the board. If you're going to be honest about one level of government, you need to be honest about all levels.

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Yes. You don't see any difference in a situation where major parties benefit from trust deeds, whereby monies are paid into trust funds, properly constituted and then-----?-- I'm sorry, can you clarify benefit to major parties? I don't understand that.

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Well, we'll - I'm just saying that major parties, as we know, have trust funds?-- You're talking about political parties?

Yes. Major political parties is what I'm talking about, major political parties. You don't see any difference between that situation where monies are then received by different

candidates during the course of an election campaign and a situation where there is no such properly constituted fund?-- But isn't a trust fund a trust fund, whether it's set up by someone for a local government or whether it's set up for a political party at another level of government? Isn't a trust fund somewhere where you place money for the benefit of people who are standing for an election-----

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Yes?-- -----for a political party?

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Yes?-- I mean it achieves the same aim in the end. People are contributing because they believe their contribution is going to make a difference and enable good government to be put in place.

You understand the situation here, that the evidence would suggest that there was a large amount of developer act money which came into a fund, not a fund operating under any trust instrument, but simply paid into a trust account of a solicitor and then that the evidence would suggest, at least for a lengthy period, that money was distributed on the decision of sitting councillors to sitting councillors?-- Mr Mulholland, the problem I have with this is, if there is a suggestion that money was paid into a trust fund and that from those monies going into a trust fund that there was going to be some benefit at the back end there. I don't follow that because monies paid into a trust fund to assist candidates does not have any follow-on whatsoever when a councillor is elected by providing any benefits to anybody who would contribute to that trust fund. Councillors are independent. They make their decisions and I have a great respect for the majority of my colleagues and their decision making process. I have seen nothing, in the 12 years I have been in Council, that would reflect that anybody who has made a donation to anyone, whether it's a trust fund or a direct donation from a developer, or anyone else, has had any outcome that would benefit them, from any councillor other than the normal decision making process that we undertake. Bear in mind, the decisions we make are based on, on every instance, officer's recommendations. Planning decisions come up sometimes 15 to 30 a week. The officers may spend months, sometimes years, reaching the recommendations that are put before it. These are not snap decisions that we make. We generally follow the recommendations of those officers and this is a - a very, very thorough process that we go through so I don't see any way that anyone could just say, "I'm putting money into a trust fund and I'll get something back for it." It doesn't happen.

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All right. What about the perception that it creates, particularly in relation to a Council which has a large responsibility in relation to planning and development applications where-----?-- The perception it creates from whom, Mr Mulholland?

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-----Hold on. Hold on. Hold on. A problem of perception, public perception, public perception of not knowing in advance of an election that there may be large sums going to candidates to support those - the election of those

candidates. Do you see any harm in that?-- Mr Mulholland, when you talk about a perception it concerns me because I serve well in excess of 20,000 constituents. I have never had a constituent ask me was I voting a certain way because of any money that was donated to anyone. The perception amongst the community is often a perception of a very, very small minority of people who have their own political agendas. It is not an across the city wide perception by the entire community. They are targeted perceptions put forward to the media to use to make difficulties and problems for a Council that is effectively working extremely well.

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So, returning then to the question I originally asked, so far as any change to the present law, so far as disclosure is concerned, you would say that if there was a change in relation to the law it should affect every level of government?-- Absolutely. I don't have a problem, Mr Mulholland, with the change. I don't have a problem with anybody declaring before an election who they received money from, but the government needs to place the legislation there in order to have that happen.

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Yes?-- Because if it's one person it has to be everybody.

See, it might be said, and I don't want to take this too much further now, but it might be said that - let's take a developer supplying large sums of money for the election for candidates, that subsequent to the election, particularly when the developer has projects before the Council, that the developer may expect - certainly this would be the public perception - greater access at least to councillors that have been supported during the election?-- Mr Mulholland, again you're saying the public perception. I don't see that. There is a minority perception, perhaps, that is perpetrated in the media but I don't see that. Any developer, any member of the community, anybody has access to a councillor. It's our right and responsibility to be there to discuss issues of importance to our city, and that's what we do. They have no better right or lesser right than anyone else.

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All right. Well, now, do you recall the - you certainly would know of the evidence that is being heard here, or the subject that has been raised here in relation to the discount received by Sunland, the rates discount?-- Yes, I'm aware of it.

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Now, we know, and if you don't know the details I'll fill you in but you're probably well aware of them anyway, that the matter came before the Council in November of 2004. First of all, on the 9th of November it came before the Finance Committee and then on the 22nd of November it came before a full Council meeting. Now, you were a member of the committee, were you not?-- Not the Finance Committee.

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You weren't there?-- I'm not a member of the Finance Committee where it went to first.

Right?-- But all councillors are members of the full Council.

Right. You voted at the full Council meeting?-- Correct.

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Were you aware of the statutory provision applying to such discounts that they could be only given in circumstances beyond the person's control, here beyond the control of Calm River which we know to be a company of the Sunland Group?-- I'm sorry, how do you mean beyond the control of.

That the legislation required that in order for the discount to be granted, that it had to be beyond the person's control-----?-- Oh absolutely, yes, yes, and that-----

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In circumstances beyond-----?-- Yes, correct.

Because you would know that there's been reference to - and there is indeed in the material to special circumstances - that the legislation required it to be beyond the person's control. You're aware of that statutory provision, were you, when you voted?-- Yes.

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All right. So you knew that in making this decision you had to be satisfied that it was beyond the control of Calm River. Did you apply yourself to that in making - in voting on the issue?-- Certainly. We were given advice in the meeting that the rates notice had been sent to the wrong address and that they were not aware of it going there and I certainly relied very heavily on the Chair of the Finance and the fact that the Finance Committee had had a full briefing and that it had now come before Council and it was their view that the discount should be allowed.

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Did you know that Mr Clarke, the Mayor, had attended the Finance Committee as an ex officio-----?-- No, I wasn't aware of that.

You weren't aware of that when you voted?-- No. Well, he's ex officio of many many committees.

Yes?-- We don't necessarily always know which ones he attends.

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Right. Did you - you were aware of the recommendation at officer level of the Council that the discount not be granted?-- Yes.

And you're aware that there was nothing put before the Council by any officer of the Council suggesting that the discount should be granted?-- I don't recall whether anyone was there present from the Finance Department but certainly I relied very much on the advice of the committee, as we often do when committee Chairs and committees make decisions we often will support them on the basis that they have been given the information. They've obviously had a briefing. And they've come to that decision.

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The evidence would suggest that Sunland had relocated early in 2003 and that the notice, the form 24 notice - do you know the form 24 notice advising Council of the address to which rates notices should go?-- Oh I haven't seen one, no.

But you know that-----?-- I'm aware of the type of thing, yes, that goes out.

Yes. So Council sends out rates notices to the address that has been provided on an official form, and you know that that is what happened on this occasion?-- I'm aware that it was sent to the wrong address. That was the information we were provided with.

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But it was sent to the right address in the sense that for Council purposes the correct address is the address that has been notified to the Council?-- I'm simply aware that the organisation did not proceed, that it went to a different address to a different business.

It went to level 18, 50 Cavill Avenue. That was the address on the notice that had been given to the Council in about October of 2003 after a transfer of the property. In other words, it went to the address to which it should properly have gone, according to the records of the Council?-- Well, that may be the case. All I can rely on-----

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Did you know that?-- -----is the information that we were given in the Council meeting that the Finance Committee had determined that it was appropriate, as they do many many times. I think we give something like 200 of these discounts-----

Well-----?-- -----during a year, and I just relied on the information they provided, that this was a very reasonable request.

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So may I take it that you really voted on the basis of what the Finance Committee had determined?-- Certainly.

And you were happy to go along with that?-- Certainly. I believe that they were the ones that had the briefing and the information and if the Chair of Finance was supportive and the committee, then I believed it was a very valid decision that they made.

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The evidence is also from Council officers who provided reports in relation to this matter that a precedent, that is past occasions where rates discounts had been allowed, would not be in favour of a discount being granted in relation to Sunland; did you know that?-- I'm only aware of the briefing that we were given in the full Council meeting by the people on the committee, by the Chair I believe, and you know, there are times when you have to put your faith in the Chair of a committee and the decision they have made because they've held the meeting, they've had the briefing, and I certainly respected their view.

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When you speak of the chair, to whom are you referring?-- Councillor Molhoek.

Now, can I just ask you to go to the documents that you have provided to the Commission with your letter. Do you have the document, the first item on it is Tax Return? About the second document, I think?-- Yes.

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Now there it refers to - two-thirds of the way down, 2004 Election Costs. That is the amount then itemised, is it? T-shirts, printing, et cetera?-- Yes.

Being the total of \$1,459?-- Mmm-hmm.

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Yes. Now the next document is the letter that you have supplied which you received from the McIlwains of the 13th of March 2004 enclosing there \$500 deposit?-- Correct.

Is that correct?-- Correct.

Then you have provided an e-mail which you have received. Could you just explain this? This has come to you from whom?-- Sammy Atherton, I presume.

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That's Wendy-----?-- Oh, wait a minute. No, from Wendy. Wendy. Wendy works there.

Right. All right, and then someone has written on the post office box?-- Yeah.

What, is that someone within your office?-- No, I wrote that.

You wrote that?-- Mmm-hmm.

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All right. Well, that's the sum that you then used-----?-- Yes.

-----in your return?-- That's correct.

Now, you also have enclosed the letter that you received from The Bulletin asking you - this is of the 9th of March 2004 - to provide any donations that you have received?-- Mmm-hmm.

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And did you respond to that?-- Yes, I did that, it's the next page.

And have you also enclosed that response?-- Yes.

And it is in these terms, "I advise I will be mainly self-funding my campaign with some help from family and friends"?-- Correct.

Which was an accurate statement in light of what you did receive?-- Absolutely.

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Now you provided as well various invoices in relation to amounts spent in the course of that campaign. Is that right?-- Yes.

Along with some election material of yours. In that election material you include an article by you or a newsletter by you.

Do you have that? It's in the right hand column, "Jan Grew, Councillor, Division 11, Gold Coast City Council," and it's a Robina Chamber of Commerce newsletter apparently. Do you have that?-- Yes, I do.

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All right. So you have strong contacts with the Chamber, do you, in the area?-- I've always been a supporter of the Chamber.

And this is just - you're enclosing this because it's something that you said?-- Well, yes, I just - I was really scratching to find a lot of things to send you, I'm afraid, Mr Mulholland, because I don't do a lot of printing.

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That's all right. You've provided this because it's something that you have published or written during the course of the election as appears from the column?-- Yeah. I don't know the exact date on it.

Well, it refers to the election anyway?-- Right.

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So it appears to have been done by you during the course of the election campaign?-- It was really an information piece just for business people who can't get to booths.

Yes. All right. Well, the rest of it seems to be of a similar kind, just other literature which you utilised during the course of the election. Is that right?-- That's correct.

Now, if you'd go over to the text of what appears to be the Gold Coast Bulletin news of the 24th of April 2004, this is under the heading Council Will Not Survive 100 Days. Do you have that?-- Mmm.

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It's - the date at the foot of it is the 25th of the 4th, 2004. That's what it looks like, Ms Grew?-- Oh, I see, yes. Yes.

Do you have that?-- I've got it.

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And there's a reference there to - that you've included that - to this, that "animosity and tensions between the councillors were obvious during yesterday's first meeting of the Coordination Committee which has all 15 councillors on its membership." So this council Coordination Committee, that met for the first time, it would appear, on the 23rd of April. Is that right?-- I don't recall the exact date. That may be correct.

And you were present at that committee meeting on that day?-- Mmm-hmm.

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And so far as that meeting is concerned of that Coordination Committee, did it decide anything in relation to the constitution of committees?-- I don't recall, I'm sorry, I - I just don't know.

Were you present at any meeting which decided the constitution or chairmanship of any committee?-- I think we had a meeting at the Arts Centre and we talked about committees and I thought there were some decisions made at that meeting.

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Right?-- It wasn't a statutory committee meeting.

Yes. Do you serve on how many committees?-- I'm chair of the Economic Development Committee, I am a member of the Health and Community Services Committee, we're all members of the Coordination Committee.

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All right. So you're chair of one committee?-- Yes, I am.

Yes, is there anything else that you wish to add to your evidence?-- I don't believe so.

Yes, thank you, Mr Chairman.

CHAIRMAN: Thank you, Mr Nyst.

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MR NYST: Councillor Grew, you said in evidence that the council - that we have a council that's effectively working very well. Is it fair to say you have a good working relationship with most of your fellow councillors?-- The majority of them, yes.

But this is the case, isn't it? That you have no agreement with or undertaking to any of them about voting in any particular fashion on any of the issues that come before committees or council?-- Absolutely not.

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And you've never had any such agreement? Never entered into any such agreement?-- Never. I - we are all independent and I pride myself on my independence and I certainly never come to any arrangements or am coerced in any way to vote for any particular issue.

You're not aware of nor have you seen any evidence of any kind of a voting block in the Gold Coast City Council?-- Only in The Bulletin.

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Only in The Bulletin. Well, you've heard that reference made in the press, but you've seen no evidence of it in your 12 years in council?-- Mr Nyst, I'm always amused when I read about pro-development blocks and that type of comment. It's just a figment of people's imagination. I have worked with some of these people for 12 years, and we pride ourselves on serving our constituents, being independent and voting with our conscious, and I think that's important. There is no such thing as a pro-development block or anything like that.

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Well, over the years you have often voted with Councillor Power, for example, haven't you?-- Oh, he's often voted with me.

Yes. You've often voted consistently with him is what I'm saying?-- I think when you are a councillor and you are making

the sensible right decisions for your community, you will often vote together.

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Yes. But this is your - the case, isn't it, that whenever you have, you have done so in an honest, conscientious performance of your duty as a councillor?-- Absolutely.

And so far as the council as a whole and your experience of it, is it fair to say that whilst they don't always agree - whilst the councillors there don't always agree, from what you've seen, they have always apparently acted in - according to their own conscience in accordance with what they've seen to be the interests of the city?-- Absolutely, Mr Nyst. Look, if you're there to do the right thing, then you need to make sometimes very hard decisions, and you will find that the majority of councillors are of good conscience and they make those decisions. There are a minority of people who will always make the popular politically active decisions that will get them publicity, and, you know, that's - it's sometimes quite inappropriate.

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All right. Well, just in regards to the Carn River matter, the discount - the rates discount issue, is it the case that whether the council got it right or wrong, whether the - it came to the right outcome, that you for your part in that process simply listened to the arguments and voted according to your conscience as to what you thought was correct?-- Absolutely.

Thank you.

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MR RADCLIFF: I only a few questions. Councillor, I appear for Councillor Shepherd, and I read your material this morning. Can you tell me, in the period as Mr Mulholland has put to you from, say, November 2003 until the election in late March 2004, on whether you knew Councillor Shepherd, did you have any contact with him during that period at all?-- Other than just in normal duties as councillors, none.

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Yes. All right. Fine. Now, in his disclosure statement, Councillor Shepherd says certain things. I'll just read one paragraph to you and ask you to comment as to whether you say that this is correct or not. He says:

"With regard to existing councillors at the time of the election, that is, Power, Hackwood, La Castra, Grew, Robbins, I can say that I considered these councillors to be of high integrity, and I'm proud to call them friends. We met socially, yet my wife and I" - sorry, "We met infrequently socially, yet my wife and I enjoyed their company."

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He goes on to say:

"I was never influenced to vote on any issue against my will and maintained a high standard of professionalism when dealing on council matters."

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Do you agree with that statement?-- Absolutely.

Thank you. Later in his same document - you're aware that there's this allegation there is a voting bloc. So that's the point that I'm going to deal with?-- It's floated around for many, many years, and it's just a fanciful allegation.

10

What he says is this:

"I am not tied to, nor influenced by any commitments to a voting bloc, and maintain at all times my individuality to determine issues according to my own knowledge, or the assessment of information placed before the council."

Do you agree with that?-- I do.

20

And that is, in effect, what you've said is your position on the council?-- That's correct.

Thank you.

MR DE BATTISTA: Ms Grew, I appear in this matter for Councillor La Castra. I just have a few questions to ask you. I understand that at the last council election, the Merrimac State Primary School was a voting booth in your division. Is that correct?-- Yes, even though it wasn't actually in my division anymore.

30

It, in fact, was also a voting booth for the division of Councillor Sarroff, wasn't it?-- Yes, yes, it was - went over to his division.

And can I ask you, did you take any steps to ensure that the people who were handing out how to vote cards for you did anything to support any of Councillor Sarroff's opponents at that election?-- I'm sorry, can you rephrase that?

40

Well, for example, did you require that your booth workers hand out how to vote cards for one of Councillor Sarroff's opponents?-- No.

And-----?-- Unlike Councillor Sarroff doing that to me at the pre-poll at Mermaid Waters. Yes, so a person on site was actually handing out for my opposition.

50

And, in fact, you didn't have any involvement in any of the campaigns running against Councillor Sarroff at all, did you?-- None whatsoever.

Well, can I turn to another campaign? That of Roxanne Scott. Did you have any involvement in her campaign?-- None at all.

Did Councillor La Castra at any stage ask you to take an involvement in her campaign?-- At no time.

1

Did Councillor La Castra at any stage tell you that Roxanne Scott, if elected, would be a reliable voting member of a bloc?-- No.

You indicated earlier in response to questions from Mr Mulholland that there had been some 200-odd rates discounts discussed by the council. Now, just so I'm clear, is that 200 that were allowed, or 200 that were discussed?-- I believed there was about 200 allowed. They don't - they're not all necessarily discussed by council. A lot of it is just done by the officers.

10

All right. You don't recall the total number that would have been discussed by council?

MR WEBB: That wasn't taken down. The witness shook her head, Mr Chair.

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MR DE BATTISTA: Councillor Grew, just finally, you've - you're currently a chairman of a committee, the Economic Development Committee. Prior to this election you were also chair of the Health Committee. Is that correct?-- That's correct.

And were you a chairman of a committee prior to that?-- I was chairman of Health for about 10 years.

30

So in your 11 year period on Council you've now been a chair of a committee for a substantial portion of that period of time?-- That's correct.

Thank you.

CHAIRMAN: Yes, Mr Mulholland.

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MR MULHOLLAND: Thank you. Just returning to a question I asked you earlier-----

CHAIRMAN: Sorry, Mr Mulholland. Mr Clarke has a question.

MR CLARKE: Sorry, Mr Chairman, my counsel is still away in Mackay. Just two matters, Councillor Grew. We have, as you know, meetings of the chairs of the various committees before - each fortnight before Council meetings?-- Yes, we do.

50

And there's been some statements made to this Inquiry about how decisions are sorted out there for later Council meetings. Can I just ask you how long do these meetings take usually - you know, when do they start for example and finish?-- Oh, we're supposed to be there about 12.30 but usually everyone's not there, they take about 15 minutes. We really generally

just discuss any issues that are on our particular committee agenda as a chair. We don't make any decisions, we just generally talk about our committee, the decisions that have been made, that's all.

1

Exactly. So you deny completely that any - there's any coercion to - or agreement or-----?-- Absolutely not.

-----of any sort to make decisions?-- No.

10

Just one other matter, Mr Chairman, was the - was the Sunland discount. Do you remember the presentation had a - had a letter from the Falcon Group with it to Council?-- To be quite honest I don't.

You may remember that the counsel assisting has said that the rates notice went to the right address, which it did, even though it was the wrong address in theory, it went to the 18th floor?-- Right.

20

But unfortunately it went to the office of the 18th floor which is occupied by the Falcon Group?-- Yes.

And it never ever was returned to sender or returned, they held onto it as per a letter which was presented as evidence by the officers but unfortunately the officers thought the Falcon Group was a part of the Sunland Group and said in the report that - that the - or inferred that the Sunland Group had held onto the rates notice for some time and didn't recognise it because it was Carn River. I think if it had have been Sunland they would have recognised it and sent it straight down the 14th floor but they didn't as per that letter and I just wanted to make clear whether you remember that letter or not?-- I don't remember the letter. I just remember some of the discussion being that it had actually gone to the wrong address and they didn't get it in time to get the discount.

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Thanks Councillor Grew. Thank you, Mr Chairman.

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CHAIRMAN: I'm sorry, I indicated before I'm not taking questions from the gallery. If there's a matter that you want to raise you can do it through counsel assisting. If you'd see Ms McDonald. Yes, Mr Mulholland.

MR MULHOLLAND: Do you wish Mr Chairman, for me to speak to the-----

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CHAIRMAN: No, Ms McDonald can do it and bring it to your attention if it needs to be.

MR MULHOLLAND: Followed up after the witness's evidence. Ms Grew, returning to a question I asked you earlier, in relation to evidence to suggest that a developer-backed fund which supported candidates at the 2004 election or during the election campaign, there is evidence before the Commission

from which it may be concluded that Mr Brian Ray whom you would know as - the late Mr Ray - as a developer?-- Yes.

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Had been asked by Mr Power to organise this fund and that's in fact what Mr Ray did along with others. Now, I want to read something to you and I'd ask you to listen carefully to it. this is what Mister - and I'd ask you to assume that this is correct - this is Mr Ray speaking of this fund?-- Right.

You may well already have heard this if you've been following the evidence but I'll read it to you. I'm referring to Exhibit 89, email of the 2nd of March 2004. Mr Ray says, "I promise to confirm details of the arrangements major developers are putting together in an attempt to get a coherent Council for the Gold Coast especially with the disparate nature of members of the Council over the last three years or so which has caused difficulty in getting a predictable outcome from the elected body. We have joined with major national and Queensland developers" - naming some of them - "to put together a fund to mound a campaign to win various wards for a caucus of likeminded members with whom we can negotiate in a similar way to the outcome achieved in the last Tweed Shire election. Each participant is donating \$10,000 which goes to Hickey Lawyers Trust Account and is then authorised for expenditure by David Power and Sue Robbins, the chairmen of the two planning committees on the existing Gold Coast City Council." Now, accepting that that is what Mr Ray wrote and that he was expressing what he was endeavouring to achieve would that cause you any concern if it be correct?-- I'm sorry, I don't know where you're reading it from, was it an email or what was it?

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I'm just asking - as I said to you, it is an email-----?-- Right.

-----and I'm asking you to accept first of all that Mr Ray said it and that he was representing what was intended to be achieved. Would that cause you any concern?-- I guess in listening to what you've read out my impression would be that Mr Ray is looking to have a cohesive Council that can work together and not some Councillors who are continually causing problems being very outspoken for obviously their own political purposes. Every city deserves and needs to have a good coherent Council that can make the decisions that need to be made. We're running a city that is the six largest city in Australia. We need to have a good Council to do that and obviously if Mr Ray felt passionately about it and has made those comments that's obviously clearly what he wanted.

40

It would be of no concern to you if such funding was going to be used in order to achieve a predictable outcome?-- Mr Mulholland, I don't know what you mean by a predictable outcome, I'm sorry.

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MR TEMBY: Isn't that - with respect, I don't have the document in front of me - but isn't that unconsciously no doubt a misreading? Didn't the email refer to predictable outcomes?

MR MULHOLLAND: No.

CHAIRMAN: I don't know.

MR TEMBY: No?

CHAIRMAN: I haven't got it in front of me, Mr Temby. Mr Mulholland-----

MR MULHOLLAND: Predictable outcome from the elected body. Any rate, I just wanted to give you the opportunity to comment. So your response would be that that would cause you no concern?-- No, I didn't make that response, Mr Mulholland. I was trying to ascertain what exactly he was meaning out of that. If he means he simply wants a cohesive Council that can work together that's a good idea. I don't know what he's talking about when he says he wants a predictable outcome. I'm not aware of the document. I don't know what you're talking about. I can only believe that you're quoting something that he has said but I - I don't have an answer to predictable outcomes. I don't know what it is.

I have nothing further.

CHAIRMAN: All right. We might take the break at this stage to allow, if that lady has something that should be raised.

MR MULHOLLAND: Thank you. Would you mind just waiting a few minutes until we resolve that, please?

CHAIRMAN: We'll take just a mid-morning break now. Adjourn for 10 minutes.

THE HEARING ADJOURNED AT 11.19 A.M.

THE HEARING RESUMED AT 11.42 A.M.

JAN ELIZABETH GREW, CONTINUING:

MR MULHOLLAND: Mr Chairman, there's no need to detain Ms Grew any further. May she be excused?

CHAIRMAN: Yes, thank you, Ms Grew.

WITNESS EXCUSED

MR MULHOLLAND: I call Raymond William Hackwood.

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RAYMOND WILLIAM HACKWOOD, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Raymond William Hackwood?-- That's correct.

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Now Mr Hackwood, were you served with an attendance notice in relation to today?-- I was.

Would you have a look at this document please. Is that the attendance notice?-- Yes, that's correct.

I tender that.

20

CHAIRMAN: Exhibit 273.

ADMITTED AND MARKED "EXHIBIT 273"

MR MULHOLLAND: Were you also served with a notice to discover?-- I was.

30

And did you respond to that notice to discover by providing a statement of the 17th of August 2005 together with a schedule of the 17th of August, the same date, and along with other supporting documentation including copies of diary entries?-- I did.

Would you have a look at this material please. First of all the notice. Is that the notice to discover?-- Yes.

40

And would you have a look now at the statement schedule and material and can you confirm that it is the documents that you supplied?-- Yes, that's correct.

I tender that material, Mr Chairman.

CHAIRMAN: Exhibit 274.

ADMITTED AND MARKED "EXHIBIT 274"

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MR MULHOLLAND: Yes. Now, do you have a copy of that material that you supplied?-- No.

Could a copy be provided? I'll just give you this in case you need to refer to it. First of all, what division do you represent, Mr Hackwood?-- Division 1 which is the Beenleigh area, the area between Logan River and Albert River.

1

Right, and how long have you been a councillor?-- I was first elected to Albert Shire in 1991 through to 1995 and then re-elected to Gold Coast City Council in 2000 up to now.

Right. And you were elected at the - re-elected at the 27th of March 2004 election?-- That's correct.

10

You are a civil engineer by occupation?-- I'm a civil engineering contractor.

A contractor?-- It's a business I had and I sold in 1988.

Right. And what, a plant - plant and equipment company?-- It's a - it was a company that did subdivisional work in the Beenleigh-Gold Coast-Logan-Beaudesert area.

20

All right. Do you have any present interest in that business?-- No.

Has it remained in the family?-- No, I retained my original company, Hackwood Pty Ltd, which buys and sells and hires out particularly motor graders.

Right. So you continue to operate that business, do you?-- Well, it's much like somebody that restores aircraft, cars or boats or something like that, I follow auctions and that type of thing around and if I see something that I think is all right I'll buy it and rebuild it and put it back on the market.

30

All right. Well now, so far as the 27th of March 2004 election is concerned, did you receive any gifts during the course of that election?-- No.

And it was entirely self-funded?-- Absolutely.

40

Could you give us some estimate as to what you believe you spent on the campaign?-- About \$8,000.

No more than 8,000?-- No.

You have in your letter of the 17th of August, you say, "I've been involved in five Albert Shire/Gold Coast City Council local Government elections and on each occasion the campaign has been totally funded by me and run with the support of my wife and other family members. Booth workers on the day of the election were family members, friends and a few constituents who volunteered their services"?-- That's correct.

50

Yes, now you go on to enclose as part of your schedule invoices, receipts and cheque butts to total \$7,463?-- That's correct.

Is that hence your estimate of under \$8,000?-- That's correct.

Is that it? Well now, is there anything that you wish to add to what you have supplied to the Commission, either by way of correcting something that you've said or providing additional information?-- I don't believe so.

In the schedule where you - your response, sorry, to the schedule as part of your statement you say this in paragraph 2, "Other than the material enclosed I have none of the documentation requested other than my handwritten diary which I enclose I had absolutely no dealings with the companies or persons listed in the schedule in relation to the Gold Coast City Council elections of 27 March 2004 or at any other time." Now, just pausing there, that is correct, first of all?-- That's right.

10

Did you know during the election campaign of any fund, developer-backed fund that was being used to support selected candidates at the March 2004 election?-- No.

20

So when was the first that you had any knowledge of that, in relation to the date of the election?-- When it was read - when I read it in The Bulletin.

So, would this have been the article which published what Mr Ray had said?-- Yes.

Did you have any knowledge of councillors Power and Robbins, that is incumbent councillors, controlling any such fund during the course of the campaign? Did you have any knowledge of that apart from what you read in the papers or - or heard in the electronic media?-- No. I had no knowledge whatsoever.

30

Did you know a Mr Lionel Barden?-- I'd met Lionel Barden once when he was involved in putting lights up for the Chamber of Commerce in Beenleigh.

Right?-- I actually met him at the opening of the lights.

40

How long ago would that have been?-- That was probably, I think, mid - mid last year.

Mid last year? So, after the election?-- It was after the election, yes.

You had no contact with him before the election?-- No.

Did you know of him before the election?-- Yes. I'd heard of him.

50

And certainly, you had no knowledge at all, apart from what later appeared in the media, concerning his involvement in the fund that I've been referring to?-- That's correct.

Now, you make this point in your response to the notice to discover, "As a result of my allegiance to the former mayor,

Gary Baildon, I was kept at arm's length from the election strategies and meetings of other councillors, including David Power, Robert La Castra, Edward Ted Shepherd, Jan Grew and Sue Robbins." That statement you make, "I was kept at arm's length", suggests an element of deliberateness as you saw it. Is that correct, is that what you are implying?-- I believe I had that - that feeling, yeah.

1

So, you - I suppose that every election there are election strategies, or an election strategy by a candidate, to work out what - how you're going to run the campaign and what the major themes are going to be and how you're going to fund it and so on?-- That's correct.

10

Those are the sort of things that would happen in every campaign. Is there anything that you can point to, Mr Hackwood, which - from which, as an example for us, of what you're speaking about, that you gained this impression you were being deliberately kept at arm's length from the strategies and meetings of the other councillors to whom you have referred?-- It may have been something that appeared in The Bulletin where I - I just can't remember the wording, but it may have been that I supported Councillor Crichlow on getting a chair, or something like that at the next - if we were all elected at the next election.

20

So, this was during the course of the campaign prior to the 27th of March, you were expressing a view -----?-- Yeah.

-----in favour of Councillor Crichlow?-- Yeah.

30

And following the publication of that did you notice a reaction to it?-- I - I believe so, yes.

Right. Was that something that was said, or just a distancing of these people from you?-- No. At the - at the time I was probably trying to, using my term, talk a bit of sense into Councillor Crichlow and asking her to - to probably behave a bit better in the meetings to - to try and improve the relationship between the councillors.

40

Right. And you say that following, you say that appeared in the media?-- Yes.

And following that you - you considered that there was a deliberate attempt to keep you at arm's length?-- I don't know whether it was deliberate, but-----

Well, that's the impression you gained?-- Well, it maybe so, but it just - there seemed to be a feeling there that I was supporting Gary, that there might be some - might be some coldness, if you'd like to say.

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Just trying to, you know, gain from you any instances which may assist us to understand what you're saying. Is there any particular occasion, something said by someone to you?-- No.

This is just an impression you had?-- Just a feeling.

1

Is this a feeling from meetings of the Council, or are you referring to some other meetings?-- Mainly meetings of the Council.

And committee, or committees?-- Yeah, and committees. I - I don't have any - because I'm virtually isolated in the north there, I don't have much contact other than at committee and council meetings with other councillors.

10

Were you on the Planning North committee, prior to the election and who was the chair of it?-- Councillor Power.

All right. And after the election did you remain on the combined committee which we have been told occurred?-- Yes.

All right. And who was the chair of it after the election?-- After the election? After the election the chairs were split from north and south into one committee and Councillor Shepherd became the chairman.

20

Yes. So, do we take it from what you have said in paragraph 2, that you supported the election of the mayor, as he was then, Baildon?-- That's correct.

All right. You go on to say, "I met Greg Betts, Robert Molhoek, Grant Pforr and Ron Clarke after they were elected to Council". So, what, you didn't - you hadn't met them before they were elected?-- No. I'd never met any of those people before the election.

30

So, you hadn't had any contact at all with them?-- No.

You say, "I have never met Roxanne Scott or Brian Ray." Does that mean to say you've had no contact even telephone contact witness them?-- Even till this day.

You say on the last page as part of paragraph 4, "David Power, Robert La Castra, Edward, Ted, Shepherd, Jan Grew and Sue Robbins are known personally to me as they being members of Gold Coast Council for varying lengths of time. We enjoy a professional relationship. At no time did we speak about their 2004 local government election strategies. The other persons listed were not known to me prior to the 2004 election." Anything you want to add to that as to the relationship between you - this is in so far as the election campaign for 2004 is concerned?-- Not really. Councillor Power and I were elected at the same time in 1991 he being in Division 2 and myself in Division 1. We do have a fair bit of contact because some of the conditions overlap in the divisions. Councillor Shepherd and Councillor Grew were members of my committee at the previous Council. Councillor La Castra was elected in the three years that I was out but I don't have contact other than committee meetings with him.

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You say there were three years you were out?-- Between '95 and 2000 - sorry, '97 and 2000.

Yes. After this revelation was made in the media reporting what Mr Ray had said about the fund and the publicity which followed did you have any discussion with Mr Power or any other of those people particularly Councillor Robbins - either Councillor Power or Councillor Robbins - concerning the operation of the fund spoken-----?-- No.

-----about by Mr Ray?-- No. Absolutely none.

So far as receipt of moneys from developers are concerned, do you have any view on that, is there any problem as you see it that might occur in candidates for the election - or for an election - receiving moneys from developers having regard to the responsibilities of Councillors?-- No, I don't believe so.

So would - so far as the present rules are concerned of disclosure after the election would you see any need to change those rules in the light of what you now know of what happened in relation to the 2004 election?-- Well, I think you should publicly disclose who you receive your donations from, yes.

And would you go so far as to say that there should be public disclosure in advance of the election?-- Yes, that'd be quite - quite good.

Right. So you have no opposition on its own to receiving moneys from developers but you think there should be public disclosure?-- That's correct.

Would that disclosure as you see it be best if it were made in advance of the election?-- Yes.

Do you have any timeframe in mind as to how long prior to the election or would you see it a continuing obligation of disclosure - from your experience, Mr Hackwood, if you'd just tell us what you consider?-- Well, there could be a register with the electoral officer, you could disclose it as the money became available.

And that register being publicly available?-- Well, at election time you have your nomination form up on the wall there, who is nominating you at the time, it could be probably put beside that and disclosed as moneys came through.

And so as moneys came through it were made available and the electors would then know what funding was being received by candidates?-- That's right. Anybody that was interested, they could go and have a look daily.

Yes. You say that you announced your candidacy on the day of your nomination, the 11th of February 2004, that would have been almost the date that those nominations opened, would it?-- That's correct.

Very close to the date?-- Mmm.

Now, can I ask you - if you just go to the diary entries, you've been through these diary entries I suppose to see whether or not there's anything in there which may assist you in regard to evidence concerning the matters of reference before the Commission. Is there anything in here that you think may be of relevance to the matters that this Commission is investigating?-- I don't believe so.

1

There is one entry perhaps that I could take you to, if you go to the entry for the 11th of October 2004?-- The 11th?

10

For the 11th of October 2004?-- Yes.

And on the opposite page there is typed in there first of all 10.30 you had a meeting and then 1.30 Power's office, Nerang. Briefing on LAP for canelands. Is that the local area plan for canelands?-- That's correct.

What's your recollection of that meeting; who attended it first of all?-- I don't remember that meeting.

20

You don't remember it?-- It's obviously been typed in by my PA but whether I attended or not I'm not sure.

So you-----?-- I remember attending the meeting with Mr Paul Lucas. I remember that. But whether I went back to Councillor Power's office or not I can't recall.

So what, they may have been a meeting that you were to attend but you didn't attend?-- I believe that, yeah.

30

Is that what you believe now?-- Well, I - well, it's in here but I don't really remember having a meeting about the canelands.

Do you have any recollection at all as to the circumstances in which you were asked to attend such a meeting?-- No, I don't actually. Obviously, there's - my PA puts these meetings in. It's up to me to decide whether I attend or not and I just don't recall.

40

So your PA has made this - see, it says "briefing" and would-----?-- Yes, it's not compulsory so - that meeting isn't compulsory so I don't believe I attended that meeting.

All right. You can't assist us as to why you would be receiving a briefing-----?-- Well-----

-----and who by?-- The canelands more or less overlap into my division and that's probably why I was invited to attend.

50

Right, but you can't help us with who were going to be the attendees?-- No.

You don't remember Councillor Power speaking to you about it?-- No, I don't believe so, no. If it's - I just follow on with that. If it's not my area, I don't usually attend LAP meetings unless it's to do with my division.

Now, after the election of the 27th of March 2004, did you join any - or were you appointed to any of the committees of the new Council?-- I was personally appointed to the health committee - was Chair of the health committee and community service.

Yes. And what about - did you chair - appointed as Chair of any committee?-- After the election?

10

Yes?-- Yes, at the meeting where the Chairs are selected and voted on, I - I was - I nominated for the Chair of engineering. I was unsuccessful. So I nominated for the Chair of health and I was successful.

Right. Is that the only committee?-- That's all.

That's the only one you nominated for or the only one you were appointed to?-- No, that was the only other committee I nominated for.

20

Had you previously been a member of the Engineering Services Committee?-- Yes.

And well, were you given any reason why you weren't re-appointed?-- It's a closed vote so you don't know.

Do you - you'd be aware of the Sunland discount matter?-- Yes.

What's your recollection of that?-- Well-----

30

We know there was a committee meeting on the 9th of November 2004 and then a meeting of full Council on the 22nd of November 2004. First of all, were you present at the committee meeting?-- No.

When did you first hear about this matter?-- When a recommendation came up to full Council.

And you voted, first of all, against the motion moved by Councillor Crichlow?-- Yes.

40

And you then voted against the motion that was passed. You voted in favour of the motion that was passed?-- That's correct.

Now, were you aware of the provision of the Local Government Act section 1021 providing that in order for the request for a discount to be granted, it was necessary for the Council to be satisfied a person liable to pay a rate has been prevented by circumstances beyond the person's control from paying the rate in time - from paying the rates in time?-- I believed at the time that I would have probably supported Councillor Crichlow's vote. It was only after I heard that the - Sunland was prepared to give the amount back to Council so it could be passed on to charity that changed my mind on that vote. I believe that otherwise I wouldn't have supported Sunlands getting the discount.

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And quite apart from the consideration that you mentioned as to why you eventually voted to support the discount being granted, why would you not have supported it?-- Well, we don't usually give - personally, myself, I've had plenty of letters from constituents that have just missed the discount day by one day or even you know - under some circumstances and they may not have been in the area at the time - all different arguments that they come up with but to my knowledge, we haven't given any discounts although I've heard different since but I thought, well, okay, they weren't entitled to it.

10

To your knowledge, there had been no comparable circumstances previously where such a discount had been granted. Is that correct?-- Well, it is but when we were - when Mr - Sohiel - when Sohiel addressed the Council and explained the whole situation where the notice had gone to the wrong address, I felt that there could be some particularly that they were going to hand the money back to Council for a donation, that I believed that there was - I'd change my vote.

20

When you say "had gone to the wrong address", the evidence would suggest that the rates notice went to the address that it should have gone to, that is to say, the address which had been notified to Council, level 18, 50 Cavill Avenue?-- Well-----

And that was-----?-- -----that wasn't the way I understood it at the time. I believed it was the wrong address.

30

And that's as a result of something that you were told?-- That's correct.

By who?-- I can't remember who. I just - whether it was word of mouth or whether it was just what - it was just sent to the wrong address.

You knew of the Council officer's recommendation that the discount not be allowed?-- That's correct.

40

And I understood you, but I may have misunderstood you, to say that you changed your - the way in which you were going to vote because you were told that there would be a donation made of the amount of the discount?-- That's correct.

So it was on the basis of the fact that you were told that if the discount was allowed there'd be a donation made to some charity that you decided to change the way you intended to vote?-- That's correct.

50

I suppose you weren't aware at the time that as the evidence now tends to suggest that Sunland, at the very time that this matter was under consideration in November of 2004 Sunland was being persuaded to make a contribution to the fund of \$7,700. I take it you were ignorant of that?-- I have no knowledge of that.

Mr Hackwood, if you had known that, that at the time Sunland was in the process of making such a donation or there was talk of making it or that it had made a donation in that very month, how would that have affected what you would have done in relation to this vote?-- Well, I think they're two separate - two separate items. 1

I know it's difficult for you to put yourself back in that situation but that's what I'm asking you to do. If you had known it what would you have done?-- I don't believe I would have changed my mind. I see it as two - two different items. 10

Two different items?-- Mmm.

So the fact that Sunland was being persuaded to donate to the fund that had existed in order to provide moneys for selected candidates at the 2004 election and now had a discount matter in which it was seeking to have the council officer's recommendation overruled, you wouldn't have been affected in any way?-- Well, if Sunland weren't prepared to hand the money back in the way of donation I certainly may have considered then that it wasn't a proper----- 20

Yes, thank you.

CHAIRMAN: Yes, Mr Nyst?

MR NYST: Mr Hackwood, you mentioned that you had a lot of contact with Councillor Power over the years?-- That's correct. 30

You consider that in the context of saying that your divisions overlap, your division overlaps his to some extent. Is it correct to say you've always had a good working relationship with him there in the council?-- Yes.

The two of you haven't always agreed on every issue, have you, but you're able to work together nonetheless?-- Yes, we had differences over different - different items that have come up on the agenda time to time. 40

Sometimes you vote against each other, more often together, but you're able generally to work together nonetheless?-- Well, I've always said and I've said it quite openly and publicly on the council that I always try and support the local councillor's decision for which they - whatever division it is, whatever that councillor wishes I try and always support that councillor because if it's wrong they will pay for it at the ballot box the next election. 50

Okay. Well, in any event, you haven't entered into any agreement with him or with any other councillor, have you, nor have you given any undertaking to anybody about voting in any particular fashion on issues that come before the council?-- None.

And you know of nothing, no evidence of any kind of a voting bloc there in the Gold Coast City Council?-- Well, I believe there's a voting bloc there, all right. There's at least three there as a voting bloc every time that something comes up in my division and that's Councillor Young, Crichlow and Sarroff.

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Well, I'm here representing Mr Power. You know of no involvement by him in any voting bloc of any kind?-- No.

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You spoke of the process of your nominating for the chair of Engineering Services and being unsuccessful in that regard. You were then nominated for another chair and you were successful?-- That's correct.

There was nothing, I take it nothing unfair or oppressive that you were aware of in that process?-- Well, it's a secret vote. No, I don't.

But you saw no evidence of any unfairness or oppression towards you in refusing - in the people voting not to have you as the chair?-- No, none whatsoever.

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And then just finally in respect of the Sunland discount issue, you told Mr Mulholland that when - I think you said when Soheil, this is Soheil Abedian, I take it - Soheil addressed the council and told us the notice went to the wrong address and particularly when they said they were going to pay the money to charity you felt that you'd vote in favour of the discount, that's right? Whether that was the right or wrong decision is it the case that you made an honest decision on that issue?-- That's right.

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You weren't lobbied by anybody suggesting that if you vote for - that you should vote for Sunland because if you do they might give \$7,700 to some fund or some person?-- No, I hadn't discussed it with anyone.

No, nothing like - of that nature was put to you in respect of the decision?-- No, definitely not.

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You simply listened to the arguments put forward there in council and you made an honest, conscientious decision on what you thought was the right thing to do on all of the material that was being put before you?-- That's correct.

So right or wrong it was your honest call on the day?-- It was.

Thank you, sir.

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CHAIRMAN: Yes, Mr Radcliff?

MR RADCLIFF: Before I commence, and I only have a few questions. In respect of the exhibit that's just been tendered, that is his disclosure documents, as a consequence of the evidence-in-chief I just wonder whether we need to have his-----

CHAIRMAN: Sorry, I thought you were talking to the witness.

MR RADCLIFF: No, I'm sorry. In respect of the disclosure document that's been provided by Councillor Hackwood, at the back of it we have the diary. His evidence is now it's irrelevant to anything, and secondly of the one entry that my learned friend, Mr Mulholland, addressed he says, "I have no recall of it and I don't think I even attended that meeting," therefore there are other entries in that. I wonder whether it's appropriate that they - the diary form part of the exhibit or just be removed, because it's now patently irrelevant.

It leads me to another point. Because there's - I am at a difficulty with this witness has been called today. He was called without - we were given the documents, I don't doubt that, but he was called ahead of time and I've not taken instructions on some matters that are in there and I don't know whether I should ask him questions about it.

What I'm saying is it appears that the diary is utterly irrelevant to any consideration that you'll have and I ask that it be excised from the exhibit.

CHAIRMAN: What do you say, Mr Mulholland?

MR MULHOLLAND: Mr Chairman, I don't want to follow that course because of the inquiries and the investigation being ongoing and I want it to remain part of the exhibit because we've still got a way to run in the evidence to be called.

CHAIRMAN: Yes. Mr Hackwood, what's your view? Do you have any difficulty with your diary being presented in evidence at this inquiry?-- No.

When the witness has no difficulty with it, Mr Radcliff, I propose to leave it there.

MR MULHOLLAND: Well, I'm happy if Mr Radcliff wants to take up with me a particular matter in relation to the diary, to discuss it with him after we adjourn.

MR RADCLIFF: All right. Can I make my position clear this way? There are two entries in the diary which interest me. I don't have instructions on them and because - and I've endeavoured to try and get those instructions in the short period that we've - at each break. I'm going to have to reserve my position-----

CHAIRMAN: Certainly.

MR RADCLIFF: -----with this witness and I may have to ask you, unfortunately, to recall him unless we can do it by way of a statement as we did with Molhoek. I think I've made myself clear.

CHAIRMAN: All right, thank you.

MR RADCLIFF: Thank you. Look, I only have a few questions. Councillor Hackwood, I introduce myself. I appear for Councillor Shepherd and no one else in respect of this and I just want to ask you a few questions about the circumstance. In his disclosure document that he's provided to this inquiry he's said something, and I'll read you a passage, as I did with Ms Grew. I'll ask you to comment as to whether you believe that to be correct or not. He says on page 4, "With regard to existing councillors at the time of the election" - and he names Power, Hackwood, La Castra, Grew, Robbins - "I can say that I considered these councillors to be of high integrity and I'm proud to call them friends." You agree with that? Is that your position with Councillor-----?-- I believe so, yes.

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He goes on to say, "We met infrequently socially yet my wife and I enjoyed their company. I was never influenced to vote on any issue against my will and maintained a high standard of professionalism when dealing on all council matters." Do you agree with that?-- That'd be correct, yes.

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Has he ever asked you, or attempted to influence you to vote with him or against him in respect of any matter?-- No.

All right. He also goes on to say at page - under "Statement of Information", item 4, "I am not tied to nor influenced by any commitments to a voting bloc."?-- Sorry, could-----

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Do you agree with that? That Councillor Shepherd says, "I am not tied to nor influenced by any commitments to a voting bloc." Do you agree with that in so far as he-----?-- I do.

"And maintain at all times my individuality to determine issues according to my own knowledge or the assessment of information placed before council." Is that a true statement?-- It is true, yes.

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Thank you. Now, you've heard about this document called "The Young Dossier" and I don't wish to go to very much in relation to that. I'm referring to the censored version of it. There is a sentence at the - that I just will read to you. One, two - it's on the third page, but I'll just read you this. In that document it is said, "No members of the pro development bloc of the previous council (Hackwood, Power, La Castra, Shepherd, Grew, McDonald, Robbins) were challenged by the newly inducted candidates." My question is this: was there or has there ever been a pro development bloc of councillors in the previous council?-- I don't believe so, no.

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You are identified by the author of that document to be a member of a pro development block of councillors. Do you say that's wrong?-- Well, as I said before, I always try and support the local councillors' decision and records will quite clearly show I've voted for Councillor Young, Crichlow and Sarroff on several occasions.

Yes?-- And I've also voted against Councillor Power and the other councillors, Shepherd and La Castra on different occasions.

Later in the document - sorry, are you finished?-- Yes.

Sorry. Later in the same document the author says, "Analysis of figures for the period of April to mid December show that when voting - when a voting division had been called Councillors Power, Grew, Shepherd, La Castra, Betts, Pforr, McDonald and Hackwood voted together up to 99 per cent of the time." Was that done in concert with - by you in concert with those other people, to vote as this person suggested?-- If - if it shows that we voted 99 per cent of the time together would probably find that it was because of the - the recommendation that was before us, that we supported the officer's recommendation, which they - they spend countless hours investigating all these things and come up with other reports, hydraulic reports, environmental reports, all these type of things. They spend probably 12 months or so on these things, so, you know, when something comes before you if anything what I see in planning is that more conditions are put on by the local councillor than are taken off. They're always a bus shelter or park contribution, or something like that, there's always - every councillor puts more conditions on-----

Than is recommended, you say?-- Yes.

Yes. So when the recommendation comes to you frequently you'll make it more stringent than what is recommended by the council officers. Is that-----?-- Usually that's the way I see it.

Yes, all right. In conclusion, therefore Councillor Shepherd has never said to you that you should vote with him because you are part of some clandestine group?-- Never.

Thank you.

MR DE BATTISTA: Thank you, Chairman. Councillor Hackwood, I appear for Councillor La Castra here today. I understand that you have a friendly professional relationship with him?-- It's not personal. No, the only time I've - I've any conversation with Bob La Castra is at the council meetings. I've never been socially anywhere with him.

It's purely a professional relationship that you have?-- Yes, that's all.

And you wouldn't, in the ordinary course of an election, be involved in Councillor La Castra's election committee for instance, would you?-- No.

And you wouldn't ordinarily be, during the course of an election, cause for Councillor La Castra to come to you and discuss local issues or local election issues in his division?-- No.

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Or vice versa?-- That's right.

Now, you've stated before that you've never met Roxanne Scott still to this day?-- I've never ever met her.

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Did Councillor La Castra ever ask you to give any assistance of any kind to Roxanne Scott?-- No.

Did he ever suggest to you that if Roxanne Scott were elected, she would be a dependable vote on issues affecting you or other members of this alleged bloc?-- Had no discussions, no.

Just so I understand it entirely clearly, also you say that Mr Abedian's announcement that he would donate the money in respect of the Carn River issue back to council for uses of charity was the primary reason why you voted the way you did on that issue?-- That's correct.

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Is that the case? It wasn't as a result of any blandishment or any offer made to you by a developer?-- No.

It wasn't as a result of any suggestion made to you by my client?-- No.

And just lastly, I think Mr Radcliff covered this, but you deny absolutely that you yourself formed membership of any voting bloc?-- Completely independent.

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And from your views and observations as a member of the council for some time, would you say that my client is a member of any voting bloc?-- No.

Thank you.

CHAIRMAN: Yes, Mr Webb

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MR WEBB: Just one matter. Mr Hackwood, are you a chair of any sub-committee at the present time?-- I'm chair of Engineering Services.

And is that the area that you've had previous experience in?-- That's correct. I was chair of - I was first elected to chair of engineering back in the Albert Shire days.

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Right. Thank you. Nothing further.

MR CLARKE: Thank you, Mr Chairman. Mr Hackwood, can I just move on one subject which is of particular interest to me

because of some of the evidence that's been given? Do you know a Tony Stephens?-- Yes.

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He's the proprietor, or owner, of Darlington Park?-- Of - I worked on Darlington Park as a contractor to Tony Stephens a number of years ago-----

So you know him well?-- -----and I know Tony very well.

In her evidence, Councillor Crichlow said that she and Councillor Sarroff took their tape-recorders down and secretly taped Tony Stephens' interview about the alleged assistance he gave to my election campaign, and the reason why - she gave that she went down there was because of a conversation she had with you where you asserted that he had given some help to me for my campaign. Do you remember that at all?-- Could you say that again? That-----

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Councillor Sarroff-----?-- Sarroff.

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-----and Chrichlow maintained that you asserted that Tony Stephens gave some assistance to me in my election campaign. That's why she went down there. Did you have a conversation to her about that?-- I don't believe so. I - as I said before, I wasn't involved with any other people during the election.

Thank you. And just finally, just - can you confirm Councillor Grew's evidence about the length and the content - you were here when she was speaking, so I won't go over it again - the length and content of the chairs' meetings? How long do they take usually?-- Before the full council meeting?

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Yeah, before the council meeting?-- Usually it's called for 12.30. We start full council at 1 o'clock, but usually people are late and we don't get in there until about 20 to, or something like that, but it usually lasts around 15 minutes and it's only to - you ask the chair of those committees if there's any changes in the agenda, or any proposed changes in the agenda, that's all.

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There's no secret plans hatched to vote any way - one way or the other on any issues?-- No. Virtually you just go around the chairs and say, "Is there going to be any change in your committee agenda?"

Thanks.

CHAIRMAN: Mr Clarke, before you go, that answer you gave about whether you had said anything about Mr Clarke receiving any assistance from Mr Stephens, you answered it by saying that you had no contact with Ms Chrichlow before the elections. I - I'm having difficulty remembering precisely - and Mr Mulholland might be able to help - I thought that Ms Chrichlow was actually talking about after the elections when she said-----

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MR CLARKE: Yes, sorry, I didn't pick-----

CHAIRMAN: -----that.

MR CLARKE: I didn't pick that up.

CHAIRMAN: At any stage after the elections, even if you weren't talking directly to her, did you make some comment along the lines of Mr Stephens having given some help in some form to Mr Clarke in his election campaign?-- No, sir, I don't.

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Okay. Yes, Mr Mulholland?

MR MULHOLLAND: Thank you. Mr Hackwood, just in relation to the Sunland discount matter again and your reference to having changed your intention because of the indication that - by Mr Abedian that he would make a donation of the amount of the discount, how did you receive that information?-- I can't exactly recall, but I went into the meeting believing that the rate notice went to the wrong address. I had some sympathy towards them for that, but, quite clearly, I would have said no to the discount being given, but after I heard that - and I can't recall how I heard that that he was prepared to give a donation back to the council for charity that changed my mind.

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The evidence is that representatives of Sunland attended the committee meeting on the 9th of November. That's Ms Jamieson, Mr Abedian's wife, and Mr Brown?-- Mmm.

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There was no representative at the full council meeting, but then Mr Abedian came along to a further council meeting on the 28th of February 2005 when the donation cheque was handed over?-- Mmm.

Now, just accepting that to be so, you seem to have a recollection that, what, you heard something between the committee meeting and the full council meeting?-- Well, it must have been where I heard that that was going to happen, so just probably in gossip between councillors or officers or something that that had been recommended at the committee meeting, I would say.

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And that's the basis on which you voted?-- Yes, that's correct.

Yes, I've nothing further, thank you, Mr Chairman.

CHAIRMAN: Yes, Mr Hackwood, you're excused. Thank you for your evidence.

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WITNESS EXCUSED

MR MULHOLLAND: We now are not ready for Mr Fish until 3.15, Mr Chairman, if we could adjourn until then.

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CHAIRMAN: Yes. All right. Well, we'll have an early lunch. Yes, Mr Webb?

MR WEBB: Mr Chairman, just before we adjourn, I've been asked to raise the question, the second stage of the inquiry, what you really proposed in relation to that. Were you going to have a formal break and then have witnesses called in respect of that?

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CHAIRMAN: Well, I won't - I don't envisage witnesses called in respect of that. No-one will be in the witness box and put on oath because all they'll be doing is expressing their opinion to assist the Commission. What I'm proposing, Mr Webb, is that we will issue a discussion paper at some stage, hopefully before Christmas, and that will go out using the discussion paper as a way of - as a basis and hoping to address people's minds to issues that we think might be relevant. They can raise other issues, of course, relevant to the terms of reference if they want to. We'd give some time for those submissions to come back in and I would envisage then some time after that, perhaps a couple of days - one or two days where people will be invited to speak to those submissions. Now, that won't be everyone who make submissions. It would be certainly people like the Local Government Association of Queensland. Perhaps the Local Government Managers Association. We'll see as the time goes on. That will be formulated more specifically at a later time

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MR WEBB: Thank you, Mr Chairman.

CHAIRMAN: But that's what I'd be envisaging.

MR WEBB: Thank you.

CHAIRMAN: Yes, if we can adjourn till 2.15.

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THE HEARING ADJOURNED AT 12.37 P.M. TILL 2.15 P.M.

THE HEARING RESUMED AT 2.25 P.M.

CHAIRMAN: Yes, Ms Hamilton?

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MS HAMILTON: Mr Chairman, at this stage I'd just like to call Inspector Kenneth Bemis in relation to Mr Fish and the search for the tape issue that was raised this morning.

CHAIRMAN: Yes.

KENNETH WILLIAM BEMI, SWORN AND EXAMINED:

MS HAMILTON: Yes, could you state your full name and rank, please?-- My full name is Kenneth William Bemi. I am a detective inspector of police currently performing duties at the Commission.

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And this morning did you accompany Mr John Fish from the Commission in order to try to locate a tape-recording?-- I did, yes.

Could you outline briefly where you went and what you did?-- I made notes of-----

Yes, you may refer to your notes?-- -----those travels at the time. Thank you. Okay. As Mr Fish and myself departed the Commission here this morning, we first attended the office site of Fish Developments, and that's situated on the corner of Sickle and Sheahan Avenue at Hope Island. Once there, a search was conducted by Mr Fish and another staff member of a storage container. Inside that storage container there were a number of boxes that were searched, along with general places in the storage container itself. That was at 11.19 a.m. when we first arrived there. At 11.28 a.m. Mr Fish and myself entered his office and he conducted a search of filing cabinets and also desk drawers.

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And can you just say where is that office located?-- That office is located inside the building of Fish Developments on the corner of Sickle and Sheahan Avenues at Hope Island.

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Mmm-hmm?-- After the office was searched, we then returned to the storage container and another search was conducted of that container, and there was no tape located at either the storage container or the office of Mr Fish. We then departed the office of Fish Developments and attended the corner of Sickle Avenue and Hope Island Road at Hope Island, a place called Village Square. It's the old arts and craft market. We arrived there at 11.40 a.m. on today's date. There were three storage sheds side by side that were actually searched by Mr Fish. They were numbered "46", "47" and "48"; three different numbers, but they were all combined together to make one storage shed. Inside that storage shed there were a number of boxes that were searched by Mr Fish and also another male employee of Mr Fish, and we remained inside that shed until 12.05 p.m. on today's date. The search did not reveal any tape that was sought at that stage. We then departed that location and Mr Fish received a phone call on his mobile phone from an unidentified person. As a result of that phone call we returned to the Village Square arts and crafts market. It was at approximately 12 20 we attended another storage shed. That was storage shed number 82. There were a number of boxes that were searched by Mr Fish and the same male employee that assisted in the previous searches. On this occasion there were two white envelopes located containing a micro-cassette

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tape in each one. So there were two white envelopes and two micro-cassette tapes. However, they did not relate to this present matter. And at approximately 1 p.m. on today's date we departed that location and returned to the Commission here.

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All right. And Mr Fish indicated, did he, that there was no other place that he could look for that tape?-- He did indicate that to me, yes.

All right?-- Although he did state that he would try to remember and make an effort to keep looking.

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Yes. Thank you. I have no further questions for this witness.

CHAIRMAN: Yes, thank you. Thank you, Inspector.

WITNESS EXCUSED

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MS HAMILTON: And, yes, I recall John Fish to the stand.

JOHN MERVYN THOMAS FISH, RECALLED:

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MS HAMILTON: Mr Fish, you remain on your previous oath, do you understand that?-- Yes.

Mr Fish, you heard what Inspector Bemis had to say about the searches conducted this morning?-- Yes.

Do you agree with his evidence?-- Yes.

You have not located any tape?-- Not at this time.

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And you have searched every place that you say it could have been?-- No, I don't. I've searched everywhere that we could possibly do this morning and as I said to Inspector Bemis I'll continue to do so and this morning I was interviewed by Commission officers and I said that I'd fully cooperate and that I - what privilege that I reserved yesterday I had considered and was fully cooperating and should I find the tape I will promptly hand it to the Commission.

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Mr Fish, is there any other person in the world who has seen this tape or heard it?-- No.

Is there anybody else apart from you who has any knowledge of this tape?-- My wife does.

What does she know?-- Well, she basically - she's my wife, I tell her everything we do and she was-----

So she-----?-- -----she was aware of - of the events in November 1998.

Because you've discussed it with her?-- Yes.

Was anybody else present in your office when you allegedly taped this conversation?-- No.

Were you expecting the telephone call-----?-- Absolutely not. From Mr Young you mean? 10

Yes, it was an unexpected call, was it?-- That's correct.

Do you have a setup existing to tape in your office?-- No.

Well, how did you tape the telephone call?-- I used a hand-held little voice recorder used for recording stuff for your secretary to type. 20

All right. Well, it take it then you wouldn't have been taping from the beginning of the conversation?-- No. I got a call through from the receptionist who said she had a Mr Peter Young on the phone and would you like to take the call.

Yes, and what did you do?-- Waited a minute, pushed the speaker button and turned the cassette tape on.

So you're saying you did tape it from the beginning?-- Well, from - from the moment that he was about to come on, yes. 30

So it's your sworn evidence that you taped a telephone conversation with Mr Young?-- That is correct.

In November 1998?-- That's right.

That you had possession of that tape?-- Yes.

But that you do not currently know its location?-- I don't - I - as I said, I would happily hand it over. 40

And this is a tape that you've never shown to anybody else?-- No.

In the world. Well - and I think you told us yesterday you hadn't seen it for five years?-- That's correct. I've had no - I've had no purpose to have it.

When did you last see it?-- When I left my office at Jefferson Properties and transferred my office to Hope Island Resort. 50

When was that?-- 1999.

And where was it then?-- It was in my filing cabinet.

Did you play it after you recorded it?-- Yes.

When have you last played it?-- Probably 1988.

Nineteen-----?-- 1998, sorry.

And in what circumstance did you play it then?-- Just played it - had it on file and we had the appeal three days later.

Sorry, so you're saying you played it-----?-- Played it to myself.

-----shortly after-----?-- Yes.

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-----it was recorded. And that's the last time?-- Yes.

You've ever played it?-- That's correct. Oh, I might have played it once more but - immediately after - I might have played it twice, run through it.

Just to yourself?-- Yes.

You've never - never played it to anybody else in the world?-- No.

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Well, Mr Fish, I suggest to you that it would be open to the Commission to conclude that the reason you have not produced this tape is that no such tape exists and that your evidence about it is a fabrication; what do you say to that?-- What I say to that, that is an extreme prejudice on your behalf to suggest that and the tape - the tape did exist and probably still does.

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Probably still does but you can give us no information at all about where it might be?-- No. I can't. My dealings with Mr Young as far as I'm concerned concluded at the end of the Planning and Environment Court hearing on my land in Sickle Avenue in November 1988.

But you've continued to talk about it for many years after that event, haven't you?-- Only when he popped up in Council. I could not believe it was the same Peter John Young devoid of ponytail.

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Mr Fish, I'd just like to ask you one question about the minutes you produced of the Hope Island Master Plan Steering Committee-----?-- Yes.

-----do you remember those minutes? This is Exhibit 242. Do you have a copy of them there? Could you turn to page 2 of the first date of the minutes? It says in the second paragraph, "It was agreed that the committee should not seek to obtain advisory committee status as this would require Council approval"?-- I read that.

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Do you recall that discussion?-- Not particularly.

Was there any reason why Council approval was not being sought for the committee?-- I - I don't understand why it was not or why it wasn't - I assumed if you're there with the rest of the Council that it's Council business.

Well, there was one Councillor, wasn't there, and some Council officers?-- Yes.

All right. Well, you can't add anything further to what appears in the minutes?-- Well, I think you're attacking one small little piece of that.

This is what I'm asking about, this note in the minute, that the committee would not seek advisory committee status as it would require Council approval?-- Meaning?

It appears to suggest that the Council, as a body, would not have known of this committee at that time or that their approval had not been sought for the committee?-- Well, I think you're clutching at straws there.

Excuse me, Mr Fish. I wasn't there. I'm asking you, who evidently was present at this meeting, what this notation means?-- Well-----

You're listed as being present at the meeting, are you not?-- Okay, yes, I am. And if you read further down, read the page, "Further, it was resolved that major projects are to be involved in all aspects of the committee's activities to the extent the council is involved in the process."

Yes, I can read that, Mr Fish. I'm just asking you about the comment I've referred you to. Can you add anything to that or not? You don't know?-- No, I can't.

Thank you. That's all I wanted to know. I have no further questions for this witness.

CHAIRMAN: Yes, Mr Boddice.

MR BODDICE: Thank you, Mr Chairman.

CHAIRMAN: Mr Boddice, you might need to move the microphone along. We'll see what we can do.

MR BODDICE: Mr Fish?-- Yes.

I suggest to you that the reason that you haven't been able to produce the tape is because there is no such tape?-- That's your suggestion. I'm saying that I did tape and I did have the conversation.

And the reason that you cannot produce the tape is because no such conversation occurred with Mr Young?-- Well, if I can just refer you back to Councillor Young's evidence which was reported in The Gold Coast Bulletin, can you give me any reason why your client has said, "It's an allegation I reject absolutely. I certainly had a conversation with Mr Fish in November 1988 - 1998. He and I were foes. By this point in time"-----

Do you agree that there was a history of disputes between Mr Young and yourself in relation to your use of the properties that you owned?-- He took our company to Court, yes.

Well, he did more than that, he also complained about unlawful activities that you were engaging in on the properties, didn't he?-- He did.

See, what I'm - you gave a chronology which, I suggest to you, was a very brief and not a complete chronology in relation to things. What I suggest to you is that you, that is - when I say "you" I'm talking about your companies, okay, that owned the properties?-- Correct.

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That you initially sought rezoning of the properties in 1994?-- Around that time, yes.

And that that was opposed by Mr Young?-- Probably was '95 but, yes, carry on.

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And that in 1995, Mr Young complained about unlawful works that were taking place on the properties?-- That's correct.

And that in November of 1995?-- Excuse me, the phone.

And that in November of 1995 your company's made a-----?-- Excuse me, can you give me the chronology that I handed out yesterday? I don't think I have a copy of it.

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CHAIRMAN: Yes. Could the witness see Exhibit 270 please?

MR BODDICE: Are you right now, Mr Fish?-- Perfectly.

Then in November of 1995 your company's made a combined application for rezoning and subdivisional approval?-- Yes.

And then in December of 1995 Mr Young appealed against an approval for that subdivision?-- Yes.

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And rezoning? And that you also appealed against the conditions that had been imposed by the council?-- I think you're on the right track.

Mmm, hmm. And that in April of 1996 you withdrew the subdivisional component of your application?-- I don't know exactly the-----

The dates?-- Yes.

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But you agree that you did - initially, you withdrew the application for subdivision?-- I may well have.

And that subsequent to that Mr Young then withdrew his appeal in respect of the approval that had been given?-- That could be right.

And that in 1996 Mr Young further complained to the Gold Coast City Council about unlawful works that were being carried on at the site by your companies. These were things such as dumping of waste materials or fill, drainage work, changing the levels of the properties. Do you recall complaints in relation to those matters?-- Correct.

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That in September of 1996 you withdrew your appeal in relation to the conditions the council had imposed on the rezoning?-- I've been involved in a lot of subdivision applications. I got this from out town planning consultant who gave me - we had a long history of to-ing and fro-ing over this property.

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All right. Well you agree----?-- And I'll agree with that.

-----at some point you withdrew your appeal?-- Look, we withdrew an appeal, put in another application - like, we're dealing with somebody that had a - was very involved in - the neighbour, Mr Young, was very involved in the process, yes.

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And that subsequent to withdrawing the appeal you then applied for certain changes to the levels of the land and things like that?-- Yes.

That in September of 1996 you threatened Mr Young with defamation proceedings?-- Correct.

That in October of 1996 you issued defamation proceedings against Mr Young?-- I think by this time we may have had enough of Mr Young's antics, yes.

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And this was in relation to an article which appeared concerning works that were taking place on your property which were said to be unlawful works? That's what the defamation proceeding was about, wasn't it?-- I don't remember fully what the defamation was about.

And in November of 1996 the council directed that you had to undertake some reinstatement and rectification works on the property?-- Correct.

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In April of 1997 you made an application to subdivide the land?-- that's right.

Which was approved in July of 1997?-- Yes.

In October of 1997 Mr Young delivered an amended defence in the defamation action?-- I think you've gone a long way to demonstrate that. Yes, we had a lot of involvement over a very small block of ground, yes.

50

And in October of 1997 was when the Sickle Road, or Sickle Avenue, submission was made - that is the objection by Mr Young to the Sickle Road development - or Sickle Avenue development?-- The 1.12 kilometres from his house, yes.

Now in March of 1998 an appeal was lodged by Mr Young in relation to the subdivision approval for your Copps Road property or properties?-- It does say that. Are you sure he didn't do one - an extra one in between them?

1

And in June of 1998 the Sickle Avenue proposal received approval?-- Yes.

And then also in June of 1998 the Copps Road appeal was dismissed?-- Mr Young's last appeal?

10

And in July of 1998 an appeal was lodged in respect of the Sickle Avenue approval?-- Yes. And in my evidence is what I said was that our dealings with Mr Young at Copps Road next to his house where I said that he was quite welcome to appeal. Because he was, the adjacent owner - and I respect the adjacent owner's rights - we had a very long drawn-out expensive campaign at which he then went to a property 12 kilometres away and was some five months after that appeal had gone on.

20

Do you recall that in relation to the Sickle Avenue appeal you had a meeting with Mr Young on the 26th of October 1998?-- I don't know the exact date.

You agree that you had a personal meeting with Mr Young?-- I did have a personal meeting with Mr Young.

More than one?-- We had a meeting at my office, I believe.

30

More than one meeting?-- No.

And that-----?-- I don't recall having another one, anyway.

And that meeting was actually called at your request - the one of the 26th of October?-- I don't remember who called the meeting.

All right. Would you have a look at this letter, please? Is Sue Hughes your executive assistant or was she at that time?-- Yes.

40

And you'll see that that's a letter to Mr Young asking that you wish to discuss outstanding matters. I'm nominating a date and I suggest to you that those dates didn't suit but as the notation indicates the 26th of October was the date?-- Yes.

Well, you accept that the meeting of the 26th was called at your request?-- I've - I've called for the meeting, yes.

50

All right then. And do you recall that prior to that meeting there in fact had been a without prejudice meeting held between the parties to the appeal?-- Yes.

And that had been held a few days before?-- Yes.

And at that without prejudice meeting Mr Young had indicated that he would indicate by the 26th of - sorry, he would indicate by the following Friday whether he was intending - whether he would be pursuing the appeal?-- I don't remember exactly that detail, no.

1

And I suggest to you that indeed Mr Young wrote to your solicitors and to the council's solicitors on the 26th of October 1998 advising that he was intending to pursue the appeal?-- Yeah, he intended to pursue with the appeal, yes. And he did.

10

Now, I suggest to you that there was also a personal meeting between Mr Young and yourself on the 2nd of November?-- I don't recall the personal meeting.

I suggest to you that it wasn't by telephone, it was in person?-- I don't recall the in person - the in person - the meeting.

20

And I suggest to you that when you met in these meetings in October and November the situation was that there had been this long-running dispute between yourself and Mr Young in relation to your use of the Cox Road property, with the defamations proceedings still on foot in relation to that use of the property?-- Right.

You agree that defamation proceedings were still on foot?-- Yes. I think it was still on foot until after 2000.

30

And what I suggest to you is that the conversation that Mr Young related in his evidence, which is the conversation you referred to before when Mr Young indicated, and this is at 1567 of the transcript, that Mr Young indicated that you just didn't get along and that you were always going to fight about stuff, and the best way we can deal with this is just to get away from each other, but the context of that was this long running dispute with the use of Cox Road and the defamation proceedings?-- Surely you're not that naïve.

40

And it had nothing to do with the Sickie Avenue appeal which he had indicated that he was intending to pursue?-- If you believe that, sir, you truly astound me.

I'm putting to you that the conversation-----?-- Again.

-----with Mr Young occurred in the context of a long running dispute between you and he about the Cox Road property?-- Mr - I think you've reiterated very well-----

50

And the defamation proceedings?-- -----that Mr Young and I have had a long dispute over the property at Cox Road.

Well, I'm putting to you that the conversation that occurred was in that context and nothing to do with the appeal of Sickie Avenue?-- Oh, okay. So that's it, so it's explained.

Do you agree or disagree with it, Mr Fish?-- I disagree that Mr Young put it to me in the basis that he was aggrieved and that he was needing to get away from me. Mr Young bought that property in 1994 for \$270,000. It was primarily in a wildlife corridor and had little chance of being rezoned ever for anything useful as development terms

1

And I'm putting to that what occurred in this conversation with Mr Young was that Mr Young indicated that he was intending to pursue the Sickle Avenue appeal?-- And that's - that's exactly the context of the conversation.

10

And that Mr Young-----?-- "Buy my property and I will desist from the appeal and we will go our separate ways," sir.

I'm putting to you Mr Young said no such thing. Mr Young said to you words to the effect of, "Look, you and I, John, we just don't get along. This - we're always going to fight about stuff. The best way we can deal with this is just to get away from each other." I said, "John, I'll buy your properties. All I've got is one - is \$600,000, I'll give you that or you buy mine for a million." That was the conversation that occurred between yourself and Mr Young?-- So you believe that that's the conversation.

20

I put to you that is the conversation that occurred between you and Mr Young?-- Well, if you believe that yourself you read too many Dr Seuss books.

Will you agree or disagree?-- I disagree strongly, sir.

30

Mr Fish, do you say that in this conversation with Mr Young there was a discussion about Mr Young buying your properties?-- I don't recall Mr Young saying that he was going to buy my property for \$600,000. I probably would have been shouting over the top of him. I paid \$2 million for it. So how can you get in one context he wants to buy mine as he said for 600 and then that I paid 2 million for and he wants me to buy his property for a million dollars that he's paid 270 grand for and it's got very limited opportunities to do anything with it. So I put it to you that you might be misunderstanding your client.

40

Mr Fish, the Sickle Avenue property you've agreed was geographically a distance away from Mr Young's private property?-- Correct.

The issues that Mr Young pursued in relation to the Sickle Avenue appeal was the size of the development? Do you agree with that?-- I don't exactly agree his grounds for appeal.

50

I will-----?-- Or his reason for being there.

Asking for more public space and details in respect of bikeways, et cetera, provisions for those things. Do you recall that?-- Listen, I don't recall the exact facets of the appeal that he made.

Now, do you agree that the appeal was heard on the 9th and 10th of November 1998?-- Around that time, yes.

1

And do you recall that your company actually prepared an amended development plan in December of 1998?-- We may have amended a plan.

Which amended-----?-- That's quite common.

And what happened was that the original request was for a development of 187 units?-- Right.

10

And I suggest to you that what happened from the appeal process, and I suggest judgment was given in February 1999, was that the units size was reduced to 185 units?-- Yes, that's the current approval.

And that there was a requirement for you to set aside some dedicated public space on the southern boundary of the property?-- Yes.

20

And that there was a requirement for you to reconfigure the intersection relevant to the property to allow for the provision for a bikeway?-- Mmm.

Do you agree?-- Mmm.

And that you also-----?-- It was - it was 187 down to 185-----

-----you had to provide-----?-- -----a significant decrease.

30

You had to provide for dedicated public space. Do you agree with that?-- That's usually consistent with most applications.

You agree that in the judgment - in the order that followed the judgment that there was a requirement for you to reconfigure the intersection to allow for provision for a bikeway?-- Yes.

And also that there was an increased contribution to be made by your companies for the provision of infrastructure to Hope Island?-- Right.

40

Agree with that?-- Yeah.

Yes?-- Mmm.

Is that a "Yes"?-- Yes.

Mr Fish, yesterday you gave some evidence that - and this is at 1940 of the transcript - you had had a conversation with a developer who had suggested that he had contributed to Mr Young's campaign on the day before the election?-- Correct.

50

Was this developer saying that that was he personally or was he talking about somebody else?-- Him personally.

And who was this person?-- I refuse to say.

Why? Are you worried about the person denying what you're saying?-- No.

See, I suggest to you that there was no such contribution made by a developer the day before the election to Mr Young, or you - I suppose the point is you say you were just told something by the developer. Is that right?-- Well, I believe that there was a donation made.

10

But you won't tell the Commission-----?-- That's correct.

-----who that person was?-- That's correct.

Well, I put it to you that's because this conversation did not take place?-- You've put to me a lot of things that I believe are fabricated-----

Well, are you going to agree or disagree with it, Mr Fish?-- Listen, I said, and I stand by my statement.

20

You gave some - you also gave some evidence today that you'd had no further dealings with Mr Young after 1998?-- Oh, except for a - as in his evidence at the one Council matter.

Well, do you recall that you, for example, wrote to Mr Young in 2001, in September of 2001, in relation to a subdivision proposal-----?-- At Oyster Cove, yes.

-----for Oyster Cove?-- Yes. That's already was in Mr Young's evidence.

30

You gave some evidence yesterday in relation to these payments to the trust fund?-- Yes.

And you said that you had paid \$10,000 to the trust fund but that your understanding was - and this appears at 1934 - that the fund was to have 25 developers donating \$10,000 each to make a pool of \$250,000. Do you agree that was your evidence?-- Yes.

40

And that you indicate in your evidence yesterday that your understanding was that each of the candidates would get \$60,000 each?-- Well, that's if there was four or - four or so candidates, yes.

If that was the case, why did you make further contributions personally to Mr Pforr and to Mr Rowe?-- Why?

Yes?-- That's my-----

50

Over and above the sum of \$10,000 that you knew they were going to benefit from?-- Well, I don't believe that there was ever 25 people that paid \$10,000.

But didn't you make this contribution in you said March of 2004?-- Correct.

Following the meeting with Mr Power, Mr Pforr and Mr Rowe?-- Can you repeat that, please?

1

You made these extra donations following the meeting with Mr Power, Mr Pforr-----?-- Correct.

-----and Mr Rowe. Were you requested at that meeting to make further personal donations?-- No.

Was there a discussion at that meeting about making further donations?-- No.

10

I thought you said in evidence yesterday that you indicated at that meeting-----?-- I said-----

-----that there may be-----?-- -----it-----

-----further personal-----?-- There was no discussion. I said that if there were further funds needed that I would be available to contribute further. That's what I said.

20

At this meeting there certainly was - you don't call it a discussion but anyway there was mention of the fact that you may contribute further funds personally to these candidates?-- Correct. And I was asked by the Commission to table the bank records of the payments yesterday and I brought them along, so.

Was the purpose of the meeting to have you contribute further funds?-- I don't believe so.

30

The purpose of the meeting was to discuss the trust fund though, wasn't it?-- No. The purpose of the meeting was to introduce Grant Pforr and to bring Brian Rowe along.

But also to discuss the trust fund?-- We didn't discuss the trust fund, I don't believe, in - in any manner.

Well, yesterday at page 1933 at line 50 when you were asked a question in relation to your giving further personal donations you said at line 40, "I mentioned that there would be potentially further funding personally from me available to both candidates and I think I discussed a matter relating to Councillor Young." And the question, "And when you say `further funding personally'", "Yes", "Does that mean that the funding through the trust account was also discussed?" And your answer was, "Well, that's principally why they were there, yes."?-- Well, they - they were principally there not - you're reading something into it. They were principally there because-----

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50

I'm reading your evidence, Mr Fish?-- Thank you. They were - they were there because they were obviously recipients of the trust fund.

No, so you're saying that that's not principally - they weren't there to discuss the trust funds; is that what you're

saying?-- We didn't discuss the trust fund. They were principally there because of the trust fund.

1

Did you provide - you said you didn't know Mr Pforr at all-----?-- No, I hadn't-----

-----before-----?-- -----met him before. I knew of him but had never met him.

But you made a personal - a further personal contribution to his fund-----?-- That's correct.

10

Was that because he had the support of Mr Power?-- That was because I liked the candidate after I'd spoken to him.

Yes, thank you.

CHAIRMAN: Thank you. Just on that point, Mr Fish-----?-- Yes.

20

-----you did say yesterday that you didn't - you make no commitment at that meeting with Mr Power and Mr Pforr and Mr Rowe to make further funding and you said to them to contact - they could contact you if they required further funding. Did they contact you again?-- Yes, they did.

And how did that come about. I don't think you - you'd better tell us about that?-- It would have been by phone call, Chairman.

30

And from whom?-- I think, from both of them.

From Mr Pforr and Mr Rowe-----?-- Correct.

-----or Mr Power?-- No, it was the candidates directly is my recollection.

So they each separately contacted you and asked you then for some money?-- That's right.

40

And did they ask for a particular amount or did you decide on the amount that you would give them?-- I think, Grant Pforr said that he possibly could do with a further \$10,000 for billboard signage and Brian Rowe needed every cent he could get.

Well, what does that mean? Did he ask you for every cent he could get or did you just decide to give him 24,000?-- Well, I think, I decided to give him 24,000.

50

Thousand, okay and-----?-- Oh, here's the-----

Yes. Mr Boddice; I'll take that letter of the 20th of October from Jefferson Properties to your client as Exhibit 275-----?-- Oh, sorry.

MR BODDICE: Yes, I should have tendered that, thank you, Mr Chairman.

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CHAIRMAN: That's Exhibit 275, thank you.

ADMITTED AND MARKED "EXHIBIT 275"

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CHAIRMAN: Oh, that's my copy. Thank you. All right. So your payment to Mr Rowe-----?-- The first one is the single page, I think, sir, with the-----

Yes?-- -----trust account-----

Yes-----?-- -----for Hickey on it.

-----it shows that that was debited to your account on the 10th of March and the one to Mr Pforr is a - that was cheque number 428 and the one to Mr Pforr is cheque 439 debited on the 12th of March?-- Yes.

20

And what does this one show then?-- That's, I think, the original 10,000 to the-----

Oh, yes?-- -----to the trust account.

Yes. And that was debited on the 16th of February?-- That's right, yes.

30

All right, thank you for those. So those photocopies of your - Fish Developments Proprietary Limited cheque - business cheque account will be Exhibit 276.

ADMITTED AND MARKED "EXHIBIT 276"

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MR RADCLIFF I have no cross-examination of Mr Fish.

CHAIRMAN: Yes, Mr Nyst?

MR NYST: Mr Fish; you told counsel-assisting yesterday that you were contacted by Mr Tony Hickey regarding the donations and I think, you said that - he had said to you that they were to be donations to a trust account fund the candidates thought to be of a calibre to go to council. Remember-----?-- Yes.

50

-----giving that evidence. And that all came from Tony Hickey; didn't it?-- Yes.

Well, your first meeting with Mr Power was then on the 24th of February-----?-- Yes.

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-----when Mr Rowe and Mr Pforr were present?-- Correct.

Now, you didn't make any note or other recording of that meeting; did you?-- No, sir.

And it's some time ago now. I suggest that the - the stated purpose of that meeting from Mr Power's point of view was to introduce Grant Pforr to you-----?-- Correct.

10

And you said of the question yesterday, I would have deduced that the money may have been going to be split between them, that's Pforr and Rowe: "So I knew David Power was connected with the trust account and so I assumed they were getting money from it." And is that so; that you - because you knew that Hickey was putting together an account and you understood Power was involved in it, that you assumed that Rowe and Pforr were both to get money from it?-- Yes.

20

Well, I want to put to you is this: On instructions that, in fact, the - that trust account was - did not come into the conversation that day at all?-- No, I - I don't believe that we did discuss the trust account but I think, my - what I was trying to say was that they were there because of the trust account not to discuss the trust account.

Yes, well, you mean by that, I take it, that you assumed because of other knowledge you had that they were there because of the trust account?-- Yes.

30

What I'm putting to you though is, on instructions; David Power did not at any stage raise the trust account with you in the presence of these two people and nor did they-----?-- That's correct.

-----just was not discussed at all-----?-- It wasn't discussed, I don't believe it was.

40

The question of funding was never raised at that meeting?-- Albeit, I think, I said that, there could be additional funding from myself, whether that was said directly at the meeting or as we were walking out, it was definitely said-----

Well, you see, I suggest it wasn't said at least, in Power's hearing at that meeting at all; there was no discussion about funding-----?-- I discussed it - certainly, with Pforr and Brian Rowe on that day.

50

On that day?-- Yes.

I suggest if you did, it wasn't within Power's-----?-- It may not have been in earshot of him, no.

Okay-----

CHAIRMAN: Did Mr Power leave the room at any time?-- Look, it was probably a 25-minute, half-an-hour job-----

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Yes?-- -----and walked out to the car-park and I think, it was along the lines of, "Good to see you Brian. You've got a tough assignment ahead of you. Blah Blah." Yep.

MR NYST: Oh, this is with Brian Rowe?-- And - and Grant would have been there too.

10

Well, you see, what I'm suggesting to you is that this meeting was in these terms, that Power came there, introduced you to Grant Pforr, told you that he thought Pforr was a good candidate, that he was a candidate-----?-- Yes.

-----for the election and a good candidate?-- Yes.

And that the discussion then was pretty much taken up by you in making complaints about Councillor Young?-- I certainly said that I'd had my difficulties. We went through that yesterday, correct-----

20

Yes, you waxed lyrical for quite some time, didn't you, about your dissatisfaction with Councillor Young?-- About my previous encounters with him, yes.

And - I've already put it to you but I'll - for the sake of completeness - the trust account or the trust funds or donations of any kind were not part of that discussion at all?-- No, they weren't.

30

Pardon?-- They were not.

They were not. All right. It is the case, isn't it, that Mr Power, Councillor Power, has never promised you or given you any benefit or preferential treatment of any kind in return for a donation or anything else?-- No. I don't think I've ever given him a donation either.

Okay. Thank you.

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CHAIRMAN: Mr Webb.

MR WEBB: Just a matter I wanted to - I felt I should ask this witness this question since he has no-one representing him, sir. Mr Fish, did you know that when you put a conversation to a witness and the witness says he doesn't recall the conversation, that there's a suggestion that you may go on and put-----

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MR BODDICE: Oh, with respect, this witness - Mr Webb - it might be very nice for Mr Webb to hunt around for clients. He doesn't act for Mr Fish. It's completely inappropriate and I object to it.

CHAIRMAN: Mr Webb, I think I'm perfectly capable of taking into account the fact that Mr Fish was unrepresented without the need for you to ask questions about it, thank you.

MR WEBB: The point I'm making is-----

CHAIRMAN: I know the point you're making, Mr Webb.

MR WEBB: -----a very subtle distinction was put by Mr Boddice to a person who isn't represented.

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CHAIRMAN: Mr Webb, I know the point you're making and I'm perfectly entitled - able to take into account the fact that Mr Fish was unrepresented and was representing himself when he was cross-examining.

MR WEBB: Thank you, sir.

CHAIRMAN: Yes. No-one else? Yes, Mr Martin.

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MR MARTIN: Thank you. Mr Fish, in the telephone call between you and Mr Hickey in which he asked for a donation, do you recall that he said to you words to the effect, "Brian Ray is helping Power and Robbins to get some decent candidates together" or I think "persons of good calibre" I think you referred to in your evidence yesterday?-- I think Brian's name was mentioned.

30

Yes, in that first telephone call, but definitely, as you indicated yesterday, Mr Hickey told you about Power and Robbins being involved; is that correct?-- That is correct.

And indeed, as you said in your evidence, you were aware from that conversation that they were in charge of the disbursement of the funds going into the trust account?-- Yes.

And Mr Hickey told you that he was approaching you because a number of business people, people like yourself involved in business down there, were being approached to donate to the fund?-- I only checked it with one other colleague and he said he'd been approached and he was donating so-----

40

Yes, but what I'm talking about is what Mr Hickey told you, you see?-- Yes.

They were approaching other business people - he may have said developers - about getting donations and the figure of \$10,000 was mentioned; is that so? Is that correct?-- That's correct.

50

All right. You said yesterday that a number of 24 or 25 persons was nominated. Could I suggest that you're mistaken in that at least Mr Hickey didn't actually nominate a number. Could you be mistaken that it was Mr Hickey who told you that?-- It may well have been somebody else but I - I can't recall exactly who said the 25 but-----

All right?-- -----that was the impression I - that it was 25 people donating 10,000

Okay. All right. Mr Fish, there was no secrecy about Mr Power and Ms Robbins being involved in this trust fund; is that so?-- I don't believe so.

CHAIRMAN: Well, you mean secrecy from you?

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MR MARTIN: Well, in that conversation - let me take that up - in that conversation, there was no suggestion by Mr Hickey to you, "Listen, Power and Robbins are involved in this. Whatever you do don't tell anyone about that"?-- No.

Nothing like that?-- Nothing like that.

You spoke about another conversation with Mr Hickey which led to the meeting with Mr Pforr and Mr Rowe. Could I suggest to you that it was in the course of a conversation with Mr Hickey perhaps about other matters that you raised with him that you may be prepared to give additional funds in respect of the campaign?-- Yes.

20

And that he then said, "Well, I'll let Mr Power know"; is that correct?-- Probably.

And from there on arrangements were made, whether by Mr Power or Mr Pforr or whomever, but arrangements were then made to meet Mr Pforr and indeed, it turned out, Mr Rowe as well?-- Correct.

30

What I'm suggesting to you is that Mr Hickey didn't involve himself in the arrangement of that meeting other than to tell Mr Power that you had raised with him that you may be interested in giving further funding?-- I think you'll find that Mr Hickey possibly is involved because of Brian Ray and Brian's always - or, unfortunately not here any more, but was always organising everybody and Hickey would be a person that - why the trust account would be there; it would more than likely have been Brian.

40

Yeah, but there's no doubt about the existence of the trust account. There's no doubt about Mr Hickey telling Mr Power of the conversation. You - you agree that you told Mr Hickey that you maybe prepared to give more funding?-- Correct.

All right. Thanks, Mr Fish.

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CHAIRMAN: Yes, Ms Eggleton.

MS EGGLETON: Yes, I've nothing further for the witness. May he be excused?

CHAIRMAN: Yes. Thank you, Mr Fish. You're excused. Thank you for your evidence.

WITNESS EXCUSED

MR MULHOLLAND: I call Graham Peter Staerk.

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GRAHAM PETER STAERK, SWORN AND EXAMINED:

MR MULHOLLAND: Is your full name Graham Peter Staerk?-- It is.

Mr Staerk, did you receive an attendance notice to appear here today?-- Yes, I have.

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Would you have a look at this document, please? Stay there, stay there. Is that the attendance notice?-- Yes, it is. Yeah.

I tender that, Mr Chairman.

CHAIRMAN: That's Exhibit 277.

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ADMITTED AND MARKED "EXHIBIT 277"

MR MULHOLLAND: Did you receive a notice to discover in relation to this matter?-- Yes, I did.

And did you, in response to that notice, provide to the Commission a letter dated the 31st of August 2005, subsequently a further undated email, was it?-- No. I provided further - I asked for an extension of time to gather further information and provided that directly to the officers here.

40

And you provided a - a letter addressed to the chairperson?-- Yes. I requested, by way of letter, an extension and then provided the material, I think, within a weeks grace.

All right. And with those communications you then also provided material to this Commission?-- Yes, I did. Yep.

50

Would you have a look at first of all, the notice to discover? Confirm that that's a notice to discover you received?-- Yes, that's it. Yep.

Thank you. And then would you have a look at this material, beginning first of all the letter of the 31st of August with enclosures?-- Yes, that's it.

1

Just confirm - just have a look quickly that thats-----?-- of the enclosures?

-----the materials-----?-- Mmm.

-----just have a look very quickly to confirm that that seems to be the material you provided?-- There was other material, but that's not enclosed.

10

Well, have a look now at this further undated letter and the enclosures with that?-- Yeah, that's it.

Is that the totality of the material you provided-----?-- Yes.

-----to the Commission?-- I believe so, without going through every page, yes.

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I tender the notice to discover, together with those letters and the enclosures, Mr Chairman.

CHAIRMAN: Yes. All that material will be Exhibit 278.

ADMITTED AND MARKED "EXHIBIT 278"

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WITNESS: Can I just make a statement, apropos my original statement?

MR MULHOLLAND: Of course?-- There was a question put to me in the notice of discovery. If you go to point 2 on the schedule. The last dot point, about the nature and extent of my association between myself and a variety of council candidates?

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Yes?-- I think if you go to page 3 of my statement-----

This is? Yes?-- I said about half way down I had no dealings with any of the candidates listed.

Yes?-- I'd like to alter that slightly-----

Yes?-- -----in that I did meet with - for about five minutes with councillor - well, then the candidate, Robert Molhoek, at Sydney Airport, probably somewhere between six weeks and four weeks out from the election. I didn't recall it at the time of preparing that statement.

50

Yes?-- I have read Councillor Molhoek's testimony, via transcript since, and he's pointed out that there were a variety of contacts. Robert is an old school friend of mine. We went through Keebra Park State High. We met at the airport

for about five minutes. He told me he was a candidate. I told him I had already been engaged by - by Mr Ron Clarke, at that time, and we parted company. I gave him my business card-----

1

This is on the occasion at Sydney Airport you're talking about?-- -----Yeah, for about five minutes, four to six weeks out, or something - somewhere like that. And I did then receive a - I recall, I don't have copies of them because I no longer have that particular laptop, but I did receive a range of invitations from Rob Molhoek to a range of campaign functions.

10

Yes?-- And I now also do recall making - writing him an email asking him whether he was a part of an alleged grouping that had been publicised in the Gold Coast Bulletin and I know Mr Molhoek - Councillor Molhoek has given testimony to that.

Right?-- So, I'd like to alter my statement to indicate I do have a clear memory of those events.

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All right. Well, that's on the record. You've told us now?-- Yeah.

That meeting that you had at Sydney Airport, did - was there any discussion in relation to the campaign, that is Mr Molhoek's campaign?-- I think since we left high school Robert may have been aware of the career I'd subsequently gone onto in the political sector and he did make a comment that, you know, we - that he'd be appreciative of my advice at some stage. He proceeded not to ask my advice at any stage, but that was the only comment he made. He said that he was a serious candidate for election and that he would stay in contact. He didn't proceed to stay in contact other than via email.

30

All right. Well, you didn't discuss, for example, any meetings that might have occurred at Quadrant for example, or anything of that kind?-- No. I was - I think I'm like most people on the Gold Coast. We gained most of our information about the so called alliance of candidates and the involvement of the company you talk about via reports in the Gold Coast Bulletin.

40

Right. Now, is there anything else that you want to add to the material that you've supplied to the Commission?-- No, the balance is as I remember it.

And nothing that you want to change?-- Nothing that - nothing I recall, no.

50

All right. Now, your occupation is in - or your business is in public relations; is that correct?-- Generally speaking, yeah.

Right. You have a, what, a public relations firm?-- I've for the last 10 years run a public relations firm in a - in a

range of - in a range of constructs and currently still working in the industry, yes.

1

You've mentioned just now an email with Mr Molhoek. This is Exhibit 20. And Mr Molhoek spoke of this at page 98 of the transcript. This is the email from you to Mr Molhoek, "Good luck, mate" - this is of the 3rd of March 2004 - "Good luck, mate. Are you really not running with Power. I hope not. I think there's a clean out coming of most councillors", and Mr Molhoek wrote back to you of the same date, "Definitely aligned with any bloc" is what he wrote, and you would have seen that he said "unaligned" is what he meant?-- Right.

10

"Definitely aligned with any bloc!! Just want to get in and suss out the lay of the land when I'm there." Are those the communications you're referring to?-- Yeah, I do recall that email and - and like you, I - I took that word to be extraordinary and therefore took it - I took it as "unaligned" at the time because you know, it was a word that stood out in an email to the contrary.

20

Yes. Well, he had a few exclamation marks after it, I suppose?-- Sure.

The email by you to him, however, "Are you really not running with Power", what caused you to send that email?-- Oh there had been a - I think the Commission needs to take note of the fact that we all down the Gold Coast read the Gold Coast Bulletin quite avidly and you know, there had been a range of stories and concerns and suspicions raised in - in - in the Gold Coast Bulletin over a period of time.

30

About what?-- About there being an alleged group of - of funded candidates working in alliance.

Right?-- Obviously I read - I'll finish the question - the answer. Obviously at that time I was engaged by Ron Clarke, Mr Ron Clarke. It was my job, you know, essentially around public relations to know what's going on, to read the paper avidly, to promote his case and obviously I gleaned from numerous readings of the - the daily editions of the Gold Coast Bulletin that - that there seemed to be an appearance of an alliance of candidates and that's why when I got Rob's email, I was concerned that he not be a part of that.

40

Well, I don't know whether you've addressed the specific point of my question?-- Yep.

Would you deal with the specific point of the question?-- Sure.

50

And that is the content of the email to this effect, "Are you really not running with Power". Why did you mention Power in this email?-- I - I think there had been some news coverage at the time that Councillor Power at that time may have been involved in it.

Right?-- The - the motivation for saying it was clear and I make it very clear. I was employed by Councillor Clarke, Mayor Ron Clarke, being a civilian to work on his campaign. I had been around politics for a fair year and I was concerned about there being a majority of candidates that may interrupt or interfere with the mandate of Mayor if - if Mr Clarke was to become Mayor and that was the intent behind the email.

1

Let me see if I understand this correctly. You gleaned from the media that there was some reference to a, what, some group of candidates?-- Well, I not only gleaned from the media - and you may want to lead me through some chronology there. I also gleaned that - that Councillor Power's involved in a grouping arising from a conversation I had with Brian Ray-----

10

Yes?-- -----as an aside, and either - at a meeting either before or after - you'd have to lead me through the chronology, but I - I gained the knowledge that Councillor Power was involved in some effort by Brian Ray and that led me to be concerned about what that might mean for the ultimate fortunes of Councillor Clarke.

20

Right. Now, the part that you're referring to is your statement?-- It is, indeed.

In which you refer on page - well, you say on page 3 - you say - first of all on page 2 you said, "Ray Group" - you're dealing with dealings that you had with different people and groups?-- Mmm-hmm.

30

"Ray Group provided some consultancy services to Brian Ray in the period 1998-2000 on the Echo Beach, Calypso, Cairns, Naughty Noodles, and a Brisbane shopping centre development"?-- Correct.

And then you say, "I had no dealings with any of these companies in relation to" - and you deal with other companies as well ?-- Mmm-hmm.

"I had no dealings with any of these companies in relation to the Gold Coast City Council elections other than to be informed by Brian Ray of his involvement in supporting candidates for election on the Gold Coast"?-- Correct.

40

On page 3, "for memory" that should be "from memory"; is that what you're saying?-- Yes, it is. Typo.

"From memory, this meeting was held about one or two weeks out from the election and was called to discuss other matters in relation to the Tweed Shire Council elections where Mr Ray was critical of my role and that of others in the Tweed." Now, just pausing there for a moment, you provided with your statements material, that is media publications, containing reference to your part in the Tweed Shire Council elections?-- Yeah.

50

You were essentially involved in gaining - in a majority group gaining control of that Council. Would that be-----?-- I was

a consultant to a grouping in the Tweed that backed a - a majority of team - of teams - teams of teams.

1

A developer-backed group?-- Oh, it - look, it was backed by developers and business interests in the Tweed or people from - external to the Tweed with interests in the Tweed but-----

And it was successful?-- Oh, at the end of the day it was but with - with the other results that you'd be well aware of.

10

You - would you accept - would you accept the - what was your role? Were you a strategist?-- I was a paid - no, I was a paid consultant of a grouping called Tweed Directions which had, at the time, an unfortunate name similarity with my own company and I was employed, hired by - interviewed, employed by - as a consultant on the strategy and media and advertising side of the equation given my experience in the sector over the years. I came to the notice of people involved in the Tweed because of some client contacts I had but to come back-----

20

Well, I don't want to go down that track-----?-- Yes, I know-----

-----but we can shorten this?-- Yes, yes.

Can we shorten this? Were you a strategist in support-----?-- I was one of - one of a group of about 10 people who thought they were the strategists.

30

Right. You all thought that you were the chief strategist, I suppose?-- Well, look, if you've been a few - everyone is right in a campaign.

Particularly when it was successful?-- Victory has many mothers.

Right, well, that's the background-----?-- But can I come back to your point about Brian Ray?

40

Yes?-- Mr Ray had been extremely critical of - of the campaign in the Tweed largely because he wasn't a part of it and I loved Brian dearly and he was a sensational human being but I had no respect for Brian's political nous. And Brian is an inveterate fiddler in the political sector and loves to be a part of making things happen and we didn't allow him to get anywhere near making anything happen in the Tweed.

Well, look-----?-- Brian was - Brian was critical of the tactical and strategic approach we took. He'd made that plain to other persons involved in the Tweed.

50

One of the things he'd made plain, Mr Staerk, was that he was in favour of making public donations, was he not?-- Oh, look, I've never met a developer who's-----

No, no, just address the question. That was one of the stances that Mr Ray took in relation to the Tweed?-- Well,

Brian Ray ultimately didn't make a donation in the Tweed and that's-----

1

No, no, but he was-----?-- -----that's a fallacy that's been repeated here. Brian - Brian's view about donations - and I didn't discuss donations with Brian at any time, at any time, but I have second-hand that that was not Brian's concern about donations to the Tweed.

He-----?-- Brian's concerns about donations in the Tweed was about the nature of the campaign we were running and how that might upset the State Government and therefore his development interests with the State Government.

10

But just listen to my question. Was one of the matters that Mr Ray took issue with in relation to the Tweed elections and the campaign is that he would have supported publicity to donations - making public-----?-- No, that was - no, that's profoundly false. Every developer-----

20

Okay. So he didn't have that view?-- No, no, and it was never expressed to anyone in the Tweed group and Brian Ray knew, along with everyone else in the Tweed, and hopefully everywhere else where donations are made, that in this day and age all donations are made public and are transparent. Brian's issue was never transparency in the Tweed.

Well-----?-- Brian's issues in the Tweed and the reason we had the meeting I refer to in my statement was tactical and strategic. Brian had concerns that it was an extremely hard-edged - extremely hard-edged campaign in the Tweed and that-----

30

Look, can we get away - can we leave the Tweed for a moment?-- Certainly.

I want to just set that as a background to what you then go on to say?-- But can I just make the point that Brian never voiced any concern about the transparencies in the Tweed. It was never an issue, ever.

40

Okay. Well, this meeting which you say, at the top of page 3, was held one or two weeks out from the election-----?-- Mmm.

-----and we began this discussion after referring to this e-mail or the e-mails of the 3rd of March. Now, you say one or two weeks. As I understood your evidence, the e-mails had followed this meeting with Mr Ray. Does that mean to say that this estimate of yours of one or two weeks would be longer than that?-- Yes. In discussing with the colleagues that I - that attended - the colleague that attended the meeting, Mr Paul Brinsmead - I believe he's appeared here previously - Paul informs me that it would have been perhaps five to four weeks out but-----

50

Right. So this is-----?-- -----what tends to - that's an inaccuracy and what tends to happen in campaigns is you lose

sight of time so in terms of my recollection, it felt like one to two weeks but, on recollection, I'm sure Sue Davies-----

1

Mr Staerk, I'm not trying to cut you off but, truly, we will finish a lot quicker if you just direct yourself to the question that I'm asking?-- Sure.

Would you please try to do that?-- That time period is incorrect.

10

Right. Now, would the - what's the best estimate, having regard to what I've put to you, as to the date of this meeting with Mr Ray?-- One month or slightly worse.

Before the election?-- Yes.

So it would have been?-- Five to four weeks.

Right, so - so, what, around the 20th to the end, 20th of February to the end?-- It would have been February. If it was a month it would have been February. There were other matters that led me - lead to me to have a clearer understanding of the time frame because as a result of that meeting other things then happened. It would have been a month.

20

A month?-- About.

So - so we're talking about late February?-- That would - given the election was on the 27th of March, yes.

30

Now you said that it was as a result of speaking to Mr Brinsmead, that is the Mr Brinsmead who gave evidence here?-- Mmm-hmm.

Which has led you to conclude that this meeting was earlier than you gave in your statement. Was Mr Brinsmead at this meeting?-- Yes, he was.

Where did the meeting occur?-- At Robina, at Brian Ray's headquarters.

40

And how did you come to go to Mr Ray's office?-- I think Brian Ray and Paul Brinsmead had been close friends and business associates. I think Paul had offered legal services in the past. Paul and I were both very aware of Brian's extremely critical view of the Tweed and Paul had had a falling out the night before on the phone and-----

With Brian Ray?-- With Brian Ray and they agreed to meet the next day to talk things out and Paul invited me to the meeting.

50

What had that falling out been about?-- Brian's view about a tactical approach.

To the Tweed?-- To the Tweed election.

Right. So-----?-- You must understand, in the context that Brian had been kept extremely arm's length in the Tweed.

1

You mean he hadn't been - he hadn't been kept in the loop?-- Well, Brian had no role in the Tweed election, no - no developer did, and they didn't - some of them didn't like it.

Okay. So there'd been a falling out between Mr Brinsmead and Mr Ray?-- Well, you know, one of those - one of those falling outs that-----

10

Yes, a tiff?-- It's a viral falling out, 24 hours.

Right, and - and so Mr Brinsmead had gone to Mr Ray?-- I think Brian invited Paul to a meeting-----

The next day?-- -----to clear the air.

And what were you doing there?-- Well, Paul - Paul informed - Brian was extremely critical about my involvement and Paul wanted to resolve that problem at the same meeting.

20

So did Mr Ray know you were coming?-- I don't know the answer to that question.

Okay. You say that as an aside at the end of the meeting Mr Ray said, "David Power and Sue Robbins were too gutless to run for mayor thinking that they might lose."?-- Yep.

"They, he and his supporters, were only supporting candidates to ensure a workable council."?-- Correct.

30

Now "They, he and his supporters," are you referring to Mr Ray there?-- Well, yes, I am.

Or are you referring to David Power and Sue Robbins, who are you referring to?-- Well, it was all in the one sentence. He said they were too gutless to run but they were supporting candidates with intent of getting a workable council. I obviously took that to mean a majority of councillors.

40

So the second bullet point?-- Yeah.

Do you have that in front of you?-- Yes, I do.

"They, he and his supporters"?-- Yeah.

Who is that a reference to?-- He made no mention of them but he used the Royal they. Now that could be the Royal I, I don't know, but he used the word "they".

50

This is something that Mr Ray said?-- Yes, he did, and I have a very clear recollection of it.

"Are only supporting candidates"-----?-- And the reason - the - you might ask why did he make that comment to me. It appeared he'd been informed I was working with Councillor - Mr Clarke and I felt a sense of reassurance, "Mate, you know,

we're not after the Mayor's position. Power and Robbins were too gutless to run." You know, "we're only after, you know, a majority of" - he didn't say a majority of councillors but the impression I got, "We're only after, you know, winning council positions, we're not getting in the way of Ron."

1

Right. So - so, what, wanting a majority on the council but not involving the Mayor?-- Yeah, and-----

Is that what you mean?-- And that gave me, you know, some disquiet, the conversation gave me disquiet because obviously I'd been working with Mr Clarke for some time and - and you always hope that the Mayor will garner a mandate.

10

So, what, you - the concern that you had from this meeting is that maybe there would be a majority achieved by what Mr Ray was doing which wouldn't include your candidate, Mr Clarke?-- Oh, absolutely, that was my concern. Absolutely that was my concern.

20

Now-----?-- Because the mayor, as you know, is elected at large with a city-wide mandate. Councillors come from each of the boroughs.

So 14 councillors plus the mayor?-- Exactly, and you need to know the backdrop to that - to that kind of concern. The Bulletin had been running a variety of stories that no matter who won the mayoralty they wouldn't have the numbers. So it was almost irrelevant who was the mayor.

30

Right?-- So that was the - you know, you need to understand the context within which people make statements and understand what's going on.

So your understanding of it would-----?-- It gave it me great disquiet that there was an organised campaign to get the numbers for councillors because councillors have the numbers if they've got the majority. The mayor doesn't, he's just one number, and that fulfilled The Bulletin's prophecy that if you didn't have the numbers you may as well be a lame duck mayor.

40

So you'd end up with the prized position of mayor but you'd end up without a majority of council?-- Well, you'd be the Governor-General, not the Prime Minister.

You'd end up without the majority of the councillors?-- Yeah, that's correct, and-----

So this was a concern from your point of view in going to this meeting?-- My personal point of view, not shared with Mr Clarke, my personal point of view, you do put a lot of effort into these campaigns and you hope that - see, I come from a Brisbane context where - which you all do, where the mayor has, you know, certain powers under the City of Brisbane Act that enable him to form a cabinet, form policy, you know, drive the agenda. On the Gold Coast whoever's got the numbers drives the agenda, and that's why it's a thoroughly different context.

50



Transcript of Proceedings

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So do we gather from that, Mr Staerk, that really, although you went along to this meeting with the backdrop of the difficulty between - what had occurred between Mr Ray and Mr Brinsmead, you were also concerned from your own point of view in working on Mr Clarke's campaign?-- Well, it was a - when I say it was an aside, we're talking about 45 seconds that the words lasted.

Right. So how long did the meeting go on for?-- Oh, the meeting was for about 20 minutes or so.

Right. And you were talking through the Tweed Shire Council elections?-- Only.

The major issue?-- Only, yes.

Right, but also as you put it, as an aside at the end of the meeting Mr Ray said these things?-- No, it was as we were walking out, as you do the - you know, the salutary things as you walk out from the meeting-----

What, in the lobby again?-- In the lobby, as we were walking out from there, so it wasn't part of the formal meeting that we'd had, which was quite tense and he made a remark and he seemed to understand that I must have been working with Mr Clarke and he was trying to, because we are mates - in quotation marks - it felt as if he was trying to reassure me that we - we're not getting in the way of your bloke.

Right. What they were after was they were-----?-- That was-----

-----supporting candidates to ensure a workable council, and you understood-----?-- He never used the word "majority" - that - I mean, if you've been around politics long enough, I mean it's not workable if you don't have one.

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So your concern was well hang on, they might end up here with a majority council and we'll have the mayoralty without the support of the majority of councils?-- That's right, and be a figurehead, not a leader.

1

Now, you say that Mr Ray also said they were not supporting Gary Baildon-----?-- Yeah, he made that very clear.

Mr Baildon being the present Mayor?-- Mmm.

10

But Lionel Barden was managing the distribution of funds raised?-- That's right.

So you didn't gain any impression from this meeting with Mr Ray that in fact the people who were controlling the funds were Mr Power and Ms Robbins?-- No, never at any time. The only reference to Power and Robbins was a quite - you know, a quite dismissive one.

You're aware of evidence before the Commission that up until the 3rd, 4th of March that Power - Mr Power and Ms Robbins were the controllers of the account at Hickey Lawyers?-- Yes.

20

You're aware now of the evidence?-- I've read the transcript, yes.

And certainly this meeting which you say occurred that occurred in late February referred-----?-- Look, on the date, and I'm sure Sue Davies, Brian's PA being as efficient as she is, might be able to advise the actual date.

30

Well, the best you can do?-- Because it may - perhaps the chronology of that is important to you.

The best that you can do is that it was late February?-- Wouldn't have been any later - wouldn't have been certainly any earlier than that because of the issues being discussed.

I thought that as a result of this discussion that you had with Mr Brinsmead that you worked out that it was four weeks to six weeks before the election?-- No, we - I said to Paul I put in a statement saying two to three - one to two weeks - I thought that way, that was my memory on the basis of the issues that were at hand. The issues that were at hand were Brian was appalled at the nature of the advertising campaign we were running. I know when our advertising campaign started.

40

Mr-----?-- You know what I mean, so if you work backwards from your knowledge of what you were doing at the time, it felt to me in the writing of my statement one to two weeks. Paul says no, it was about a month, but I don't think Paul had any ulterior motive in trying to jag a different date in my memory, if that's what you're aiming at.

50

Mr Staerk, we began this by discussing the exchange of emails on the 3rd March and I thought we'd settled upon a position

where you were confident that the meeting with Mr Ray had occurred prior to those emails. Now is that correct?-- Yes, it is.

1

Right?-- But I'm quite happy to be proved wrong about the date of the meeting, because my recollection of the date of the meeting was it was a couple of weeks before the election because of the nature of the things we were doing that led to the meeting.

10

In the-----?-- I don't have a clear memory at all about when the meeting was held, but if my email to Rod Molhoek which I say arose from concerns about the Power campaign is dated March 3rd, well that's inarguable, so you know, you're leading me to believe it was earlier, but I'm quite happy to agree it might-----

No, well-----?-- -----have been later and other matters might have driven the email to Rob, you know, so it might have been media reports, because there have been a considerable number of media reports. I'm not trying to be difficult or cute around the date, I'm quite happy to agree on what the date is if you can provide evidence of what the date was.

20

The email, I've said, accept the fact that the exchange of emails-----?-- Yes.

-----occurred on the 3rd March, accept that to be the case, we've got evidence in relation to these emails?-- Absolutely. Sure.

30

And in that email, you said, "Are you really not running with Power? I hope not." Now are you able to say now, or are you not able to say that the meeting with Mr Ray occurred before that email was sent by you?-- I cannot answer the exact date of the meeting.

No, I'm not asking you for that. Did I ask you for the exact date?-- No, no, or the general period. To me, look, the time frame's just about right, but it seems to be a significant issue about when it was and I can't-----

40

It shouldn't affect your recollection?-- Well, recollections are interesting this far from the time period. The concern about our campaign that led to the meeting with Mr Ray related to its advertising. It's advertising started about four to three weeks out. It seems to me the meeting with Mr Ray was in the period of four to two weeks out - if it's four weeks out, it meets your timetable about late February, if it's two weeks out, it's not late February, it's early March.

50

So in the end you don't know whether the meeting with Mr Ray occurred before or after the e-mail from you to Mr Molhoek of the 3rd of March; is that-----?-- That is correct.

Is that what you're saying?-- Yes, it is.

All right. And you say that Mr Ray provided you with Lionel Barden's phone number for contact in the event that Ron Clarke wanted to hear for himself that they were not supporting Gary Baildon?-- That's right.

1

Did you know Mr Barden?-- No, I've never met him and I still haven't met him.

So you didn't make use of the telephone number provided by Mr Ray?-- I don't - no, I don't recall. I - I - I did make some use of it but not in that context.

10

You say that following that meeting, that is, the meeting with Mr Ray, "I advised Clarke verbally that there was a group of organised candidates backed by developers and that those backers were not supporting Baildon"?-- Correct.

So you got that information from the meeting with Mr Ray?-- Correct.

20

You didn't here refer, did you, to Mr Brinsmead?-- No, I didn't because Brian's aside was to be not to Paul.

All right. And you thought that the Commission wouldn't be interested in the presence of Mr Brinsmead?-- No, not at all. It was a - it was an aside to me. Brian and I had a long-standing friendship; he's helped on a variety of personal and - matters with myself. I took Brian's comments to be in the context of "Graham, I'm not interrupting what you're doing". They were made to me and not to Mr Brinsmead. And it was hardly the context of the meeting and I think Mr Brinsmead would've been worried what Brian was saying to me about that matter.

30

All right?-- I should add that Mr Brinsmead and I never spoke about the Gold Coast much at all.

All right. Well now, did Mr Molhoek also receive an e-mail from you of the 6th of March 2004, "Lunched with the MD and editor of the Bulletin yesterday. They definitely think and will continue to write that the de facto Liberal team take over of the GCCC. Given Ron is Liberal-minded, I suppose he wouldn't mind that. I'm also running Dunk in Drake's seat also and he is going to go real close with the benefit of preferences"?-- Yep.

40

And I think that you speak about that in Mr - in your statement. Mr Drake-----?-- That I work with Mr Dunk, yes.

Right. Mr Dunk he ran in, what, the Burleigh-----?-- He was the candidate in Burleigh against Councillor Betts.

50

That's the Division that Mr Betts won?-- That's correct.

All right. Now, apart from that meeting that you had with Mr Ray and apart from what you picked up in the media-----?-- Mmm.

-----did you have any other knowledge from any other meeting or contact in relation to the operation of the Hickey Trust Account concerning this funding?-- No, no, no.

1

Or in relation to the account of Quadrant?-- No. I wasn't even aware that Mr Hickey was involved nor that Quadrant was involved until it was publicised.

One of the points that you make in your letter at page 5 under the heading "Paul Wesley Brinsmead/Hickey Lawyers. Paul Brinsmead had no role whatsoever in the Gold Coast elections"?-- Mmm.

10

And that's the same Brinsmead that you've spoken about who was present at this meeting?-- It is. Our primary-----

And you say-----?-- Yeah. Our primary focus, indeed daily focus, was in the Tweed. My once a week focus was on the Gold Coast in relation to Councillor Clarke's campaign.

20

All right. Now, so far as Mr Clarke's campaign was concerned, you have enclosed an article with your material. It's headed Mayor Maker and you describe how you first became involved in this campaign of Mr Clarke?-- Mmm.

You say this - you might like to turn to the article. It's of Saturday the 3rd of April in the Gold Coast Bulletin. Do you have that?-- No, I don't.

CHAIRMAN: Whereabouts is it? Do you have-----

30

MR MULHOLLAND: It's towards the end-----

CHAIRMAN: Towards the end. There seems to be-----

MR MULHOLLAND: Towards the end of the articles.

CHAIRMAN: Yes. There seems to be no chronological order in these. They seem to be all over the place?-- So's on my file.

40

Yes, I've found that?-- So where would we find that?

MR MULHOLLAND: Now, it's the - it's the-----

CHAIRMAN: It's about the second last?-- Second last?

MR MULHOLLAND: The right-hand column?-- Do you mind if I unravel this?

There's a - there's a recent photograph of Mr Clarke in the - on the same page, a photograph of him running. Do you see that?-- Yes, yes, I remember that, yep.

50

Photograph of him running?-- Yes-----

Do you see that?-- Yeah, I remember that. Yep.

Now, the right-hand column has this. It speaks of you, you'll see that; describes you in the previous column. Obviously you would have seen to have spoken to the reporter from The Bulletin in relation to this article. Is that correct?-- Yes. Yes, I did.

1

In the last column, what it says is this: "It was October 2002 that Ron Clarke first approached Mr Staerk who now runs a public relations firm employing 17 people to run his mayoral campaign."?-- Mmm.

10

"It was at a ceremony at Couran Cove that Mr Clarke pulled him aside and said he wanted to run for Mayor."?-- Well, that's inaccurate.

Right. Well, we'll come back and you can tell us what the inaccuracies are?-- Sure.

"I want you to run the campaign", said Mr Clarke. Instantly he agreed. "I said, of course I would." He said "We then met every Friday in Melbourne for three or four months and Ron was a subscriber to the Gold Coast Bulletin when he was in Melbourne and he kept a scrapbook on the issues. He already had a strong grasp of the issues and we never did an opinion poll." Just pausing there?-- I don't have a-----

20

CHAIRMAN: It's the next page?-- Okay.

MR MULHOLLAND: It's the last page?-- Yeah, I've got that.

30

Okay. Now, just pausing there and dealing with what is attributed to you there, did you say that to the reporter?-- I think there's some paraphrasing. There certainly wasn't a tape-recorder at the - at the meeting. I mean-----

Well, just tell us - just - please concentrate-----?-- Can I go through paragraph by paragraph?

No. Well, just look at it and tell us if you did not say any of what you - what is attributed to you?-- Yeah, well-----

40

And tell us what you did say if you didn't say that?-- Well, the first - the first discussion Ron and I ever had about the campaign was in fact at the launch of his brother Jack's design for the recreation club at Casuarina Beach and I think the journalist must have misunderstood the difference between Couran Cove and Casuarina Beach. So the venue is false. Ron-----

So you said Casuarina Beach?-- Casuarina Beach. Mr Clarke's brother Jack-----

50

Okay?-- -----was the designer there and Mr Clarke had come up to - to do the official opening and we had a short conversation there.

Right?-- The rest is complete paraphrasing, but the intent is the same.

All right?-- But it's a totally-----

To that effect?-- It's - yeah, to that effect, but it's certainly not verbatim.

All right. Now, one of the matters that is referred-----?-- And can I make one more comment?

Yes?-- I didn't proceed to run Ron Clarke's campaign at all. I wasn't the campaign director, but if you were looking for an historical sense of the earlier conversation it was just about right, but I didn't proceed to be Ron Clarke's campaign director at all.

10

But you did say words to the effect that Mr Clarke-----?-- I certainly wanted to be involved, yeah.

-----had asked you - asked you to run his campaign and you agreed?-- He didn't - he didn't use the word "run" and it certainly wasn't a two-line conversation. So what I'm saying is the intent is correct but not the transcription.

20

In fact, this article, this same article making the point that you've just made, in the first column it refers to the campaign director as Gardiner Brook?-- Gardiner Brook, correct.

The left-hand column speaks of that?-- No, Gardiner was the formal campaign director as dictated by the Act and as the authoriser of electoral material, et cetera.

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Now, one of the other matters that this article speaks about is referring to the election and it says this. If you go down to that column, this is on the second page that we've just been looking at?-- Mmm.

That column, the second penultimate paragraph: "Four days out from the poll the Liquor Licensing Division handed down its decision on nightclub opening hours. On the recommendation of the Council and police it pulled four of the busiest nightclubs back from 5 a.m. to 3 a.m. closing. The other nightclubs were to remain open until 5 a.m. but no one would be allowed in after 3 a.m." Now, do you remember this issue?-- Yeah, in general terms.

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Right. "The nightclubs went ballistic taking out full-page newspaper advertisements and they bombarded nightclubbers with text messages urging them to vote against Councillor Baildon and former Surfers Councillor Max Christmas. From a Clarke campaign strategic viewpoint the nightclub decision was the final act in a long-running play. Mr Staerk said polling the week before the election had showed Mr Clarke was gaining ground quickly on Councillor Baildon. He'd made up 20 points - 20 percentage points in Bulletin polling from September 2003 to a few days out from the poll. Gary was winning the 18 to 24-year-old vote according to polls by six to one over us, he said, so what did he do? He told them to go bed early and

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that was his great campaign failure. Ron believes 3 a.m. closing is insane and 5 a.m. is the right move and during those last three days Gary should have been hitting Ron with the kitchen sink on it and instead he went off and fought with the only group of people that were going to vote for him. It was one of the great campaign failings I've ever seen." Now, this issue in relation to the closing hours, there is another article that you have provided. It's an article which appeared on the day of the election. Would you go back, please, it's about half a dozen pages in; it's that article there-----?-- Half a dozen in or?

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That's the article. "Clarke will try to reverse club plan"?-- It's just a one-column story, is it?

Have you got it?-- Not yet. Yes, got it.

Now, this is an article that was in The Bulletin. Can you tell us that?-- It looks like The Bulletin but it's not recorded.

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All right. Well, any rate, it's an article which came out on the day of the election apparently, the 27th of March-----?-- Was there a date on it, was there?

Sorry-----?-- Was there a date?

-----if you look at the article, it says, "If elected today" - do you see that?-- Yes.

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"Mayoral contender Ron Clarke will attempt to reverse a Council recommendation to close nightclubs at 3 a.m. if elected today. Mr Clarke said yesterday he favoured a 7 a.m. closing of nightclubs. No alcohol would be served after 5 a.m. and in that two-hour period, the patrons would be given breakfast. You certainly can't close four nightclubs at 3 a.m. and lock the rest out. All you do is cluster everyone together and you are trying to tell charged up people they can't come into clubs," et cetera. Right, so this is - and then Mr Clarke is quoted as saying, "I have no problem recommending to liquor licensing that the 3 a.m. closing order be reversed"?-- Mmm.

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Do you remember this issue coming up and the question is, you obviously have enclosed material relating to it so it's something that you would have known about at the time. What do you know of any contact between anyone from Mr Clarke's campaign and the Liquor Licensed Clubs Association prior to the election-----?-- Other than myself? Other than myself?

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Other than yourself?-- I wasn't aware - I worked with Ron on a weekly basis with other phone calls. You'd have to ask Councillor Clarke and perhaps Gardiner Brook about that. I wasn't aware of any other contacts that Mr Clarke had with the group.

Yes?-- I certainly was aware of stories in the press and I certainly was aware of Ron's position at the time but I

certainly wasn't part of the day-to-day interaction that Ron may have had with groups in the community.

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Yes, well, do you remember that Mr Clarke's position changed from being - taking that position to eventually supporting the earlier hours?-- You mean after the election?

After the election?-- Yes, only through media reports. I ceased a role with Ron on election day.

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So do you know of any contact between-----?-- No, I don't.

-----between Mr Clarke or anyone else and the Licensed Clubs Association-----?-- No, I was - no, I was never involved. I was never a medium and I've-----

You never had any contact yourself?-- No. Oh, I had contact with Mr Jim Bell but that's in my statement.

All right, well, we'll deal with that. That reference by you is-----?-- Page 4.

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-----page 4, thank you, under the heading "Gold Coast Licensed Venues Association" and what you say in relation to it is this, "Like the rest of the community, I became aware of the Association through it's anti-Baildon and anti-Max Christmas advertising campaigns in The Gold Coast Bulletin. Candidate David Dunk whom I was also working with further told me of their activities. I was annoyed that the campaign run by the Association would not benefit anyone by just saying, "Vote against someone". They had to say who to vote for. Dunk knew Jim Bell, the head of the Association, and gave me his phone number. I then rang Bell with the intent to suggest that in the case of the mayoral race, a vote against Baildon might elect either a Greenie or an Elvis impersonator which would be a worse outcome." Was there an Elvis impersonator standing was there?-- Yes, good voice, bad candidate.

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"I was going to suggest they change their SMSs and advertising campaigns to say, "Vote for Ron". When I did so, Jim agreed." All right, now this is a reference to Jim Bell, is it?-- Jim Bell, yes.

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"...indicating they were already planning to do that and briefly informed me of the campaign that was about to run. That was the only contact I had"?-- Correct.

"At no stage did Clarke authorise me to contact the Association. At no stage did Clarke manage, direct or authorise their activities. At no stage did the Association consult us on their planned campaign. Thus, I believe the Association's campaign must be classed as a true third-party campaign and therefore should have been disclosed by them via an electoral return. I believe it's false in the extreme that Clarke should have disclosed his campaign and be attacked for not doing so." Now, in relation to this, were you aware of any communication by e-mail between Mr Clarke and the Association?-- No, not at all.

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And you know of, therefore, no support indicated by Mr Clarke, whether by e-mail or any other means, of the later closing?-- No, I only know from Ron's position with me in terms of media release that we may have put out or a response we may have made to media and - and subsequent media coverage that that was Ron's view, Ron's policy that he was going to the election with.

Yes. Did you know a Mr Paul Ellen?-- No.

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Did you know of an email of the 16th of March 2004 from Mr Clarke to a Mr Paul Ellen?-- No. No, I - my involvement with Ron didn't extend to reading his emails.

So - anyway, you say that you knew of no contact?-- No, I knew what Ron's position was as described to me for media purposes and as reported by the Gold Coast Bulletin. I'm not aware of any contact Ron may or may not have had with the group.

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So in advance of the election, you understood that he was supporting a later closing?-- Rock solid.

And then after the election, changing his view in relation to that?-- Yeah. And I've got to say I was disappointed with that change. I happen to believe in the original policy.

Yes. Now, the - so far as Mr Clarke's return is concerned-----?-- Mmm-hmm.

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-----you had no input in regard to that?-- No. From election day onwards, I had limited contact and no input into any of those matters of any kind other than the odd public statement where media continued to ring you after an election when - in that fallout period.

You would know that subsequently - this is after Mr Clarke's first return - that he provided a letter of the 11th of April 2005 adding a donation in kind of 20,000 to \$40,000 of driving around a large mobile advertising sign?-- Yeah, I'm aware of that-----

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Right?-- -----through media reports.

Media reports?-- Not through contact with Mr Clarke.

Could I ask that Mr Staerk be shown Exhibit 3 - number 43, please, Mr Chairman?

WITNESS: Is that separate to this?

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MR MULHOLLAND: Yes. Just put that to one side. Now, this is a Gold Coast Bulletin article of the 3rd of April 2004, and this is - what's the heading of that article?-- "Power Pact-----

Right?-- -----For Clarke Agenda".

It starts off, "Ron Clarke is working on a deal with David Power." If you go down in the article, you'll see-----?-- Mmm-hmm.

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-----reference to yourself. "The Bulletin" - in this context, "The Bulletin was also told Mr Ray has spoken to Mr Clarke indicating that a group of like-minded councillors would support his election blueprint. The Clarke team told Councillor Power that if he delivered the eight votes required to supplement a reform agenda, Mr Clarke would support Councillor Power in any future Mayoral campaign probably in 2008." Now, just pausing there-----?-- Mmm.

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-----what do you know of the truth of that suggestion? Do you have any knowledge of whether or not Mr Ray spoke to Mr Clarke?-- No, no knowledge whatsoever.

Well, you would have read it, I take it, in The Bulletin the suggestion that there was such a discussion?-- Yeah, but it's - The Bulletin was told it's one of those-----

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Okay?-- -----one of those, you know, off the record-----

All right. Well, you know - any rate, you know of nothing-----?-- Yeah.

-----to support that?-- Well, certainly Brian Ray never told me that and Mr Clarke never told me that either, so-----

Did you have any meeting with Brian Ray after that date?-- No.

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That you've told us about?-- No, absolutely not.

What about the next bit, "The Clarke team told Councillor Power that if he delivered the eight votes required", et cetera? Do you know anything of that?-- Well, I've never met Mr Power, spoken with Mr Power or in any way had any interaction with David Power, so I certainly didn't tell him that.

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So - no, no, well-----?-- That there's more people in the Clark team than me so-----

Do you know of anything said to you by Mr Clarke or anyone else for that matter which would provide any support for that suggestion?-- No. In fact to the contrary. After the election, the minute of the election Ron Clarke became totally his own man.

Would you-----?-- And Ron and I had no discussions regarding any of those matters and Ron even went as far as disciplining a member of the team not to have any discussions with anyone else regarding that matter. So no, not at all.

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All right?-- I mean, understand the context. If you work on a mayoral campaign your candidate wins.

Yes?-- You expect a majority of councillors to respect the mandate.

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Now if you just go on. "Mr Clarke's spokesman, Graham Staerk, yesterday said they were expecting a broad" - and there's a quote?-- Mmm.

"A broad consensus to emerge among the alleged block"?-- Yeah.

Is that what you said or words to that effect?-- Yes, I did. It was more asking them to emerge with a consensus than knowing of one.

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Right?-- In that period I was no longer employed by Mr Clarke. The media continued to ring because you were their contact up unto day 1, day 2 you're no longer that, but they continue to call you, and my strong and fervent belief at that stage was that no matter what might have occurred at the councillor level, that they should respect the fact that an Australian icon had been elected mayor of the Gold Coast and that they should buckle.

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Now, apart from what in that quote that you've accepted the alleged bloc. You, of course, had had that conversation with Mr Ray?-- Mmm.

The reference to the alleged block, is that a reference to what had been-----?-- Correct.

-----referred to in the media?-- A combination of education via media and a memory of the conversation with Mr Ray.

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With Mr Ray?-- Yeah.

All right. Now would you go to-----?-- Can I - can I take you to the next sentence?

Yes?-- "We believe the bloc is largely mythology" but where they came from was - look, there's a big difference between what Brian Ray might have wanted to happen.

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Yes?-- And what councillors might be then prepared to do and I think you need to understand that, you know, from my experience of Brian, well-intentioned, a beautiful heart and a great contributor to the community.

Yes?-- But just because Brian Ray might have wanted to see that outcome doesn't mean that anyone else did and I think you need to draw a big, big, you know, line between the two concepts, and that - so Brian might have told me that there was a bloc but I was trying to encourage people to think not as a bloc but independently because the mayor had the mandate and that people should respect the mandate. That was the genesis of that remark.

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Now, I want to take you to one other matter. Are you aware that Mr Molhoek provided a statement in which he referred to contacting you before the election. You've already referred

to this?-- Yeah, I saw the transcript which led me to correct my report.

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And in that he says, "We agreed to catch up for a coffee after the election, depending on the outcome. We met within a week or two of the election at Broadbeach for a coffee." Do you remember that?-- Yeah.

"And discussed how the election had turned out and in broad terms Mayor Ron Clarke's agenda and concerns with the voting bloc." Is that correct?-- My concerns?

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Yes?-- Yes.

Your concerns?-- Yeah.

And do you remember that this, expressing a concern to Mr Molhoek, and I'm referring to page - it's 120 and 121?-- This is of his testimony?

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Yes?-- Can I get a copy of that?

Well, you can but just listen?-- Okay. I've just been asked to remember it, that's all.

Just listen to this. I'll repeat it if you need it. Your concern was because he had been so - that is Mr Molhoek - had been strongly supportive of Gary Baildon. You expressed that. And that he wouldn't have an open mind to be supportive of Ron Clarke. Is that right?-- Correct.

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And that you said - do you remember saying this? "Look, you know, I think you've made the right decision in declining the financial support of that group. You know, retaining your independence is important."?-- Yeah, we had a considerable discussion about - about that matter.

All right. So you said that or something to that effect to Mr Molhoek?-- Well, look, he's - he's obviously summarising my remark. It was a lengthy discussion.

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Yes?-- I had a - I had a strong view.

Yes?-- That - that given all the publicity about the bloc that Rob, if he was indeed contemplating participating, that he not.

Would you have a look now at number 77 of Exhibit 3, please?-- It's the headline there.

"Expert urges inquiry into links" - this is a Courier-Mail article of 12 August 2005; have you got that?-- It's Professor Wiltshire, yeah. Yep.

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All right. Well, now, there's a reference to you in it. I just want to ask-----?-- It was hard to keep out it.

Sorry?-- It was hard to keep out of it.

Okay. Well, just follow this through, "Graham Staerk, the architect of the Tweed Shire campaign that resulted in the Council being sacked said he was aware of a pro-development bloc on the Gold Coast Shire Council. Mr Stark who in May ran Ron Clarke's successful Gold Coast election campaign, also called for an inquiry into the Council, but he denied that he or Mr Clarke were part of the bloc. Mr Staerk said it was a coincidence that Tweed strategist, Paul Brinsmead, was a solicitor for Hickey Lawyers which managed a slush fund for pro-development candidates on the Gold Coast. Mr Staerk said Gold Coast councillors who professed independence during last year's campaign, quote, had a millstone, end quote, around their necks since then because they did not make their agendas known to voters." Now, does that summarise what you said to the reporter?-- And the next line, "In doing that, they were badly advised."

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Right?-- It does.

Okay. So that was your view?-- That's a totally accurate reflection of my view.

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All right. And-----?-- Not because-----

-----what you said, what you go on to say is, "While not illegal the deception had caused a valid disquiet in the community." Again, that's something you said?-- Yes, I did.

And that was your genuinely held view?-- Yes. You need to understand - I mean, you know and I'm sure you've read a thousand words from Professor Daley about the Tweed, and in the Tweed it's not correct to say that we did not announce ourselves, and I saw a great strategic failure in the face that those candidates who were later linked to the trust fund didn't announce themselves and we wouldn't be sitting here today if they did.

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Well, you've had a lot of involvement in elections, have you, over the years?-- Yeah, quite a few.

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And you say that it was - well, I don't think it's necessary for me to go on with that question, Mr Chairman. That's all I have?-- Thanks.

CHAIRMAN: Yes? No other questions? Mr Clarke?

MR CLARKE: I've got a few. It'll take a bit of time.

CHAIRMAN: Come forward to the microphone.

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MR CLARKE: Mr Staerk, can I take you first to the - the club matter. It was to do with the newspaper article that the counsel assisting quoted, "Clarke will try and reverse club plan"?-- Yep.

Do you have it?-- In a minute. Was it six from the front or six from the back?

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CHAIRMAN: No, it's about the middle, this one. It might be further back in yours?-- Yes, I think it might have been changed when I - I'd have to go through every page, sorry for the delay. Thanks. Thanks for that. Yes.

MR CLARKE: You agreed with the counsel that, "I changed my stance after the election, when I don't believe I did." Could you explain to me what changed after the election - what you agreed with the counsel about?-- The apparent change of view was as expressed by The Bulletin and accepted by me to be an accurate reflection of your position. You and I had never proceeded to have any discussion about the issue.

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No, no, what was the change?-- I've not read any of your comments closely. I just know of the allegation by The Bulletin as reported that you apparently did.

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So you don't have any detail of that?-- No, none whatsoever.

Can I go through it with you - here with it to get everything very clear? What happened - what was happening at that time was that four nightclubs - four "big nightclubs" had been changed and the License Court had ruled that they actually closed at 3 a.m. - closed at 3 a.m. The balance of the clubs were allowed to open to 5 a.m. but they were what they called a "lockout" at 3 a.m. So what you had was people flying out of the four major clubs closing at 3 and on to the streets and not being allowed into the other clubs because they had a lockout. Now what I was advocating was that all clubs should be closing at the same time, at 5 a.m. And what we were able to effect after the election was exactly what I promised everybody that we would do - that's we would close at 5 a.m. At no time before the election did I ever say that I was against a 3 a.m. lockout. In fact I've advocated that for many years. The 3 a.m. lockout was that it was a matter of fact before the election. It was something that I advocated all clubs should have so that all clubs had the same rules - a 3 a.m. lockout and a 5 a.m. closing. That's what happened. That's what we would have said before the election. That's what we went for and I've got - I'll do my own evidence at the time - but I was just interested in you - where you got your-----?-- But look - but, typically, what happens with media reporting is if there's a sense that the times have changed or if they didn't understand your previous policy you probably can't expect that they're going to understand the detail of your new policy. So-----

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But you didn't - you weren't, I suppose the only one -----?-- No, no. Look - no, because you and I had no contact I had no detailed knowledge of it.

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Okay?-- And I also had no role in your policy formulation either.

No. No, I'll come to that in my evidence at the time. You mentioned in your - in the evidence of a statement you gave - I'll move on to the Tony Stephens matter?-- Mmm, hmm.

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You mention in the statement, and I think you agreed, that Stephens drove or towed my election sign around and that's why I changed my electoral return on the April the 11th because that was what was reported in the media again?-- No, because the fellow on the night of the election complained to me that that he'd already done.

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No. But did you ever, ever see Mr Stephens towing my sign around except on the night of the election?-- On the night of the election when he pulled up and started complaining about how hard he worked.

Yes. But you never saw him ever, ever-----?-- It was his claim.

Yes, right, okay?-- And if you go further into that statement he also made, you know, a variety of critical remarks - remarks to Ms Helliwell. So I suppose in general terms, Mr Clarke, you know, if he exaggerated one he might have exaggerated the other.

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Yes. The fact is I had my own driver who didn't drive any at all?-- Well, on that-----

But I'll come to that in my-----?-- On the night of the election-----

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I just wanted to make certain you never ever saw Mr Stephens except on that election night?-- It was his claim.

Yes, that's fine. As long as it's not yours?-- Certainly not. It's my claim that he made the claim.

Okay. The last was - the item I've got is the article that you were taken to about the Power Pact, which was what - Number 77? Is that the one? Sorry.

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CHAIRMAN: Yes, I think it was.

MR CLARKE: It might have been earlier. No, sorry, Sir, it's Number 43?-- Can I have that again?

I probably won't be very long with it but you should see that. Number 43?-- Okay.

You never - your attention was brought to "The Clarke Team told Councillor Power that he'd live with the eight votes." You've mentioned that you weren't a part of that team?-- No, and my personal view was that you not go there. I think you know that.

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Well, I agree with you, I never did. The spokesman said - and that was your belief - that you knew, "No way. I never mentioned to you in any way, shape or form that I ever spoke

to Councillor Power or promised him a, I think, support for the mayoralty or did a deal with him in any way, shape or form of any sort."?-- Absolutely to the contrary. I think you-----

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And you advocated the contrary as well?-- You were quite fierce around your instructions to myself and Gardiner Brook not to have any conversations with any person about your future intent at all - at all.

Thank you, Mr Chairman.

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CHAIRMAN: Thank you, Mr Clarke. No one else? Mr Mulholland?

MR MULHOLLAND: Nothing further, thank you, Mr Chairman.

CHAIRMAN: Yes, Mr Staerk, you're excused. Thank you for your evidence.

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WITNESS EXCUSED

CHAIRMAN: We'll adjourn till - what time tomorrow?

MR WEBB: 10 o'clock.

CHAIRMAN: Adjourn till 10 o'clock, thank you.

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THE HEARING ADJOURNED AT 4.41 P.M. TILL 10.00 A.M. THE FOLLOWING DAY

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WITNESS LIST

JAN ELIZABETH GREW, SWORN AND EXAMINED.....	1948	
WITNESS EXCUSED.....	1966	10
RAYMOND WILLIAM HACKWOOD, SWORN AND EXAMINED.....	1967	
WITNESS EXCUSED.....	1983	
KENNETH WILLIAM BEMI, SWORN AND EXAMINED.....	1985	
WITNESS EXCUSED.....	1986	20
JOHN MERVYN THOMAS FISH, RECALLED.....	1986	
WITNESS EXCUSED.....	2005	
GRAHAM PETER STAERK, SWORN AND EXAMINED.....	2005	
WITNESS EXCUSED.....	2031	30

EXHIBITS

ADMITTED AND MARKED "EXHIBIT 271".....	1949	
ADMITTED AND MARKED "EXHIBIT 272".....	1949	40
ADMITTED AND MARKED "EXHIBIT 273".....	1967	
ADMITTED AND MARKED "EXHIBIT 274".....	1967	
ADMITTED AND MARKED "EXHIBIT 275".....	2000	
ADMITTED AND MARKED "EXHIBIT 276".....	2001	50
ADMITTED AND MARKED "EXHIBIT 277".....	2006	
ADMITTED AND MARKED "EXHIBIT 278".....	2007	